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THE HONOURABLE HOUSE OF REPRESENTATIVES

SESSION 2010 – 2011

TUESDAY, January 11, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:11 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MEMBERS OF THE CABINET

THE HONOURABLES

ANDREW MICHAEL HOLNESS, (JLP),
St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters

ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Planning and Development and Defence.

DR. KENNETH LEIGH O'NEIL BAUGH, (JLP), St. Catherine, West Central, Deputy Prime Minister and Minister of Foreign Affairs and Trade.

AUDLEY FITZ ALBERT SHAW, (JLP), Manchester, North Eastern, Minister of Finance and the Public Service.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

DR. CHRISTOPHER CHARLES TUFTON (JLP), St. Elizabeth, South Western, Minister of Agriculture.

MINISTERS OF STATE

THE HONOURABLES:

DARYL WESLEY PHILLIP VAZ, (JLP), Portland Western, Minister without Portfolio in the Office of the Prime Minister, Minister of Information and Telecommunication.

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

LAURENCE GEORGE BRODERICK, (JLP), Clarendon, Northern, Minister of State in the Ministry of Mining, Energy and Telecommunications.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

MICHAEL ANTHONY STERN, (JLP), Clarendon, North Western, Minister of State in the Ministry of Industry and Commerce.

OTHER MEMBERS

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

MR. COLLIN ALFRED A. FAGAN, (PNP), St, Catherine, South Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.
MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.
MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.
MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston Eastern and Port Royal.
MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.
MR. DEAN ALEXANDER PEART, (PNP), Manchester, North Western.
MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.
DR. PETER DAVID PHILLIPS, (PNP), St. Andrew, East Central.
MR. ERNEST AUGUSTUS SMITH, (JLP), St. Ann, South Western.
REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.
MR. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern.

PRAYERS

Prayers were offered by MR. DESMOND GREGORY MAIR.

The House resumed its sitting at 2:11 p.m.

The SPEAKER: Please be seated. This Honourable House now resumes its sitting.

OATH OF ALLEGIANCE

Mrs. Shahine Elizabeth Robinson, Member of Parliament for North East St. Ann, took the Oath of Allegiance and her seat on the Government Benches.

The SPEAKER: Thank you, Clerk of the Parliament.

I would just like to welcome to the sitting of Parliament this afternoon a group of seminarians from the Columbia Theological Seminary in Atlanta, Georgia, and the United Theological College of Jamaica, with your Professor. Welcome to the sitting of Parliament this afternoon. I hope you will enjoy the sitting; also to other members in the Gallery.

Please, just check on your cell phone to make sure that it is off or on vibrate so you do not disturb the sitting of Parliament; but please enjoy your stay with us this afternoon. (Applause)

(MR. ROBERT DIXON PICKERSGILL, (PNP), St. Catherine, North Western, entered and took his seat.)

(MR. DERRICK CHARLES SMITH, (JLP), St. Andrew, North Western, entered and took his seat.)

The SPEAKER: House Leader.

DEATH OF FORMER M.P. DANNY BUCHANAN

Mr. HOLNESS: Thank you, Mr. Speaker.

By now everyone in the House would have heard of the passing of our former Member, Donald Buchanan. In discussions with the Leader of the Opposition it was agreed that we would not do the customary tributes today but we would do them next week when the family members would be here to hear our tributes. And so I ask that the Members note the passing and the Parliament

notes it, but we postpone the tributes until next week.

I should also note, Mr. Speaker, the passing of the father of one of our Members, the Member from St. Andrew South Eastern.

The SPEAKER: Thank you very much, House Leader.

STATEMENTS BY MINISTERS

SANDALS WHITEHOUSE

The SPEAKER: Prime Minister.

The PRIME MINISTER: Mr. Speaker, the Office of the Contractor General has launched an investigation into the proposed sale of the Government's interest in the hotel property at Whitehouse in Westmoreland, currently under lease to Gorstew Limited, assigned to and operated by Sandals Whitehouse Limited. I am by this Statement today, directing all relevant Government agencies to cooperate fully with the OCG in the conduct of its investigation.

There is no mistake about the proposed transaction. By way of background, Mr. Speaker, it is to be recalled that in July of 2001 the UDC and NIBJ entered into a joint venture with Gorstew Limited for the construction of the hotel. A joint venture company, Ackendown New Town Development Company Limited, AND Co, was formed with shareholding allocated UDC 37%, NIBJ 30% and Gorstew 33%. The joint venture agreement provided for the lease of the property upon completion of construction to Gorstew for a period of 20 years.

(DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern, entered and took his seat.)

The agreement called for the construction to commence in July of 2001 and to be completed in December of 2002, at an estimated cost of US$60 Million. The cost was subsequently revised to US$73.7 Million.

The project, Mr. Speaker, was plagued by disputes, delays and massive cost overrun. When construction was practically completed in 2005, the cost had escalated to US$117 Million, an overrun of $43.3 Million US. In 2009 ANDCo undertook further expenditure of US$3 Million to remedy construction defects that had subsequently been identified.

Disputes remain unsettled as to the liabilities for the cost overruns. In addition, Gorstew filed suit in the Supreme Court in 2005 seeking compensation in the amount of US$28.8 Million for losses it claimed to have suffered as a result of the failure to complete and deliver the project on schedule. The suit also seeks unspecified compensation for brand damage.

(MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern, entered and took her seat.)

(HON. JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy, entered and took his seat.)

It was agreed by the parties and endorsed by Cabinet in 2008 that these issues be referred to and determined by arbitration. These proceedings and their outcome are being awaited.

(DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern, entered and took his seat.)

(THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of Opposition entered and took her seat.)

A separate but no less important issue concerns the mounting losses being borne by ANDCo through its ownership of the hotel and the lease arrangements entered into in 2005. ANDCo secured loans totalling to US$62.8 Million from a number of entities including the Caribbean Development Bank, the OPEC Fund and the Caracas Energy Fund to finance the project. In addition, UDC and NIBJ, over and above their initial equity of US$30 Million, provided shareholder loans of US$17.7 Million, making the total debt incurred by ANDCo US$80.5 Million.

ANDCo, Mr. Speaker, has only been able to service US$25 million of this debt at a cost of approximately US$4 Million per year with principal balance outstanding as at the 31st October, 2010 of $18.5 Million. Interest alone on the remaining debt of US$55.5 Million is accruing charges of $2.6 Million per year. Insurance coverage, which ANDCo as the landlord is required to provide, costs US$1.1 Million per year. ANDCo's real cost, therefore, excluding principal repayment of US$55.5 Million are approximately US$7.7 Million per year. However, Mr. Speaker, the rental income under the lease agreement has averaged US$3.9 Million per year, approximately one-half of its expenses. This constitutes recurring losses that would continue indefinitely into the future.

Importantly, under the terms of the ANDCo shareholders agreement, Gorstew is not obliged to bear any portion of the company's cash deficits by way of additional equity or loan contribution. And the funding of such deficits have been in the past and in the absence of a sale of the property, would continue to be the responsibility of the government shareholders alone. Such sums funded by the government shareholders over the past four years have amounted to US$7.9 Million, not including the US$3 Million spent to remedy defects to which I have earlier referred.

(HON. KARL GEORGE SAMUDA, CD, (JLP), St. Andrew, North Central, Minister of Industry, Commerce and Investment, entered and took his seat.)

This also does not include the cost of periodic replacement of equipment that ANDCo will be required to fund in the future under the terms of the lease agreement and which is estimated at a cost of US$600,000 annually over the remaining life of the lease, nor does it include any damages that may be awarded by the arbitrator.

Under the Joint Venture agreement, Gorstew was indemnified, notwithstanding its position as shareholder, Gorstew was indemnified from any cost overrun attributed to the management of the project and, therefore, the only portion of the overrun that may be recovered from Gorstew is that portion attributable to design changes that were specifically requested by Gorstew.

Mr. Speaker, having considered all the facts and circumstances, the Government took the decision to cut its losses and sell its interest in the hotel property in order to extricate itself from an arrangement that has proven to be disastrous to the Jamaican taxpayers.

Because of the particular arrangements regarding this property, the normal procedures

for divestment, that is, by way of the placement of advertisement and competitive bidding, were not considered appropriate for the following reasons:

1. Gorstew is already a part owner of the property through its shareholding in ANDCo, and under the terms of the 2005 lease, GORSTEW has a right of first refusal in the event that ANDCo disposes of the property.
2. The property is the subject of a long-term lease to Gorstew which has fourteen and a half years left to run, and which would make it unattractive to a prospective third party strategic purchaser who would naturally wish vacant possession.
3. The terms of the lease and the projected rental income were unlikely to attract financial investors ata price satisfactory to the government shareholders.
4. Gorstew, having the right of first refusal referred to above, would be placed in an advantageous position in such a bidding process.
5. The location of the property off the beaten track would make had a hard-sell especially in a period of economic recession.

The Government, therefore, Mr. Speaker, decided to enter into negotiations with Gorstew for the sale of the government's interest in the property. In April 2010, with the agreement of the parties, Cabinet approved the appointment of the Honourable R. Danny Williams, OJ, to serve as facilitator to negotiate the terms of sale to Gorstew.

Ernst & Young had conducted a valuation of the property in June 2009 which rendered a value of US$52.6 Million.

(HON. LESTER MICHAEL HENRY, CD, (JLP), Clarendon, Central, Minister of Transport and Works, entered and took his seat.)

This valuation was done on a net present value basis, that is, the value to an investor of the cashflows to be generated by the investment.

There were discrepancies in the assumptions which informed this valuation, namely, the omission from the calculation of the landlord's obligation under the lease agreement to insure the buildings and content. In fact, the valuer assumed that those would have been the responsibility of the tenants. And secondly, the requirement, the obligation of the landlord to replace equipment periodically during the life of the lease. Ernst & Young therefore, reviewed and adjusted its original valuation and in October of 2010 submitted a revised valuation of US$40.2 Million.

Following several months of negotiations, the Facilitator submitted a proposal in December for the sale of the government's interest in the hotel to Gorstew at a price of US$40 Million on the following terms:

(a) a deposit of US$7½ Million on signing;
(b) vendor's mortgage of US$32.5 Million for 7½ years amortised over 30 equal quarterly instalments of principal and interest at a rate of 6% per annum;
(c) security is to be a first charge mortgage on the property, plus the

corporate guarantee of Gorstew Limited; and

(d) Gorstew, which is a 33% shareholder in ANDCo, will surrender its shares in ANDCo for an amount of US$1.00.

The Cabinet has approved the sale and the terms proposed by the Facilitator and the legal documents to effect the sale are now being prepared.

The effect of the proposed sale, Mr. Speaker, will be to eliminate the operational losses being incurred by ANDCo including the cost of insurance and equipment replacement. The deposit of US$7½ Million will allow for the immediate liquidation of the OPEC loan as well as cover the transaction costs involved in the sale. The reflows from the US$32.5 Million mortgage will be used to service and retire other portions of the loans outstanding in relation to the project.

However, make no bones about it, Mr. Speaker, in the final analysis, the taxpayers of Jamaica will bear a substantial portion of the more than US$120 Million that has been spent on a project that was not properly conceived and very badly executed.

A MEMBER: Again!

The PRIME MINISTER: Mr. Speaker, even in procurement and divestment, there are peculiar situations for which the established procedures are not appropriate and would result in greater losses to the country. The Sandals Whitehouse project is one such case.

The decisions and actions we have taken are in the best interest of the country and have been taken to cauterise and minimise the losses that the Jamaican people will have to bear.

Bringing an acceptable closure to this sordid ordeal has been a burden facing this Government since it took office. It is not yet over. The arbitrator's decision is yet to come. It will be a long time before the loans that were incurred to fund the project are finally repaid. What we have done, Mr. Speaker, is to staunch the haemorrhaging and start the exit process. It is not the end of the matter, but it is the beginning of the end.

I thank you, Mr. Speaker.

(Applause)

Mr. BUNTING: No question, just say thanks again.

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 1**
  Cabinet Agenda Issues for December 6, 2010
- **Ministry Paper No. 2**
  Cabinet Agenda Issues for December 13, 2010
- **Ministry Paper No. 3**
  Cabinet Agenda Issues for December 21, 2010
- Auditor General's Department Report on the Appropriation and other Accounts of Jamaica for the Financial Year ended 31st March, 2010
  And CDs are available of the publication.
- Overseas Examination Commission Annual Report and Audited Financial Statements for 2008/2009
- Housing Agency of Jamaica Limited Annual Report and Audited Financial Statements for 2009/2010

- Police Public Complaints Authority Annual Report and Audited Financial Statements for the year 2008 to 2009
- Trade Board Limited Annual Report and Audited Financial Statements 2009/2010
- Central Information Technology Office Annual Report and Audited Financial Statements for 2005/2006
- Spectrum Management Authority Annual Report and Audited Financial Statements for 2008/2009
- Certified Appropriation Account
  Ministry of Justice
  Head 2800B
  2007/2008

(MRS. NATALIE NEITA HEADLEY, (PNP), St. Catherine, East Central, entered and took her seat.)

QUESTIONS AND ANSWERS TO QUESTIONS

The SPEAKER: House Leader, we have two questions due for answering.

Mr. HOLNESS: Mr. Speaker, the Minister of Finance has indicated that he will provide his answers next week. And the Minister of Youth, Sports and Culture is ready to answer her questions.

The SPEAKER: Can both Ministers please provide the answers next week?

(Inaudible comments by MISS GRANGE)

The SPEAKER: You are ready? Oh, the Minister is ready.

Miss Hanna just go ahead please.

Miss HANNA: Mr. Speaker, I ask that the Minister answer the question standing in my name at this time.

The SPEAKER: Thank you Miss Hanna. Minister Grange, could you - you have a copy for circulation, Minister Grange?

Miss GRANGE: Mr. Speaker...

The SPEAKER: Yes, Minister Grange.

Miss GRANGE: ...

Question: Will the Minister of Youth Sports and Culture list all the contracts issued by all the divisions of the Ministry of Youth, Sports and Culture in the period June 2009 to December 2010 and the beneficiaries of said contracts.

Answer: A detailed list is provided and I've handed the list of the contracts and the beneficiaries. And I would just like to indicate that the Government's procurement process was followed in the awarding of these contracts.

The SPEAKER: Thank you, Minister Grange.

Any follow-up question, Miss Hanna?

Miss HANNA: Mr. Speaker, I just wanted to find out if I could have a chance at a later date, to ask some supplementary questions, seeing that I just received...

The SPEAKER: You want a recommittal at a later time today?

Miss HANNA: Yes please, if that is possible.

The SPEAKER: If necessary fine. Thanks.

Dr. PHILLIPS: Mr. Speaker...

The SPEAKER: Yes?

Dr. PHILLIPS: ...before we leave the item...

The SPEAKER: Yes, Dr. Phillips.

Dr. PHILLIPS: ...Questions and Answers to Questions, you may recall on the - in December, I think in response to questions raised by the Member from Central Manchester, the Minister of Education had promised to give some information on the audit done by the Porus - done at Porus.

Mr. M. PEART: The Minister of Finance.

Dr. PHILLIPS: The Minister of Finance, my apologies, my apologies. The Minister of Finance had promised to, and in fact was going to bring information as to when he had made these remarks asking people to bring information and report matters to the Public Accountability Inspectorate. I haven't got that.

The Public Accountability Inspectorate, which was...

(Inaudible comments by Mr. Shaw)

Dr. PHILLIPS: You had brought it to attention in the House.

(Inaudible comments by Mr. Shaw)

Dr. PHILLIPS: Yeah, in response to questions.

Mr. SHAW: Good, it was brought to your attention.

Dr. PHILLIPS: And I had raised why the Porus school was included since it didn't seem to have the same significance as the other major projects that were the subject of inspection were. He had - the Minister had indicated that he would bring one, the audit and two, he had made statements that he had requested various - he had requested citizens to generally bring the information to him and had implied that this investigation was a response to one such request. And we asked him to bring further and better particulars. I would really just ask if the Minister has those particulars here today?

My concern why I raised it, Mr. Speaker, is that I have, as I suggested then or I requested whether there was any connection between the fact that ...

Mr. HOLNESS: Mr. Speaker, the Member is using question time inappropriately. May I suggest, Mr. Speaker, that you guide the Member to present formal questions to the Minister.

The SPEAKER: No, but House Leader, to be fair the matter occurred at Question Time.

Dr. PHILLIPS: A commitment was given, Mr. Speaker...

The SPEAKER: Yes.

Dr. PHILLIPS: ...and too often these commitments are given lightly with no intention to respond. And my concern is greater because I understand that in relation to the Buff Bay school where the current President of the JTA was Principal a similar audit was done and we need to know...

The SPEAKER: Yeah.

Dr. PHILLIPS: ... and be assured that we are not finding a pattern of witch-hunting being undertaken.

The SPEAKER: Okay.

Mr. HOLNESS: Mr. Speaker, the Member is misleading the House.

Dr. PHILLIPS: I require ... I require, Mr. Speaker, I require - I can give you the dates and particulars when it was done.

Mr. HOLNESS: The Member is misleading the House.

Dr. PHILLIPS: Mr. Speaker, all I require...

The SPEAKER: Dr. Phillips, Dr. Phillips...

Dr. PHILLIPS: ...is that the commitments given in this House be fulfilled.

The SPEAKER: Dr. Phillips...

Dr. PHILLIPS: All I require, Mr. Speaker...

The SPEAKER: Dr. Phillips...

Dr. PHILLIPS: I don't want to be interrupted.

The SPEAKER: No, no one second!

Dr. PHILLIPS: I would like the information to come here and I also want the information in respect to the Buff Bay school to come here.

The SPEAKER: No, but you have to be careful, Dr. Phillips, how you make these allegations. I do recall... Dr. Phillips, Dr. Phillips, yes you must be very careful how you make these allegations that cannot be substantiated. But I do recall quite well, that a commitment was given in relation to the Porus school.

Minister Shaw, can we...

Dr. PHILLIPS: I am just saying, Mr. Speaker, my concern is heightened because of additional information which has come to attention since.

The SPEAKER: No, but you know, the point it's an unsubstantiated allegation. But...

Mr. SHAW: Mr. Speaker, let me just indicate, let me just indicate to you that the Opposition Spokesman of Finance...

The SPEAKER: Yes.

Mr. SHAW: ...subsequently - subsequent to the exchange in the House between myself and the Member from Central Manchester - has written to me confirming that we'll send the information to him. The information is now being collated by the PAI...

The SPEAKER: Okay.

Mr. SHAW: ... and it will be delivered to the Opposition Spokesman on Finance quite possibly this week, or by next Tuesday in Parliament.

The SPEAKER: So the simple answer, Dr. Phillips, is that the information that was committed or the commitment was given, should be in before the next meeting of Parliament.

Dr. PHILLIPS: Mr. Speaker, I appreciate the Minister's response, but quite frankly the commitment which I seek was one given to me, without any disrespect to either the Minister or the Opposition Spokesman on Finance, and I would request that the information that I requested be given to me.

The SPEAKER: And it will be, I understand, before the next meeting of Parliament. So next Tuesday, Dr. Phillips, you will confirm, or refute whether it was given to you.

Dr. PHILLIPS: And I will, next Tuesday, Mr. Speaker, ask the questions about Buff Bay.

The SPEAKER: That's a different matter.

Mr. HOLNESS: Mr. Speaker, the...

The SPEAKER: Remember to put it in writing to me before.

Mr. HOLNESS: Mr. Speaker, I await the Member's questions on Buff Bay High School, but the Member made in his statements...

The SPEAKER: Very unfortunate and unsubstantiated at the moment.

Mr. HOLNESS: ... suggesting that the Ministry of Finance, through its special investigative powers, conducted an audit of Buff Bay High School.

Mr. M. PEART: No, no!

Mr. HOLNESS: No, no! That's what he suggested.

Dr. PHILLIPS: No, I said, Mr. Speaker, we can go to - we can seek **Hansard**.

Mr. HOLNESS: We can refer to **Hansard**, Mr. Speaker. But I want to make it absolutely clear that as far as my knowledge goes – which is certain knowledge – is that the Ministry of Education in its normal course of auditing schools, audited Buff Bay High School.

And I will go further, Mr. Speaker, since the Member raised the issue I will, Mr. Speaker - though it is not the usual practice, but since the member has brought it into the public domain, Mr. Speaker, I will make the audit available to him. (Applause) And should it be necessary, Mr. Speaker, we could possibly consider making the audit public, as well.

The SPEAKER: Very well.

MOTIONS RELATING TO SITTINGS OF THE HOUSE

Rev. THWAITES: Mr. Speaker...

The SPEAKER: Sorry. Yes, Reverend Thwaites.

Rev. THWAITES: Would this be appropriate to enquire of you what is the status regarding the Report of the Standing Orders Committee, and the changes in the rules of the House which were approved and which do not appear to have yet been effected.

The SPEAKER: Reverend Thwaites, my understanding is that for quite a few months we have been waiting for the draftsmen I think you are aware of it. It is taking an unduly long time for the drafting of redrafting of some of the sections of the Standing Orders Committee, and it has been going an unduly long time. I think you know that the matter was referred to the Legal Drafting Committee, and that's what we are waiting on for us to deliberate further on it.

Rev. THWAITES: Mr. Speaker, we must not allow ourselves to be made eunuchs. We wish to regulate our own procedure in ways that since the beginning of this Parliament in 2007, every single member has understood and agreed to the needs for. We have deliberated, we have tried hard. What we have done is merely the beginning of a much longer process, Mr. Speaker, that you, yourself recognize the efficacy of. And yet we are faced now with a situation where we cannot even amend our own procedure. How much if we can't do that expeditiously, how on earth can we well serve the interest of the broader Jamaican populace? Mr. Speaker, it's not good.

The SPEAKER: Reverend Thwaites, your frustration is as great as mine. I will just ask the Clerk to really get an update where we are, in terms of what has been provided to the Legislative Drafting Committee, to come back to us. You are right, it is more than six months that it was sent to them and we have not received a report.

Mr. PICKERSGILL: About two years.

The SPEAKER: No, this is six months. Your time is different from mine, but it's about six months.

Reverend Thwaites, at the next sitting of Parliament we will have a further report.

Rev. THWAITES: Thank you, sir. And can we recognize that what we need is no artful draftsmanship.

The SPEAKER: I accept that.

Rev. THWAITES: These are very simple things.

The SPEAKER: No, my understanding though, Reverend Thwaites, is that the Legal Drafting Committee is under a lot of pressure with other work. But I accept if it was only ours it shouldn't take more than a couple days. But I understand that we are a part of the conveyor belt of drafting that is being done.

Rev. THWAITES: Well, Mr. Speaker, perhaps this is a matter which ought to be brought substantively to the House. Because if we are here charged with the legislative responsibilities of the nation, and we find ourselves in this pass, we must do something about it, not submit to it.

The SPEAKER: We will check on it for you, Reverend Thwaites.

PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED

The SPEAKER: Minister Charles.

Mr. CHARLES: Mr. Speaker, I now move to introduce and have read a first time a Bill shortly entitled:

The Minimum Wage (Amendment) Act, 2010.

A Bill shortly entitled:

The Minimum Wage (Amendment) Act, 2010,

read a first time.

Mr. CHARLES: Mr. Speaker, I beg to give notice of the second reading of the Bill.

Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of the Standing Orders to enable me to take the second reading of the Bill and to take it through all its concluding stages.

The SPEAKER: Thank you, Minister Charles.

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business today, the Minister of Finance will be taking an amendment to the Deposit Insurance Act. The Leader of Government Business will be taking the Electoral Commission Report on ongoing legal reforms, the Prime Minister will be taking the Report of the Joint Select Committee of Parliament, which considered the review of Jamaica's Defamation Law, the Minister of Labour and Social Security will move to introduce and have read a second time a Bill shortly entitled 'The Minimum Wage (Amendment) Act, 2010.'

The SPEAKER: Thank you, House Leader.

Minister Shaw.

THE DEPOSIT INSURANCE ACT

Mr. SHAW: Thank you very much, Mr. Speaker.

Mr. Speaker, the Bill that is before us is AN ACT to Amend the Deposit Insurance Act.

The Deposit Insurance Corporation, Mr. Speaker, was established under the Deposit Insurance Act, 1998, to administer a Deposit Insurance Scheme for Jamaica. With the emergence of other deposit insurance in other jurisdictions, the Jamaica Deposit Insurance Corporation has had the benefit of learning more about this type of institution, and with this knowledge better practices have been developed. Consequently, a recent review of

the Act was undertaken and a number of weaknesses in the Act were identified. And these weaknesses are now being addressed, Mr. Speaker, in the Act to Amend the Deposit Insurance Act.

You will recall, of course, Mr. Speaker, that the Jamaica Deposit Insurance Corporation was established following the financial sector collapse of the 1990s, and at that time the issue of insurance for depositors was an extremely topical one.

And I am to indicate to you, Mr. Speaker, that since the establishment of the JDIC, the amount of coverage has increased from $300,000 per depositor, to $600,000 per depositor, as of July, 2007.

I am also to indicate, Mr. Speaker, that the number of accounts that are fully covered at the current coverage limit of $600,000 per depositor, is 3.9 million accounts, or representing 97.4 per cent of the total number of insurable accounts. The actual Deposit Insurance Fund balance as at the end of November, 2010, is in the order of J$7.4 Billion, Mr. Speaker.

The amendments that are being made to the Act will provide for enhanced depositor entitlements and improved operational efficiencies of the Depositor Insurance Scheme.

Mr. Speaker, the main amendments to the Act are as follows.

In Clause 2 definitions have been amended for clarity.

In subsection (1) (a) we will amend the definition of "insurable deposit" by inserting the words "other than" after the words "a deposit from".

Deleting from paragraphs (a) and (b) the words "a deposit from", inserting after paragraph (b) the following as paragraph (c), and (d) "A Ministry, department or agency of the government," and (d) "A Parish Council, the Kingston and St. Andrew Corporation or a Municipal Council".

And by inserting in the appropriate alphabetical sequence the following definitions:

Nominee includes an agent, a guardian, a custodian, and the Supreme Court or Resident Magistrate's Court, in the case of property, the value of which is within the monetary jurisdiction of that Court, pursuant to section 29(1) of the Mental Health Act.

Nominee Account means monies held on account by a nominee for the benefit of a principal or ward of the nominee or of a minor or patient, as the case may be.

Trust Account, Mr. Speaker, includes monies held on account for the purpose of a Trust.

In Clause 3, Mr. Speaker, section 5, which outlines the functions of the Jamaica Deposit Insurance Corporation, is now being amended to allow the Corporation to make loans or advances with security, and to borrow or to raise funds.

In Clause 4, amendment to section 14 is being done in order to address a conflict that exists between section 14(3) and section 25(1) of the Act, whereby section 14(3) empowers the JDIC to set the premiums on the approval of the Minister, but in section 25(1) the premiums can be set by regulation.

These two are now being reconciled, Mr. Speaker, where it is the burden will be on section 25 will supersede the Clause 3 of section 14. And it is that the Minister will be

prescribing on the recommendation of the JDIC, the Corporation.

In Clause 5 section 17 is being amended to facilitate repayments of loans and advances from the Fund, and to allow the JDIC to invest in securities issued or guaranteed by the Bank of Jamaica, any other investment approved by the Minister upon the recommendation of the Board.

In Clause 6 the maximum payout on insured deposit was changed from $300,000 to $600,000, Mr. Speaker, by Order. The amendment now to section 18 is to incorporate this change in the Act.

Clause 7 in section 18 once again is being amended also, by inserting new provisions, 18(a), (b), (c) and (d) as follows -

The new provision 18(a) indicates how the deposits held in foreign currency should be calculated if there is a payout.

In (b), the new provision 18(b) seeks to address how the interest on the deposit should accrue, and the cessation of the accrual of interest, if there is need for a payment. This will provide clarity to the depositor and avoid uncertainty.

In section (c) the new provision 18(c) provides clarity to how a Trust Account or Nominee Account should be treated.

The Deposit Insurance Act was silent on how these types of accounts should be treated, Mr. Speaker.

Another area of concern that existed is the treatment of a depositor with insurable deposit with more than one policyholder that subsequently merged. The existing Act provides protection to depositors per institution, which means that if institutions merge, then any payout to depositors would be reduced. The new provision 18 (d) indicates the outcome if institutions merge and continue to operate as one policyholder.

So it means, Mr. Speaker that in those circumstances the policyholder having had two accounts would benefit from insurance for both accounts.

And it was important, Mr. Speaker let me stress here that the JDIC, fortunately for us, has not had to be involved in any bail-out since its inception. But the idea is to remove any uncertainties whatsoever, as to the basis for such things as the calculation, based on foreign currency, as I have done here, the interest charges, how that is based, and of course, the other issues that I have raised. This is simply to make it more clear as to how the procedures will guide the conduct of the work of the JDIC.

In Clause 8, Section 19 (a) has been amended to allow the Jamaica Deposit Insurance Corporation to make payments by transferred deposit held by another policyholder. A depositor will be allowed therefore, to access his or her insured payment from a branch location of the other policyholder or through any other agreement between the other policyholder and the Corporation.

In Clause 9, Section 22 of the Act will be amended to allow that a financial institution that continues to accept deposits without a valid policy of deposit insurance commits an offence and is liable before the Resident Magistrate's Court to a fine not exceeding $3 Million. If the financial institution continues the offence after its appearance before the Resident Magistrate's Court, then the institution will be required to be brought before a higher court, Mr. Speaker, the Circuit Court.

In Clause 10, Section 24 is amended by incorporating a new provision to allow the Minister to amend the monetary penalties by affirmative resolution.

In Clause 11, Section 25 of the Act is amended to ensure that adequate records are maintained to ensure identification of trust and nominee accounts. And Mr. Speaker, this is very important, because that - the maintenance of those accounts combined, Mr. Speaker, combined with the new Clause 18 (c), will ensure that in the event of a failure of an institution, Mr. Speaker, in respect of trust accounts, it is the – the cheque would not just be paid out to the trustee, but the payments would actually be paid out to the beneficiaries, directly paid to the beneficiaries. And that is an important protection, Mr. Speaker, and so, that is why we also have to ensure the maintenance and the identification of trust accounts and nominee accounts, very, very important.

A new subsection (3) is included in section 25, to indicate that penalties for breach of the regulations may allow for a fine not exceeding $500,000 in the Resident Magistrate's Court, notwithstanding the Interpretations Act.

Mr. Speaker, I just want to indicate and want to thank the leadership of the JDIC, headed by MISS ANTONETTE MCCANE, who is here with us, along with her staff, they have been doing a good job of running the institution. And I think that these amendments are appropriate and timely and tidy up the matters at the JDIC, so that, if and when we have to invoke the insurance that there is greater order and understanding by all parties as to how procedures are conducted.

I thank you.

The SPEAKER: Thank you, Minister Shaw. Minister could you ask for second reading.

Mr. SHAW: I beg to move for second reading of the Bill.

The SPEAKER: The question is that the Bill be read a second time.

Motion put to the House and agreed to.

Bill entitled:

"AN ACT to Amend the Deposit Insurance Act"

read a second time.

The SPEAKER: The House will now resolve itself into a Committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

The CHAIRMAN: Members, before you is the Act to Amend the Deposit Insurance Act.

Clause 1 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 2…

Mr. KELLIER: Mr. Speaker would we now still to be saying…

The CHAIRMAN: Yes, it will be edited. So it is 2011 instead of 2010.

Clauses 2, 3, 4, 5, 6, 7 and 8, put to the Committee and agreed to.

The CHAIRMAN: I put Clause 9

Mr. KELLIER: Mr. Speaker, Clause 9, any financial institutions that carries on the business of accepting deposits without being the holder of valid policy of deposit insurance commits an offence and is liable. And the fines are set out in (a) and (b). But I would want to think based on experiences that we have had, that $3 Million is a little bit too low.

The CHAIRMAN: But, then Mr. Kellier…

Mr. KELLIER: What does it fall in line with?

The CHAIRMAN: The prosecution can then go to the High Court, to the Circuit Court and then the fine is unlimited. Look at (b), 9 (b).

Mr. SHAW: That's correct, Mr. Chairman.

The CHAIRMAN: If the infringement is so grave, then the prosecution can decide to go to the Circuit Court.

Mr. KELLIER: So why weren't both of them then incorporated as one?

The CHAIRMAN: No, but if it is a minor offence then you go quickly to the RM Court. If it is major, it takes a little longer you go to the Circuit Court.

Mr. KELLIER: I am following you, Chairman, but (b) says: - "On conviction on indictment in a Circuit Court to a fine."

The CHAIRMAN: It could be unlimited.

Mr. KELLIER: This fine now doesn't say anything.

The CHAIRMAN: Unlimited, unlimited.

Mr. KELLIER: But it could also be less.

The CHAIRMAN: It could be it could be.

Mr. KELLIER: Yes, so we should have something there that qualifies the bottomline.

The CHAIRMAN: No, but Mr. Kellier, in (a) it is not less than and 8 is not exceeding. So there is no minimum fine,

Mr. KELLIER: (a) says not exceeding $3 million, (b) says nothing.

The CHAIRMAN: It is unlimited.

The CHAIRMAN: It could be a $100 million, left to the discretion of the Judge. In fact, once it goes…

Mr. KELLIER: This is a loophole, you know, Mr. Chairman.

The CHAIRMAN: No, Mr. Kellier, once it goes to the Circuit Court, the likelihood is that the High Court Judge would recognize that it ought to be more than $3 Million.

Mr. KELLIER: Okay, let's see.

Clauses 9, 10, 11, put to Committee and agreed to.

The Title and Enacting Clause put to Committee and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed Committee Stage without amendment.

RESUMPTION

The SPEAKER: I do report the Bill as having passed Committee Stage without amendment.

Minister?

Mr. SHAW: Mr. Speaker, I now ask that the Bill be read a third time.

The SPEAKER: The question is that the Bill be read a third time.

Motion put to the House and agreed to.

Bill entitled:-

"AN ACT to Amend the Deposit Insurance Act"

read a third time and passed.

The SPEAKER: The Act to amend the Deposit Insurance Act passed.

House Leader?

ELECTORAL COMMISSION REPORT - DEBATE

Mr. HOLNESS: Mr. Speaker, the Electoral Commission of Jamaica, the ECJ, has put before this House, Mr. Speaker, several Reports which we have, in most cases - in fact in all cases...

The SPEAKER: Members, the House Leader is speaking on that matter, the Report

that was laid and Members should remember, the Report of the Electoral Commission was laid before us on the 7th of December 2010 and the House Leader is opening the debate.

So I just want to let Members be aware of this.

Mr. HOLNESS: I was giving the preface.

The SPEAKER: Yes.

Mr. HOLNESS: Well, thank you for the explanation, Mr. Speaker.

Now we have on almost all occasions, barred probably one, we have approved the Report as presented. There is a longstanding tradition, Mr. Speaker, which we are very careful to uphold. The present Report, Mr. Speaker, in my opinion, will generate significant debate and therefore, Mr. Speaker, I crave the attention of my colleagues.

Mr. Speaker, as AMBASSADOR ALBERT RAMDIN, Assistant General Secretary at the Organization of American States noted in his opening remarks of the third meeting of the Association of Caribbean Electoral Organizations held in Jamaica in November 2008, He said:

> *"Elections in the political life of any country are critical moments and the success of which are built on a foundation of the legitimacy of institutional frameworks and institutions that regulate the transparency of the electoral process".*

It is against this background, Mr. Speaker, that we have reason to be proud as the electoral process in Jamaica has seen great progress over the last 31 years since the establishment of the Electoral Advisory Committee. In fact, Mr. Speaker, the OAS has identified Jamaica as one of the leading countries in the Western Hemisphere in the application of information technology and communications systems in the electoral process. And, the Commonwealth Secretariat has highlighted Jamaica for best practices in governance in the conduct of elections. And even with - and even, Mr. Speaker, with the delineation of constituency boundaries. As you well know, Mr. Speaker, in other countries, the delineation of constituency boundaries is a very contested issue. In fact the term gerrymandering is oftentimes used to describe the American process.

Mr. Speaker, it is therefore with a view to continuing the strengthening of this process and to ensure transparency and the modernization of our electoral system that the Electoral Commission of Jamaica brought its Report on Continuing Legal Reform which was tabled in the House, as you said earlier, Mr. Speaker, in December last year.

The Report, Mr. Speaker, seeks to address two areas. **First**, amendments to the Electoral Commission (Interim) Act to ensure constituency with current standards and practices that have been found to be highly successful in the efficient operation of the commission.

And **two**, amendments to the Representation of the People Act, and corresponding sections of the Parish Council and the KSAC Act to address the following.

One: the presentation of a civilian voters list to candidates prior to election day, the transfer of indoor agents, the use of modern technology, the postponement of elections and the role of the constituted authority in the postponement of elections, and the use of motor vehicles on election day.

Mr. Speaker, let's start with the amendments to the Electoral Commission (Interim) Act. As we know, our aim is have the Electoral Commission of Jamaica entrenched in the Constitution. Other modern democracies such as South Africa and even in our region Dominica, have already entrenched their…

(*Sotto voce* comments by Mr. Pickersgill)

Mr. HOLNESS: It is a modern democracy, I am surprised, Member, that you disparage. Which makes it a modern democracy young and modern democracy.

South Africa and Dominica, Mr. Speaker, have already entrenched their commission in their constitution.

Indeed, on the 21st of September last year, the House approved the recommendation that the ECJ should be entrenched in our Constitution. During the debate, I brought to the attention of the House that the current legislation requires that the Commission be entrenched and I quoted from Section 3 of the ECJ Act, which says that:-

> *In terms which precludes its alterations otherwise than in accordance with the procedures prescribed by or in relation to Section 49 (3) of the Constitution.*

Now, Mr. Speaker, Section 49(3) of the Constitution refers to the amendment of specially or deeply entrenched provisions. And in addition to what we already know, for ordinarily entrenched provisions, that is, ordinarily entrenched means that there must be a two-thirds majority in both Houses; and there must be a three months delay between the introduction of the Bill and the commencement of debate. And after debate, a further three months should be given between the start of the debate and the conclusion of the debate, a process which we went through for the Bill of Rights.

So, Mr. Speaker, amendments falling under section 43 - section 49(3), rather - also require the support of the majority of the electorate in a referendum. Usually Mr. Speaker, provisions which fall under this section, that is section 49(3), relate to the basic structure of the Constitution. Basic structure. For instance, of course, if we were talking about the supremacy of the Constitution, if we were going to do anything to change that, then we would have to go under section 49(3) which would require the process that I outlined, in addition to a referendum.

It was not the intention, Mr. Speaker, that the entrenchment of the Commission should have been provided for in this way. Indeed, Mr. Speaker, this would not be in keeping with the procedures outlined for the amendment of provisions dealing with the establishment, independence and security of tenure of other Commissions in the Constitution. It is for this reason that the Electoral Commission is recommending an amendment to section 3 of the ECJ Act to allow for the entrenchment of the Commission under section 49(2) instead of section 49(3). In effect, Mr. Speaker, the reference to section 49 (3) in the Act, we could probably consider that to be an error, and that the appropriate reference should have been to section 49(2).

Now, Mr. Speaker, the amendment is important at this stage because the legislation provides that the ECJ Act continue in force unless provision is made regarding the entrenchment in accordance with section 49(3). So within the ECJ Act, which is an

interim Act, it basically says that the ECJ will continue to exist in its current state unless provisions are made to entrench it, based on section 49(3). What we have to do at this stage, Mr. Speaker, is to make a correction by an amendment to the Act...

(Inaudible comments by Mr. Pickersgill)

...so that the interim Act which governs the operations of the ECJ now, can properly expire when we come to entrench it. In other words, we couldn't just go and entrench under section 49(2) where the existing Act says entrenchment must be done under section 49(3). So we have to make the correction in the ECJ Act before we proceed to entrenchment. So what the Report is saying is that...

(Inaudible comments by Mr. Pickersgill)

...Right. What the Report is saying is that we must now...

Mr. SAMUDA: Correct 49(3).

Mr. HOLNESS: ...correct 49(3) before we proceed with entrenchment. So we will now bring legislation to have that amendment done.

With respect to best practices Mr. Speaker, the Commission is recommending that the composition of the Commission be reduced from nine to eight members with the Director of Elections no longer being a full member of the Commission with voting rights, but merely entitled to attend meetings.

Opposition MEMBER: What is the rationale behind it?

Mr. HOLNESS: The rationale behind this, Mr. Speaker, is that the current composition lends itself to the possibility of the Director having a deciding vote on issues of policy in the event that there is deadlock among the eight (8) Commissioners. For avoidance of doubt, this has never occurred. Neither the present nor previous Director of Elections has ever had a casting vote on a matter of policy, even if there were a deadlock. It has never happened. But to avoid that possibility, the Commission is recommending that the membership be reduced from nine to eight, which would mean that the Director of Elections would no longer be a Commissioner of the Electoral Commission but merely allowed to attend as an observer.

In addition Mr. Speaker, presently the Act stipulates that the terms and conditions of employment and the remuneration of the staff of the ECJ be determined by the Commission, subject to the approval of the Minister responsible for electoral matters, and the appointment of employees to a post which carries with it a salary which is in excess of the prescribed rate, also requires the prior approval of the Minister. The prescribed rate in the Act is J$2.5 Million or such higher rates as the Minister, acting on the advice of the Commission may prescribe.

The recommendation, Mr. Speaker, is that the Act be brought inline with current practices and that the meaning of 'prescribed rate' be amended so that the prescribed rate is referenced, not to a specific amount as it is now, $2.5 Million, but rather that the rate be prescribed for comparable posts in Central Government or such higher rates as the Committee established under the Act. So no longer would the Minister give the approval. It would be a committee of the ECJ which is established by the ECJ Act would from now on, if the recommendation is accepted, that Committee would therefore give the prescribed rate and approval.

Furthermore, while the Commission under section 11 of the ECJ Interim Act is responsible for the appointment of temporary employees to carry out the functions associated with the registration of electors and the holding of elections, the rate of remuneration is determined by the Ministry of Finance. The Commission is recommending that this be changed and that for transparency and efficiency, the Commission be given the power to determine the rate of remuneration of its temporary employees. That would be the Scrutineers.

Paragraph 7 of the Schedule to the ECJ Act Mr. Speaker, deals with the remuneration of members of the Commission. At this time, the legislation provides that the remuneration of the members, including the Chairman of the Commission, shall not be more than the emoluments payable to a Puisne Judge. The recommendation Mr. Speaker, is that in keeping with the benchmarking of posts at the ECJ with those in the public service, that the emoluments of the Chairman and other members, be brought...

(Inaudible comments)

...well, the emoluments of the chairman be brought inline with the emoluments payable to a Senior Puisne Judge. So one recommendation, Mr. Speaker, is that there is benchmarking of the remuneration of the membership of the ECJ generally to a Puisne Judge, but the other recommendation is that the Chairman be benchmarked to a Senior Puisne Judge.

A MEMBER: Why?

Mr. HOLNESS: Now, there is a practice in the ECJ...

(*Sotto voce* comments)

There is a practice in the ECJ where the Chairman, since 1979, was paid a *responsibility allowance* which amounted to ten per cent (10%) of his pay. So there is already the precedence for a distinction to be made between the membership and the Chairman as it relates to salary. In the current situation...

Mr. PICKERSGILL: Not a practical matter. (*Inaudible*)

Mr. HOLNESS: (Laughs)... in the current situation, Mr. Speaker, even with this distinction and the paying of a *responsibility allowance*, the responsibility allowance would be removed and the difference would now come by virtue of the difference between the Puisne Judge and the Senior Puisne Judge.

Mr. PICKERSGILL: And would now be irresponsible?

(*Sotto voce* comments by other Members)

Mr. HOLNESS: You can make that comment when you...

More far-reaching Mr. Speaker, is the recommendation that the advisory functions of the Commission within the Public Sector be expanded to allow the Commission to not only give advice to Parliament with respect to boundaries and other matters, but to give general advice to the Cabinet, statutory bodies and other Government entities on all matters related to the electoral process.

It is also recommended, Mr. Speaker, that in keeping with the need for transparency in the electoral matters and thus the decreased involvement of the executive, that is the executive of Government in the operations of the Commission, that regulations made by the Commission pursuant to the Act no longer require the approval of the Minister, although

parliamentary oversight in the form of an affirmative resolution of the House of Representatives would still be required.

Mr. Speaker, I now turn to the amendments that would be required to the Representation of the People Act and corresponding sections of the Parish Council's Act and the KSAC Act. As mentioned before, Mr. Speaker, these recommendations deal with the presentation of a civilian voters list to candidates prior to election day, the transfer of indoor agents, the use of modern technology, the postponement of elections and the role of the constituted authority in such, and the use of motor vehicles on election day.

(Inaudible comments by Mr. Warmington)

Mr. HOLNESS: With respect to the voters list, Mr. Speaker, at present the ROPA requires that a candidate, prior to Election Day, be provided with the official voters list: the military's voters list, the police voters list, and the election officers' voters list. As we know, Mr. Speaker, the last three lists are provided prior to Election Day because these individuals vote prior to Election Day. However, because of the absence of a requirement that a civilian list be presented, that is, a list of all persons, excluding election workers, police and military, some candidates had a problem, Mr. Speaker, in that they were not able to verify for themselves that the total list added back, matched back to the civilian list, plus the workers, plus the police and military.

The recommendation, Mr. Speaker, is that a civilian list be provided at the same time as the police, military and election workers lists are provided. This will add greater accountability and verification of the list.

Section 105 of ROPA, Mr. Speaker, provides that the transfer of Indoor Agents, if the polling station in which they have been appointed to serve is a different division from the division in which they have been registered to vote, provides that the Returning Officer receives written notification from the candidate not less than 48 hours before the opening of polls. The transfer, Mr. Speaker, would usually be affected on Election Day. However, experience has shown that over the years the requests for transfers of Indoor Agents has increased significantly, placing increased burden on Returning Officers to make the requisite transfers and to provide this information to the respective Returning Officers before election day.

The Commission has proposed that the time period within which the request for such transfers to be made, be increased from 48 hours to 72 hours before the opening of polls. And that is a fairly straightforward request, Mr. Speaker. However, we should note that the ECJ is also recommending that the transfer of agents between polling stations within the same polling cluster or the same polling location, that that be prohibited.

Opposition MEMBER: What?

Mr. HOLNESS: Mr. Speaker, on the 14th day of December, 2010, we approved recommendations by the ECJ that the open display by a voter of a ballot marked by him or her be deemed an election offence.

The mischief that the recommendation sought to address, Mr. Speaker was twofold:

(1) The prevention of bribery and fraud where a person's vote would be sold for monies paid over on condition that a ballot is displayed as confirmation

that a voter has cast his ballot in a particular manner.

(2) The prevention of intimidation of voters who may feel obligated in the absence of penal sanctions, to display their ballot or face violence.

The recommendation today, Mr. Speaker, takes this one step further and recognizes that with the advance in digital technology it is possible to circumvent the above safeguards by simply taking a photograph of one's ballot after the same has been marked, using everyday devices such as a cellphone. The Commission is therefore recommending that the ROPA and corresponding sections of the KSAC and the Parish Councils Act be further amended to prohibit the use of any digital recording device any recording device, digital or otherwise to record a ballot after it has been marked and to make such violations of this prohibition a criminal offence. Of course, Mr. Speaker, anyone in violation would receive the same warnings as an individual who has openly shown his ballot and should he/she persist in the recording of his ballot using any device, then he would have committed an offence and both his ballots would be rendered spoilt.

Under the open-voting sanctions that we approved in September, the Presiding Officer would give a warning to the person who openly displays their ballot. And if they persisted in displaying the ballot, they would be given a second ballot. And if they persisted, then the ballot would be void. There is an opening here, Mr. Speaker, in that the legislation....(Disturbance)

The SPEAKER: (gavels) Members, Members, there are too many subcommittee meetings. Members, could you take your seat and allow the House Leader to continue.

Mr. HOLNESS: Mr. Speaker, there is a gap in the Report as it is presented. In that, whilst, Mr. Speaker, the person may very well on the first instance take a picture of the ballot, and then upon the warning says 'I am sorry', and leaves with the captured image on the device. I believe that we may have to consider seizure of the actual equipment that is used taking the digital image.

As you will recall, Mr. Speaker, the 2007 election was a momentous occasion for many reasons, not least of which was the fact that the initial date for the holding of the General Election was postponed due to passage of Hurricane Dean between Nomination Day and Election Day. Currently, under the ROPA the decision to postpone elections is made by the Governor-General in Council that is the Governor-General acting on the advice of Cabinet, providing one or more of the following circumstances exist: (a) The declaration of war;

b) The proclamation of a State of Emergency;

c) The outbreak of a natural disaster;

d) The likelihood that the official list and/or any other essential aspect of the electoral machinery is not ready; or

e) The outbreak of riots, violence or other civil disturbance, which prejudices the holding of a fair election.

While it is felt that the Cabinet should be able to determine whether an election should be postponed in the first three circumstances,

that is, the declaration of war, the proclamation of a State of Emergency, or the outbreak of natural disaster, the Commission is of the view that where the reason for postponement involves the electoral machinery or a state of social unrest, which ostensibly could be created as a means of distractions, that in making this determination the Governor-General should act on the advice of the constituted authority.

Mr. PICKERSGILL: Nonsense, Nonsense.

Mr. HOLNESS: So the ECJ is making a recommendation that the decision to postpone an election should rest with the Cabinet, advising the Governor-General where there is a declaration of war, proclamation of a State of Emergency, outbreak of natural disaster. However, where the reason or the cause for the postponement is that there is a likelihood that an essential part of the electoral machinery will not be ready, or there is an outbreak of violence, then the Governor-General ought to take advice from the constituted authority.

Now the constituted authority, Mr. Speaker, is that body which comes into effect whenever an election notice is issued; and its primary purpose is the determination as to whether the taking of the poll in any poling station, division or constituency should be halted and the poll retaken on another day. Mr. Speaker, you will note that I was the test case, the constituency that I represented was the test case for the constituted authority. (Laughter)

Mr. PICKERSGILL: When do you recall? (Laughter)

Mr. WARMINGTON: How many pages you have there?

Mr. HOLNESS: You will get your time shortly. (Laughter)

This recommendation, that the Governor-General acts on the advice of the constituted authority - will expand the role of the constituted authority and as such, the Commission further recommends that the constitution of the authority be amended to include the four - this is a very fundamental recommendation. The recommendation that the Governor-General acts on the advice of the constituted authority will expand the role of the constituted authority and as such, the Commission further recommends that the constitution of the authority, that is, the make up of the constituted authority be amended to include the four (4) selected members of the Commission currently the legislation provides for only three selected members - and by extension, Mr. Speaker, that the majority required to make a determination to postpone elections or halt the taking of the polls in any polling station or division, be amended to five-sixths instead of four-fifths. So we would be expanding the membership of the constituted authority.

In October 2006, Mr. Speaker, the then Electoral Advisory Committee issued an Addendum to its April 10, 2006 Report regarding the use of motor vehicles for the conveying of voters to the polls. The Report at that time noted that the provisions in the ROPA - that would be sections 71 to 76, which apply to the registration of motor vehicles to convey voters, the use of such vehicles, the special provisions relating to urban constituencies, the restrictions on the users of these registered vehicles, the conveyance of non-voters and the power to

question passengers and detain vehicles, were antiquated and no longer necessary and should be deleted from the Act, that is ROPA.

The ECJ has endorsed the recommendation as being irrelevant in a post modern era, and as the 2006 Addendum though tabled in the House was not approved. It is therefore proposed that the relevant sections of the Act be repealed in keeping with this recommendation.

Mr. Speaker, I obviously agree with that, that those sections of the ROPA, sections 71 to 76, which deal with the conveyance of voters and all this business of registering vehicles, that they be repealed. Because in a modern democracy with many vehicles people, you know.....

Mr. Speaker, though seemingly lengthy and the Member from St. Catherine is very eager to make his presentation, the recommendations proposed by the Electoral Commission are geared at safeguarding the democratic foundation of our country through the efficiency of our election machinery and the maintenance of free and fair elections. As is customary, I therefore, move that the recommendations be adopted.

Mr. WARMINGTON: Mr. Speaker.....

Dr. PHILLIPS: You have not been recognized.

The SPEAKER: Okay. Mr. Warmington.

Mr. WARMINGTON: Mr. Speaker, there are areas of the Report or recommendation that I have great problems with. And the issue is, each time that I make a contribution on any Report that comes here from the Electoral Commission, you will hear, you will see it in the papers that I have an *adversarial attitude* towards the Commission. It's not so. The issue is that I believe I have the right to voice my opinion and the opinion of the people of South West St. Catherine who gave me the privilege to come here and speak for them. And I keep on saying...

(*Sotto voce* comment by Mr. Samuda) (Laughter)

Mr. WARMINGTON: I have never been absent.

And I keep on saying that this issue about convention where it is being said that Members of Parliament ought to come to this House and accept issues that come here because of convention on Electoral Commission. Many times the Report comes here in which the Commission is over-reaching, and there are cases in which they have gone beyond sanity, if I should use that word. They are asking us here to delegate our responsibility to a group of persons, and if we go along with a lot of what they are asking for here, it would be a dereliction of duty.

Mr. PICKERSGILL: Hear, hear!

Mr. WARMINGTON: And I am not prepared, Mr. Speaker, to go along with sections of the recommendation in the Report here. There are some aspects that are acceptable, but there are some that are totally, totally unacceptable and they have totally overreached in these regards.

Firstly, the Commission is now asking for authority to go beyond advice to Parliament. They soon ask about doing their own legislative stuff uptown, so they want to be out there on their own. The Commission is asking for authority to set prescribed rates for workers. And the issue here is that, Government is responsible for people's taxes. Government ought to hold the purse string of this country and we cannot delegate this responsibility to a group of persons who are a

Commission of a particular body. It must remain with us and through the Minister's responsibility.

It means that, if the Commission feels that they should go out there and quote some exorbitant rates for everything, they can run this country and the Government to bankruptcy. All we have to do is accept and just to release - the Minister of Finance release the funds to them.

This is unacceptable and this must remain with the Minister with responsibility for electoral matters.

I cannot in any sense at all agree with this aspect of it, Mr. Speaker. They are asking to amend section 20, subsection (1) of the Act, to delete the words, 'with the approval of the Minister'.There is a Minister with responsibility for electoral matters and the Act gives the Minister this authority. Therefore, we should not go along with any deletion and say 'without the approval of the Minister'. The Minister is responsible to the Cabinet, and the Cabinet is responsible to Parliament and Parliament is responsible to Jamaica, so it must rest with those with whom the people give the responsibility so to do. We should not give this up to anyone, it must remain here.

Mr. PICKERSGILL: Hear, hear!

(Applause by both sides)

Mr. WARMINGTON: The areas where they are asking here for the removal of section 71 for, you know, the registration of electoral vehicles, I'll go along with that, but I'll go much further than this, than just to include in this Report the issue of the registration of vehicles.

Section 35, subsection (3) of the Representation of the People Act, a Private Member's Motion came here and on June 5, 2007, the House overwhelmingly accepted the recommendation to remove this section entirely:

> "Whereby section 35, subsection (3) of the Representation of the People Act provides that any implementation other than an indelible pencil should be used in marking the x."

It says we must use a black lead pencil to mark a cross for the candidate of your choice. It was accepted here by the Private Member's Motion that if an elector chooses to use a pen, or charcoal, anything whatsoever to mark that x or put a mark beside his or her choice, it ought to be accepted and recognized.

(*Sotto voce* remarks by Mr. M. Peart)

Mr. WARMINGTON: The issue is what was accepted - you were Speaker, you couldn't vote then. You accepted it here. What was accepted then, as long as the Elector's intent can be discerned that ballot ought to be accepted. It was accepted here unanimously. And I am recommending that this Report include in it…..

Opposition MEMBER: You agree with it?

Mr. WARMINGTON:…this was approved and accepted by Parliament. Therefore we need to ask for this to be amended, it's whether we are going to amend it today to remove the section of this Report that is offensive or we send it back to the Commission to redraft this and send it back to us. But if we are going to do the amendment I would like us to amend it to include this Private Member's Motion that was accepted on June 5, 2007 to remove section 35 subsection (3) so as to allow the person's

intent, once it can be discerned, to be accepted as a valid ballot.

The Commissioner also, Mr. Speaker, is asking that the authority where the Governor-General in Council can postpone an election, and this is done on the advice of Cabinet, the Commission and the emperors are asking for this to be taken from Cabinet and the Governor-General and given to the group of people at Red Hills Road.

Mr. PICKERSGILL: Nonsense!

Mr. WARMINGTON: How can we as elected Members of Parliament, elected by the people, give up our responsibility that the people place in us, delegate such responsibility in what, four or eight persons who are not answerable to the people of this country.

Mr. PICKERSGILL: You are waxing warm. Nonsense!

Mr. WARMINGTON: I am answerable to the people of South West St. Catherine and I am answerable to Jamaica.

And I want to know if the other 59 Members inside here don't believe you have the obligation to stand and defend the rights of the people in your constituency.

Mr. PICKERSGILL: I am with you.

Mr. WARMINGTON: It is our responsibility to defend the rights of the people. And I am asking my 59 colleagues not to give up this right that is imposed in the Cabinet and the Governor-General of this country and this Parliament to give to a group of people up at Red Hills Road. (Applause) We need to ask for this to be deleted and removed. I don't know why these guys want so much authority and power. Why can't they be guided by the rules that are there already, the legislation that established them? Why do they need more power and authority? And there are areas where they are asking for authority and asking for power and they refused to state - what power do they want? They ask us to delete certain stuff to give them (Inaudible) power and they refused to tell us entirely what they are asking for. So if we should approve what is here it means that we are giving them a blank cheque
whereby they can go and sit in any room and send out anything out here and the country will have to accept it, nobody have any talk in this. I am not prepared to be a part of a Parliament or any body in this country that is going to vote to give any group of persons a blank cheque to run things in this country. It must be done from Parliament here. So we cannot give up that responsibility.

(*Sotto voce* remarks by Mr. Samuda)

Mr. PICKERSGILL: Come out of Cabinet if you . . .

Mr. WARMINGTON: Cannot give up this responsibility.

There is another section here, Mr. Speaker, whereby it is signed here and they are asking that the Chairman's salary must be increased and be equalled to that of a Senior Puisne Judge. The salary, the Chairman is requesting that his salary be increased to be equal to a Senior Puisne Judge. I find this offensive. The Prime Minister, the Governor-General, the Commissioner of Police, none of them, the Minister of Finance, cannot come to this Parliament and tell this Parliament what his salary ought to be. The Senior Puisne Judge cannot send to Parliament and say this is what my salary ought to be. So why should we have someone else send to this House, sign some document and tell us as Parliamentarians my salary ought to be equal to that of a Senior Puisne Judge. No, no, no!

This is not acceptable! It's offensive! It is greed and it's an egregious arrogance. Egregious arrogance! We should never and cannot accept this inside here.

Mr. PICKERSGILL: Hubris, hubris, hubris!

Mr. WARMINGTON: And the issue is that, I cannot see the life of me that members go into this room - I believe that the nominated members are to be more responsible when they sit on these committees and not just sign stuff (Applause) that are placed in front of them. If I sat on that committee and the selected members send this to me to be signed I would not sign it. But the issue, Mr. Speaker, that I have here, the problem I have, serious problem I have here, the issue is that the Commissioners, all the Commissioners on the Commission, the now nine (9) of them, they get a salary of $8 Million a year for a part-time job. The Chairman's salary is $8.3 Million . . .

Mr. PICKERSGILL: That's $72 Million a year.

Mr. WARMINGTON: Hold on….. $8.3 Million for a part-time job. And these Commissioners meet, the Commissioners meet an average of two hours a week and twice a month, an average of four hours a month is which the Commissioners meet. How can I go back to South West St. Catherine….

Mr. PICKERSGILL: Thank you, sir!

Mr. WARMINGTON: …and justify when I tell a domestic helper, one of those workers who works in the cane field….

Mr. PICKERSGILL: Minimum wage earners, minimum wage earners!

Mr. WARMINGTON: …the security guards, the gardener, the minimum wage persons in South West St. Catherine that elected me to come here, how can can I tell them that I came to Parliament and I supported a Bill where I gave nine (9) commissioners a salary of $8 Million, increase the Chairman's own to $10.8 Million, when they only work an average of four hours per month, when these guys, the security guards work over 70 hours a week, a month, a week, nuh?

Mr. PICKERSGILL: It doesn't matter.

Mr. WARMINGTON: And these Commissioners work for four (4) hours a month and demanding a salary of $10.8 Million.

Mr. PICKERSGILL: A waan hear Pearnel with the minimum wage, minimum wage….!

Mr. WARMINGTON: Worse than this, Mr. Speaker, the greed and arrogance here is that these Commissioners, if they serve two four- year terms on the Commission they get a pension equal to the highest salary that they received.

Mr. PICKERSGILL: You serious?

Mr. WARMINGTON: Their pension is equal to the highest (Inaudible), they have a very great pension package.

Mr. PICKERSGILL: Where are we going?

(Cross talk)

The SPEAKER: (Gavels) No.

Mr. WARMINGTON: They are entitled, they are entitled after two four (4) years terms, they are entitled to this attractive pension package, when the poor domestic helper in South West St. Catherine, the security guard in South West St. Catherine, the workers who work at Bernard Lodge out there, toil night and day, they can't even get a pension and we are talking about people who work at part-time job. Every single Commissioner has a full-

time job and they are collecting from the poor taxpayers of this country $8 Million plus per year and one is asking for $10.8 Million plus per year as a salary. I believe if these Commissioners are so committed to Jamaica, they are so committed to clean up the electoral system, we must commend them for that. But if the commitment is to help Jamaica, if the commitment is to clean up the electoral system, if the commitment is to help us, I challenge them to do this **voluntarily**, just like Government Board members, take a stipend, take an allowance, take your travelling and give back that to the poor people of this country because you are all working full-time! (Applause)

A MEMBER: Good man, good man!

The SPEAKER: Reverend Thwaites. Okay, you are yielding for Mr. Pickersgill?

Rev. THWAITES: Yes.

The SPEAKER: Okay, Mr. Pickersgill.

(*Sotto voce* remarks by Mr. Vaz)

Mr. PICKERSGILL: Shut yuh mouth! You are a Member of the Cabinet. As a Member of the Cabinet you should be ashamed.

The SPEAKER: No, Mr. Pickersgill, please, cool it.

Mr. PICKERSGILL: Please what, please what. Don't tell me 'bout nuh cool it!

The SPEAKER: You are being heard.

Mr. VAZ: We want to now hear from the Commissioner.

Mr. PICKERSGILL: Mr. Speaker, let me congratulate the speaker who just made his intervention. Mr. Speaker, let me state initially that I am unable to support this proposal from the Electoral Commission….

Mr. HOLNESS: Which one?

Mr. PICKERSGILL: I am coming to that, be patient. Like you asked him to be, I am asking you to be. Be patient, be patient! …regarding in particular the recommended change of section 20 subsections (d) and (e) of the Representation of the People Act, the ROPA. In due course I will say why. But let me say as well that I do not regard myself as breaking the convention that seems to be so important, the convention that now exists between the Commission and this Parliament, since from the start when this matter first came to my attention I made it abundantly clear that I was not in support of this proposal. This is a fact that was and is not only known to me but to the members of the Commission, including the Members who represent my party. I am able to say so because I have had face-to-face meetings with some of the members of the Commission and made my position crystal clear. So let me get that out of the way from the start.

Mr. VAZ: What they said…

Mr. PICKERSGILL: They are not dumb, they can speak for themselves.

Mr. Speaker, just as a reminder, let us cast our collective minds back in terms of the history of where this Commission is coming from, some 31 years ago I think. My recollection is that the electoral matters were under the control of the relevant Minister in charge of electoral affairs who work through an officer called the Chief Electoral Officer. There seems to have been a consensus that electoral matters ought not to be left to a politician and indeed the government of the day. And so an Electoral Advisory Committee was set up, which for the first time included non-political members who were appointed, I

think, by the Governor-General. This then graduated, Mr. Speaker, in what is now described as the Electoral Commission of Jamaica, comprised, as you know, of four (4) representatives from the major political parties and other Commissioners, including the Chairman.

Mr. Speaker, I think it is fair to say that the Electoral Commission has served the country well and we can all boast of having free and fair elections and indeed we are the envy of many countries bigger than us, of similar size and, indeed, of any size you may choose to call. Because we have gone through some fourteen (14) general elections and one (1) uncontested. However, some of what is being presented to this Parliament today in terms of proposals, I cannot find myself agreeing. I speak in particular of the proposed change in sections 20 (d) and (e) of the ROPA. As I understand it, Mr. Speaker, this section of the Act is within the province of the Cabinet of Jamaica. And, as is stated in the Constitution of Jamaica under section 69 - where is my Constitution - it states, Mr. Speaker,

> *"the Cabinet shall be the principal instrument of policy and shall be charged with the general direction and control of the Government of Jamaica, and shall be collectively responsible therefor to Parliament".*

That's where I start, Mr. Speaker, and this is definitely under the control of the Cabinet and, of course, Cabinet is responsible to us here in the Parliament.

I continue, Mr. Speaker:

> "*The Cabinet shall be the principal instrument of policy and shall be charged with the general direction and control of the Government of Jamaica, and shall be collectively responsible therefor, to Parliament.*"

Mr. Speaker, for the purposes of my intervention, the words, "the general direction and control of the Government", as well as,

> "shall be collectively responsible therefor to Parliament,"

are of the utmost importance to me. You see, Mr. Speaker, there are not many aspects of government that I consider more important than the calling of an Election, and the postponement of an Election.

A MEMBER: When you found out?

Mr. PICKERSGILL: I abide by the principle that, "he who appoints is the one who can disappoint." Mr. Speaker, I can only think of the right to vote that I would put above the powers of the Cabinet in that regard. It is sacrosanct.

A MEMBER: Hear, hear!

Mr. PICKERSGILL: So convinced am I that I think we should be moving steadily towards being called upon by law to vote, and the refusal to do so should attract sanctions. But that is for another time, Mr. Speaker.

(*Sotto voce* comment by some Members)

Mr. PICKERSGILL: I make this point to show how serious I regard the responsibilities of our Cabinet. We cannot, on the mere proposal of a Commission, whittle away the basic responsibilities on powers of the Cabinet. Our voters, having gone to the poll - and that's why I agree with the last speaker.

Mr. ROBERTSON: Oh, Mr. Phinn...

Mr. PICKERSGILL: Our voters, having gone to the poll, Mr. Speaker, and by a majority of votes, in keeping with the

Constitution, having caused to be in place, a Cabinet, cannot be treated this way… cannot be treated this way.

We all know that under the Westminster model, the Prime Minister has the right to call the Election when he or she chooses so to do. He and his Cabinet cannot therefore, willy-nilly, surrender that right to people who were not voted for. It must be us who face the people, and for whom they voted, enjoy that right through the Cabinet that is responsible to us. And the *nexus* should be clear.

Now, Mr. Speaker, well do I remember what the proposal from the Electoral Commission says. And I think the Minister quoted it. In '07, there was the unprecedented event of a General Election that had been duly called, being postponed by the virtue of the fact that a hurricane had struck the country between Nomination Day and Election Day. And that was, I think, Hurricane Dean.

On that occasion, Mr. Speaker, sadly, the Commission received faulty advice and proceeded to postpone the Election. Let us remember that. It was later discovered that they had no such authority. The Government of the day, after due consideration, agreed to allow the illegality to be overlooked.

A MEMBER: What!

Mr. PICKERSGILL: There was the misinterpretation of the meaning of the Governor-General in Council which really means the Cabinet.

(*Sotto voce* comment by some Members)

Mr. PICKERSGILL: I was there; I know it. I never agreed with it then; I do not agree with it now.

Mr. Speaker, under the powers dealing with adjourning Polling Day in the event of emergency, there are five (5) sections, and I will read them to you. These sections, Mr. Speaker… (Trying to locate document)

(*Sotto voce* comment by Members)

Mr. PICKERSGILL: That's all you can say, just shut yuh mouth.

(*Sotto voce* comment by Members)

Mr. PICKERSGILL: I am reading from the… Mr. Speaker, unlike these geniuses, I am reading from the law, because I want **Hansard** to have it accurately.

We move now to Section 20 subsection (1).

"*Where at any time between the making of any proclamation under Section 1 of Section 19, and the day appointed by such proclamation for the holding of the Poll at any Election, the Governor-General in Council is satisfied that it is expedient so to do by reason of …*

And here we go, Mr. Speaker.

(a) Her Majesty's Government, having become engaged, or being likely to become engaged in any war, or

(b) the proclamation of any state of emergency under the Emergency Powers Act, or

(c) the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence, or outbreak of infectious disease, or other calamity, whether similar to the foregoing or not, or

(d) the likelihood that the official lists for all…

And this is - they are depending on these two, Mr. Speaker; these are the two they want to have changed:

(e) …the likelihood that the official lists for all constituencies, or for any particular constituency will not be printed before the day appointed

under Section 19 for the holding of the Poll, or

(f) that any essential electoral supplieies or materials will not be available in adequate quantities upon such a day, or

(g) riot, open violence or other civil disturbance resulting in such interruption, obstruction or abandonment of the electoral process as to prejudice the holding of a fair General Election. He may, by proclamationmat adjourn the holding of the Poll…

bla bla bla bla bla…!

Now Mr. Speaker... when the hurricane came along, Mr. Speaker, if you recall, the only mistake that was made was the wrong advice that was given to the Electoral Commission because, Mr. Speaker, if the proper advice were given, and the Government adhered to it…

(*Sotto voce* comments by Members)

Mr. PICKERSGILL: …what was its responsibility and right to do, Mr. Speaker, would this proposal be before us? I say a resounding no. But when they found that they were misguided, instead of taking a backseat, they came forward and wanted us rationalize, and that's what has brought us here, I am convinced.

Now, they want to change subsection (e) which speaks of riots, open violence, et cetera. I have just read it. But they are not simultaneously advocating a change in subsection (c) which speaks of earthquakes, hurricanes, floods, et cetera. Now, this appears to me to be what is described as internal inconsistency, in terms of the law, Mr. Speaker.

A MEMBER: Selective.

Mr. PICKERSGILL: Yes, very selective.

Mr. Speaker, why in Heaven's name subsection (d) which states "the likelihood and that the official list…" the one that the Minister spent some time on…

"*the likelihood that the official list for all constituencies, or for any particular constituency will not be printed before the day appointed under Section 19 for the holding of the Poll, or that any essential electoral supply of materials will not be available in adequate quantities upon such a day.*"

Now, Mr. Speaker, why do they want to take that over? That is the basic responsibility they have, to make sure that those matters are in stock and ready whenever the Prime Minister says, I want to go. Why you want to change it?

(*Sotto voce* comments by Members)

You know, Mr. Speaker, that responsibility is - as I said, is perhaps the most important function of the Commission. In the first place, Mr. Speaker, any Prime Minister who would move to call an election, despite his or her enormous powers, without being satisfied about the provisions and requirements of subsection (d), would have to have his or her head examined.

(*Sotto voce* comments by Members)

Mr. PICKERSGILL: …would be a mad Prime Minister.

(*Sotto voce* comments by Members)

Mr. PICKERSGILL: What you contemplate? That a Prime Minister get up and call election and when he says to the Commission, a not ready because I don't have this, I don't have that. Rubbish, rubbish!

Mr. WARMINGTON: Only they alone have education. Only they have sense and education.

Mr. PICKERSGILL: Insult.

Mr. WARMINGTON: They are the ones that have education and have sense can make...

Mr. PICKERSGILL: And, as I understand it, Mr. Speaker, the Commission has a duty to keep its Minister and Prime Minister informed as to their readiness as a matter of basic duty.

Mr. MAIR: That is the job.

Mr. PICKERSGILL: It is quite another thing when they make these requests and the Minister or the Prime Minister does not respond. And then they must bawl out, because there is nothing more basic than calling an election or postponing it. And if these members of the Cabinet don't have that confidence in themselves, leave the Cabinet and mek other people who have confidence take the decision.

(Laughter/*Sotto voce* comments)

A MEMBER: That's why you left.

Mr. PICKERSGILL: Your best option is to shut yu mouth, you, because you might...

Mr. ROBERTSON: Stick to your script.

(*Sotto voce* comments by Members)

Mr. PICKERSGILL: Should I tell him don't draw mi tongue?

Mr. WARMINGTON: (Inaudible) …we go to the same church.

Mr. PICKERSGILL: Mr. Speaker, not in my widest dreams I could contemplate a Prime Minister, as I said, calling an election without checking with the Electoral Commission. It just doesn't make any sense. It is totally inconceivable. Who can know better, or have the wherewithal to deal with subsection (e), than the Government? Any one of those sections - the five (5) sections, the Government is best able to deal with it. What they are saying, they are better able to quell violence and riots if they break out, than the Government?

Government MEMBER: Stop chatting foolishness.

Mr. PICKERSGILL: Where would they get the wherewithal?

Government MEMBER: You are a responsible person.

Other Government MEMBER: Bobby... Bobby...

Mr. PICKERSGILL: You get up and talk.

(Cross talk)

Mr. PICKERSGILL: Mr. Speaker...

(Cross talk)

Mr. PICKERSGILL: Mr. Speaker, let me...

Mr. WARMINGTON: Bobby, you don't...

(*Sotto voce* comments by some Members)

Mr. PICKERSGILL: You get up and talk. Mr. Speaker… Mr. Speaker, let me, let me…

The SPEAKER: (Gavels) Mr. Warmington, you spoke already, you know. Give Mr... (Laughter) Turn on back your mike; turn back on your mike.

Mr. PICKERSGILL: There are other aspects of the proposals that I do not agree with, but the Member from St. Catherine, I think, has dealt with it very well.

I repeat, Mr. Speaker, why do they want to change it? What is the experience they have had to say that it should be changed? The constituted authority can deal with any little eruptions that you have in a constituency, fine,

and we agree with that. But this is a national - a General Election. How can a Cabinet ever conceive of giving up that right?

(*Sotto voce* comments by Gov't Members)

Mr. PICKERSGILL: Now, this proposal, Mr. Speaker, is without merit and must be spent back from whence it came. It is dangerous to tamper with a basic responsibility of a Cabinet. And it doesn't matter whether it is that side or this side, I feel the same way. I cannot agree with the erosion of the powers of the Cabinet or any expansion of the Commission in the area it is proposed. Mr. Speaker that was never ever contemplated. We are going on since Independence. We have had 14 elections and one (1) not contested. What is the experience? What is the empirical evidence that cause us to sit here and want to change that?

The Cabinet ought not to abdicate and delegate so serious a basic responsibility.

(Applause by Opposition Members)

Mr. PICKERSGILL: Mr. Speaker, if it ain't broke don't fix it, and that's the situation.

Thank you, Mr. Speaker.

The SPEAKER: Prime Minister.

The PRIME MINISTER: Mr. Speaker, the comments - some comments that have been made in relation to this debate suggest a significant departure from a longstanding convention. I'm not going to comment on the merit of the argument. But I think that the implication for something that has been important to the country over three decades is so huge that I think that this is a matter that requires consultation. And I'm going to propose that the debate be suspended to allow for discussions between the Government and Opposition and particularly, particularly discussions between the Leader of the Opposition and myself. I think the implications are so significant that it warrants that sort of treatment before we return to the debate. And I propose that, Mr. Speaker, and in doing so, I would ask you to recognize when we do return to the debate that I would have a little less than 30 minutes left to speak on the matter.

The SPEAKER: Very well. No, Dr. Duncan, Dr. Duncan!

Dr. DUNCAN: I crave your indulgence.

Government MEMBERS: No, no, no!

The SPEAKER: No, no, Dr. Duncan, no!

Dr. DUNCAN: I'm not going to make a speech. I'm going to make a suggestion.

The SPEAKER: No, one second.

Mr. HOLNESS: Is a suggestion? Is a pleasant suggestion?

Dr. DUNCAN: I'm going to make a suggestion to bolster the Prime Minster's suggestion.

Government MEMBER: Roger, Roger!

The SPEAKER: No, I understand, Dr. Duncan, you're going to support the convention position which I think -

Dr. DUNCAN: Oh no, no, don't. No, I'm not going to be long just give me a minute, please sir.

Mr. PICKERSGILL: This is nonsense bout convention.

Mrs. SIMPSON MILLER: Mr. Speaker I crave your indulgence to allow the Member to -

The SPEAKER: Two minutes.

Dr. DUNCAN: Mr. Speaker, the position which has - the Prime Minister has stated I agree with it fully except too observe that some comments are now out there which have not - for which they have not the benefit of any response which if left only on one side of

the equation is going to discredit the institution forever.

We may recover through you, Mr. Prime Minister, in relation to the discussions between the two parties, but you will recall that the fault is not in our stars but in ourselves. In that the arrangements of the EAC moving to the ECJ assumes the consensus building assumes that all these matters would have been discussed inside the parties and signed prior to the Commissioners themselves agreeing. So we have to say to the country, clearly then, that we as the two political parties did not exhaust that exercise, if we hadn't - if we hadn't that we did not exhaust it and therefore have come therefore to have to breach the convention based upon not having discussed the thing properly and exhaustively inside before coming to the thing.

So the Prime Minister's suggestion is really let us return to that to square one and start again. That's my understanding, but I don't know what it is to the Prime Minister through you, Mr. Speaker, that can be done to recover from some of the - more than innuendoes about certain things.

Just one little example, nobody on that commission works for two hours a week; that is not true. It is a discredit for that to be allowed to make it be suggesting that their can be a 'part-time thing'. The work done by Members of that Commission - I was a Member of EAC we got nothing! I'm not here about money.

Mr. WARMINGTON: It's a part-time job.

Mr. FAGAN: Hold on nuh man!

Government MEMBER: Shut your mouth!

Dr. DUNCAN: Mr. Speaker the Prime Minister knows it. Some hard work is put in by the people who are members of the EAC and by people who are members of the ECJ and it is not fair for those innuendoes to be out there having been spoken in the way they have been spoken. There are areas to be discussed, I agree. There are differences of opinions, some on principle, some on tactics, but let – I would, I could not remain a Member of this House and allow for that institution which was built on the blood, sweat and tears of a lot of the leadership of this country, to be so discredited at this time. I have more to say, but I will take the advice that is being proffered by the Prime Minister to withhold those comments until a more appropriate time.

Mr. HOLNESS: Mr. Speaker, we will -

Mrs. SIMPSON MILLER: I would just like to say, Mr. Speaker, that the Opposition, we welcome the suggestion put by the Prime Minister for consultation on something that is so critical and important to Jamaica and to our governance and electoral process.

Mr. HOLNESS: Mr. Speaker, being the mover of the debate, I therefore move that we suspend further debate on this—

The SPEAKER: To a further date.

Members, the Motion is for a suspension to a future date.

Motion put to the House and agreed to.

Yes, House Leader.

DEFAMATION REPORT

Mr. HOLNESS: Mr. Speaker, the Prime Minister will now take the Report on measures to reform our defamation laws.

The SPEAKER: Members, before you is the Report on the Defamation Report. Prime Minister.

The PRIME MINISTER: Mr. Speaker, the House is being asked to approve the Report of the Joint Select Committee which was established to consider and Report on the Report of the Committee which was appointed to review the defamation laws of Jamaica. That Report was laid—the Report of the Joint Select Committee was laid on the Table of the House on the 21st of December.

But, Mr. Speaker, I think it is well known that the reform of the laws relating to defamation: slander and libel, is a commitment that we on this side have given from even before we got on this side, to a commitment that we presented in 2006. Indeed in May 2006 I Tabled a Resolution in the House, calling for the establishment of a Joint Select Committee to examine the Libel laws. That Resolution perished without being taken up.

Shortly after taking office, I appointed a committee chaired by MR. JUSTICE HUGH SMALL to review the existing libel and slander laws and to recommend what changes ought to be made to those statutes.

The existing laws relating to defamation, Mr. Speaker, go back a long time. Haven't got a chance to refresh my memory but I know sometime ago when I researched it, we certainly were talking about some laws that had been on the *statute books* for more than 80 years. They were crafted at a time when not only did we have a different kind of media landscape, but we also had a much different perception about issues such as freedom of speech. Sure we spoke about it, but I don't think that we had recognized and had enshrined in our own thinking the critical importance of free speech in a democratic society. So much of that has changed that it was timely, we felt, for us to examine the legislation and to see to what extent our libel and slander laws were inhibiting the kind of freedom of expression that we must ensure is enhanced and strengthened, protected and preserved.

The media, Mr. Speaker, and I say this as someone who has suffered his fair share of battering at their hands. But the media is a critical pillar of a free and democratic society. And as much as I get annoyed as indeed I'm sure many others in this House sometimes at the sometimes reckless way in which liberty is taken, I can't think of any alternative with which I would feel comfortable or under which I would want to live. And therefore, we thought it was important to ensure that the laws relating to defamation are aligned with that thinking and are aligned with our hopes and aspirations as a democratic country particularly at a time when we are on the verge of enshrining in our Constitution a new Charter of Fundamental Rights.

The Committee that was chaired by MR. HUGH SMALL was appointed in October of 2007. It worked diligently. It submitted its Report by the end of February of 2008. It made fifteen (15) recommendations and there were four (4) issues on which it was not able to reach agreement and it therefore in a sense, in an indirect way left those matters to be determined by Parliament. And because there were these four (4) issues on which it could not reach agreement, I want to mention very quickly what those four (4) issues are.

The Committee, that's *the Hugh Small Committee*, could not determine in terms of a

recommendation whether damages recoverable in defamation should be defined in two categories: that is economic losses and non-economic losses. **Secondly,** they were not able to reach agreement as to whether the legislation should impose a limit to the amount that a Court may award for non-economic damages in defamation actions, that's damage to your reputation and so on. **Thirdly**, they were not able to reach agreement on whether there should be different standards of proof for public officials as distinct from other citizens. And then finally, they were not able to reach agreement as to whether defamation cases should be restricted to trial by Judge alone rather than by jury.

The Report, Mr. Speaker, was Tabled in Parliament in April of 2008 and then it was referred to a Joint Select Committee in July 2008. It is a matter of some concern that the Committee did not commence its sittings until March 2009. That's nine (9) months after the matter was referred. And over a period of one year and nine months it had seven (7) meetings.

Part of the delay was because it felt it needed the assistance of expertise, which had to be sourced abroad, and eventually an expert was identified from the United Kingdom. It took some time for arrangements to be made for him to be here and on completion of its work, the Select Committee Tabled its Report on the 21st of December.

I want to express my thanks to the members of the Committee chaired by MR. HUGH SMALL, which worked on the initial review. I want to express my thanks as well to members of the Joint Select Committee which reviewed the Report of the Hugh Small Committee. I want to thank them for the Report that has been submitted.

Let me just speak very briefly - and I don't want to make this any longer than it has to be - very briefly on the recommendations that have been made by the Joint Select Committee. And they quite helpfully structured their recommendations based on the recommendations that were made by the Hugh Small Committee.

One, it was recommended by the Small Committee that the distinction between slander and libel should be abolished. It's defamation, whether it is in writing in print, or whether it is by broadcast. The Joint Select Committee accepted that recommendation.

Secondly, the Hugh Small Committee recommended that the limitation period for an action of defamation should be reduced to one year from the publication of the defamatory statement. Right now you have up to seven (7) years in which you can sue for libel or sue for slander. The Hugh Small Committee felt that that was too long. That option extended for much longer than it ought to. You must do it within a year, or you can't do it after that.

The Committee considered that recommendation and felt that while seven (7) years was too long, a year was too short, they've proposed that we reduce it to two years so that an action would have to be filed within that two-year period.

I may have misspoken awhile ago, the current period is not seven (7) years but six (6) years.

Thirdly, the Small Committee recommended that the defence known as justification, should be replaced by a new defence, the *defence of proof*. And the

defence of proof, Mr. Speaker, will not fail by reason only that the truth of every charge is not proved if the matter, when taken as a whole, can reasonably be seen to be true. The Committee accepted that recommendation.

It means that you cannot, in suing a publisher, or someone for libel, you can't succeed because you are able to prove that one piece of the libel was inaccurate. You'd have to be able to demonstrate that there was much greater inaccuracy in order for you to succeed.

The Hugh Small Committee recommended that a *defence of triviality* in circumstances where the publication of the matter complained of was of such a nature, that the person defamed is not likely to suffer harm to his reputation, be introduced. And let me explain what that means. They have some things that are published in the paper called '*Hot Pot*, or '*Pepper Pot*.' (Laughter) They have another one that I think is called '*Thursday's Hot Topic*', in Jamaican language we call them 'suss.' And what the Hugh Small Committee was recommending is that where it is published in this sort of frivolous, trivial way then perhaps it ought not to carry weight of defamation. I can't quantify, but I suspect that some people, when they pick up the newspaper the first thing they head for...

MEMBERS: Is the 'suss' column.

The PRIME MINISTER: ... is the suss.

A MEMBER: Yes, you're right.

The PRIME MINISTER: And I've seen some susses ... (Laughter)

A MEMBER: Careful yu nuh, careful!

Dr. DAVIES: So you read them too.

The PRIME MINISTER: ... that are ...

A MEMBER: And sometimes dem give trouble.

The PRIME MINISTER: ...and sometimes they don't mention yu name yu nuh, but they are as damaging as if they'd put your name on the headline of the paper.

Dr. BARTLETT: True, true!

Mr. SHAW: Damaging susses! (Laughter)

The PRIME MINISTER: And what the Joint Select Committee felt...

A MEMBER: Like the Ragashanti Show.

The PRIME MINISTER: ...was that that kind of latitude ought not to be allowed a publisher to use triviality to damage you without being subject to a claim of libel. So the Committee did not agree with this recommendation as it was felt that triviality should go towards the amount of damages, rather than the question of guilt. So if it was done in a trivial way, then the Court could decide, well I'm not going to award you $10 Million because it was a little suss, but I will award you instead a-Half-a Million Dollars. So that would be left for the determination of the Court.

Recommendation 5: Defence of an Offer of Amends. The Small Committee recommended that a defence of an *offer of amends* should be introduced. What this means, Mr. Speaker, is that it will allow a person who has published a statement that is alleged to be defamatory, to offer to make amends and that offer of amends can include - can mean a publication of an apology, a correction.

The offer will not be available to a person after a defence has been served. So if I publish something against you and you feel it is defamatory and you were to file action against me and I file a defence in which I am challenging, or I am indicating that I am

prepared to contest that matter with you, what this is saying you can't come after that now to make an offer of amends. An offer of amends has to be something that is done fairly early in the process so that the offer of amends does not appear to be some negotiated position that comes after they recognise that the strength of the case is not what they want it to be.

The Committee accepted this recommendation and further suggested a compensation to the aggrieved person should also be a plank of the offer of amends. So that when you're making that offer of amends because you've published something defamatory about a person, it's not just the apology that you must be prepared to offer, you must be prepared to make an offer of damages as well, to say well I'm sorry, I should not have published that. Here is the apology that I'm prepared to put out there and we are prepared to make an offer of X dollars as compensation for the damage that this may have caused.

Recommendation 6: The Small Committee recommended that publication of an apology should not be construed as an admission of liability and will not be relevant to the determination of fault; it would be relevant to the assessment of damages and may be relevant to the defence of an offer of amend. The Committee accepted that recommendation and I think wisely so, because what it does say is that if you publish something, I may issue an apology. If you decide that the apology is not good enough and you're going to sue me, you mustn't be allowed to use the apology that I offered as a basis for establishing my own guilt that I was wrong and therefore put me to the slammers. It would be taken into account in determining damages, because it may well be argued that well, some effort has been made to rectify the wrong that had been done.

Defence of Innocent Dissemination: Now this, Mr. Speaker, was so important because of the nature of the media landscape we're dealing with now. The recommendation of the Small Committee was that a defence of innocent dissemination should be provided similar to what obtains in Australia, for example.

In this day and age of modern communication - and we see it happen every day. Go on the Internet now and you go to some news sites all the way in India, Australia and you will see a story there that is exactly what - the same words that were put out by one of our local media houses here. Because the whole thing is now one everlasting marketplace and some of them are doing it - with due respect to all copyright and so on - some of them are doing it without any regard for that.

But the intention here was to create a defence that look, I published this on my website. I did not know that some other website would have picked it up and publish it all over the place. So hold me responsible for what I did, but I really am not responsible for what other persons may have done, and to allow for that defence of innocent dissemination.

But what the Committee went on to say, the law should provide that where it had been brought to the attention of the publisher that the material was likely to be defamatory, then any further publication would not attract the defence of innocent dissemination. So in other words, if you say to somebody, don't publish that because it is defamatory...

Rev. **THWAITES:** Don't publish it again.

The PRIME MINISTER: Don't publish it again - and you still insisted on doing it, then you can no longer claim that you are not responsible for where it went after you have done that.

The Committee accepted that recommendation, Mr. Speaker, but the Committee also proposed - it also recognised that some organisations have their own content on the website and in that case they should be responsible for that libel. So it's one thing if somebody takes your publication and runs with it, it's a different thing if you are plastering it over your own website, then you can't claim innocent dissemination there, you have to accept responsibility for that.

Recommendation 8: Mr. Speaker, Remedy of Declaratory Order. The Small Committee recommended that a new remedy of declaratory order be established for which a plaintiff may apply instead, instead of damages as a means of redress.

Now you may have some situations where somebody feels that they have been defamed. They're not really interested in no damages. They want a quick apology. They want a statement so that they can try to restore their reputation which may have been damaged. And in that case they can go to a court and ask for a declaratory order to declare that you, know, yes you have libelled the man, yes put out the apology, get that done quickly, you know, mitigate the damage that has been done to that reputation, the person is not really interested in getting any compensation.

Tell you the honest truth, many of the sueable people don't have a dime for you to sue. I mean I have known of cases where you take a practical view. What's the point in suing dat deh man for libel? Cannot even run two gill cent together - rub two gill cent together to mek a dime. And sometimes you just ignore it and you just press on. In a case like that you may still now go to the Court and say, now look, a don't want no money, what I want is a declaration that my integrity has been wrongfully assailed. The Committee has accepted that recommendation - the Joint Select Committee.

Remedy of a Correction Order: The Small Committee recommended that a Correction Order to enable a court to order the publication of a correction as an additional remedy to the declaratory judgement and to allow the Court to direct the terms of any correction that may be made in favour of a claimant. The Committee - the Joint Select Committee accepted that recommendation and recommended further that it should be tied with the Declaratory Order.

Role of the Judge and Jury: The Hugh Small Committee recommended that provisions be introduced that the role of the jury should be to determine whether the defamatory matter was published by the defendant and whether any defence has been proven that the role of the Judge should be to assess the amount of compensation that should be awarded.

Now this is important. The thinking behind this recommendation was that look, let the jury pronounce as to whether a libel has been committed. But when it comes now to quantifying how much would be appropriate compensation, then let the Judge determine that, because that involves technical issues, it involves knowledge of what is happening in other jurisdictions, it involves a serious consideration of the real impact of the

defamatory statement in coming to that judgement. And the Committee accepted that recommendation.

Assessment of General Damages: The Committee was of the view that the principles recommended by the Small Committee for the assessment of damages, are already part of existing jurisprudence. And my notes here are directing me to page 14 of the Report of the Hugh Small Committee, and let me just read what it says here. There were concerns - that is, among the Hugh Small Committee members - that awards for damages for defamation bear no equipoise to those awarded for personal injury and death. There were several comparisons between the award to the estate of Agana Barrett and those made to public persons who were detained.

Now, that is something that I have really agonized about, how to reconcile, how to rationalize that John Brown wins a libel suit, and the Court awards him $40 Million, because his reputation has been harmed, but AGANA BARRETT is allowed to die in the most inhumane condition. And what the system says is that his life is worth $2 Million. I have had some very long, contentious discussions with lawyers, because I have never been able to understand it, never been able to understand it.

I have seen compensation awarded by Courts, for example, for the life of somebody who may be killed in – because of somebody's negligence. And they will look at that person, and they will come to a calculation, because that's how we do it, it's arithmetic. This person comes from a poor home, mother is a poor person, doesn't have any father, and it's almost as if the Court is saying, well, him not going come out to much, and therefore, if you are compensating for his death by negligence, a little million dollars will hold. That young person, that nine (9) year old/ten (10) year old could very well have become the world's greatest Neurosurgeon. And I have always wondered how is it that that kind of determination is made. But you will have another case where somebody dies in negligent circumstances, that person is seventy-odd years old, perhaps would have lived a long time, but I mean, was kind of getting ready to sit in a lounge somewhere, but higher compensation is offered. I have never – I have heard the explanation, so it's not that I am ignorant – I have just never been able to understand it with the comfort that I would want.

The Committee refrained – that's the Hugh Small Committee, refrained from thoroughly exploring this area, because the principles on which damages are awarded for civil wrongs is part of a complex, technical, legal matrix which are beyond the mandate of the Committee, and the composition and support resources under which it functions.

I really – it's an issue that I think we need to examine. And I don't know – I am not sure that's an area where you can legislate, but certainly, in terms of our jurisprudence, I think it's something that requires some discussions to try and see if, you know, if the thinking that informs those decisions can be influenced in any way by the concerns that are expressed.

The Committee recommended, Mr. Speaker, that there should be no change to the existing law. The Committee further does not recommend codification, as it might restrict the Judge from taking into account other relevant considerations. So, in fact, in effect, we are leaving it entirely to the Judge, as I

believe it must be left. It's just that I believe that we need a debate as to the principles that inform the arithmetic that is used in determining compensation in different types of cases involving different types of persons, to ensure that there is not an inbuilt prejudice that is being expressed in the making of those decisions.

Recommendation 12: Recognition of Various Media Formats. In a sense we spoke to that before. The Small Committee recommended that the various media formats by which statements could be published, which would include wired and wireless means, as well as new media, you know, streaming, Webcast, Podecast or Pod- cast, whatever you call it – I am completely mesmerized by – I got one of these things as a gift over Christmas, and I have been trying to get the hang of it, and I still need a little assistance because the technology moves faster than the brain of a sixty-three year old is able to keep up with.

Miss HANNA: It's called an iPod.

The PRIME MINISTER: Yea, iPod. (Laughter) If it was just remembering the name that would be simple. I find it a little more challenging than that.

The Committee was of the view that the defence of innocent dissemination, as proposed before, would be sufficient to address this question of the variety of media formats that you have. So if you make a statement and you damage somebody, and somebody takes it and they put it on their iPad you call it, and they move it from their iPad to their Podcast and move it from the Podcast to some streaming something, then the defence of innocent dissemination would also cover you in that situation.

Common law Offence of Criminal Libel. The Small Committee recommends that the Common law Offence of Criminal Libel, including blasphemous, obscene and seditious libel, be abolished. The Committee accepted that recommendation. So that libel is now no longer a criminal matter, it is a civil matter.

Wire Service Defence: The Media Association indicated that the media have to subscribe to Wire Services and new agencies worldwide, which provided content over which they had very little control. This again is the remote publication.

The Committee agrees with that proposal and recommends that the defence of innocent dissemination as was put forward before should apply. So the Media Association, now, the publishers now will also be able to claim innocent dissemination.

You know, what is being proposed here is not a perfect fit, you know, not a perfect solution. Because what it does mean is that a newspaper can publish something about you that is palpably false. They can quickly make an offer of amends, they can quickly issue an apology, they can quickly correct their initial thing. But the velocity that that current media structure will give it, they can claim innocent dissemination. So all right, I apologise, but it's on the Internet all over the place.

So we have gone, in my view, even beyond where some countries that have undertaken libel law reform have done. And I am not suggesting that we shouldn't go there. Everybody on this side knows how strongly I have advocated these measures over a period of time.

Appropriate Standard for Public Officials: Now, I had asked, Mr. Speaker, because I thought it was important – I was

going on the basis of the – I was taking the Sullivan approach, where I said that those of us who seek and obtain public power, who ask to be invested with that power, ought to be subject to a higher standard of transparency, they ought to be subject to even greater scrutiny than the persons who don't.

But the Small Committee, having considered it, was divided on whether there should be a higher standard of proof in cases where public officials sued in relation to statements regarding the conduct of public affairs.

The Small Committee had put forward three (3) options. The first option was to adopt the Sullivan Principle, which requires that public officials prove actual malice.The second option was to reject the Sullivan Principle but change *the burden of proof*. That is, it's not for the newspaper to approve that what it printed against you was true, it would be more for you to prove that what they printed was not true.

And the third option was to make no change to the law, as the defence of reasonable journalism established in the Reynolds case. Now, the Sullivan case is an American case, the Reynolds case is a British case. And the third option was to rely on that as being adequate.

The Joint Select Committee, Mr. Speaker, favoured the third option, which is not to make any further change in the law. And I have a note here again that I am to look at page 3 of the Submission - let me just look at it quickly to see what it says. Looking at the wrong document, I am sorry. There was an issue that needed to be considered. Bear with me, Mr. Speaker, let me just find it. Oh, yes, yes, it gives some…

In the landmark case of *New York Times vs Sullivan*, the US Supreme Court in 1964 held the principle that public officials should be less insulated from defamation where it involves statements concerning their conduct as public officials.

The British case of *Reynolds vs the Times Newspaper* in 1991, rejected the *New York Times* Sullivan Principle, opting to expand the ambit of qualified privilege to allow a defence to be built around the public interest where it is shown that there was a recognized social or moral duty to disseminate information to a person who has a recognized social or moral duty to receive it. It however held that the defence of qualified privilege will not succeed if it is proved that the publisher was motivated by malice, or failed to exercise responsible journalism. The test of responsible journalism is whether the published information was no more than a rumour, the reliability of the sources had been established, and the requisite care had been exercised in establishing the veracity of the published information. In this regard – and it's important for us to have our attention drawn to this – in this regard among the factors that the Court will consider are the seriousness of the allegation, the source of the information, the extent to which the matter was of public concern, the urgency of the matter – the Member for West Portland is not here – whether comment from the plaintiff had been sought or published, and whether the information was already in the public domain.

The Joint Select Committee is of the view that we should not interfere with what exists. And I am prepared, Mr. Speaker, to be guided by their deliberations and the wisdom that has come out of those deliberations. I have not abandoned the principle that those of us who

seek high office must be prepared to subject ourselves to high scrutiny. But there is a view that some people have that you are already exposed to that anyhow, you already have to live with that every single day, and therefore, you ought not to create or carve out any sort of special treatment for them.

Cap on Damages: The Small Committee considered the issue of whether or not there should be a cap on damages that may be awarded because of the devastating effect that large awards could have on media houses.

The Select Committee considered the matter and took the view that Judges were reasonable people, and in any event, their decisions were subject to review by a higher Court. And the Committee therefore recommends that no cap should be placed on damages.

There are a few other issues that the Committee focused on beyond just the recommendations of the Hugh Small Committee.

Multiplication of Publications: The Committee felt that if the publisher was made aware of the defamation and took appropriate action, he would have a defence. However, if he continued to publish it after being made aware, then he should not have a defence.

Limitation Period for Internet Publications: The Committee agreed that the limitation period should be two years from the date of first publication on the particular website.

Republication of other websites. The Committee felt that the defence of innocent dissemination should apply in such circumstances as special jury. Consideration was given to the provision in the Jury Act for the selection of special juries in criminal and civil cases. Your Committee felt that such special juries could be useful in defamation actions where special expertise might be required. Now, this is not a specific recommendation of the Committee. The Committee has pointed to it as an area of possible consideration. Perhaps in the debate, Mr. Speaker, we can try to firm up the views on it so that in the drafting instructions that will have to go to the Chief Parliamentary Counsel, there can be some indication as to what the thinking of the legislature is on that particular matter.

Mr. Speaker, the changes that have been recommended by the Hugh Small Committee and which have been endorsed by the Joint Select Committee are significant. They represent a recognition of the fundamentality of the right of free speech, of the vital role of a free press in a democratic society. But they also recognize the right of individuals to protection of their reputation. They recognize the damage that can be done by false publication, irresponsible publication. It is a delicate balance that both the Hugh Small Committee and the Joint Select Committee have sought to strike.

But I want to suggest in closing, that the delicateness of that balance must be supported, Mr. Speaker, by mechanisms other than statutory provisions. And I want to make an appeal to the media particularly, because while the question of free speech and the question of defamation applies across the board, individuals can defame other people. But their ability to defame other people depends to such a great extent on publishers, media agencies carrying what they say; otherwise they are in a sense just talking in the breeze.

Statements that are published, that have the effect of doing serious damage to people's reputation, if it is deserved then fine, that's not defamation, that's not libel, that's not slander. Where it is not justified, it is slander, it is libel, it does damage. What the law has sought to do is to liberalize the framework of rule, to provide perhaps, easier access to redress for those who have been aggrieved. But as I have said publicly, Mr. Speaker, when a wrong is done, in terms of the published word, when something is said to damage somebody's reputation, you could get all the Court pronouncements you want, you could win all the cases you want, you can get all the damages you want, it has a DNA effect, that will never be removed. And we can't attempt to correct that by putting in place laws that are so stringent that the media is apprehensive and afraid to publish; because we need that free press, to make sure that our democracy remains strong.

But it doesn't mean that our democracy now must be put at the mercy of every editor and every reporter who will feel that well, because you cannot do without us, because you cannot have a free and democratic society unless we are there doing our work but - because of that we can do anything we like, because we are so indispensible, that we must - the point I am making, is that in addition to the statute that we are hereby reviewing and reforming, the media itself, the publishers must put in place the kind of mechanisms that will ensure justice for people who are affected by their publication. There has been talk among media practitioners for a long time about a code of professional conduct, it does not exist. And therefore, I am challenging the media to explain why is it that it is so difficult for a profession that is so concerned, and rightly so, so passionate about standards and ethics and so on, why is it that the press has had such a difficulty in establishing for themselves - we are not imposing it on them - establishing among themselves a code of professional ethics.

They have been talking for a long time about the establishment of a Press Council, to which persons - members of the public who feel that they have been aggrieved, but who may not want to or may not be able to afford to go to Court, can go to the Press Council and lay a complaint and say I feel that I have been done an injustice. They have been talking about that Press Council as long as I have been in politics, as long. And next year it will be 39 years since I was first elected to this House. And for as long as I have been here they have been talking about a Press Council, and to date that has not materialized. And I make just one final appeal.

I know that I have got calls from editors, managers of media houses I know the Member for West Portland up to recently got a similar call apologizing personally to us for a publication that appeared that day or the day before, apologizing personally. And very often will explain, I never saw the piece, I was away from my desk or it was not submitted to me. The point I am making is that, people who are in editorial control need to ensure that level of supervision that will prevent, you know, whether it is irresponsible, it is not always irresponsible, sometimes it is just - it may be a young journalist who does not have the experience…

A MEMBER: Youthful exuberance.

The PRIME MINISTER: Youthful exuberance, it might be that, it may not be a case where they willfully want to damage, but the point is that the management and supervision needs to be sufficient to ensure that you don't have irresponsible publication with a DNA effect, that you could apologize until the cow comes home, you could sue until you don't what to do with the money that is awarded to you, that damage is still done. And when you walk by, people look at you and they remember this thing that was published. And therefore, we feel the Government in terms of what was a clear policy intention, the Hugh Small Committee which was given a task, the Joint Select Committee which did this careful review, we have done our part to propose and hopefully shortly to enact significant changes in the rules regarding defamation which will give greater freedom to publish and to express opinion.

We have done our part. We are simply appealing to the press, let's see a reciprocal position being taken to ensure that the highest possible standards are being maintained, so that in our necessary zeal to protect the freedoms that we have fought for so hard in our necessary zeal to strengthen and enhance those freedoms, we don't create damage that in effect undermines the fabric of the very society that we are seeking to build.

Mr. Speaker, I thank you.

(Applause)

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, I thank the Leader of the Opposition for the privilege of having me sit on the Committee that has reviewed the Defamation Act, particularly since I straddle both membership in this House and an active role in journalism for 40 years.

Mr. Speaker, in order to be fearless, in order to be trenchant, in order to be investigative you do not have to defame. (Applause)

The Committee that looked particularly at the most contentious point of the issues to do with this area of the law, determined to adopt the Reynolds principle of qualified privileged rather than go with the Sullivan principle. It was as if fate was working to confirm our situation or conclusion. Because the very day after the Committee came to its conclusion, a media house of great pedigree and responsibility in this country portrayed images of persons alleging the most serious, reckless and indeed criminal conduct of a Member of this House, which they later withdrew, correctly and commendably. Had we gone with the Sullivan principle, that Member would have had the burden of proof reversed and he would have been the one maligned, as he obviously was, to have had to have proven not only that of the personal conduct which could affect his personal liberty, very instantly, was wrong, was untrue. But also he would have had to have proven malice on the part of those who avered such in such a fashion. That had happened right here. If any Members are not familiar with that, then they might acquaint themselves. It was a most dangerous situation; counsel in this House would know that might even deny him the right of a fair trial. Was that the price that we for the privilege of representing the people of this land or in any other public office have to suffer? No.

(The Speaker vacates his Chair and The Deputy Speaker presides)

Rev. THWAITES: And therefore, it is extremely important, Madam Speaker, that we

recognize this balance of which the Prime Minister spoke, between the right of free expression, equally treasured by every Member of this House and every public figure I dare say who merits the name and the title; and the right that is equally strong in the Constitution, any constitution for privacy and for a good reputation.

Madam Speaker, the way that the proceedings of the Committee that reviewed the Small Report and that of the Small Report itself, is a good way for us to make law in Jamaica. (Applause)

It is a good way because, Madam Speaker, we had expert advice, we had fulsome consultation, there was no way element in the society that had any interest who could not come and speak fully and come repeatedly before this legislature and advance their views, not once, as many times as they cared, in the course of our proceedings.

And it was interesting you know, Madam Speaker, because there was no difference, or no substantial difference of opinions, certainly not on political grounds of any of the members of that Committee. Ah, it near the Feast of the Epiphany, a Christian Festival, Madam Speaker. And wouldn't it be a marvellous Epiphany in this country if more and more of our legislative deliberations could take place in that atmosphere of unity and comity which this particular committee evinced. (Applause)

(*Sotto voce* comments by a Member)

Rev. THWAITES: Why not?

Because in fact, Madam Speaker, in respect of many of the issues that we've discussed in this country - in this legislature about this country - even as we've found in this particular thorny issue because it is sensitive and goes to the heart of our individual and our collective rights - it goes to the heart of the hub of questions to do with probity and prudence and corruption and all those things, yes, we were able to find common cause. And if we would only put aside our pomp and pelf sometimes you know, Madam Speaker, we would find that we could do the business of this House so much better. We could get along with what we have to do so much more.

You know, Madam Speaker, it's really not peripheral, but when we form a new parliament may I suggest to those who will have the power, yes, that they change the geography of this thing entirely. Don't put us on either side. Put us together around in a semi-circle, facing you, Madam Speaker. It's far more attractive.

(*Sotto voce* comments)

So that we could at least have the comity and not look over at each other as if we were evolved in some kind of enemy enterprise. We don't need to be adversarial in every respect. We need to be strongly seized of the views of our people and ourselves and to express those fearlessly and independently, first and foremost as their representatives and second only as the representatives and sometimes the satraps of some political organization.

Madam Speaker, the recom-mendations of the Report are worthy of our consideration and enactment. One of the reasons why the particular stringent standards were being sought for public officials and seemed to gain support, not only in the media, the mass media, but elsewhere in the community, to some extent, I know not how much, is because there is a general presumption that we who are in public office are corrupt, and that we are

unduly tempted at the very best, and that so we must be subject to an extraordinary vulnerability.

I accept the scrutiny, Madam Speaker. And I believe the Reynolds judgment and the dicta attached, the good fruit of the British jurisprudence to which we are far more attached than we are to the United States version thereof, represents the law of the land and represents a progressive and a flexible standard which will evolve as time goes on, to place more or less responsibility in the definition of the public interest.

And the other thing, too, you know, Madam Speaker, I trust the Judges that are appointed to the superior and indeed all the courts of this country. And therefore we don't need to reverse burdens of proof in favour of any other constitutional right. What we need to do is to trust our judiciary and ensure that they are well-equipped and well-disposed to carry out the job of adjudication which we give to them. And it was for that reason that the committee, as the Members of the House will know now, declined to put a cap upon damages because it is analogous to a mandatory sentence.

And you will notice that certainly the Member for Central Kingston and others are against mandatory sentences because what we must do is to ensure that we have penalties, awards of damages, whether it is for personal injuries or for libel or for criminal offences, that fit the offence and fit the offender, and the quotes in Paul to the Ephesians. Madam Speaker, mercy always triumphs over judgment. And for this reason, there is wisdom, I think, in the Report of the Committee as it has been recited by the Prime Minister. And I would say to my colleagues in the media, that a great deal has been achieved by this exercise and that their activism has been very well placed.

The reduction of the period in which actions can be brought to two years is a significant advance. The fact of apology, going to mitigation is also very significant. The issue of a correction or a declaration is important too. But, Madam Speaker, as you know, it will only work if there is prompt dispatch of the suits. If it has to gestate for three or four years before it gets before a Judge, it's meaningless. And therefore it goes to...There will have to be in the crafting of our legislative changes - and one hopes eventually in the general reform of the judicial system - a line whereby these issues which involve personal reputation, which involve freedom of expression, both vital subjects, one no more or less important than the other, should be determined with urgency.

Madam Speaker, the fact that we have retained or we propose to retain the jurisdiction of the jury to determine liability is a wise issue also. But it is equally wise to say that sometimes juries are not fully aware of the standards of quantification of damages and therefore to reserve this or to change this, take this away from them and put it for the Judge to determine, I believe should find favour with all the parties concerned.

The removal of criminal libel is long overdue and the issue of the wire tap defence is a significant advantage. It has its dangers. But where there is innocent dissemination through a wire tap transmission, and where a person who says they are aggrieved comes forward and makes that declaration and therefore imposes caution and a bar on the use of that defence any further, unless it happens

to be justified, which of course is always a total defence, it seems to me that we have truck a reasonable medium in the concerns and complaints and the concerns of both sides.

Madam Speaker, for as long as I've been in journalism, I've longed for a mechanism that outside of the ambit of the courts but buttressed by the principles of law at the time, could handle the normal complaints and difficulties that arise with a vibrant and robust and investigative mass media and the individuals about whom it speaks and reports. And I share in the sentiments of the Member for Western Kingston that this is long overdue and needs to be dealt with very, very immediately.

We too, Madam Speaker, in closing this presentation must be very careful, you hold public office, we are fallible and mortal like everyone else. But there is this higher standard that will always be accepted and demanded of us, and that is the responsibility which we face in the deliberative and cautious, but I think progressive way we have gone about this legislative endeavour, I believe that we have discharged our duties adequately. And my plea is that these recommendations should find favour with this Honourable House and that they should not wait too long before the laws are amended and passed and promulgated.

May it please you. (Applause)

Mr. MULLINGS: Madam Speaker, I rise not go guild the lily but to express also my own appreciation for having served on this Committee, for having the benefit of insight from experts, from stakeholders in looking at this law and of course noting as well the activism of the media. I'd like to, however, put on the table two things, first in relation to damages where the Small Committee really did not disturb the arrangement in terms of coming to the quantifying of damages.

But I'd like to place for deep consideration where a defendant is defending an action and in that defence repeats the alleged libel or slander, that damages ought not to be quantified in the utilization of that perceived libel and slander in the defence. In other words, the matter now having come to trial and the defendant maintaining their position, if they fail in their defence, the Judge can take into account the fact that you repeated the libel or the slander in your action. And I believe that is something that we ought to look very critically at. I believe that if in good faith you exercise your rights as a defendant and repeat what eventually becomes deemed libellous or slanderous, that damages ought not to be quantified by the mere repetition of it in your action. And it is something I believe we ought to look at very, very carefully because in these actions the issue of commercial viability is real, especially for media houses.

The oft-quoted case of Abrahams *vs the Gleaner* is one such and the attempt now to move the quantification of damages from a jury to the judge is a good move. However, a Judge is constrained by the rules in quantifying damages. And so I believe that we ought to look very carefully at this aspect of it.

Secondly, I'd like to make the point as well that where we expect public officials to have a higher standard and therefore a higher responsibility, we are constrained by the Constitution, because the Constitution does speak of equality before the law. And because you are a public official does not take away

that constitutional right when you assert equality before the law. And so while we understand the thinking that to those who are given a higher responsibility therefore, you must be open to greater scrutiny, I'd like to warn that we are restrained by the Constitution and quite rightly so.

Having said that, I believe as well, and I want to raise this as a very serious concern. I have noticed that when you read articles in the leading papers online, be it *the Observer* or *the Gleaner*, there is a section for comments. And I have read, apart from appalling spelling, I have read some of the most atrocious, libellous and I daresay some contain expletives online. And I urge the editors of these newspapers to look very carefully because when you append these comments to a story in a leading paper online, it creates a kind of currency. It is something that I believe that the editors of the papers ought to pay more keen attention to because if not, what you will find, that even if the paper were to assert innocent dissemination, I'm not sure that it could avail them, because they have a responsibility to see to those things that are appended to their own website.

Having said that, however, Madam Speaker, I would urge that the Media Association, others in the society, take a keen interest into what has now been distilled, coming from the Small Committee or from the Joint Select Committee. And I suppose one ought not to say this, having served on it, but it has been a situation of excellent work, excellent input. And I'd like, Madam Speaker, to commend this Report for its deliberations and also for the House to decide and accept as such.

Thank you, Madam Speaker.

(Applause)

Mr. HOLNESS: Madam Speaker, I move for the suspension of the debate to a further sitting of the House. The Minister of Social Security and Labour...

A MEMBER: Mike.

Mr. HOLNESS: Oh, sorry.

The DEPUTY SPEAKER: The question before the House is that the debate be suspended until a further sitting of the House.

Put to the House and agreed to.

MINIMUM WAGE (AMENDMENT) ACT

Mr. CHARLES: Madam Speaker, I now move for the suspension of the Standing Orders to enable me to take the second reading of the Bill, notice of which I gave earlier, and also to take it through all its concluding stages.

The DEPUTY SPEAKER: The question before the House is that the Standing Orders be suspended to allow the Minister to complete the second reading of the Bill and to take it through its stages.

Put to the House and agreed to.

Mr. CHARLES: Madam Speaker, the subject, the Minimum Wage (Amendment) Bill, 2010, which was tabled in this Honourable House on December 21, 2010, proposes to amend the Minimum Wage Act in order to facilitate the increase in fines and penalties payable for breaches of the provisions of the National Minimum Wage Order, 1975, and the Minimum Wage (Industrial Security Guards) Order, 1982.

The Minimum Wage Act was passed in 1938, and provides a legal framework for the payment of minimum wage to any person who is engaged in employment within Jamaica. Section 3 of the Act gives the Minister the power by order, to fix the minimum rates of

wages for any occupation in the island, either generally or in specific area.

Mr. PICKERSGILL: Pearnel, 1938 it passed?

Dr. DAVIES: It can't be passed in 1938.

Mr. PICKERSGILL: You said '38.

Mr. CHARLES: I'll correct that.

The Act provides for the establishment of a Minimum Wage Advisory Commission and the appointment of officers to inspect records to ensure compliance with its provisions.

Over the years, incumbent Ministers have promulgated various Orders, using the powers of Section 3 of the Act, to regulate the wage of workers in specific occupations. However, in recent times the practice has been to use the power to fix a general national minimum wage to cover all sectors. The Security Guard industry has continued to receive particular attention because it is perceived that unreasonable wages are being paid in this section, at least, in some sections of the security guard.

Madam Speaker, the Act was last amended in 2007. It was to increase fines and penalties for breaches of provisions to more realistic economic levels and, therefore, serve as more effective deterrent for employers who do not follow the law as set out in the Minimum Wage. The increase in fines range from $100,000 to $750,000. Formerly the fines were minuscule. It started at $20.00 to $100.00, and then raised to $1,000.00 for various offences.

Section 13 of the Act was also amended to give the Minister the power when making regulations under that section to provide that on summary conviction in a Resident Magistrates Court, the penalty may be up to $1 million or 12 months imprisonment.

When the amendments were affected in 2007, Madam Speaker, two fines and penalties under the National Minimum Wage and the Minimum Wage (Industrial Security Guards) Order were amended. These were:

- Paragraph 7 of the National Minimum Wage currently prescribes a fine of $100.00 or three months imprisonment if an employer deducts from the wages of a worker any amount for lodging or food supplied to the worker or for any other benefit conferred on the worker. The same penalty applies if a worker is paid less than the higher rate of pay prescribed by the specific order for a special worker.
- Paragraph 9 of the Minimum Wage (Industrial Security Guards) Order, which also currently prescribes a fine of $100.00 or three months imprisonment. If an employer deducts from the wages of any industrial security guard any amount for lodging or food supplied to the worker or for any other benefits conferred on the industrial security guard.

Madam Speaker, it was intended to use the Minister's power under Section 13(2) of the Act to increase these fines. It was the Ministry's view that this process would have

provided an effective and efficient approach to increasing these fines, since it would be within the Minister's power to amend subsidiary legislation.

However, the Ministry was thereafter advised by the Attorney General's Chamber that the amendment could not be accomplished through that method, since the ordinary legislation in question were made

pursuant to Section 3 of the Act and not Section 13.

This is because Section 29 of the Interpretation Act, which is a law of general application, provides that where an Act confers power on any authority to make or issue Regulations, a person who commits an offence under that Act is liable to a fine not exceeding $1,000.00 or to imprisonment with hard labour for a term not exceeding three months or both such fine and imprisonment, unless that specific Act provides otherwise.

In the case of the Minimum Wage Act, Madam Speaker, only subsidiary legislation made pursuant to Section 13 provides for such increases in fines and penalties to be made by the Minister. Therefore, it has become necessary to further amend the Act to exclude the operations of Section 29 of the Interpretation Act and therefore, allow the Minister to amend the National Minimum Wage Order and the Minimum Wage (Industrial Security Guards) Order by order subject to affirmative resolution of Parliament, to increase outdated fines which are currently in existence.

Madam Speaker, the amendment to the Minimum Wage Act as agreed by the Legislation Committee of Cabinet is as follows:-

1) Section 13 of the principal Act is to be amended by deleting section....

(*Sotto voce* comments by Messrs. Pickersgill and Davies)

(Mr. Charles turned his head and pointed to his ear)

Mr. CHARLES: Talk to that for me. (Laughter)

(*Sotto voce* comment by Members)

Mr. CHARLES:

1) Section 13 of the principal Act is to be amended by deleting Section 13 in its entirety and replacing it with two provisions. The first is Section 13(1), which is a restatement of the Minister's power to make Regulations generally for the giving effect of the provision of this Act
2) Section 13(2), which specifically restricts the operation of Section 29 of the Interpretation Act. It also provides the Minister with the power to impose greater penalties than those imposed by Section 29 of the Interpretation Act, in relation to any Regulation made under any section of the Minimum Wage Act. The maximum penalty on summary conviction under the new section may not exceed $1 million or 12 months imprisonment or both such fine and imprisonment.

(The Speaker returned to the Chair at approximately 5:38 p.m.)

Mr. PICKERSGILL: Fines yu a deal wid now?

Mr. CHARLES: There are some people.

Mr. PICKERSGILL: Yes.

Mr. CHARLES: ..... who - not some like you. (Laughter)....who seek to exploit the poorest and they need to be protected by rich men like you and I.

Dr. DAVIES: Yes, but if you pay them don't protect them with the fine, pay them.

Mr. CHARLES: Upon the amendment of this Act, which will provide the Minister with the relevant legal powers, the requisite Orders will be tabled in this Honourable House for

the amendment of the fines in the National Minimum Wage Order and the Minimum Wage (Industrial Security Guards) Order.

Mr. Speaker, I therefore commend the Bill to this House for its approval.

Dr. DAVIES: What happen to the minimum wage?

Mr. PICKERSGILL: But what happen to the minimum wage?

Mr. CHARLES: Thank you, Mr. Speaker.

Opposition MEMBER: Yuh done already man.

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Mr. Speaker.....

Dr. DAVIES: Rudy, you know about this?

(Mr. Spencer nods)

(**Dr. DAVIES** Laughs)

Mr. KELLIER: .....by the comments coming from the Members in the House, it is clear that something further was expected .....

Dr. DAVIES: Something was expected, but not further. (Laughter)

Mr. KELLIER: ..... from the Minister in respect of the minimum wage. And I know, not only those of us in this House, but certainly the people in the wider public were expecting to hear the Minister make a formidable announcement as to the level of increase in these hard times that we were expecting. But I am sure that he will tell us something before he closes the Bill this evening as to when he is going to make those announcements.

Mrs. NEITA HEADLEY: Not a ting.

Mr. KELLIER: Mr. Speaker, in respect of giving the Minister the necessary powers to increase the fines and penalties, the Opposition has no objection to that, because basically, the fines that are presently in vogue are a little outdated and they do not act as a deterrent to persons who refuse to pay, even what is set as the minimum wage, what is really the floor of the wage levels, but not the ceiling.

And indeed, it is being abused left, right and centre. And I don't know, I had expected the Minister would also tell us the amount of cases that they have prosecuted of persons who have run afoul of this regulation in respect of protecting the persons at the bottom of the scale in regard to the minimum wage.

It is knowledgeable that we know in a number of instances, persons do not adhere to this law in the way they should. And the fact is that although, what is set as minimum wage is really an indication of what one should not pay below, but it is not a set rate that persons to be tied to in respect of remuneration.

So the fact that he is asking for the - based on what the Memorandum of Objects and Reasons says, we want to remove any restrictive effect of Section 29(b) of the Interpretation Act and thereby facilitate the increase of the maximum amount of fines and other penalties for the breaches of the Orders and other regulations made under the Act to more realistic levels.

I want to say to the Minister that we are on-board with you with that, because we cannot afford for the people at the bottom of the scale and the lower-ebbs of society, who try to eke out a living for themselves and their families by doing all sorts of work, sometimes in conditions that violate the decent work agenda, that has been promulgated by the ILO and a convention that we support over the years.

And, you know, it is full time that maybe some more public education be done on this issue. And while I am aware that efforts are being made, I think, Minister, in this case and particularly the fact that the fines will be increased for those people who are violating this law, that another round of public education needs to be made.

And I say that in respect to the fact that currently, we have a number of overseas persons - I won't name the nationalities - that are engaged in business in the island. And sometimes you have problems because of language barrier consideration and these things, and people sometimes don't fully understand, you know, because of language problems. We would not want to make it appear as though you are being vindictive in prosecuting the law to its fullest. So it would be useful if, you know, a little more public education be done and that your officers make the visits and the rounds and to make sure that before you draw the sword everyone is knowledgeable that they must conform to the regulation in respect of the levels below which no one should be paid. So the Opposition is fully on board with you in giving you support in respect of the increasing of the fines for people who violate, both for those and for those that work in the industrial security guards area as well. So you have our support in that Minister, and we look forward to hearing from you as I said in respect of how soon that we will hear what are the other measures that will increase the lot of those people who currently earn the minimum wage so we can have a full debate on that.

Thank you, Mr. Speaker.

The SPEAKER: Mrs. Simpson Miller.

Mrs. SIMPSON MILLER: Mr. Speaker, I rise to support any action taken to protect the workers of this country and, particularly those at the bottom of the economic ladder, is critical and important and so I give support. (Applause) But I would also want to suggest some kind of monitoring mechanism so that we not only put legislation in place, but it will impact the persons who it is meant to benefit.

Mr. Speaker, I just want to say to the Minister that I was expecting that this evening we would not only be hearing about legislation but, in fact, we would have been presented with the minimum wage increase. (Applause) Because the Minister when he spoke last year, I think it was October, I think it was October 12, the Minister indicated that we would have something soon. And, Minister, please don't let it be that you bring this one this week and then we are told next week that the other one is not ready. Minister, ensure…..

Mrs. NEITA-HEADLEY: Minister.

Mrs. SIMPSON MILLER: Mr. Speaker, through you, ensure you will be coming to Parliament next week to announce the minimum wage increase, including that the of security guards. Thank you. (Applause)

Mr. M. PEART: You study too long.

The SPEAKER: Minister Charles, you are under pressure.

Mr. CHARLES: Mr. Speaker, when you are in certain position….

Dr. DAVIES: To chat foolishness!

Mr. CHARLES: Not only to chat but to listen to foolishness. When you are in certain position it requires you to be restrained under certain conditions. I want to assure this House that representing the Government, we at the Ministry of Labour are very concerned. We

have been having consultations and, as some members on that side are well aware, the matter will come before this House very shortly.

Mrs. NEITA-HEADLEY: Next week!

Mr. CHARLES: However, I want you to join me - and I am not warning anybody. I accept the presentation from the Leader over that side that we should try and use education as best as possible. But I tell you something, when you have strong sanctions for small things you don't need it beyond that point. It is out of order to be exploiting people at the lowest level. And I am going to tell you right now in this House that the Ministry intends to police with a very strong committee throughout the island, particularly in the security guard section. So I am just putting the warning on the floor. Here are the sanctions and when we come with what we can agree on don't exploit it. I promise the House that we will do our best shortly.

Mr. Speaker, I ask that the Bill be read a second time.

The SPEAKER: The question is that the Bill be read a second time.

(Put to the House and agreed to)

Bill entitled:

"AN ACT to Amend the Minimum Wage Act",

read a second time.

The SPEAKER: The House will now resolve itself into a committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

The CHAIRMAN: I put Clause 1.

Mr. KELLIER: The date.

The CHAIRMAN: The date, the date again, yes. That's an editorial change.

Clauses 1 and 2 put and agreed to.

The Title and Enacting Clause put and agreed to.

The CHAIRMAN: The question is I do report the Bill as having passed Committee Stage without amendment.

Put to the Committee and agreed to.

RESUMPTION

The SPEAKER: I do report the Bill as having passed Committee Stage without amendment.

Mr. CHARLES: Mr. Speaker, I now ask that the Bill be read a third time.

The SPEAKER: The question is that the Bill be read a third time.

Put to the House and agreed to

Bill entitled:

"AN ACT to Amend the Minimum Wage Act",

read a third time and passed.

The SPEAKER: The Bill is passed. House Leader.

Mr. HOLNESS: Mr. Speaker, before we close today's sitting there is a housekeeping matter. I would like to move for the suspension of Standing Orders to allow us to take questions as to the expiration of the time for questions and to recommit the item Questions and Answers to Questions.

The SPEAKER: The motion before the House is for the suspension of Standing Orders to allow for the recommittal of the item Questions and Answers to Questions and also to allow that item to take place after the hour of 3:15.

Put to the House and agreed to.

QUESTIONS AND ANSWERS TO QUESTIONS
(Recommitted)

Mr. HYLTON: Mr. Speaker, I beg to give notice that at the expiration of 21 days I will ask the Prime Minister the following questions:

Question 1:

Could the Prime Minister state whether or not he is satisfied with the level of preparedness by the state institutions as well as the private sector for the implementation of the historic EPA?

Question 2:

If the answer is yes, could the Prime Minister state clearly the basis on which he arrives at this conclusion?

Question 3:

If the answer to (1) above is no, could the Prime Minister state the measures and strategies to be implemented in order to assist the Jamaican private sector, in particular the Micro Small Medium Enterprise (MSME) to take advantage of the possible benefits under the EPA?

Question 4:

Could the Prime Minister state specifically whether an assessment of the likely impact on the Jamaican productive sector was completed prior to or since the signing of the EPA in 2008?

Question 5:

Could the Prime Minister state the results of the impact assessment for both the manufacturing and agriculture sectors, as well as the services sector of the Jamaican economy?

Question 6:

Could the Prime Minister state whether the other CARICOM partners are in as good as or a better position than Jamaica to meet their obligations under the EPA?

Question 7:

Is the Prime Minister Aware of any efforts by CARIFORUM countries to seek an extension, from the European Union, of the moratorium on the phased implementation of the EPA?

Question 8:

If the answer to #7 is yes, will the Government support such an effort by CARIFORUM countries to attempt to extend the moratorium?

Question 9:

If the answer to #7 is no, could the Prime Minister state the reason(s) for the Government's decision?

Question 10:

Would the Prime Minister indicate what measures, if any, the government is prepared to take, in light of the following developments subsequent to the signing of the EPA in 2008:

(a) the continuing refusal by other African Caribbean and Pacific (ACP) regions to sign an EPA,

(b) the negative effects of the global recession and the decision of European countries to stimulate their economies through significant subsidies to various sectors and firms?

Mr. SHAW: Next time you come here on time.

The SPEAKER: House Leader.

Mr. JACKSON: Audley, this is a new year.

(*Sotto voce* remarks by Dr. Davies)

The SPEAKER: Yes, Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, just so that you can enquire of the House Leader when the motion for adjournment, which seems imminent is put, when will those Private Member's Motions from the Member from St. Catherine (the nether parts) as well as the one on dual citizenship and Number 17, which was scheduled for today, when will these be taken, Mr. Speaker, forever?

The SPEAKER: Apart from that, Reverend Thwaites, House Leader and the Leader of Opposition Business, I think it's a matter that affects the Speaker too in enforcing the Standing Orders. All these Private Member's Motions, can we either agree to delete them with the consent of the movers or let us have them debated this term?

Mr. HOLNESS: Mr. Speaker, before the Member raised the issue and before I close today, I was about to put Members on alert that next week and for the foreseeable months, that we will be sitting two days per week in order to clear the backlog of Private Members' Motion. But as well, Mr. Speaker, there are other matters that will be coming fast and furious and the House…

Dr. DAVIES: A bet you, you don't do it more than one week.

Mr. HOLNESS: No, no, actually we have planned out the agenda, so we will be doing it at least up to budget time.

Mr. Speaker, nevertheless, the Member raised the issue regarding the dual citizenship motion. The matter is on the Table. We have opened the debate and from - at least on three occasions, I have asked for contributions to the debate. No one has contributed, except one person has indicated. We could schedule that for next week and after that I will ask the Member to close the debate.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business. I therefore move that the House do adjourn until the 18th of January when we will resume our sitting.

The SPEAKER: The motion before the House is that this Honourable House do adjourn until Tuesday, the 18th of January, at 2:00 p.m.

Put to the House and agreed to.

The SPEAKER: This Honourable House stands adjourned.

The House adjourned at 5:57 p.m. until January 18, 2011, at 2:00 p.m.

THE HONOURABLE HOUSE OF REPRESENTATIVES

SESSION 2010 – 2011

TUESDAY, January 18, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:26 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters

ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Planning and Development and Defence.

KARL GEORGE SAMUDA, CD, (JLP), St. Andrew, North Central, Minister of Industry, Commerce and Investment.

MR. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing.

LESTER MICHAEL HENRY, CD, (JLP), Clarendon, Central, Minister of Transport and Works.

RUDYARD CONRAD SPENCER, (JLP), Clarendon, South Eastern, Minister of Health and the Environment.

DR. CHRISTOPHER CHARLES TUFTON (JLP), St. Elizabeth, South Western, Minister of Agriculture.

JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

MICHAEL ANTHONY STERN, (JLP), Clarendon, North Western, Minister of State in the Ministry of Industry and Commerce.

OTHER MEMBERS

MR. GEORGE DELANO ARSCOTT, (PNP), Clarendon, South Western.

MR. LUTHER BARTLEY MONTEITH BUCHANAN, (PNP), Westmoreland, South Eastern.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern.

MR. COLLIN ALFRED A. FAGAN, (PNP), St, Catherine, South Eastern.

DR. FENTON RUDYARD FERGUSON, (PNP), St. Thomas, Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MRS. MAXINE ANTOINETTE HENRY-WILSON, (PNP), St. Andrew, South Eastern.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. OTHNEIL DAMION ST. ELMO LAWRENCE, (JLP), St. Ann North Western.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

DR. KENNETH WYKEHAM MCNEILL, (PNP), Westmoreland, Western.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. DEAN ALEXANDER PEART, (PNP), Manchester, North Western.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

DR. PETER DAVID PHILLIPS, (PNP), St. Andrew, East Central.

MR. ROBERT DIXON PICKERSGILL, (PNP), St. Catherine, North Western.

DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern.

THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition.

MR. DERRICK CHARLES SMITH, (JLP), St. Andrew, North Western.

MR. ERNEST AUGUSTUS SMITH, (JLP), St. Ann, South Western.

MR. KERN O'MAR SPENCER, (PNP), St. Elizabeth, North Eastern.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

MR. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern.

PRAYERS

Prayers were offered by MR. DESMOND GREGORY MAIR.

The House resumed its sitting at 2:26 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

Members, this afternoon we would like to welcome to the sitting of Parliament specially the former Speaker of the House, Mr. Karl Marshall, (Applause) former Members of Parliament, Mr. Barrett and Mr. Ramtallie. (Applause)

Also I would like to welcome to the sitting of the House this afternoon MRS. DOROTHY BUCHANAN, the wife of the late Member of Parliament who is sitting in the Gallery... (Applause)... and the other family members.

I think with our permission Mrs. Buchanan could sit in the Well here with us.

We would also like to welcome six students and their teachers from the Suthermere Preparatory School; welcome to the sitting of Parliament. (Applause) I know there are also other members in the Gallery.

But I would just ask you, please check on your cell phone to make sure it is either off or on vibrate, everyone please, so we do not disturb the sitting of Parliament.

House Leader.

Mr. HOLNESS: Thank you, Mr. Speaker.

Last week, Mr. Speaker, we indicated that we would have postponed our tributes to our former colleague, former Member of this House, DONALD BUCHANAN, and that we would do the tributes today when his family could be present to hear the tributes.

Mr. Speaker, I now invite Members who wish to do so to give their tributes.

(HON. LAURENCE GEORGE BRODERICK, (JLP), Clarendon, Northern, Minister of State in the Ministry of Energy and Mining, entered and took his seat.)

(MRS. NATALIE NEITA-HEADLEY, (PNP), St. Catherine, East Central, entered and took her seat.)

The SPEAKER: Members, a number of persons will be speaking. I am urging - I know everyone would like to speak for lengthy periods, but certain time periods have been given. I am urging Members to allow those and maybe one or two others to be able to speak, so please stick to the agreed time allotment.

Mrs. Portia Simpson Miller.

Mrs. SIMPSON MILLER: Thank you very much, Mr. Speaker. (Applause)

Mr. Speaker, Members of this Honourable House, Mrs. Dorothy Buchanan, the Buchanan children and members of the Buchanan family, former colleagues and friends of the late Donald Buchanan and well wishers present with us today, I rise to pay tribute to the big man from Little Park in St. Elizabeth.

Mrs. NEITA-HEADLEY: Hear, hear!

Mrs. SIMPSON MILLER: …who dared to believe that he could have made a national difference.

Donald Buchanan, believed that despite the huge odds in the 1950s, Jamaica could become a more equitable place and could advance and flourish.

Danny Buck or D Buck as he was affectionately called, started as a son of a farmer and later on himself became a farmer. A student of Norman Washington Manley, he fought relentlessly to broaden the educational opportunities of all children regardless of the colour of our children's skin or the circumstances of their birth.

(HON. WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth North Western, Minister of State in the Ministry of Agriculture and Fisheries, entered and took his seat.)

As a firebrand democratic socialist Councillor in the 1970s, he stood valiantly by the side of Michael Manley and he championed the causes of the government of the day to extend access to tertiary education. As a member of the National Workers Union he persistently advocated for better working

conditions and better wages for the people he represented.

As an equal rights and justice man, Danny stood firm and steadfast in his conviction that better must come and that he should put the people of Jamaica first.

D Buck was willing to risk his life for the principles upon which his party was founded. He believed as Norman Manley, that nationhood is built on the strength and courage of men and women who possess the precious gift of steadfast loyalty. Danny Buchanan believed this and he never wavered from it.

He had a philosophy for his public service that was larger than himself. Danny was never self-serving and he was never selfish. He was a dedicated public servant and a committed patriot.

His shall be a lasting example for those of us who continue to serve the people and those who will come after.

Some persons did not understand why, for example, Danny was still wearing his Kareba and kept in vogue within this very Parliament. For Danny Kareba was not just a fashion statement, it was symbolic of a political philosophy. (Applause)

Mrs. NEITA-HEADLEY: Hear, hear!

Mrs. SIMPSON MILLER: His Kareba reminded him that politics means to serve the people and advance their development. Danny wore his Kareba because he was a socialist. He was a socialist at the beginning and he was a socialist until the end; and he wanted everyone to know that he had not changed course and his Kareba was his public statement to that effect. (Applause)

(MR. ANTHONY GEORGE HYLTON, (PNP), St. Andrew, Western, entered and took his seat.)

Danny as the longest serving Member of Parliament for South West St. Elizabeth, he dedicated his adult life to ensuring that as far as possible the people from his constituency and the wider St. Elizabeth had access to social amenities which he did not have as a child.

Danny worked tirelessly and represented well. He was persistent in his representation and determined in his mind that he was going to transform his constituency.

(DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern entered and took his seat.)

They say self-praise is no recommendation, but DANNY DONALD BUCHANAN was a straight talker and when he presented facts one would question it at his or her own peril or embarrassment. When he was asked by an *Observer* reporter in 2002 why should his constituents vote for him another term he proudly and unabashedly responded, "no MP in the history of South West St. Elizabeth has brought the level of development to that constituency that I have brought over these last three terms and therefore, three good terms deserve a fourth term".

He went on to highlight a long list of his achievements, among them increases in Basic, Primary and All-Age, High schools, improvement in vocational training institution, improvement in telephone service, expansion in electricity service, improved water supply, road improvement, sport

development, increased housing benefits, improvement in the overall quality of life for his constituents. In his final term as Member of Parliament he kept all his 2002 election promises. He also upgraded the Black River hospital and he commissioned the Little Park Irrigation Water System. He served his constituents with a distinction and he will be a hard act to follow as Member of Parliament.

Dr. DAVIES: Yuh hear, Chris.

Mrs. SIMPSON MILLER: His contributions, Mr. Speaker, to this Honourable House can be described as legendary. His texts were always carefully scripted. Appreciating as he did that the Parliament could easily become a minefield, exploding with Danny's quick or certain rebuttal to some things said or just in an attempt to take the speaker off message. Even parliamentarians not yet sworn in will remark hear, hear, as Minister Spencer did - the Honourable Minister did earlier, knowing that it became the hallmark punctuation of Donald Buchanan that marked his agreement with a point that had just been made. If hear, hear was a sign of approval, then **rubbish**! would have to be the ultimate signal of disapproval. (Applause) And many a presenter in this House have been rattled and thrown off kilter, dismissed even when Danny would conclude, **rubbish**!

But let no one be mistaken, as Member of Parliament Donald Buchanan well-timed contributions to our various proceedings in this hallowed Hall advanced the cause of this Parliament and of the people of Jamaica.

We are right to pay tribute to him in this place and in this way. Danny spent all of his years as Member of Parliament in the executive. He served first as Junior Minister with me in the Ministry of Labour and Social Security, then as Minister in the same Ministry. He was then Minister of Water with former Prime Minister Patterson and Minister of Development when I was Prime Minister. He was punctual and consistent. He hardly ever missed a meeting and he was seldom ever late, and he would stay all day and night if the circumstances warranted it.

The wealth of tributes that have come from various leaders in the private and public sectors, as well as from non-governmental organisations and well-established community-based organisations confirm that D Buck as Minister Buchanan, served well.

He was fair and even-handed, even when his position was different from the more popularly held view. He placed his opinion on the record with that inimitable turn of his mouth which then broke out into his winning smile. His points were delivered always without malice and he was never intransigent.

Danny came to political and public life to serve his people. He was assertive and feisty and he did not always choose his words to make friends, but Danny was an honest and upright public servant. (Applause)

Mrs. NEITA-HEADLEY: Hear, hear!

Mrs. SIMPSON MILLER: He did not come into politics to get rich and to feather his own nest. He came to serve. He came to politics with a conviction that he could contribute to a better quality of life for his country and a determination that he would achieve it.

Danny did not start life as that giant he became. Danny had very humble beginnings. Danny was not afforded many of the

opportunities and social comforts that so many enjoy today. In fact, he worked tirelessly, Mr. Speaker, so that such comforts became commonplace.

Mrs. SIMPSON MILLER: His life revealed a commitment to humble philosophy, upheld by my own mother that loved him dearly, Mama Minn. He never looked down on anyone unless he was lifting them up. Danny Buck went further than just a mere belief in equal rights and equal opportunities. He lived and demonstrated that with personal determination, self-discipline and a commitment to one's vision, anyone could rise against the odds to achieve one's goals.

He pulled himself up by his own bootstraps from virtual obscurity, from the farming belt of rural Jamaica, to become one of Jamaica's best known and most colourful public servants. (Applause) He rose to one of the highest office as General Secretary in his own political party, and to one of the highest offices in the nation, as Minister in the Government. In life, he was - he has rubbed shoulders with the brightest and the best from other nations, in death he has impacted this nation.

His most abiding legacy is to be found in the fact that he struggled in words and in deeds by his own life to illustrate that the democratic imperative of equality is not an illusion. He demonstrated that the ideal of social justice is indeed attainable.

Mr. Speaker, it was not an easy road, but he was willing to lay down his own life, literally, dodging bullets to ensure a better way of life for the people of this great nation, his nation.

Not everyone admired his style. Sometimes he even caused his own colleagues to cringe. But now that he has come to his final curtain, and as we reminisce on his great - on this great son of St. Elizabeth soil, the chorus is the same from supporters, from detractors, from opponents, and from friends.

Donald Barrington Buchanan was a great Jamaican who made a tremendous contribution to the development of his country and this nation. I salute this great man, a loving husband and caring father. I pay tribute to his wife and children, members of his family. I have never met a woman as strong as Dorothy Buchanan.

Mrs. HAY WEBSTER: Hear! Hear! (Applause)

Mrs. SIMPSON MILLER: She never left the side of her husband, she stayed with him all through, till he took that final breath, closed his eyes, good-bye to his family and to this country.

He was a true and loyal Jamaican Parliamentarian and Minister of Government, and a friend.

To his son, Hugh, you have a legacy to follow. You have a big burden to carry. You must continue the work of your father.

Opposition MEMBERS: Hear! Hear! (Applause)

Mrs. SIMPSON MILLER: Mr. Speaker, I will share a private remark he once made to me when he said, "P, I never step out of my house any morning without first sending up a prayer to the Lord." Nobody knew that side of Danny, that he was also a very spiritual person. His faith was his insurance, his strength and his guide.

In the final analysis when we think of Donald Buchanan, amidst all else that we can say, I would like to conclude today, he did it his way, as I paraphrase **"My Way"** by FRANK SINATRA, by ending this tribute to this great son of Jamaica and of St. Elizabeth.

"And now the end has come
And so he faced the final curtain,
My friends, I'll say it clear
He stated his case of which I am certain.
He lived a life that was full,
He traveled each and every highway,
And more, much more than this, He did it his way.
Regrets, I am sure he had a few,
But then again perhaps too few to mention.
He did what he had to do
And saw it through without exemption.
He planned each charted course, Each careful step along the byway,
And more, much more than this, He did it his way.
Yes, there were times
I am sure he knew
When he bit off more than he could chew,
But through it all,
When there was doubt
He ate it up and spat it out.
He faced it all
And he stood tall
And did it his way.
He loved, he laughed and cried, He had his fill, his share of losing,
But now as tears subside
I am sure he found it all so amusing.
To think he did all that
And may I say not in a shy way, Oh no, oh no, not Danny,
He did it his way.
For what is a man,
What has he got,
If not himself then he has naught
To say the things he truly feels And not the words of one who kneels,
The record shows he took the blows
And did it his way.
Yes, yes, Danny, Danny did it his way."

Mrs. NEITA HEADLEY: Hear! Hear!

Mrs. SIMPSON MILLER: Thank you, Mr. Speaker.

(Applause)

The SPEAKER: Thank you, Mrs. Simpson Miller.

Prime Minister.

The PRIME MINISTER: Mr. Speaker, there is hardly anyone who has occupied this Chamber that has been more colourful than Danny Buchanan.

Mr. BUCHANAN: Hear! Hear! (Laughter)

The PRIME MINISTER: In debates, he was at times humourous, at times provocative, at times strident, at times combative.

Whenever you rose to speak - and I certainly speak of myself - you had to not only ensure that you had a clear idea in your mind what are the points that you wanted to make, what are the points that you would need to rebut, but you had to prepare yourself for the *sotto voce* remarks that you knew would come from Danny Buck. And in anticipating those *sotto voce* remarks, if you prepared yourself well, then, just possibly you might be able to have him subdued. If you were not prepared, he was likely to floor you.

He had a memory like an elephant. He could recall things that you said many, many years ago. He could even recall things that you never said. (Laughter) And he asserted it with a certain persuasiveness. If he agreed with what a speaker was saying, you could expect that refrain, "Hear! Hear!" And if he thought you didn't hear, he would raise the decibel level, "Hear! Hear" to make sure that you hear. And in so many of those debates he added spice, created a little bit of discomfort sometimes, but he did it as someone who was committed to the work and service of this Parliament.

He was passionate about his Party, as we all know. He was passionate about his beliefs, he was passionate about his country. He was a hard nut to crack, because there was hardly a spanner that could fit that nut.

He and I spent a fair amount of time trying to trace our family history, because we discovered that he had cousins who were also cousins of mine. But we were never able to determine who married whom, or who begat whom, but we spent a fair amount of time trying to trace that relationship.

I am happy that his family is here today so that they can hear us...

Dr. PHILLIPS: Continue the research.

The PRIME MINISTER: ...and can feel the sincerity of the tributes that are being paid.

To his wife, his children, his grand-children, on behalf of the Opposition...

Mrs. SIMPSON MILLER: That is prophetic. (Laughter)

The PRIME MINISTER: ...on behalf of the Government - I speak for the Opposition as well - on behalf of the entire Parliament, may I extend to them
the deepest condolences, not only of this Parliament, but of the country that he has served so well. (Applause)

The SPEAKER: Thank you, Prime Minister.

Mr. Bunting.

Mr. BUNTING: Mr. Speaker, I think I am having trouble with one of the mikes. May I speak from a seat other than my own?

Mr. Speaker, I served with Danny Buchanan in Parliament, and in many political campaigns, reported to him as Chairman of JAMPRO while he was Minister of Development, collected the baton of General Secretary from him, and most recently, served alongside him at the Electoral Commission of Jamaica.

“D. Buck” was a man of strongly held opinions, but more so, a man of stridently expressed opinions. With those characteristics, one naturally develops both strong supporters and strong detractors, and sometimes you became confused as to which you were. I remember as a young Parliamentarian in '93, went to “D. Buck” and asked him to explain to me the complexities of the Standing Orders and Parliamentary Procedures. And he said, you don't worry yourself with that in the first term, just sit down, listen, and knock the table when your side is talking. (Laughter)

No one could seriously question, however, his sincerity and commitment to the development of his family, his constituency, his country, or his beloved People's National Party.

Donald Buchanan demonstrated patriotism of the highest order when he served at the Electoral Commission of Jamaica, and the precuror the Electoral Advisory Commission - Committee, rather. Danny was equally strong in his advocacy for the ECJ within the Party as he was for the Party within the ECJ. And if ever there was any conflict of interest, you could be certain that the interest of our democracy would always supercede any partisan interest, and he was relentless in pursuing any objective that he thought critical to creating a more perfect democracy through the electoral system.

Mr. BUNTING: One of my favorite memories of Danny is of an occasion during the 2007 Cricket World Cup, when at short notice he had to substitute as guest speaker at a formal ball to honor the West Indies cricketing legends. Danny was dissatisfied with the speech that had been prepared for the occasion. So he went to the podium, prepared speech ento, but unknown to most people he had it face down. He then delivered an impromptu, but nonetheless comprehensive and insightful survey of West Indies Cricket across the decades. Not using one sentence from the prepared speech. But the mischievous side of Danny was that every couple minutes, he would dutifully turn a page… (Laughter) …as if he was reading from it, perhaps he didn't want JAMPRO staff to feel bad. But his encyclopedic knowledge of West Indies Cricket and his skill as an orator was evidenced that evening by the standing ovation he received at the end of his presentation. (Applause)

Mr. Speaker, on behalf of myself and the party secretariat which Danny served for so many years as Deputy General Secretary and also as General Secretary, we extend sincere condolences to the Buchanan Family, his wider family in the Party and in South West St. Elizabeth. We acknowledge and salute the enormous contribution to our political landscape and to national development made by the great Jamaican, Donald Barrington Buchanan. (Applause)

The SPEAKER: Thank you, Mr. Bunting. Dr. Phillips.

Dr. PHILLIPS: Mr. Speaker, there is no doubt that DONALD BARRINGTON BUCHANAN left an indelible mark on Jamaica and its Parliament, and on the People's National Party for close to 50 years. He was a dominant political figure for the late 20th Century and the early years of the 21st Century.

There are many aspects to his personality. He was a patriot, a politician, a Parliamentarian, a sports lover, a family man, devoted parishioner of St. Elizabeth. And I believe a gift to modern Jamaica and its politics to which he contributed much.

As a Member of the People's National Party, there was no one more loyal, more committed or dare I say more outspoken than DANNY BUCHANAN was. He rose from the ranks of Constituency Secretary while still in his tender years, to ultimately occupy the post of General Secretary, Member of Parliament and Minister of Government in successive PNP administrations. He never wavered in his belief, that the People's National Party represented the best vehicle for the achievement of social transformation in Jamaica. And particularly for the upliftment and progress of the ordinary Jamaican who

was thriving for a better quality of life. (Applause)

He was gifted with a sharp tongue and a sharp mind and an ascorbic wit, courageous to a fault, he was a consistent advocate in private and in public for those policies and programmes that he thought would be beneficial to the country. Sometimes his courage ventured into the realm of foolhardiness. There was an occasion, Mr. Speaker, when as many in the heady days of political debate competition; I think there was a group who found themselves in a place with a spirit license. And this person came up to Danny Buck upset, and threatened his life and Danny Buck said, the person was quite inebriated. Danny Buck said to him, 'pull that gun and fire it and make me thump you down'. Fortunately, none of the threats came to pass. (Laughter)

The people of St. Elizabeth and in general, and in South West in particular was passionate concern, and he was able to create political history by being to date the longest serving Member of Parliament in South West St. Elizabeth, having served four continuous terms. (Applause)

As I said, he was more than just a politician, however. In the Parliament, he was very much conscious of the drama that played out on the parliamentary stage. He played the game, he played it hard, and yet in the Parliament as in the game of cricket he didn't break the rules that were necessary for the survival of the institution. And he believed in Parliament as an institution. There probably won't be anyone who will have mastered the skill of interruption in the House, as perfectly as he did. He understood when the speaker was in his run-up, and timed his interruption just as he was about to deliver the ball. And, as has been remarked on earlier, you had to have a very clear mind, a calm spirit to endure his Opposition in a debate.

He was an avid lover of cricket and of Track and Field, and indeed of most sports. He never missed a test match in Jamaica unless he was travelling on official business and more often than not, he would ensure that any travel plans would be fitted around the test schedule. And, he generally saw the first ball to last ball sitting in the Parliamentary Box when he was a Member of Parliament. Cricket for him was more than just a spectacle, Mr. Speaker, it was, I believe, for him the sport which most validated the capacity for excellence of the people of the West Indies and of Jamaica in particular. And he was a walking encyclopaedia of every fact. He used to have this tendency to constantly prepare a listing of the best West Indies team, and it would be an interesting thing really to correct all the teams because he would do this often and I would really would love to see if what he believed in 1992, really corresponded with what he would have filled out in 2007. Admittedly new cricketers were coming on the stage, but I suspect that his number three or his number four position or his ranking of the bowlers might have changed but there was no real possibility of contradicting him as to the facts. And, unless you could bring the evidence then it was agreed that his facts would stand.

He was, I think, an area of his own life that is not often understood, but his commitment to - but his role and his capacity as a political strategist. He was a Member of

every successful campaign team of the People's National Party for - certainly from 1986 onwards at the highest level. I served with him, on the Electoral Advisory Committee and we managed then to develop our own version of the good cop, bad cop routine. Danny was always prepared to play the bad cop intimidating extreme role in the view of getting - of allowing a more reasonable voice to intervene and secure the decision that we wanted by appearing to be very reasonable; his extreme position having been presented by agreement beforehand. (Applause)

He was always willing, however, to abide by the decision of the majority; in the Electoral Advisory Committee, in National Elections and also even in internal party decisions with which he may have disagreed. He was the utmost democrat in that regard and I think it is worth being noted. (Applause)

Most of all, I think, Mr. Speaker, we should recognize and pay tribute to his commitment to family values. (Applause) His love for his wife and for his children was legendary and he lived in the hope and expectation of seeing one of them follow in the political pathways to which he was so devoted. And I expect, it is unfortunate that he will not be with us long enough to see the forthcoming political successes of his own son who has entered into the political vineyards… (Applause)

The fact is, Mr. Speaker, despite him not being with us, he will continue to serve for many generations hence, as an example of selflessness, of loyalty, an example of devotion to the cause of social justice, and as an exemplar of the best that the People's National Party had to offer to Jamaica's politics.

We his comrades and friends shall miss him, but will always remember all of us in the Parliament even those who were his opponents, we will always remember the fact that we are better and stronger for having known him, for having worked with him, for having struggled with him at our side or having had him in front of us. Because always, he put at the forefront of his concerns the interest of the people of Jamaica with whom he had a - for whom he had a passionate love and commitment.

I extend condolences to his family and to his many friends, personal and political. And our greatest tribute to him can be that we will continue to struggle for the things that he held dear.

Thank you very much, Mr. Speaker. (Applause)

The SPEAKER: Thank you, Dr. Phillips. Dr. Tufton.

Dr. TUFTON: Thank you, Mr. Chairman.

A MEMBER: Speaker.

Dr. TUFTON: Mr. Speaker, sorry. Colleagues I speak on behalf of the constituency of South West St. Elizabeth, and it is an outstanding constituency, in fact, this constituency has one of, if not the highest voter turnout in the country. Last elections we recorded a 76.4% voter turnout only surpassed, Mr. Speaker, by South East St. Elizabeth by a fraction of a percentage point which makes the southern belt of the parish quite a politically active area of the country,

or the most politically active in terms of voter participation.

I start with that detail to salute the life and contribution of Donald Buchanan, Danny Buck as we all know him, because I believe I can say with confidence that he certainly contributed to the level of engagement within the political process which has seen, and it is an important legacy, because for me apathy is the greatest threat to our democracy. And certainly in terms of St. Elizabeth, and South West St Elizabeth and the southern section of St Elizabeth, the residents there are certainly engaging.

Danny Buck will be remembered by the constituency of South-West St. Elizabeth by the constituents. Whether you loved him or did not, whether you agreed with him or disagreed with him, the fact is that you could not ignore him. You could not not include him in any discussion within the constituency that involved issues of policy and politics. This is because of a number of distinguished or distinctive contributions or involvement that he had made within the constituency. First of all, he currently has the record of being, as said earier, the longest serving Member of Parliament in the constituency...

(Inaudible comments by Opposition Members)

...an act, Mr. Speaker, that is hard to follow because there are some of us who will certainly be trying to follow that act. But he served with distinction for 18 years, from 1989 to 1997. He was a Councillor in the Pedro Plains Division, 1974 to 1981. And for a brief moment, between 1975 and 1976, he acted as Deputy Mayor in the St. Elizabeth Parish Council.

There were other distinctions with which he can be identified, Mr. Speaker. He contributed, I think, to major infrastructure development within the constituency, particularly in the area of water. His contribution to the development of the Fyffe's Pen, Newell and Newcombe Valley water projects or water schemes, brought that precious commodity to thousands of householders within. constituency. And, of course, we all know that being a farming parish, the issue of irrigation water which is so important to the economic empowerment of the people of the constituency is critical, and he played, to my mind, a significant contribution toward bringing that infrastructure to well over 4,000 acres of land, closer to 5,000, actually, which would serve and has served very well, literally thousands of farmers and their dependents and by extension, frankly speaking, the country, by providing important food for them. (Applause)

In fact, that particular achievement, that is, the development of the Hounslow Irrigation Scheme and later on, Little Park, has formed the basis for a continuation of the expansion of that area, which I have started and hope to continue, and beyond my time, I hope others will continue in terms of developing the agro-processing industry, moving from primary production to further value-added. That could not have been possible if Danny Buck did not, in his own foresight and vision see the need for the development of that infrastructure. And I think we will remember him for that. Beyond that, his personality stood out, Mr. Speaker.

He had been described by Members on both sides of the aisle, so I don't need to repeat it.

But for me, personally speaking, when I entered the constituency in 2005, I experienced - even though he was not my political opponent in the elections to come - a baptism of fire through my brief encounters with him, a relatively young politician, trying to find my way in representational politics. I recall the first occasion - and Madam Leader of the Opposition is reminding me that both Danny, herself and myself were involved in a level of interaction that saw her acting as a very good mediator to ensure that at the end of it all, we could smile with each other and the community would be no worse off. And that took place while we toured. And I'm being diplomatic, Mr. Speaker. (Laughter)

That took place while we toured a particular community after some heavy rainfall and Danny describing me, in very colourful language, the very creative person he was, saying that I was essentially lying about some of the issues that were taking place on the ground. Anyway, we got past that.

Opposition MEMBERS: (Teasingly) Lie! Lie! Lie!

Dr. TUFTON: Anyway, we got past that. But what I'd say is that he certainly...I benefitted from interacting with him because I learnt very quickly to understand and appreciate the need to differ and even to challenge, while at the same time maintaining respect. And I've tried to carry that through in terms of my own political activity beyond that period. And I think the interaction with him exposed me most severely to that level of intensity. And he was an intense individual.

The last time I saw him it was at the launch of a sports park in Treasure Beach. And although I should have learnt, I was caught off-guard again, because having greeted me and I him, he immediately, with a straight face, said to me, Tufton, yuh still mashing up agriculture! (Laughter) Mr. Speaker, this was after so many people had said what a wonderful work I'm doing in the constituency. (Laughter) And so I was taken aback and frankly speaking, did not know how to respond. (Laughter) But that's the type of person he was. He caught you off-guard if you were not prepared. He was fiercely loyal to his cause, to his party, to those he represented. And that was an admirable quality also. And he had a sense of purpose in terms of where he wanted to go. He was very clear in his mind whenever you engaged him in discussion.

Finally, the last discussion I had with him was on the phone when I called to express, you know, concern about his state of affairs during his illness. And this was after seeing him on a television clipping on news one night, at, I think his son's constituency conference. And was he waxing warm, Mr. Speaker, doing what he knew best, identifying the issues and being critical of my own stewardship in the constituency. And I called him and said, you know, Danny, how are you. We had a good discussion, private discussion. And then I said to him, you know, you've done a great job, rest a while, let Hugo continue the fight in terms of being on the platform. (Applause) But it was a good discussion. We had a good chat. And I'm happy I made that call.

Mr. Speaker, on behalf of the constituents of South-West St. Elizabeth, both those who supported the JLP and the PNP and no P at all, I express my condolences on their behalf to the family of Danny Buck and to say that despite the political differences, I think he will be remembered for more positives than negatives. And we pray that his soul may rest in peace.

Thank you, very much.

The SPEAKER: Thank you Doctor Tufton. Doctor Ferguson.

Dr. FERGUSON: Thank you, Mr. Speaker.

Mr. Speaker, colleagues on both sides of this Honourable House, I rise to pay tribute to the life of the late DONALD BARRINGTON BUCHANAN, a former Member of this Honourable House. And in so doing, Mr. Speaker, I want to convey condolences to the family, led by Dorothy, former Councillor, and the seven (7) children: Charmaine, Floyd, Donald, Sophia, Duncan, Hugh and Donald and the many constituents of South-West St. Elizabeth and for those who took time out today in the galleries, Mr. Speaker, to listen to the tributes and to pay their respects to one who has served them well.

It is clear from the glowing tributes, Mr. Speaker, that DONALD BUCHANAN was an extraordinary person in terms of his accomplishments and his achievements.

Mr. Speaker, the visible expressions of his efforts were in his dress. His penchant for historical legitimation, his slowand deliberate mode of speaking as if he were weighing the probable impact of every word before it is spoken, his tenacious attitude to establishing the truth of any matter, his pugnacious advocacy for the labour market reform and his persistence or stick-to-it-ness with regard to any worthwhile matter, were just some of the factors that characterized the public sphere of Donald Buchanan's earth-life's project. Mr. Speaker, with regard to dress, Donald Buchanan's kareeba was not anachronistic. He wore it as a symbol of his fierce individuality, as an unwritten statement of his unswerving non-aligned selection, of his non-dependence on Western legitimation, of his statement of where he stood in the engagement of labour and capital, and of his continuation of the decolonialization project carried on by statements such as Mao, Ghandi in Asia, Nyerere and Mandela in Africa, Jagan and Manley in the Caribbean.

It was for those and other reasons that Donald Buchanan and his kareeba had become as inseparable as West is from water and as East is from fire. He wore it to Gordon House for these sittings, to King's House for investiture, to the sacred house for prayer. He was unconcerned about any adverse comments regarding this mode of dress. As for him, clothing went beyond fashion and brand and spoke to identification as well.

Mr. Speaker, he was a giant on the labour front. He was passionate about the advancement of labour and the improvement and welfare, in so much that he was the fiercest of advocates on behalf of them. His craft as a trade unionist, was formalized in his work and association with the NWU. But the techniques of his craft, Mr. Speaker, was not learnt solely from the Trade Union Education Institute under the tutelage of the late

Professor, The Honourable Rex Nettleford. His techniques were bourne of the years of understudy to the late JAG MYERS, trade unionist and Mayor of Black River.

It is little known that it was Danny Buck in his capacity as Minister of State for the Public Service, under the leadership of Minister Omar Davies that crafted and negotiated the historic agreement between the Jamaica Civil Service Association and the Government in the mid-nineties. Among other advances, that agreement provided Crown lands for public sector workers in twelve parishes.

It is said a tree is known by its fruits and not by who planted it. However, the recently completed Twickenham Park project is an unmistakable testament of the fruits of Danny Buck's work as well as its depth and vision.

An hour with DONALD BARRINGTON BUCHANAN was always crowded. He would break off at times to tell you some stories of the party's history. How about cricket, where he simply insisted that everyone should shut up and listen. But most importantly, he spoke with an authority and power, although at times above his status. But it mattered not to him as he advocated tirelessly and unapologetically on behalf of the poor. He was an authentic keeper of the flame, the flame of Michael Manley enduring search for social justice, specially for those on the margins of society. As a keeper of the flame, he reveled in speaking truth to power. In this he was passionate but fair, sometimes dogmatic but reflected, decisive yet considerate. At other times there was that smile, a smile coming out of a deep understanding of life's vicissitude and disappointment. I can see now that seriousness he practiced so well, after having signed over government lands to poor beneficiaries, using the full range of his voice, Mr. Speaker, announcing with unmitigated satisfaction, I Donald Barrington Buchanan, Minister of Housing and Corporation, sole assign your instruments of tenure, which are now irrevocable and irreversible. That was the man Donald Buchanan.

Those of our countrymen who still yearn for basic decency in their socio and economic circumstances have lost a true champion. Today we celebrate the life of a man, on a personal level, has had a successful family life for over four decades. As a parochial man served the Pedro Plain as Councillor, as a Mayorial man, as Deputy Mayor and Deputy Chairman of the St, Elizabeth Parish Council. As a National man, he won four successive elections, during this time served as Deputy General Secretary and General Secretary of the People's National Party.

And finally, as an International man, where as Minister of Labour, Minister of Water and Housing, Minister of Information and Development, he represented Jamaica at the ILO and other international conferences. His work on earth is done. He goes now to that hallowed place of final reconciliation for his stewardship, where his powerful voice will at last be stilled, awaiting the favourable judgement of our great God.

In our remaining years, we will at time utter the name Danny Buck, remember his work in reverence and listen to it in silence. May his soul rest in peace and light perpetual shine upon him. Walk good my friend, walk good my comrade.

(Applause by both sides)

The SPEAKER: Dr. Davies.

Dr. DAVIES: Thank you very much, Mr. Speaker.

Mr. Speaker, several colleagues have spoken and raised some of the points I would like to raise so my contribution will be different and truncated.

Let me begin by indicating, Mr. Speaker, that during when I first entered Parliament in 1993, Danny Buck sat exactly behind me, the seat now occupied by the member from St. Elizabeth South East. And it was very reassuring when even the most innocuous point I made was greeted with 'hear, hear'. (Laughter) and it was very reassuring when any attempt was made by the person sitting across from me who now occupies that seat to be dismissed with 'rubbish'.

I am sorry that the Minister of Finance is not here because he suffered greatly (Laughter) at Danny Buck's hands in Parliament. And given that Danny is no longer with us, I recall, the Member from East Central made reference to the fact that Danny had perfected the intervention between the run-up, the beginning of the run-up and the delivery of the Speaker. The Speaker - one particular Speaker is sitting here and Danny had perfected the sentence which ran something like this. He would say: "Audley, remember your visit to St. Thomas in 1983, the police still have an interest in this matter."

(Laughter by both sides)

Whatever corruption or scandal Audley was intending to unleash, concocted no doubt, he was stopped in his tracks and he had to appeal to the Speaker. And one of the things you never do is to conceal by having to appeal to the Speaker for help. So one day, I was very intrigued about this matter to which Danny made constant reference, and I said, Danny, what is this matter in 1983 in St. Thomas? He says well, truth is, I don't know of any particular matter, (Laughter by all) but Audley has so many skeletons in his closet, that he is worried about this matter.

(Laughter by all)

But Danny had a - both the Prime Minister and the Member from East Central have spoken about his encyclopedic knowledge. In terms of cricket, my brother Carlton and Danny would engage in these discussions very few, I mean, there was very little point in some of these discussions, which went on forever and including within Cabinet, perhaps that's why we were so much more productive, the exchange of notes on various all-time teams. But Danny would ask you what was Warrel score 15 minutes after tea in the match in 1958. And he expected a very precise answer.

(Laughter by all)

And I say this about Danny, in that, he also had an encyclopedic knowledge of the family history of everyone who was born in St. Elizabeth or who had even driven through St. Elizabeth.

(Laughter by all)

At first I was intimidated by this knowl;edge until it occurred to me whether Danny created as much knowkedge as he needed. (Laughter) Because it was an amazing thing and within the context, he had the family linkages and told of family linkages which I had never known. For example, Canon Weevil Gordon, who just passed, very few people know of the

connection with the Principal of UWI, that's why he is Gordon. And Danny was able to not only to tell me of that linkage, but told me who was connected to whom in that linkage. And then I met Gordon who is a nephew, and he was able to provide you with that information.

Now my closest period of working with Danny Buck was when he became the Minister of State with responsibility for the Public Service, and his credentials as a trade union leader ensured that, a part from the normal ginnalship from my friend from South East Clarendon, (Laughter) that I would state without fear of contradiction that in difficult times we achieved the greatest stability in terms of government public sector relationship. And this is born out of Danny's established credentials in the Trade Union Movement. (Applause)

But one of the important points I would like to make is that whilst Danny came to the job, based on his credential in the Trade Union Movement, it did not take him very long to master the issues related to the fiscal challenges ....

(Applause by Opposition Leader)

.....which we considered. And, even as we mourn his passing, I wonder whether there are not lessons to be learnt in terms of a sensitivity to the plight of the workers, even within the context of....

(Applause)

Mr. Speaker, one day the IMF and the World Bank, a team were visiting Jamaica, and I was unable to be there for the beginning of the meeting and I asked Danny Buck to lead the discussions. And I came after the meeting had started and sat in the back of the room and heard Danny Buck present to the team the most extensive, and Danny could be extensive, (laughter) lecture in the challenges facing the country in terms of the fiscal responsibilities and the reason why it was imperative that there would be moderation in wage settlement.

And I was, I was, I am not seeking to be condescending, but I was amazed at his ability to take the theoretical concepts which had been advanced by the technocrats, but wrap it within the context of the need for Government to provide other services to the society and, therefore, why there had to be restraint in wage settlement.

Mr. Speaker, I said that many other speakers could make reference to things to the same extent as I could, but there is one thing I would like to share with you. During my period as Minister of Finance, on every Tuesday at 8:00 a.m., I had a meeting involving the Political Directorate from the Ministry of Finance, the Financial Secretary and the Governor of the Central Bank, and the Heads of the PIOJ, the FSC and the DBJ. There was no set agenda, but we discussed all issues which had been raised in Cabinet and all issues facing the country. Danny Buck treasured these meetings. He was always the first to be at those meetings on Tuesdays at 8:00 a.m. And during that period he confided to me that interfacing with the technocrats represented a major part of his education in these theoretical concepts. What Danny Buck did not know, is that he was taking all of us to school. And I will share with you that one of the participants in those meetings, a technocrat, sent me an e-mail, which I have sent to his widow, Dorothy, indicating - she

first commended him for his national contribution, but spoke of that interaction on Tuesday mornings, because little did Danny realize, the impact he was making on people.

Mr. Speaker, in this life we go through and there are many persons who get picked in the team and you don't remember whether they could bowl, bat or whatever, or field. Nobody is going to forget that Danny Buck played in the game. (Applause) No one will forget that he was there. (Applause) Even as we mourn his passing, I celebrate the years that I had the opportunity to interface with Danny Buck. To Dorothy and the rest of the family, may the Lord give you the strength to deal with this difficult period and to begin rebuilding your life. May his soul rest in peace and light perpetual shine upon him.

Thank you. (Applause)

The SPEAKER: Thank you, Dr. Davies. Dr. Chang.

Dr. CHANG: Mr. Speaker, in paying tribute to the life of the late DONALD BARRINGTON BUCHANAN, coming after so many distinguished speakers, I could say dito to all that they have said and sit. But frankly, the passing of Donald Barrington Buchanan signalled the departure of another political champion from the political map of Jamaica. A Trade Unionist by profession, Politician by practice.

He started, I understand his political career as early as 1958 when he was still in high school, and I had the privilege of meeting him and maybe correctly on the battlefield, so-to-speak we met quite coincidentally one day in Rose Heights when Danny Buck, as he is well known to all of us, came to campaign in North West St. James, and I has just in fact intervened in the constituency, well just intervening, a young man out of University, under Dr. John Laird of the Ulster Unionist Party.

That meeting, of course, was somewhat tentative and maybe did not give me a true insight in the character I got to know later. It was, of course, the beginning of a long association, he on that side, I am on this side. But we got to know each other very well and in fact became friends and I have had the privilege of working with him all this time, and I would like to take this opportunity before proceeding further to extend my own condolences to the family, Dorothy his dear wife and his many siblings, children and his friends here today from St. Elizabeth.

Danny Buck was indeed a champion of the poor. He championed their cause. He spoke passionately to their needs and defended their rights. His mischievous wit, however, often times overshadowed his sharp and really incisive political mind. You could be misled if you took those ribbings seriously when you come to dealing with Danny Buchanan. Jocular at times but strident in defence of his Party's principle. A true socialist, as indicated by his colleagues on that side, but he also had the flexibility to initiate some of the finest joint venture partnerships in the Ministry of Housing, where he served for some four years, I think, from 2002 to 2006, if my memory serves me right. The joint venture partnerships provided houses for over 4,000 families during the tenure of Danny Buchanan.

(Applause)

He had further initiated joint venture facilitation which accommodated the private

sector in a particular way. Both of those policies we have sought to modify, expand and continue in providing houses for our workers in this country.

He had initiated a number of water projects, a little bit more confining in the sense that they were mainly in St. Elizabeth, a parish that continues to have serious problem with water and we continue to make investment there. But he did, in fact, take steps to improve the supply and reach out to thousands of people in both potable water and irrigation for farmers. (Applause)

In another area alluded to by one of the speakers over there is that Danny Buck during his tenure took serious steps to ensure security of tenure for poor Jamaicans. In fact, I think he divested over 4,500 rental units to individuals so that home owners and occupiers of government buildings could now speak of their home as their own, their piece of the rock, put more graphically by the speaker from St. Thomas recently that Danny Buck saw, to giving ownership to working Jamaicans one of the important steps in the liberation of the working people of Jamaica. (Applause)

Mrs. SIMPSON MILLER: Hear, hear!

Dr. CHANG: Mr. Speaker, there is much more that could be said. He had a long political career in the west. We crossed paths from time to time and we had a very, (Inaudible) I have to speak on a more, a very reasoned relationship. I got to meet his wife as well, who today I want to extend not only condolences but to thank herself and her family for having allowed us to share in Danny Buck's life. His work will continue. Like much of politics although we sometimes speak sharply across the aisles, Jamaica's progress has been based on the continuity of the political process by both political parties in the (development) of this country. Danny Buck made his contribution. His innings might have ended but the portfolio of Water and Housing and the people of Jamaica are certainly better off for his contribution. He has fought a good fight. He has finished the course. He has kept the faith.

On behalf of the staff of the Ministry of Housing and Water, myself and my family, I wish to extend our personal condolence to the family again and to say to him, well done my friend, walk good.

(Applause)

The SPEAKER: Mr. Hylton.

Mr. HYLTON: Mr. Speaker, colleagues, family and friends. The years I sat with Donald D. Buchanan or Danny Buck in the Cabinet or on the Executive, at the NEC or in the Parliament, were all teaching movements. I sat next to Danny in the Cabinet for two years. I learnt a great deal talking to and observing Danny Buchanan. For the younger ones among us Danny B was a walking encyclopaedia of history and information on a range of issues, as had been said by so many speakers before me. These were always tinged, of course, with his own analysis of events and what they portend to present action and future strategies. Danny B was a complex man without being opaque. He was strident at times without being venal and he was persistent in his views without being dogmatic. I was after all able to convince Danny that while it still remains the case that all politics is local, it is unwise to ignore developments global or international.

Danny B was a democrat, an unrepentant democratic socialist who believed in the principles and objectives of the PNP in bringing about social transformation without wanting to deny others of their rights to believe in anything else. Danny B was always ready to defend his position and that of the party in the public domain and in the Parliament. He did so, as was said before, with style and colour. Upon reflection I can only find one recurring theme in my effort to define D Buck's role in our party and Parliament. He was for me the keeper of the flame. His death does not mark the extinguishing of the flame, it is merely the flicker. For within all of us who have had the privilege of knowing and being associated with D Buck, he has ignited a flame in each of us so that today that torch burns bright in me and in others in the PNP.

We are all better off for having served with D Buck. May his soul rest in peace and light perpetual shine upon him. He is gone but will never be forgotten. I join in paying tribute to Dorothy, their children and family for the sacrifices made to support a life of service by D Buck. We in the party and in the Parliament salute you. Walk good, Danny! Walk good! Thank you.

(Applause)

The SPEAKER: Karl, Mr. Peart first and then you.

Mr. M. PEART: Mr. Speaker, I rise to pay tribute to my long time Comrade and friend Donald Barrington Buchanan. We started off our association in politics over 37 years ago in the People's National Party Youth Organization where he headed up the St. Elizabeth movement and the Manchester movement. From a very early stage I realize that Danny was way ahead of most of us young Comrades, because when he spoke of his experiences and knowledge it was obviously he was about 20 years older than us. Because he started off as a group member and was a group secretary at the age of 15, and he used to sit at the feet of Norman Manley and listened to his speeches and at the appropriate times could recite them. Danny was, as I said, the leader the young group and our association was born out of the fact that Manchester and St. Elizabeth were linked politically under the People's National Party. And working with the leaders like Winston Jones, Ernest Peart, Sydney Pagan, we the younger radicals had a difficult time but fortunately we got sufficient space to manouevre and we learned at their feet and prepared ourselves to succeed them.

Danny started off in the St. Elizabeth Parish Council, and I won't go through repeating his record, but Danny started off at the bottom as a councillor and ended up as a Minister of Government. We had some very exciting times, some of them were good and some of them were bad. I remember one famous must incident at a meeting of the People's National Party when we were to vote on IMF or no IMF. And when we were about to start voting, Comrade Leader Michael Manley decided that he would count the vote himself. So he would come in front of each of us and we would have to indicate to him personally, yes or no. Fortunately he went to Danny before me. Danny said, no, and set the table for us to follow.

Danny's career and mine seemed to have been running parallel with me just one step

behind Danny. And on his passing I had to take note of my own mortality because when I realize I succeeded Danny as the Region 5 Chairman. I succeeded Danny in the Ministry of Finance. I succeeded Danny in the EAC and I said what is next. (Laughter)

Mr. CHARLES: Prime Minister.

Mr. M. PEART: But it was good. Our relationship was healthy. I had to rescue Danny a number of times when in political confrontation it got to the stage when he said 'you are a political nincompoop' and then the conversation had to end there because he got bright red and like look fire would come out of his nose. (Laughter) But the remarkable thing with Danny is that within an half an hour he was back to his normal charming self, completely having no malice, getting on with the people's business. Danny was a dedicated and committed democratic socialist. (Applause) As Danny would say, I am an original socialist. Yes, Pearnel.

Dr. PHILLIPS: Pearnel was an original?

Mr. M. PEART: And he was proud to advocate it wherever he went. I am proud to have worked with Danny Buchanan. I learnt a lot from him. I remember in 1992 he came to me and he said, Michael, Dr. Manley will soon be retiring and you are the man. I said but I wasn't thinking of that. He said, well, you are the man. And so it was.

(*Sotto voce* remarks by Dr. Phillips)

Mr. M. PEART: Danny was a hard worker. Danny worked hard all his life for the people, for his country and for his party, worked hard and when I say worked hard Danny would go anywhere at anytime to carry out the work of his party.

To Dorothy and family, I express my sincere condolences, my thanks for his contribution and his hard work. There is no corner in this country that Danny Buck hasn't gone to working for the People's National Party. (Applause) And despite the margin of defeat that is steering us in the face, Danny is working for victory unrelenting. And when he explains to you PD by PD how you are going to win, if you don't have your head screw on properly you might believe him. (Laughter) As I said before I have benefitted from his experience and knowledge. The trade unionist experience trained him well as an organizer and when he came to analyze in close doors now, not out in the hustings, which constituencies we must work hard on, which one we have to win and which one we can win, and how we are going to win it, he can give you the statistics blow by blow.

Mr. M. PEART: The People's National Party will be the lesser for him - his loss, but his memory will remain with us for ever.

Last week Friday, I journey down to Little Park, and with his family and friends and community, we participated in his grave digging. I didn't do much digging, and what I did caused me some problems..

(Laughter)

…to get home, because the road seem to be looking wider than it was supposed to be wide, but I had to be there because that is part of the process.

To his constituency of South West St. Elizabeth, his beloved constituency, we thank you for Donald Buchanan. And on behalf of my constituency, South Manchester, we extend our condolences to you because we

know it is a difficult time we are going through with his loss. He has made an indelible mark, one way or the other, on all who he has touched. And may his memory rest in peace.

I thank you.

(Applause)

The SPEAKER: Mr. Samuda.

Mr. SAMUDA: Mr. Speaker, I first met Danny at the EAC when he came to deliver a message to Paul Robertson, and then Vice President, now Leader of the Opposition, Portia Simpson Miller. That was 26 years ago. And from the very outset, in the discussion that I overheard, and the comments made afterwards, I said to myself, this is a man with whom I will one day have to contend. This was in 1984.

The last time I actually saw Danny, ironically, was at the ECJ where we served together just before the term ended in November. Danny and I shared a very unusual relationship. At one stage, of course, first we were adversaries, then colleagues, then adversaries again.

(*Sotto voce* comments)

Mr. SAMUDA: At times, our relationship was stormy, but I must say on most occasions, it was very pleasant. Danny, in my estimation, as I have said in this House before, Danny was a true political gladiator. He gave no quarter and he asked for none. When you confronted Danny, you knew what to expect. And that was everything, on behalf of the People's National Party.

(Applause)

Friendship or personal feelings didn't enter into that. So much so that I can recall in one debate in this House where I felt I was doing very well, and I was on in full stride...

A MEMBER: Rubbish!

(Laughter)

Mr. SAMUDA: No, more than that.

(Laughter)

The Debate was suspended and we resumed only to be told that Danny Buchanan would be moving a Censure Motion against me. At the end of that, I said to him, "but Danny, how could you do that?" I mean, it's nonsense. Im say, "then wait, you think I gwine mek you gwaan talking like that in the House and nobody stop you."

(Laughter)

I remember one day, going towards that door, (pointing to the main door) he was emerging from downstairs, and he greeted me thus, "Karl, we are going to make you a national hero."

(Laughter)

It sounded like a good idea.

(Laughter)

But I had no idea what he was talking about then. It was not until some time after the Nomination Day of 1997, that on driving to Old Harbour, I heard a familiar voice, someone who I had met several times in here, in the balconies and through the corridors say: "You ever hear about cock mouth kill cock?"

(Laughter)

It was then that I realized what he meant by making me a national hero. But, notwithstanding all of that, we maintained a very healthy relationship, because I found him a very witty person.

A MEMBER: Yeah man.

Mr. SAMUDA: I found him… a very

sharp mind, especially politically, but he had an even sharper tongue. And if you couldn't withstand the tongue, you couldn't get very far.

A MEMBER: True.

Mr. SAMUDA: Even when you are in your most confident mode, a discussion with Danny about the outcome of the next Election would give you some sort of level of uncertainty…

(Laughter)

…and you would go back to the books and say, I wonder if I am right, because his expression was given with such confidence, such verve, such emotion, that you even doubted your own sense of confidence. I was always struck and impressed by his unswerving commitment to the People's National Party.

(Applause)

I have met many people in politics but few have I ever met with that level of commitment. At times, I wonder, the man whom we idolize, NW Manley, Danny was more PNP than Norman Manley.

He was a very strong believer in the family. He spoke passionately about his family, and especially Dorothy, his wife.

(Applause)

It is a great loss to the family - the immediate family, the children, Dorothy, but it is also a very great loss to his extended family, the constituents of South West St. Elizabeth. I watched, the other night, a vigil, and I walked some six miles of candle light to prepare the way for the funeral that will take place on Friday. And I said to myself, that is a true tribute to a man who has served his constituency.

(Applause)

I was very moved, and I was very impressed with that level of commitment. So Dorothy, take courage in the knowledge that Danny lived the way he wanted to live. He lived happy in what he was doing, confident in his belief in the merits of the People's National Party and those who formed it.

Dr. PHILLIPS: As you once believed.

(Laughter)

Mr. SAMUDA: I would never say that the People's National Party is not worthy of those...

(Inaudible)

Dr. PHILLIPS: And may soon return.

Mr. SAMUDA: I know that the passing of Danny leaves a void in the hearts of those who knew him. I will miss him. On the ECJ, when I served there he brought life to the Committee. He was always an interesting and colourful person that made you feel that it was worthwhile being in his company. Whether you believed in him, in what he was saying, or you shared his view, what was certain was that the relationship that he developed was one that you could cherish and say, this is somebody who was a very committed person.

(Applause)

So, may his soul rest in peace and light perpetually shine on him. And to the family, take heart, because he served Jamaica with distinction.

Thank you very much.

The SPEAKER: Thank you, Mr. Samuda.

Mr. Spencer.

(Applause)

Mr. SPENCER: Mr. Speaker, Danny Buck had a deep abiding interest in the constituency of the voiceless. Much has been said about his work in the political arena, but not many persons knew the extent of his contribution in the Trade Union Movement. He joined as an organizer in 1973, and became a Senior Negotiating Officer in 1977. So successful was Danny in the mines of the bauxite, or on the sugar plantation that in 1982, he was seconded as General Secretary to the People's National Party. I have no doubt that his years in the Labour Movement contributed much to his success as a politician. One needs daring and discipline to succeed in the Labour Movement. Danny Buchanan had both.

At the end of the road, all that you have to gain as a trade unionist is the immense satisfaction from making a difference in people's lives. He was a worthy opponent. His often, biting criticism could be very crushing but Danny Buck bore, as you are told, no grudge; had malice towards none.

His life was one of purpose and achievement. Our collective heart is broken, both in the Labour Movement and in Parliament of the land. To his widow Dorothy, children, and other members of his family, and extended family, the PNP, I know your grief is heavy and your loss profound but take heart because Danny Buck served and lived a life, full. Have nothing to regret.

(Applause)

I, today, on behalf of the Trade Union Movement will certainly miss Danny Buck, but more importantly, the Trade Union Movement is the poorer for his passing. I want, this afternoon; to say to his widow, his sons and his family, let the word service be the epitaph on Danny's tombstone. He has served, and he has served well. May God continue to bless his family and may light perpetually shine on him.

(Applause)

The SPEAKER: Thank you. Dr. Duncan.

Dr. DUNCAN: Mr. Speaker, colleagues, I think we are all amazed that the…

A MEMBER: Is not a Kariba that you have on?

(Cross talk)

Dr. DUNCAN: I think that we have all been taken aback a little bit - at least a little bit, if not amazed...

Mr. WARMINGTON: He's inappropriately dressed!

(*Sotto voce* comments)

Dr. DUNCAN: …at the universality of the response to the passing of Donald Buchanan, both in the print and in the other forms of media, on the grounds, across the constituencies, both political parties, because at another point in time, many of the attributes of Donald Buchanan could have been interpreted in other ways.

This response has been replicated here in the Parliament today. I don't have the recollection of Danny Buck for this, but I would think that it will rival - the amount of tributes made today would rival any other set of tributes made for any other person in this Parliament for a long time...

(Applause)

…and for that I think the family would be eternally grateful. And it justifies the request from last week that we put off the tributes until this week, so the family could be with us

in Parliament today. And I think that we need to be grateful for the Parliament, and to you, Mr. Speaker, for allowing us these moments, these moments to say something in memory of Donald Barrington Buchanan.

I know there are many other people who would like to speak but there are many more occasions, Mr. Speaker, during the course of this week. But, you, Mr. Speaker, we could invite you to the wake tonight at the PNP Headquarters where you could make your contribution, if you don't make one today.

A MEMBER: That would be good.

(Applause)

Dr. DUNCAN: And for those in the West who did turn up for today's sitting we could invite you to go to Black River for Region Five's contribution to the memory of Donald Buchanan. On Thursday, a massive wake will be at Independence Park and by that time if you still haven't given a tribute the mikes will be open for tributes at Independence Park and if the Member for Southwest would hear we could repeat that– on Thursday—the bars will be open I'm told.

On Thursday, those of you who will be at the funeral we will be asking you for your patience, just like today because it has been very difficult for the family to compress the amount of tributes that people want to make. So it may take a little time, but we can assure you it will be well produced and you will be - after you leave you will be happy that you came. Mr. Speaker, I deliberately asked you to speak just before the Member from Eastern Westmoreland who speaks in a particularly close capacity. But as someone who has shared many political activities with D Buck, I wanted to speak at a time where I would not have to repeat a lot of the things—any of the things, that's, if necessary, and just to concentrate on some other things that might have been left off, if anything.

In that regard, Mr. Speaker, I want just to establish my personal credibility. I met D Buck actively on the ground in a by-election in Northwest St. Elizabeth in 1972, in a division called the Springfield by-elections where two brothers, who lived in the same house, were the candidates for a particular parish by-election, the Black brothers.

A MEMBER: Yes.

Dr. DUNCAN: And I was very happy, coming from St. Ann, myself and the Member from North Central Clarendon who at that time was familiar with some industrial activity close to that revere close to that area. I knew very little about the area and D Buck as a young activist was very, very critical to providing me with instant information and historical information to allow us to do the task that was necessary to win that election and we did.

The last time I saw Danny Buck was at the Intensive Care Unit and he was unable to speak, but I spoke with him and I reminded him of some of those things and made certain promises to him which can't be made in this Parliament. It can be made at the several of the wakes that will take place.

I succeeded him unexpectedly, since I thought my political career was over, at the Electoral Commission beginning - the new term beginning in December following the departure of himself and his friend who spoke from North Central St. Andrew.

Dr. PHILLIPS: St. Andrew.

Dr. DUNCAN: St. Andrew. St. Andrew. No there so Karl come from? Yes.

Mr. PICKERSGILL: Yes.

Dr. DUNCAN: His friend. Yes.

Like the Member from South Manchester those that spanned and succeeded at a time when it was clear that there was a distinct possibility that he would not be here for longer also brought into sharp relief the mortality - our mortality.

Mrs. SIMPSON MILLER: That's right.

Dr. DUNCAN: Because just before that we had seen to the organization to the transition of Senator Ben Clare who was two years my senior and D Buck two years my junior, but that, although, not said before is not the point of this tribute.

Donald Barrington Buchanan, I think, the Member for Western, St. Andrew was searching for that the essence of his life. I believe I can make a contribution to that search. The essence of Donald Buchanan's life as is centered around his political career can be summed up in one word 'courage'.

Ms. HANNA: Hear, hear.

(Applause by Opposition Member)

Dr. DUNCAN: That courage manifested itself in many different ways. He was intellectually courageous. He was ideologically courageous and consistent. He was morally courageous. He was, as I learnt later, because I did not know this until that he was spiritually courageous and that would be reflected in the funeral service on Friday. But courage was the hallmark of Donald Barrington Buchanan….

Ms. HANNA: Hear, hear!

Dr. DUNCAN: …manifested in different ways…

(Applause by Opposition Member)

Dr. DUNCAN: …whether it is the hear, hear, or the rubbish, or the kind of positions that he stuck to as the Member from Central Manchester will tell you and others in the Electoral Commission. The Chairman and the nominated Members had the opportunity with the rest of us to speak collectively and individually by - what you call that telephone thing where we talk together and hear?

Mr. PICKERSGILL: Conference.

Dr. DUNCAN: Conference and just in the month of December and D Buck was very strong and precise and courageous. That was the hallmark of that courage. That courage reflected in not only reflected in his capacity as a walking encyclopaedia to be so confident in his recollection of sporting events and particular and critical things that happened whether it's in cricket or any other sport that will be spoken to later in Black River - in Pedro Plains when we have the service.

As a councillor to the Pedro Plains Division to which he will be returned; that division on Friday, he concretize a career from early as a genuine and authentic representative of the people.

(Applause from Opposition Members)

Mr. PICKERSGILL: Hear, hear!

Dr. DUNCAN: He used his offices whether it's in the elected arena externally, or elected internally inside the People's National Party to protect one of the critical areas of politics, the area called integrity. Inside the People's National Party despite elements of pragmatism he could be seen as one of

guardians of the constitution of the People's National Party.

(Applause by Opposition Member)

Dr. DUNCAN: Outside as reflected in the Commission on the EAC, he was a guardian of the integrity of that commission and was proud to have been a part of the development of that great institution and left it and hoped that it would rise to higher heights and not be discredited.

Mrs. NEITA-HEADLEY: Hear, hear!

Dr. DUNCAN: Donald Buchanan has been explained several roles in his life. As an ideologue and somebody committed to the principles which from his point of view and his perspective best would best serve the interest of the Jamaican people as mentioned before, he took on certain symbolic arrangement like his dress. He was not only a practical person but in terms of being able intellectually to command the intellectually front on the political side, he served as a mentor…

Mrs. NEITA-HEADLEY: Hear, hear!

Dr. DUNCAN: …for many young people in the People's National Party…

Ms. HANNA: Hear. Hear!

Dr. DUNCAN: …and others.

Mrs. NEITA-HEADLEY: Hear, hear!

Dr. DUNCAN: **A**nd he did it with courage - lots of courage. And so having noted all the things that have been collectively said and don't need to be repeated, I asked myself what would Donald Buchanan ask of a friend, which I considered myself to have been very close - a very close friend, to say in Parliament about him. The first thing he would say let everybody else speak and if there is anything else left fill in that gap. What I would have hoped to have done is to establish what I thought was the essence of courage.

Ms. HANNA: Hear, hear!

Dr. DUNCAN: He would have asked me to be courageous in ending this tribute. He would have me to remind the country and Parliament that he raised the scarlet standard high.

Mrs. NEITA-HEADLEY: yes.

Dr. DUNCAN: He would have asked to me to remind us that within its shade he, Danny Buck, lived and died. When cowards flinched and traitors sneered, Donald Buchanan kept the red flag flying here.

Mrs. NEITA-HEADLEY: Hear, hear!

(Applause by Opposition Members)

Dr. DUNCAN: That flag waved aboe our infant might, when all ahead seemed dark as night. It witnessed many a deed and vow. Danny would not have us change its colour now. With heads uncovered swear ye all, he, Donald Buchanan bore it onward 'til he fell and he fell courageously, fighting to the end because he said to us that I want to be around for when Portia Simpson Miller becomes the next Prime Minister of Jamaica again.

Mrs. NEITA-HEADLEY: That is him. That's him.

Mr. E. SMITH: Don't spoil it.

Dr. DUNCAN: That's what he said. Can't deal with truth? His words.

Through dungeons dark and gallows dim, Danny Buck, would want the red flag to be his parting hymn.

Danny joined in the fight, like many of us in this Parliament for his own native land to build a nobler Jamaica and a loftier race. To Dorothy and the children, to the immediate

family, to the extended family, the political family which is also part of Danny's extended family of Southwest St. Elizabeth, we honour you, we respect, we love you, we salute you as we say farewell and continue to say so until the final farewell as friends of a great Jamaican. A solid comrade, a prosperity ambassador…

Mrs. SIMPSON MILLER: A team Portia.

Dr. DUNCAN: A team Jamaica …and a team Portia. Solid as a rock.

Mrs. HAY-WEBSTER: Yes.

Dr. DUNCAN: Donald Buchanan stood tall in the People's National Party. We salute him. May his soul rest in peace. (Inaudible)

The SPEAKER: Mr. Buchanan.

Mr. BUCHANAN: Mr. Speaker, I rise on behalf of the immediate family of the late Donald Barrington Buchanan, his brothers and other relatives. I wish to thank the Members of this Honourable House and the wider society for the many kind gestures, tributes and reflection on his life.

Mr. Speaker, I had the distinguished privilege of working alongside "D. Buck" in politics, and serving with him in this Honourable House, an experience no other relative has had. He shared with me in 2006 that one of his proudest moments in this House, was when I joined him here in service for the people.

(Applause)

But, Mr. Speaker, soon and very soon, after becoming the next Member of Parliament for South West St. Elizabeth, his youngest son, Hugh, will also serve with me in this Honourable House, too.

Mrs. NEITA-HEADLEY: Yes! (Applause/Laughter)

Mr. E. SMITH: You nah run back?

Mr. BUCHANAN: Mr. Speaker, "D. Buck" was a stickler for the truth and accurate information. As such, when the Government and then Opposition, tried to distort the truth, for whatever reason...

Mr. WARMINGTON: You making it political now. Don't do that!

Mr. BUCHANAN: ..."D. Buck" would in any forum call them to book, telling the nation in some instance that "dem lie!"

Mr. Speaker, he can be referred to as one of the giants of our time. His faithfulness to the PNP is unquestionable. His generosity and contribution to nation-building is legendary.

"D. Buck", you have fought a good fight. Walk good, my uncle and Comrade, as you have entered upon your new reference.

Thank you, Mr. Speaker.

Mrs. NEITA-HEADLEY: Hear! Hear! Well done! Well done!

(Applause)

The SPEAKER: Members, as is now customary, we will rise, the whole Parliament, for a minute of silence.

(The Parliament rose and observed a minute of silence)

May his soul rest in peace and light perpetual shine upon him.

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- The General Legal Council Annual Report and Financial Statements for the period 1st April, 2009 to 31st March, 2010.
- Report of the Ethics Committee of the House of Representatives.
- Report of the Public Administration and Appropriations Committee of the House of Representatives on its deliberations on the Ministry of Finance and the Public Service and its Departments and Agencies.
- Report of the Public Administration and Appropriations Committee of the House of Representatives on its deliberations on the Office of the Prime Minister.
- Report of the Regulations Committee of the House of Representatives on its deliberations on the Income Tax (Amalgamated Payroll Remittance) Regulations, 2010.
- The Consumer Affairs Commission Annual Report and Audited Financial Statements for the Financial Year ended March 31, 2008.
- The Education (Amendment) Regulations, 2010 under the Education Act.
- The Provisional Collection of Tax (Income Tax)(No. 5) Order, 2010 under the Provisional Collection of Tax Act.

And

- The Provisional Collection of Tax (Income Tax) (No. 8) Order, 2010, under the Provisional Collection of Tax Act (And the corrigendum to the Order).
- Certified Appropriation Accounts
- Passport Immigration & Citizenship Agency 2008/2009
- Companies Office of Jamaica 2008/2009
- Office of the Children's Advocate 2009/2010
- Administrator General's Department 2009/2010

REPORTS FROM COMMITTEES

Mrs. DALRYMPLE PHILLIBERT: Mr. Speaker, I beg to lay on the Table of the House notice of the following:

First a copy of the Report of the Ethics Committee of the House of Representatives. As well as, Mr. Speaker, a copy of the Report of the Regulations Committee of the House of Representatives on our deliberations on the Income Tax (Amalgamated Payroll Remittance) Regulations, 2010.

And, Mr. Speaker, I beg also to give notice that at the next meeting of the House I will seek the leave of the House to introduce and have read a first time a Bill shortly entitled: The Mustard Seed Missionaries Incorporation and Vesting Act, 2011.

The SPEAKER: Dr. McNeill.

Dr. McNEILL: Mr. Speaker, I beg to lay on the Table of the House the following Reports:

- The Report of the Public Administration and Appropriations Committee on the deliberations on the Office of the Prime Minister. And

- The Report of the Public Administration and Appropriations Committee on the deliberations on the Office of the Ministry of Finance.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, you had - may I remind you of your promise to have a Report on the Standing Orders Committee and its Report and progress thereon, this week.

The SPEAKER: Reverend Thwaites, I understand the draft has been completed, and they promised to let us have it today, but up to this moment we have not yet received it. But I understand from an e-mail that the draft has been completed. The Clerk will do another check to see if we can get a copy of the draft before the Parliament adjourns.

Rev. THWAITES: Thank you, sir.

NOTICES OF MOTIONS GIVEN ORALLY

Mrs. DALRYMPLE PHILIBERT: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

BE IT RESOLVED that the Report of the Ethics Committee of the House of Representatives, which was laid on the Table of the House on the 18th day of January, 2011, be approved.

As well as, Mr. Speaker:

BE IT RESOLVED that the Report of the Regulations Committee of the House of Representatives on our deliberations on the Income Tax (Amalgamated Payroll Remittance) Regulations, 2010, which was laid on the Table of the House on the 18th day of January, 2011, be also approved.

I give notice of the Private Members Motion - Private Members Bill, and to have the Bill read a first time.

The SPEAKER: Name the Bill.

Mrs. DALRYMPLE PHILIBERT: That is, the Bill, Mr. Speaker, the Mustard Seed Missionaries Incorporation and Vesting Act, 2011.

QUESTIONS AND ANSWERS TO QUESTIONS

Dr. McNEILL: I ask for a recommittal, Mr. Speaker, for Notices of Motions Given Orally.

Mr. HOLNESS: Mr. Speaker, there are other Notices of Motions given Orally.

The SPEAKER: I am sorry. We will continue then with Notices of Motions given Orally.

Dr. McNeill.

Dr. McNEILL: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move the following motions:

BE IT RESOLVED that the Report of the Public Administration and Appropriations Committee of the House of Representatives on our deliberations on the Office of the Prime Minister, which was laid on the Table of the House on the 18th day of January, 2011, be approved.

AND BE IT RESOLVED that the Report of the Public Administration and Appropriations Committee of the House of Representatives, on our deliberations

on the Ministry of Finance and the Public Service, which was laid on the Table of the House on the 18th day of January, 2011, be approved.

The SPEAKER: Mr.Shaw.

Mr. SHAW: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

WHEREAS under section 3 subsection (1) of the Provisional Collection of Tax Act, the Minister may by order provide for the variation, renewal or imposition of any tax;

AND WHEREAS the Provisional Collection of Tax, (Income Tax) (No. 8) Order, 2010, made by the Minister, was published in *the Gazette* on the 30th day of September, 2010;

AND WHEREAS the Provisional Collection of Tax, (Income Tax) (No. 8) Order 2010, was amended by corrigendum published in *the Gazette* on the 30th day of September, 2010;

AND WHEREAS Section 3 subsection (4) of the Act provides that every Order made under section 3 subsection (1), shall cease to have effect unless it is confirmed with or without modification by resolution of the House of Representatives within the next thirty days on which the House sits after the date of publication of the Order in *the Gazette;*

AND WHEREAS Section 3 subsection (3) of the Act provides that an Order under that section shall, subject to section 3 subsection (4) continue for a period hereinafter called the initial period of six months next, following its publication in *the Gazette,* and that the House of Representatives may by resolution authorize the continuance in force of the Order for an additional period of three months;

AND WHEREAS it is desireable that the Provisional Collection of Tax, (Income Tax) (No. 8) Order, 2010, as amended by the corrigendum published on the 30th day of September, 2010, should be confirmed and continued in force for an additional period of three months, commencing immediately before the expiration of the initial period.

Now, therefore, BE IT RESOLVED by the House of Representatives as follows:

- This resolution may be cited as the Provisional Collection of Tax, (Income Tax) Confirmation and Extension Resolution, 2011.

And Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

WHEREAS under Section 3 subsection (1) of the Provisional Collection of Tax Act, the Minister may by order provide for the variation, renewal or imposition of any tax.

AND WHEREAS the provisional Collection of Tax (Income Tax) (No. 5), Order 2010 made by the Minister was published in *the Gazette* on the 1st day of July 2010.

AND WHEREAS Section 3, subsection 4 of the Act provides that every Order made under Section 3 subsection (1), shall cease to have effect unless it is confirmed with or without modification by resolution of the House

of Representatives within the next 30 days on which the House sits after the date of publication of the Order in *the Gazette.*

AND WHEREAS Section 3, subsection (3) of the Act provides that an Order under that section shall subject to Section 3 subsection (4) continue for a period hereinafter called the initial period of six months next following his publication in *the Gazette*. And that the House of Representatives may by resolution authorize the continuance in force of the Order for an additional period of three months.

AND WHEREAS it is desirable that the Provisional Collection of Tax, (Income Tax) (No. 8) Order 2010 should be confirmed and continued in force for an additional period of three months commencing immediately before the expiration of the initial period.

Now therefore, BE IT RESOLVED by the House of Representatives as follows:-

- This resolution may be cited as the Provisional Collection of Tax (Income Tax) Confirmation and Extension Resolution 2011.
- And the Provisional Collection of Tax (Income Tax) (No. 5) Order which was laid on the table of the House on 18th day of January 2011 is hereby confirmed and authorized to continue in force for an additional period of three months commencing immediately before the expiration of the initial period.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:-

BE IT RESOLVED that the Education Amendment Regulations 2011, under the Education Act which was laid on the Table of the House on the 18th day of January 2011, be referred to the Regulations Committee of the House of Representatives for consideration and report.

Mr. Speaker, I had further beg to give notice that at a later stage today, I will move for the suspension of the Standing Orders to enable me to take notice of the motion.

QUESTIONS AND ANSWERS TO QUESTIONS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, it is past the time for questions. I therefore move for the suspension of Standing Orders to enable us to take us to take question beyond 3.15

The SPEAKER: Members, the motion before you is for the suspension of Standing Orders to allow the item Questions and Answers to Questions to be taken after the time of 3:15.

(Motion put to the Committee and agreed to)

The SPEAKER: There is one question I think, that is due…

Mr. HOLNESS: Mr. Speaker, the Minister of Finance has promised from last week, will deliver answers to questions posed by the Member from St. Andrew.

The SPEAKER: Are you ready, Mr. Shaw?

Mr. SHAW: Yes.

The SPEAKER: Dr. Davies.

Dr. DAVIES: Mr. Speaker, I asked the Minister of Finance to respond to questions standing at No. 27 in my name.

Mr. SHAW: Thank you, Mr. Speaker. Mr. Speaker:-

Question 1: Does the Minister recall the Prime Minister's presentation to Parliament, in November 2009, when he gave reasons for the termination of the contract of former BOJ Governor, Derrick Lattibeaudiere:

Answer: Yes.

Question 2: If the answer to Question 1 is in the affirmative, does the Minister recall that the Prime Minister gave a figure of Thirty-eight Million *per annum* as the former Governor's package?

Answer: Yes.

Question 3: If the answer and to Question 2, is in the affirmative, will the Minister disaggregate this Thirty-eight Million dollar figure?

Answer: And the answer is, see table attached. And, the table which is attached, Mr. Speaker, has a detailed listing of the expenses; and it is just under Thirty-eight Million at Thirty Seven Million Six Hundred and Twenty-four Thousand and Forty-four dollars.

Question 4: Will the Minister provide a corresponding disaggregation of the new contract for the new Governor?

Answer: See table at attached. There is another table, the incumbent is right beside it, Mr. Speaker, and the total is Twenty Million Seven Hundred and Eighty Nine Thousand Eight Hundred and Forty-two Dollars.

Question 5: Will the Minister confirm that the allowance for the education of the children of the Governor represents an additional benefit not contained in the previous Governor's contract?

Answer: Confirmed. But it must be noted that that is not listed because we have not as yet receive any claims in that respect, Mr. Speaker.

Dr. DAVIES: Mr. Speaker, I would like to thank the Minister for the responses here. But I have a few follow-up questions related to the comparison between the two packages. And, the first question is whether the comparisons with regard to insurance, comparison with regard to insurance in particular, is it that this is already contained in the rental agreement?

Mr. SHAW: Yes, it is.

Dr. DAVIES: It is contained in the rental agreement?

Mr. SHAW: Yes, it is, it is paid by the landlord.

Dr. DAVIES: The second question, Mr. Speaker, relates to the education expenses. There is no information provided here. Is this an open-ended allowance or is there a cap? What is the arrangement, does the contract specify a limit on what this can be?

Mr. SHAW: Mr. Speaker, it is expected that the expenses would be reasonable expenses to be approved by the Minister.

Dr. DAVIES: Because my question, Mr. Speaker, is that clause which the Minister has given verbally included in the actual contract, the clause to be approved by the Minister?

Mr. SHAW: Mr. Speaker, the former Minister is aware of the contract, and the details of the contracts are in his possession. But the question of education expenses is listed in the contract as one of the benefits.

Dr. DAVIES: So, specifically, through you, Mr. Speaker, is there a cap on this amount, is this an open ended amount? And if not, you have indicated subject to the approval of the Minister, what is the maximum figure which the Minister will be willing to approve?

Mr. SHAW: Mr. Speaker, it will be my expectation that that should not exceed $500, 000 per year.

Dr. DAVIES: Mr. Speaker, does this mean that the Minister is now placing a cap of $500,000 on the education allowance – Jamaican - has the Governor has been so informed?

Mr. SHAW: The Governor is aware of the Minister's position on this matter.

Dr. DAVIES: Will the Minister consider adjust - formally adjusting the contract such that this cap is explicitly written into the contract?

Mr. SHAW: Mr. Speaker, it can be done in that way or it can be done by a side letter, a format that the former Minister is quite aware.

Dr. DAIVES: Will the Minister indicate the answer to Question 7?

Mr. SHAW: Mr. Speaker, apparently in preparing these answers, this particular question which was on the top of the next page seem to have escaped my handlers. So I will have to undertake to get the information to you.

Dr. DAVIES: Mr. Speaker, naturally if the Minister isn't ready we will accept that. However, I would like to know, Mr. Speaker, specifically with regard to the education allowance as well as there was some reference in the contract to the Governor being provided with a duty concession on a motor vehicle. I would like to know specifically what are the tax implications in that regard?

Mr. SHAW: Very well.

The SPEAKER: Okay Thank you…

Mr. SHAW: Mr. Speaker, I had indicated that I have - I had made some promises on some other matter that I would like to deal with, if it is okay with you.

The SPEAKER: Okay.

Mr. SHAW: Mr. Speaker, it had been requested the reports from the Public Accountability Inspectorate have been prepared. One set I am directing for your attention, one set to the shadow Minister on Finance. And to indicate that the copies that have been furnished are reports on audits done at the Inland Revenue Department, the Porus High School and I have a copy of the

Porus High School, report for the Member from East Central St. Andrew. But the six that are available is Inland Revenue Department, the Porus High School, National Environment and Planning Agency, WIGS, Petrojam and the Minister of Justice, in relation to the construction of access road and storm drainage at the Port Antonio Resident Magistrate's Court.

Mr. Speaker, I don't intend to summarize all the reports, but I believe in view of comments that have been made in this House, and speculative comments that have been made in this House I feel obliged to provide a very brief report of the audit on the Porus School.

Let me start indicating that this had nothing to do with me, I made no request for this audit, the decision of the PAI making audit is based on information that they get in various ways. And, this report summarizes the most significant findings of the examination of the operations of the Porus High School conducted by the Public Accountability Inspectorate Division.

Mr. Speaker, the examination disclosed weaknesses in the systems of internal control and instances of breaches of government guidelines which resulted in the following:

The audit revealed several instances where supporting invoices were not attached to payment vouchers, representing expenditure totaling, $668,000.00. There were breaches of the government's prescribed policy in respect of the procurement of goods and services. This included failure to obtain the required competitive price quotations in the selection of suppliers for goods and services procured by the school at a cost of approximately $1.765 Million. It was therefore difficult to ascertain if the prices paid for these goods and services were fair and reasonable. The tuck shop lodgements over the period April 2008 to March 2009, were compared to the sales as per stock records.

In an effort to ascertain the correctness of the amounts lodged, the reconciliation, Mr. Speaker, revealed a shortfall of approximately $1.8 Million. In other words, for clarity, it showed that of monies collected, not all the monies were lodged. And the amount not lodged was $1.8 Million.

The Principal, MR. MICHAEL STEWART, was requested to provide a response on the findings of the examination. However, the response provided did not adequately address the concerns raised. The response is actually written in the Report as an Appendix that has been provided.

Additional quotations in respect of payments to one supplier of $545,000.00 were subsequently provided. Nevertheless, evidence of competitive price quotations for goods and services purchased at the cost of $1.2 Million remained outstanding.

In response to the shortfall of lodgements, Mr. Stewart indicated that the tuck shop staff were unable to provide an explanation of the shortage. And the decision was taken by the Board to suspend their services until further investigations were done. To date, no further response or clarification was provided by the Principal on the concerns raised in the query submitted. This Report, Mr. Speaker, was sent to the Ministry of Education by the Public Accountability Inspectorate.

Mr. Speaker, let me also indicate to the Member who had asked for these copies of the Reports that two Reports have not been submitted, the Bank of Jamaica Report and the Students' Loan Bureau Report because they are now the subject of further investigations. And therefore, I'm advised that it's not appropriate to make them public at this time.

The SPEAKER: Yes, Doctor Davies.

Dr. DAVIES: Yes. Well, obviously, Mr. Speaker, just having got them, I can't comment. But can the Minister who had indicated that he would make the nine Reports available, can he indicate any timeline for the other two?

Mr. SHAW: Mr. Speaker, as I indicated on the last occasion, at least one of the Reports in question is now the subject of a forensic investigation by the Financial Investigation Division. I'm not able to say at what stage I'm going to able to make it available. But we will seek to do so in respect of both of them as expeditiously as possible.

The SPEAKER: Doctor Phillips.

Dr. PHILLIPS: Mr. Speaker, I don't know in what order I should proceed. I have questions which...I have just been given a copy...(Inaudible)

The SPEAKER: You want to finish up this matter?

Dr. PHILLIPS: Well, I have a couple of questions here. First of all, Mr. Speaker, I had asked the Minister - and he can refer to **Hansard** - if he could advise us as to what caused the decision. What complaint? From when? Not necessarily the name of a person, but to undertake the Porus Audit Question one.

Mr. SHAW: Mr. Speaker, it is not my practice to seek to interrogate the Public Accountability Inspectorate on the basis of their decisions to carry out the audit. The construction of the PAI has clear terms of reference, Mr. Speaker, and it is not a tidy or a healthy matter that the Minister would concern himself with the details of how audits are triggered.

Dr. PHILLIPS: Could I ask the Minister then, how...Could the Minister tell us when this audit was done, what was the period. When did the complaint come and when and where was the audit undertaken, and if prior to undertaking the audit there was consultation with the Ministry of Education which has portfolio responsibilities for the tuck shop.

Mr. SHAW: Mr. Speaker, I would humbly submit that the Member takes the time to review the audit and I'd be happy to answer supplementary questions that he could pose at that time.

(*Sotto voce* comments)

Dr. PHILLIPS: No, we will get the book and appreciate we will go further. But these are, you know, having raised the matter before as to the concerns, I would have thought either we would have got it earlier or we would have been able to ask the questions. You see, I find it very unusual that a tuck shop...

A MEMBER: How yuh mean?

Dr. PHILLIPS: ...should attract the attention of the Public Accountability Unit and they find out six hundred thousand. I would like to ask...

(Inaudible comments by Government Members)

Dr. PHILLIPS: Now, hold on, hold on. I would quite understand if a complaint is raised that the reference to the Minister of Education which has an audit team, nothing wrong, but that along side billions of dollars...

Mrs. SIMPSON MILLER: Right.

Dr. PHILLIPS: ...there is raised the other concern for tuck shop expenditure. Now, it doesn't match, but in time it will put the additional questions. I would ask, may be since the Minister has received the Report, I would really want to ask if it is a requirement of all tuck shops in schools in Jamaica that they must get competitive bidding for icy-mint, for mint ball, for juices and other...Is it...?

Opposition MEMBER: Bag juice, bag juice.

Dr. PHILLIPS: Is it a requirement of the procurement guidelines that they must get a quote for Juicy Beef patty and Tastee patty and bag juice? Is it the case?

Mr. ROBERTSON: Lift it! Lift it!

(Cross talk by both sides)

Mr. SHAW: Mr. Speaker, Mr. Speaker, the comments...

(*Sotto voce* comments by Government Members)

Please, please! The comments that have been made by the Member reveal the need for him to read the Report because the quotations referred to have nothing to do with the tuck shop. It has to do with other procurement at the school.

Mr. GALLIMORE: Read the Report.

Mr. SHAW: I would humbly submit that in order not to embarrass himself any further that he takes the time to read the Report. (Applause)

(Inaudible comments)

Government MEMBER: I agree.

Dr. PHILLIPS: Mr. Speaker, I just want to say here that it is the Minister who brought up the matter of the tuck shop. It is the Minister who said there was a $1.8 Million shortfall...

Mr. SHAW: That's a different matter.

Mr. GALLIMORE: Read the Report.

Dr. PHILLIPS: It is the Minister who said so. It is the Minister who is late in bringing the Report, having given the commitment. And it is the Minister who raised the Porus question here at all. So he's either going to reply with appropriate candour...

Mr. GALLIMORE: Read the Report!

Mr. M. PEART: Him nuh have that.

Dr. PHILLIPS: ...and propriety or he's going to provide an explanation properly. We will come further. It's not the end of the matter. Trust me.

Mr. GALLIMORE: Read the Report.

Mr. SHAW: Mr. Speaker, Mr. Speaker, let me indicate that it is not my intention to participate in a wasteful excursion this evening.

Opposition MEMBER: Wasteful?

(Cross talk)

Mr. SHAW: The fact is, Mr. Speaker, the fact is, even the reference to which the Member made a while ago, he isolated, $1.8 Million missing from the tuck shop. It's not a

private tuck shop. It's not a private tuck shop. It's a public...It's the school runs the tuck shop.

(Inaudible comments by Mrs. Neita-Headley)

Mr. SHAW: And it's not the procurement. The procurement issue, I want to advise the member, is a separate issue which I mentioned in the Summary. So it will be important. But, Mr. Speaker, the Member has taken the time on several occasions...

Government MEMBER: To make mischief.

Mr. SHAW: ...to say that the matter will not stop here. I want to say to the Member...

Mr. CHARLES: Threatening!

Mr. SHAW: ...that no one in Jamaica who has the fiduciary responsibility to protect the revenue, whether that revenue is a substantial amount of money or it is a small amount of money, there is going to be accountability in this country.

(Applause)

And it matters not whether you are the principal or the president of the teachers' association or you are a member of the national executive committee of the People's National Party.

(Cross talk)

Mrs. SIMPSON MILLER: Mr. Speaker.

The SPEAKER: Yes, yes...

(Cross talk)

The SPEAKER: Members, Members, Mem...Members, one at a time, please. Mrs. Simpson Miller.

Mrs. SIMPSON MILLER: Mr. Speaker, I'd like to ask the Minister, since he is not the Minister with responsibility for education perhaps if he do does not have the answer, the Minister of Education could respond as to whether...

(Inaudible comments by Mr. Robertson)

Mrs. SIMPSON MILLER: I'm not asking you anything. (Laughter) New year, new time, and we are not goin' tolerate it in here this year. Learn that!

Minister, I want to ask whether there are rules laid down by the Ministry of Education governing the operations of tuck shops, and whether schools are given flexibility in terms of how the - in terms of purchasing, *et cetera*.

Mr. HOLNESS: Minister of Finance, this is your question period. But to assist the debate, Mr. Speaker, the Ministry of Education in 2005, laid down certain policy guidelines and procedures regarding the operation of all school accounts, including the tuck shop account and the operation of the tuck shop. The schools are public agencies and they are subject to all the regulations that govern public agencies, including the FAA Act and the Public Bodies Act. So, yes, they are. There are certain levels of exemptions that are given regarding the level of expenditure.

In this matter, I can't comment directly because I haven't read the Report in detail. But there is a...

(Inaudible comments by Opposition Members)

Mr. HOLNESS: No, no. This Report...I just want to be clear. No, no, no, you raised an issue. But just to be clear that the Ministry of Education conducts separate but parallel audits. We do not collaborate in any way in the Ministry of Finance doing their separate audit, from the Ministry doing their audit. The

Ministry of Finance may very well do a thematic audit. They may look at a certain operation. The Ministry of Education audits everything and audits in general. And it is best, Mr. Speaker, that the audit conducted by the Ministry of Finance remains separate from the audit conducted in our routine operations in the Ministry of Education.

Dr. PHILLIPS: On that particular point, Minister, would it be the case or would it be a reasonable expectation that once an audit is being undertaken by one agency of Government into a subject matter or institution that is the subject of another ministry's responsibility, that the decision to investigate and or the findings would be shared, if the overall purpose is to improve administration?

Mr. HOLNESS: And just to reinforce the point, Mr. Speaker, again I am speaking during the Minister of Finance's answers. The Ministry of Education is aware of this matter, and the Permanent Secretary has been dealing with the matter. Now, in terms of the generation of the statement - the audit - and the factors that instigated the audit, the Ministry of Education is not consulted or collaborated on. Certainly the findings, however, of the audits, we have been advised of them. Now, just to be clear, the action can either come from the Ministry of Education, it can come from the Ministry of Finance or it can come from the PAC giving a direction by virtue of an exception report being brought to the Chairman of the PAC.

And, Mr. Speaker, to be clear, the Ministry of Education has acted on all Reports that have come to us. There are difficulties with the police in terms of actually carrying out their own fraud investigations and taking action, but we have acted in terms of reviewing and forwarding where we see criminal breaches over to the police. I can't speak for the Ministry of Finance in terms of the action that they will take that is generated from this Audit report.

The SPEAKER: Mr. Paulwell.

Mr. PAULWELL: Mr. Speaker, at the end of 21 days, I wish to ask the Prime Minister the following questions.

Question 1: With reference to Ministry Paper No. 2/2011 at item 7, will the Prime Minister indicate all the functions of the Steering Committee for the LNG project?

Question 2: Will the Prime minister indicate what are the project milestones that were referred to in the said Ministry Paper?

Question 3: Will the Prime Minister table a copy of the Report submitted to the Government by consultants who recently reviewed the LNG project?

Question 4: Has the country received a commitment for the supply of natural gas from any source?

Question 5: If the answer to 4 is in the affirmative, will the Prime Minister provide details?

Question 6: If the answer to 4 is negative, will the Prime Minister provide an update on the process to secure a reliable supply of natural gas?

The SPEAKER: Mr. McNeill.

Mr. McNEILL: Mr. Speaker, at the expiration of 21 days, I intend to ask the Honourable Prime Minister the following questions.

Question 1: Could the Prime Minister indicate the terms of reference given to the negotiating team for the sale of the Sandals Whitehouse Hotel?

Question 2: Could the Prime Minister give an accounting of the financial contribution, (in cash or kind/other asset) by specific shareholders (in ANDCO) to the development and construction of the Sandals Whitehouse Project?

Question 3: If any contribution in kind/asset was provided, what was the value placed on this input?

Question 4: What matters were referred to the arbitrator and what were his rulings?

Question 5: Does the Government intend to settle all outstanding disputes and claims prior to completion of the proposed sale?

Question 6: Has an assessment of the replacement value of the hotel been done?

Question 7: If the answer to Queston 6 is in the affirmative, what is this valuation?

Question 8: If the proposed sale is completed what will be the remaining debt to be carried by the Government and its entities?

Question 9: What will be the interest rate(s) payable on this debt?

Question 10: What is the rationale for providing the proposed purchaser with a vendor's mortgage, given the ample availability of funds in the banking system?

The SPEAKER: Dr. Rhodd.

Dr. RHODD: Mr. Speaker, at the expiration of 21 days, I would like to ask the Honourable Minister of Transport and Works the following questions.

Question 1: Will the Minister please state whether or not he is aware of the deplorable state of the main road between Brandon Hill in Saint Andrew and Gray's Inn in Saint Mary, popularly known as the Junction Road?

Question 2: If the answer to Question 1 is in the affirmative, what plans are being made to construct or reconstruct retaining walls, the absence of which threaten the integrity of this major corridor, as well as the stability of some bridges along this corridor?

Question 3: If the answer to Question 1 is in the negative, when will he visit this corridor in order apprise himself of the sorry state of this main road?

Question 4: Will the Minister please state whether or not an investigation was done or is being done, following an accident in December, involving a bus carrying several passengers, which careened off the road at Brandon Hill and fell into a ravine?

Question 5: If the answer to Question 4 is in the affirmative, when will the findings be made available?

Question 6: If the answer to Question 4 is in the negative, whether or not he is considering requesting such an investigation?

Question 7: Will the Minister please state whether or not this main corridor is slated for reconstruction under the JIDP and if the answer is in the affirmative, what is the time-table for carrying out this work?

Question 8: If the answer to Question 7 is in the negative, what programme is being designed to address the reconstruction and improvement of this major corridor?

And also, Mr. Speaker, at the expiration of 21 days, I would like to ask the Honourable Minister of Water and Housing the following questions.

Question 1: Will the Minister please state when the work will recommence on the Port Antonio Water, Drainage and Sewage Project?

Question 2: What are the new cost implications, having discontinued the original plan and work?

Question 3: Will the Minister state whether or not the European Union will continue to be the funding partner of the Government of Jamaica?

Question 4: If the answer to Question 3 is in the affirmative, what will be the contributions of the GOJ and the EU, respectively?

Question 5: If the answer to Question 4 is in the negative, who will be the new funding partner of the GOJ and what financial contribution will be required of both the GOJ and the new partner?

Question 6: Will the Minister state whether or not he is aware that the discontinuation in the implementation of the project is delaying the development plan of Port Antonio and the surrounding communities?

Question 7: If the answer is in the affirmative, whether or not this will be given priority in the next financial year?

The SPEAKER: Miss Lisa Hanna.

Miss HANNA: Mr. Speaker, at the expiration of 21 days, I beg to ask the

Honourable Minister of Youth, Culture and Sports the question standing in my name.

Question 1: Will the Minister list/state all contracts issued by the Ministry of Youth, Culture and Sport on and above JM$250,000 from September to the present?

The SPEAKER: Dr. Phillips.

Dr. PHILLIPS: Mr. Speaker, at the expiration of 21 days I'll ask the following questions of the Minister of Education.

Question 1: Will the Minister indicate whether an audit was conducted recently at the Buff Bay High School? If yes, would the minister indicate when the audit was conducted and what occasioned the decision to undertake such an audit?

Question 2: Will the Minister indicate how many schools in Jamaica have been audited during the period 2008-2010 and provide a listing of the schools?

Question 3: Will the Minister indicate whether an audit was conducted recently at the Porus High School? If yes, would the Minister indicate when the audit was conducted and what occasioned the decision to undertake such an audit?

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business today, the Prime Minister will take the Protected Disclosure Bill. The Prime Minister will open the debate, Members are free to participate if they so choose, but we will not close the debate today.

Mr. Speaker, we intend to take the Private Member's Motion, No. 13 on the Order Paper dealing with the Declaration of Citizenship and Permanent Residency of Members of this House and to deal with other matters of citizenship and whether or not dual nationality, Members with dual nationality should be allowed to sit in this House.

We intend to close the debate today, Mr. Speaker, if it is possible. The debate has been on the Order paper for sometime and I believe it is now time that we bring this debate to a close. So, Mr. Speaker, the Prime Minister will now take the Protected Disclosure.

The SPEAKER: Prime Minister.

The PRIME MINISTER: Mr Speaker, if it is possible. The debate has been on the Order Paper for sometime and I believe it is now time that we bring this debate to a close, so Mr. Speaker, the Prime Minister will now take the Protected Disclosure.

The SPEAKER: Prime Minister.

The PRIME MINISTER: Mr. Speaker, I have had a word with the Leader of the House and I have urged him, let's not embark on a programme now of opening debates without closing them. We have at least two, and I think there maybe more very important measures on which debate has been opened, but just to signal to the House that those debates are going to have to be closed as well, and they are going to be coming quite fast and furious.

Next week I intend to present and probably open debate on yet another important measure, having to do with the establishment of a Special Prosecutor.

Many of these, Mr. Speaker, have to do with a defined, deliberate programme on which the Government has given significant commitments and which we are now aggressively pursuing. An anti-corruption programme that involves measures that have already been taken up by the House. We have the question of the reform of the Defamation Laws on which debate has been open but not yet closed.

As I indicated, we intend next week to commence debate on the Amendments to the Corruption Prevention Act, the most significant feature of which is to establish the Office of Special Prosecutor to focus exclusive attention from a prosecutorial point of view on acts of corruption.

What is before us today, Mr. Speaker, is the Protected Disclosures Act or what is more commonly known as the Whistle Blower legislation, and it is an important part of the artillery that we have designed to enable us to fight corruption, primarily in public life, in public administration, but with some elements of it reaching even beyond that.

Mr. Speaker, very often misdeeds that involve corrupt use of office, corrupt exercise of authority, very often, those misdeeds are known. Very often, it is just not possible for those misdeeds to be carried out without some people being aware of them, but very often they are concealed and they go unpunished, because the persons who know about them, the persons who could bring them to light, the persons who could lead to them coming under the searchlight of public scrutiny are fearful, fearful that if they tell what they know, they are likely to be ostracized, they are likely to be victimized.

There is, at present, Mr. Speaker, no protection for persons who feel that they have a burden and a duty to say what they know, and there are persons who have dare to do so in the past and who have paid a huge price for it.

There are other countries that haveenacted Whistle Blower legislation, and in crafting this legislation we have sought to examine Statutes in other jurisdictions, we have sought to look at the experience that they have had. There are several countries that we have looked at and we have, in a sense, borrowed the best practices of all of those countries, particularly those within the Commonwealth jurisdiction.

There are some issues, Mr. Speaker, that I do wish to raise with the House. The Bill has already been passed in the other place, it is here before us for our consideration and if we pass it, then it goes to the Governor-General for assent. If we find that there are - if we take issue with any of the provisions in it, then it will have to go back to the other place to have those changes considered and if they are adopted, then it goes to the Governor-General for his assent.

If we were to make changes and we send it back to the other place and they disagreed and it comes back here, and if we insist that the changes that we want should be retained, then at that stage it also goes to the Governor-General.

I make that point, because there are two aspects of the Bill as passed by the other Chamber that I think we need to examine very carefully.

In the definitional clause of the Bill, Mr. Speaker, as is customary, it has sought to identify the critical terms that are used in the Bill and one such critical term is "improper conduct," because it is about "improper conduct' that disclosures will be made. And "improper conduct" covers a range of things, criminal offences, failure to carry out a legal obligation, conduct that is likely to result in the miscarriage of justice, conduct that is likely to threaten the health or safety of a person, conduct that is likely to threaten the environment, act of reprisals against or victimization of an employee, conduct that tends to show unfair discrimination on the basis of gender, race, origin, social class, et cetera, and wilful concealment of any act described in the above paragraph. But there is one issue that I want to ask the House to focus on. When the Bill was originally drafted, it defined as one form of improper conduct, conduct that shows gross mismanagement, impropriety or misconduct in the performance of certain services. That was how the Bill was drafted, that is how the Bill went to the Joint Select Committee.

During the deliberations of the Joint Select Committee, a passionate case was argued by the Jamaica Employers Federation, that this would now intrude on the conduct of private business, and that what the Bill should be seeking to do is to confine disclosure and the protection that would be given to that disclosure to those situations where an employee of a private business, does something that involves the use of public funds. And as a result of their representations the Committee recommended an amendment and that amendment was accepted by the Senate.

I have some concerns about it. I have some concerns about it, because the Bill seeks - while the focus of the Bill is to strengthen our institutional capacity to tackle corruption in public administration, the Bill has a wider intention than that and that is, to declare that a person has a right in whatever circumstance, has a right, not a duty, not a duty, but has a right to make disclosures about improper conduct. And in exercise of that right, the person is entitled to be protected, so that you don't find yourself punished if you have exercise that right, and that it should not be confined to only those instances in which public funds are used.

If you are going to confine it to situations in which the public interest is involved, I would argue, that you can't just say where public funds are involved, it may involve the exercise of public authority, even though you are not - it's not public funds you are doing, but you are exercising a public function, and if there is improper conduct, I believe that that should be caught.

But I would like to ask the House to consider whether we shouldn't go beyond that. Let us say a situation exist, where an employee in a company sees wrongdoing. It doesn't involve the use of public funds, it doesn't have anything to do wi th public resources, it has nothing to do with the exercise of any public authority, but I am in a company, I notice that the Purchasing Manager of my company is purchasing

supplies for the company at exorbitant prices, at prices higher than had been quoted by other suppliers, because the preferred supplier is a connected party of that Purchasing Manager, and I feel that it is harming the interest of the company, with which I am employed and whose success my continued employment may depend on. And I say to somebody in the company, this is what I observed, I am disclosing that to you. What the Employers Federation are saying, is no, no, no, you mustn't go there, because you are now interfering in the conduct of private business. I choose to look at it differently.

You are not interfering, you are not dictating what must be done with the complaint, you are not saying that that complaint you must go and change your method by which supplies are ordered, all that the Bill would be saying is that if an employee makes disclosures in those circumstances, he is entitled to be protected from victimization. Ignore his complaint if you will, but don't victimize him because he brought it to attention.

I am a little disappointed that the Select Committee didn't pursue the original construct of the Bill, and I raise it because it's a matter on which this House may want to apply its mind and to determine whether we should not seek an amendment there.

The Bill, Mr. Speaker, seeks to identify occupational detriment. This is the consequence that we are seeking to protect the discloser from. And occupational detriment can involve disciplinary action, dismissal, suspension, demotion, harassment, intimidation, victimization, persons transferred against their will because they dare to go and make a disclosure about what was happening, refused a transfer or promotion subject to a term or condition of employment or retirement from employment that is altered to his disadvantage, denied discretionary benefit - You know, Christmas bonuses coming up, you are not entitled to it but the company does it, but because you were so feisty that you went and you disclosed something that you genuinely felt the senior management ought to know about, everybody else gets a Christmas bonus but you don't - being provided with an adverse reference, denied appointment to any employment, profession or office, threatened with any of the actions specified above and so on.

Section 4 of the Bill, Mr. Speaker, states that a disclosure of information is not going to be protected if the employee who is making the disclosure commits an offence by making it. So if disclosing it is against the law you can't claim any privilege under this particular Bill. A disclosure shall not qualify for protection under this Act unless it is made in good faith and in the public interest. And it is in that sense perhaps that the contention of the Jamaica Employers' Federation has some ground. I simply feel that the Bill ought to ensure that the right to disclose is clearly established and protected.

The Bill makes provision, Mr. Speaker, for disclosures to be made internally. So within the organization that you are in and within the organization within which the matter that is the subject of disclosure arises. It provides as well for disclosures to be made to prescribed persons and the prescribed persons are set out in the Schedule. And

these are persons who have particular powers, investigative powers that can be brought to bear, the Auditor General, Bank of Jamaica, Bureau of Standards, Children's Advocate, Commission for the Prevention of Corruption, Commissioner of Police. So what the law is saying is that you can make it to the head of your department, the head of your agency. But there are also prescribed persons, prescribed by the law who if you feel it's a matter that falls within their area of authority you can report it to them: Director of Public Prosecutions, Inland Revenue Department, Office of the Utilities Regulation. There is a list, 18 of them as set out in the First Schedule.

But the Bill also provides, Mr. Speaker, that you can make disclosures to external persons. And that is in Section 10. It says that you can go outside of your own department, you can go beyond the prescribed persons, if the employee believes that he would be subject to an occupational detriment if he made the disclosure within. If the employee making the disclosure has reason to believe that it is likely that the evidencerelating to the matter will be concealed or destroyed, if he makes the disclosure internally he can go to an external source with that information. If the employee feels or knows that having made that disclosure on a previous occasion no action was taken within 30 days, then the Bill will allow him to go outside and to make the disclosure to an external party.

But it is here now that I run into my second concern with what was approved by the Senate. If you look at section 12, Mr. Speaker, sorry, no, section 18, section 18 says "every employer or other person to whom an employee is entitled to make a disclosure", so it can include the external people as well as and the external people could include the media.

> "Any such recipient of that disclosure shall take appropriate steps in accordance with this section to investigate or ensure that the disclosure is investigated".

And if you look at subsection (2). It says

> "in every case the person receiving that disclosure must take steps where the person determines that an investigation should be proceeded with and that the circumstance specified by section 19 (2) do not apply".

That's a section that I think deals with matters of national security

> "cause to be investigated the improper conduct disclosed".

It is there that I think that the Bill is flawed.

It's one thing if you are requiring the employer to whom disclosure is made to investigate. It's one thing if you are requiring the specified authority, the Auditor General, Contractor-General, Director of Public Prosecutions, requiring that specified authority to investigate having received a disclosure. But I think it is quite another thing if you have reason and justification, under the law, to go outside and make that disclosure to an external party, to the Press, to the media. I think the Bill has gone too far now to impose on the journalist a duty to investigate. It's not that the journalist is free to investigate the matter. The law would place a duty on the journalist. If you go talk to your lawyer your lawyer is not obliged to

disclose it because there is lawyer/client privilege. But under this, if something is not done to correct it, the lawyer would be obliged to investigate the disclosure that you have made to your lawyer.

You sent your lawyer to seek advice and you are saying to the lawyer that you are statutorily required to investigate or to the journalist. A journalist wouldn't be left free to say, well, boy, I hear the story but I don't believe it so. The law is requiring something that I don't know how it will enforce. I don't know how it would enforce. And therefore it is something I am going to suggest, which is a good reason for not closing it today, it's something that I think we are going to have to look at to see whether or not we would want to make an amendment. I think a simple amendment can be made. If we make the provision of section 18 apply only to disclosures made in accordance with sections 7, 8 and 9 and leave out the external recipient, so it would include your employer, it would include those statutory functionaries, the Auditor General and so on, but it would not place that obligation to investigate on the external party. They will be free to. You are not preventing them from, but it wouldn't place a legal obligation on them to investigate.

There are some other provisions, Mr. Speaker. I will mention them very briefly. The employers are going to be obliged under the law to establish proper procedures for receiving information, disclosures, for investigating them. They will be required to designate in each entity, company, department, whatever, someone who is responsible for receiving the disclosures and ensuring that investigations are carried out. There are provisions where disclosures can be ignored. If the subject matter or the related investigation has been adequately dealt with or could more appropriately be dealt with by another person, the subject matter of the disclosure is frivolous or not sufficiently important to warrant an investigation. We have sought to put into the Bill safeguards so that it is not abused. Because in so many instances when you try to do something that is necessary and right you open up the possibilities of abuse where people take advantage of it for mischievous reasons. And therefore we have to provide in the Bill not only a prohibition against it, but significant sanctions if the people seek to use, something that is well intentioned, but people seek to use it for malicious purposes.

There is provision in Part 5, section 21, for the establishment of an oversight authority. And let me just reassure members and this is in keeping with the thinking of the Joint Select Committee. This is not a new authority to be set up. What was recommended was that the Minister responsible, in this case the Minister of Justice, would designate some existing authority to provide oversight and to have certain powers to demand that an investigation be done in the particular cases and will be obliged to submit a report to the Minister, which must be brought to the Parliament on an annual basis.

In section 23, that's where we put the offences and I invite your attention, particularly to 23 subsection (1) paragraph (e), this is an offence,

"being an employee makes a disclosure under this Act knowing that it contains a statement that is a false or misleading, or reckless as to whether the statement is false or misleading".

And the punishment for that is upon summary conviction in an RM Court to a fine not exceeding $2 Million or a term of imprisonment not exceeding two years, and if you are unfortunate enough to be taken to a Circuit Court, then it is imprisonment for up to five years. The same punishment is applied to employers who subject an employee or former employee to occupational detriment. If you victimize them, you persecute them because they dared to make a disclosure of something which was not malicious, was not false, and they were punished for it.

Mr. Speaker, the final provision I want to bring attention to is the provision for review, which has become a feature of a number of pieces of legislation where we are breaking new ground. We know that we may not get it 100% right when we do because we have never been this way before and we are building a provision for review. We did it with the Access to Information Act, I know of, and I think there are one or two other pieces of legislation that we have done that with. We are doing that with this one as well. So Section 27 says that

"the Act shall be reviewed from time to time by a committee of both Houses of Parliament and that the first such review must be conducted no later than three years after the appointed day when the Act comes in force"

Section 29 recognizes the fact that there are provisions in the LRIDA, the Labour Relations and Industrial Disputes Act, which would have to be amended to bring that in line with the provisions of the Protected Disclosures Act and those are set out in section 29.

Mr. Speaker, in the course of the debate, and perhaps more so when we get into to committee stage on the Bill, I am going to want to explore those two issues that I raise. And let me just repeat them briefly. The issue as to whether employees in private companies who disclose matters that do not involve public resources, whether they too should be protected by law in making the disclosure, or whether we accept the argument advanced by the Jamaica Employers' Federation that we are interfering in the running of private business. That's an issue that I invite the House to consider and to decide whether or not we want to accept it as it as it has been amended to accommodate the view of the Employers' Federation, or whether we feel that an employee should be given the right to make disclosure, not a duty but a right, and if he is to be given a right, then the protection of law must be there.

And the second issue has to with limiting the obligation to investigate to those persons within the department, the internal authorities to whom the disclosure is made, or the prescribed authorities, prescribed in the First Schedule to whom the disclosure may be made, but not to impose an obligation to investigate on third parties, to whom the disclosure may be made because those third parties, as I said, can be anybody. I mean, I

don't know how you impose a duty on somebody else, because it doesn't prescribe who those third parties are, you know. It simply said you can go outside and disclose it to anybody if you feel that you cannot get satisfaction inside; if you feel that you have disclosed it before and 30 days have passed and nothing has been done. If you are fearful that to disclose it is likely to expose you to detriment, then you can go outside. But I do believe that for the law now to say that that person outside: journalist, pastor, JP, has a duty, under law, to investigate when that pastor may very well say, but, you know, this man is a mad man because he come to me with a foolish argument - a cock-and-bull story. But even if you feel that it is a cock-and-bull story, you are not an employee, you are not a public official, you are not the DPP, you are not the Commissioner of Police, but under law, you would have a duty to go and investigate this cock-and-bull story that you have been given. I think it has gone too far and the House may want to provide some direction that would then have to be returned to the other Chamber for their consideration.

With these comments, Mr. Speaker, as I said before, it is part of a package and it has taken us time - taken us a lot of time because, as I say, in many of these instances we were going where we have never gone before; we were breaking new ground. But, they are going to be coming fast and furious. As I said before, the Special Prosecutor is coming here next week, and there are at least three or four other pieces of the Anti-Corruption Reform Agenda that we have committed ourselves to, which will be coming to Parliament, I am hoping, before Parliament is prorogued at the end of March.

Mr. Speaker, I thank you.

The SPEAKER: My understanding is that, Members who want to contribute… we could continue tomorrow or next week. So, unless Members would like to - in the circumstances, House Leader, could you ask for the suspension.

Mr. HOLNESS: Mr. Speaker, before I do that, just to indicate that we intend to continue with this debate tomorrow as the Prime Minister said in his opening remarks that there are several debates tomorrow. Remember the House meets tomorrow. There are several debates which we have started and we intend to conclude them.

(*Sotto voce* comments)

Mr. Speaker, I want to now take Private Member's Motion, but to do that, I must first ask for the suspension of Standing Orders to allow us to take Private Member's Motions today.

The SPEAKER: Members, the motion before us is for the suspension of Standing Orders to allow the House to take Private Members' Motion.

Put to the House and agreed to.

Mr. HOLNESS: Mr. Speaker, Private Members' Motion, Number 13, standing in the name of the Member from Central Kingston; we had started debate on this several weeks ago, and I believe that the Member from St. Andrew Western, wants to... oh, oh, the Member from St. Catherine will go first.

The SPEAKER: Okay, Mr. Pickersgill.

Mr. PICKERSGILL: Thank you, Mr. Speaker.

Let me start by saying, Mr. Speaker, that I have no problem with any Jamaican enjoying dual citizenship, or even more than dual citizenship, but when it comes to the Parliament of the land, I cannot agree that he or she should enjoy dual citizenship. I thought that I would make that clear from the start.

This motion that is being debated, takes us into an enquiry, Mr. Speaker, which relates to the connection between our constitutional provisions and the integrity of the means by which it is intended that our people should be governed. It concerns the threshold step that must be taken, successfully, for a person to be able to enter these portals as a Member. That is to say, Mr. Speaker, the eligibility for membership of either Chamber.

It has to do with some of the conditions that may debar an individual from being properly nominated to contest elections to become a member of this House, and which must not exist if selection to be a member of the Upper House is to be pure, and without question.

These are conditions, Mr. Speaker, or some vary thereof, that are to be found in all countries that are former colonies of the British Empire, all with written Constitutions, and all democracies across the globe are guided by eligibility rules for persons to become members of their Legislature.

So, Mr. Speaker, we are not enquiring into a subject matter that is unique to Jamaica. Right here in our Region, within the Caribbean Community, we hear of court actions and enquiries relating to the issues contained in the motion. No one seems, however, to be able to recall a situation, Mr. Speaker, where Members of the Legislature have been urged to declare, in open Parliament, their eligibility to sit in the Chamber in the manner that this motion contemplates.

So then, Mr. Speaker, this motion may be breaking new ground. And it would perhaps be worthwhile that further research be conducted, and perhaps, Madam Clerk could help us in that exercise which could surely prove fruitful.

This is not a motion for which a successful outcome can be guaranteed, Mr. Speaker. It presents a stern test to the present membership of this Honourable House. This is a matter that has dogged the present membership. Indeed, the circumstances must have existed previously, but it has fallen to our lot to tackle the issues that are involved. And it is unfortunate, Mr. Speaker, that we did not move to tackle them early in the day.

Overtures that were made were dismissed out of hand, and I know that. I would suggest that we may have to call upon the wisdom of the National Hero for whom this Parliament was named, and who was himself a Member of the former House of Assembly, for guidance as to how these issues are to be resolved. For some, Mr. Speaker, the answer is simple. Just stand up and declare yourself. But, let us see where we are at present.

First of all, we have to acknowledge that our seriousness as Members of this Honourable House has been called sharply into question by the length of time that this motion was allowed to remain on the Order Paper before it came on for debate. If it was in our contemplation that the outcome which the motion seeks, was of extraordinary national importance it could not, nor should

have languished on the Parliamentary agenda for the time that it has. And that is my first fear for the desired outcome that the motion seeks, Mr. Speaker.

I did not witness any deliberate push and concerted urgings from the membership for this motion to be taken to debate. Admittedly, calls have come from outside of the Chamber from time to time, but if the truth be told, had this motion been taken when it was first Tabled, or some mechanism found for a resolution of the matter in this House even before the motion was Tabled, this would now be behind us. I wonder, Mr. Speaker, about our seriousness for another reason. We have heard in this House, remarks from at least one Member to the effect that the dual citizenship cases in the Courts amount to a waste of valuable resources. And that remark was not received with any kind of consternation. The conclusion is that this eligibility issue has never been approached as a matter of urgent concern by Members of this House, except perhaps, when a judgement is about to be delivered by the Court. That is my first fear.

The second fear, Mr. Speaker, relates to the outcome that is sought by the motion. The motion seeks true answers. How is this truth of those answers to be tested? Already, there is much discussion in the public domain as to whether the truth was told and maintained from beginning to end in some of the cases that have been before the Courts.

The second fear is heightened, Mr. Speaker, by the fact that a Member may stand in this House and say, genuinely, that he or she was eligible at the time of nomination when it was not so, and *vice versa*. A person may consider himself to be ineligible when the Court may declare otherwise. And it is difficult to predict how a Court will rule on facts which to the uninitiated, may appear similar, but receive a different outcome. And Mr. Speaker, you know that well.

Assuming that those challenges can be overcome, a Member could not, of course, hide behind that fear to say that he or she does not know the true position, so that when the time comes for the declaration he or she chooses to abstain. Let us remember that ignorance of the law is no excuse. The Member must either know the true position, or have a point of view. And that true position or point of view must be stated. After all, Mr. Speaker, the Member had held himself, or herself out to the voting public as being eligible to contest the Elections.

But, Mr. Speaker, with all of that - with all of that, the desired outcome cannot be guaranteed, for mistakes, honest or otherwise can find a place in the answers that come to be given. Having expressed those fears, which are really intertwined, the lack of seriousness and urgency which attended the approach to the motion by the membership and those who are responsible for setting the Agenda for meetings of the House, and the test of the truth of the answers that will be given, I am sure that the RIGHT EXCELLENT GEORGE WILLIAM GORDON would have directed that we look to the future. Time is not on our side and we have to put in place practical, simple rules at the same time that we contemplate the constitutional changes which we must eventually agree to be

necessary at this point in time.

First, as has been suggested, the format of the Nomination Paper has to be reorganized to include a sworn affidavit of eligibility. This procedure has been adopted in several countries, including our sister CARICOM territory Trinidad and Tobago. We trust that the authorities have already got hold of copies from Port of Spain and elsewhere, so that we don't have to try to re-invent the wheel, Mr. Minister, for this is clearly urgent. No future General Election should be held without this procedure, having been put in place, Mr. Speaker, none. We expect that the Minister with responsibility for electoral matters already has his team working on this imperative.

Again, I wish to suggest that certain words be added to the Oath that we take when we are about to take our seats in this Chamber. At the same time that we swear to uphold the Constitution and the laws of Jamaica, we must swear that we know of no impediment that prevents us from taking our seats.

A MEMBER: …like marriage.

Mr. PICKERSGILL: Yes, just like the marriage.

(*Sotto voce* comments/Laughter)

Mr. PICKERSGILL: But some of us know of the impediments and still swear; some of us know of the impediments and still swear.

Mr. HENRY: Is that a party position...

(*Sotto voce* comments)

Mr. PICKERSGILL: Meet me outside; meet me outside. I will talk to you as Chairman to Chairman.

So, Mr. Speaker, (I) know of no impediment that prevents us from taking our seats to make the obligations implicit in the taking of the Oath, crystal clear.

This would mean, of course, that a person who has been found to have so defiled himself or herself, by lying, both in the Sworn Affidavit at nomination time and at the taking of the Oath to assume his or her seat, could hardly cry, injustice or foul, if the law should provide that an appropriate time limit be imposed which accompanies a ban from contesting any further elections. We have to get serious, Mr. Speaker.

Mr. Speaker, we have to get this issue out of the way. It must not return in its present form, to dog a future membership. We must erect another sign-post that the Constitution and the laws must be obeyed by those who seek to make new laws, and amend the Constitution. You know, that is why I understand why we want to delegate powers of the Cabinet to a…

(*Sotto voce* comment by Government memvers)

Mr. PICKERSGILL: Don't tell me don't bother, you going hear me till you tired. Don't bother go there so?

Government MEMBER: I wasn't talking to you.

Mr. PICKERSGILL: Oh, you fool me. I thought you were talking to me.

That is why, Mr. Speaker, to want to delegate a basic function of the Cabinet to the EC is...

Opposition MEMBER: Not right.

Mr. PICKERSGILL: Can't be right; can't be right. What else…?

Mr. PICKERSGILL: Mr. Speaker, this would mean, of course - as I said, we have to get this issue out of the way. It must not return, as I said, in its present form to dog a future membership. We must erect another sign-post that the Constitution and the laws must be obeyed by those who seek like us to make new laws and amend the Constitution. You can't delegate those functions.

I also agree that deep consideration, Mr. Speaker, must be given to the question of whether changes should not be made to the constitutional provisions relating to eligibility for membership. Time has brought several changes to the global configuration since 1962. We have to march with the times. What might have been appropriate in 1962, might be found to be quite inappropriate for the present dispensation. It is urgent that agreement be reached on the changes that might be considered necessary at this time. Of course, I've made my position clear.

Of course, the core issue of qualification for membership of the Senate and the House of Representatives is provided for in Section 39 of the Constitution. And I'm sure-we all- I have it here, but I won't read it because I assume that all of us know it - is provided for in Section 39 of the Constitution and that provision is deeply entrenched. So a referendum would be required.

Mr. Speaker, I would, therefore, wish to propose an amendment to the Motion to take account of what has been put forward and what can be accomplished in short order. The proposed amendment would read, Mr. Speaker:

> BE IT FURTHER RESOLVED that this Honourable House urge the Government as a matter of priority to seek parliamentary approval for the required legislative or other changes to be made for suitable words relating to eligibility to sit in either House to be included in the Oath of Allegiance and affirmation of allegiance and for appropriate sanctions to be provided for breach of the Nomination Day procedures.

This is clearly an urgent matter, Mr. Speaker, and cannot be left to chance or a promise made. In the circumstances, the Parliament should seek to exercise some control over the implementation of the amendment, should it be approved by this House. This House may exercise some measure of control and monitoring of matters of policy contained in Motions passed in this House by virtue of Rule 26(a) of the Standing Orders, with which you're quite acquainted, Mr. Speaker, and which speaks with Motions on national issues. I won't burden you to read it either, I think you're right.

This is not a matter that should be left to the Government alone. We would urge that this route be taken, for it is the duty of all of us as Members, including you, Mr. Speaker, to keep a watch over the implementation of these measures which are intended to ensure that this demeaning road never has to be taken ever again by those who will come to succeed us in this Chamber. Because it was really a demeaning road. And there is no reason why the proposed constitutional changes cannot be contemplated, discussed and agreed to. How the desired outcome that the Motion asks is to be accomplished must remain a work in progress as the debate

continues. But all of us are obliged to search deeply for a solution.

We seek the support of all Members for the proposed amendment and for its reference to the relevant committee in accordance with Rule 26(a) of the Standing Orders, Mr. Speaker, so that we might be able to keep an eagle eye on the pace of the implementation process as we search for the means by which this scar, this scar will be removed from our parliamentary landscape. It is a duty that we dare not shirk nor evade.

Mr. Speaker, I thank you.

(Applause by Opposition Members)

The PRIME MINISTER: Mr. Speaker, I recently made some comments at the swearing in of the Member from North East St. Ann, which I think it is important for the record for me to posit in this House in this debate. The dialogue on this matter has been unfortunately adversarial.

Government MEMBER: Yes.

The PRIME MINISTER: Understandably so, but unfortunately so. Understandably so because the action that was taken through the Courts, successful in every case so far, challenging the legitimacy of Members of the House - the ones that have been disposed of so far are all Members of the Government - had the potential to collapse the Government; had the potential to precipitate…

Government MEMBER: You mean the intention.

The PRIME MINISTER: …had the potential to precipitate an election. And naturally, whether intended or not, if that was a possible consequence of the effort, it places it in an adversarial position.

There has, I think, been a lot of candour in the discourse as well. Because not when this particular Parliament began nor up to now, has the question of eligibility been confined to any one side; and the Courts have not yet retired on the issue. It is important that we recall that some 18 years ago - where are we, 2011? No, fifteen years - fifteen, sixteen years ago this Parliament initiated a process of review of our Constitution. And in that review, the question of eligibility for Parliament was considered both at the level of the joint - at the Constitutional Reform Commission, first chaired by the late MR. JUSTICE KERR and subsequently after he passed away by DR. LLOYD BARNETT.

Their Report was considered by a Joint Select Committee of the House of which I know I was a member I know the Minister of Water and Housing was a member - and we took up this question about eligibility to Parliament. We concluded at that time that it was almost an affront to our independence and our sovereignty for any Commonwealth citizen, provided you have resided in Jamaica for one year, you have not sought Jamaican citizenship, you have no interest in becoming a citizen of Jamaica, you do not want to be a Jamaican, but you could still contest –you don't even have to be registered to vote - you could still run an election, become a Member of this Parliament and be named Prime Minister, and we felt that was something we had to get rid of immediately, or as soon as we can. And therefore we took a decision at that time that we would require that to be eligible for election to Parliament or appointment to the Senate, you had to be a

Jamaican citizen. We did not, at that time, go beyond that to say but you can't be a citizen of any other country at the same time. We said you should be a Jamaican citizen.

And I make that point because those who were party to that process, and there are several of them in this House on both sides, who at that time did not feel any compulsion to say well, not only must you be a Jamaican but you can't be anything else. And to be taking this, such a strong position of indignation now, when we all sat down here fifteen years ago and we said and I remember during the discussion the question came up about Jamaicans who go abroad, become citizens of America but who are still committed to Jamaica and we didn't feel that, certainly the dialogue that I recall, we didn't feel that they ought to be excluded. So for it to be presented almost as if this is a disgraceful thing, when we considered it fifteen years ago and what we said fifteen years ago.

Mr. PICKERSGILL: Why you don't—

The PRIME MINISTER: I did not disturb you when you were speaking. I did not disturb you.

Mr. PICKERSGILL: No, no but don't come and speak -

Mr. SHAW: No, behave yourself. Have manners.

(Cross talk)

Mr. SHAW: No, no, you behave yourself.

(Cross Talk)

The PRIME MINISTER: The problem is that you don't seem to be subject to the discipline or the direction of anybody.

(Cross talk)

The PRIME MINISTER: And at the time, Mr. Speaker - and at the time -

Mr. PICKERSGILL: But what is he saying?

The SPEAKER: No, but Mr. Pickersgill, please, please allow the Member.

Mr. PICKERSGILL: But where are we going with this?

The PRIME MINISTER: At the time -

The SPEAKER: It is very relevant. We're speaking on a relevant issue.

The PRIME MINISTER: At the time, Mr. Speaker, when the Report of that committee came to the House and was debated extensively the Member for North West St. Catherine was not so moved to enunciate these profound principles that we're now being told to embrace.

Mr. PICKERSGILL: The difference with me when I was….. I was a Jamaican and I had no citizenship elsewhere so why would I be …? I can't believe you guys would have -

The SPEAKER: Mr. Pickersgill, you had your turn. You had your turn.

Mr. GALLIMORE: You're out of order, you know.

Mr. SHAW: We might have to remove you from the House. Might have to remove you from the House.

The PRIME MINISTER: You know the irony Mr. Speaker? You know the irony?

It is the kind of hypocrisy that I am talking about in the way in which this discussion has gone… (Cross talk)

Government MEMBERS: Hypocrite! Hypocrite!

The PRIME MINISTER: …and endeavour to score political points, instead of

focusing on an issue that needs to be addressed.

Now, Mr. Speaker, it is within the gift of this Parliament, it is within the gift of this Parliament, Mr. Speaker, (a), to see to what extent if we can - and we have the capacity of doing it, you know, we can conduct an intelligent debate here, we can.

Mr. SHAW: If we just get some cooperation from them.

The PRIME MINISTER: And if we conduct the debate at the right time of the month. (Laughter)

An Opposition MEMBER: Don't go there.

The PRIME MINISTER: We can, Mr. Speaker. And I am going to suggest that we need to look at dealing with this thing in its entirety. I believe that real, genuine discussion must take place, I believe a genuine discussion must take place as to whether persons who can sit in this Parliament must not only be Jamaicans, as we decided 15 years ago, but must be nothing else but Jamaicans. And the views on that will vary. I mean, the member for North West St. Catherine clearly seems to suggest that you must be Jamaican and nothing else. There are other persons who feel that Jamaica does not - Jamaicanism, being Jamaican doesn't begin and end within the shores of Jamaica. That there are hundreds and thousands of Jamaicans living abroad who, for a variety of reasons, some of them for the benefits that it can bring, for the opportunities that it offers for their children, have sought citizenship of other countries, but who, believe me, Mr. Speaker, are no less Jamaican than any of us in here. Some of them invest more money in this country than some of us in here, and many of them give much less trouble to Jamaica than many of us in here.

And therefore, for us to now start defining, for us now to start defining who is a full Jamaican, who is a half Jamaican, is something that I suggest that we have a discussion about. Because there is good reason to argue that if you are going to be a legislator making laws, your loyalty must not be divided between Jamaica and any other country. Of course, the Jamaican has the capacity to say well, I am 100 per cent Jamaican and 50 per cent American, a Jamaican can do that. But it would be a strong case to argue that you have to be Jamaican alone. It is a strong - a strong argument can be put forward that, given our experience, given the nature of our development over the last several decades, we have to recognize that we are now transnational. That could be an argument.

What I find interesting is that even though the United States claims not to recognize dual citizenship, there are Jamaicans who have become citizens of the United States, who have been elected to office, some of them sitting in State Council, some of them holding positions of City Treasurer, Councilmen. I believe we have - we might even have had - I don't know if we have had any in the Congress yet. But they have been elected to office for which you have to be a United States citizen to be entitled. But do you know what happens? They have not been removed from our records as Jamaican citizens. And even if they take the Oath of Office in America and renounce citizenship of any other country,

that does not effect their removal as Jamaican citizens.

Mr. E. SMITH: They have not renounced Jamaican citizenship.

The PRIME MINISTER: For them to renounce their Jamaican citizenship, they have to complete a specific form, which has to be submitted to the Minister of National Security...

Mr. E. SMITH: And paid for.

The PRIME MINISTER: ...who must then cause it to be registered.

Mr. E. SMITH: Correct.

The PRIME MINISTER: And then and only then can they either deny or be deprived of their Jamaican citizenship. So technically...

Mr. SHAW: That's what Mr. Lorne just find out the other day.

The PRIME MINISTER: ...even though in taking the Oath of Allegiance to the United States they have renounced their Jamaican citizenship, Jamaica doesn't recognize that renunciation. So that person...

(*Sotto voce* comments)

Mr. M. PEART: What you say a while ago? Jamaica doesn't recognize the renunciation?

Mr. E. SMITH: No.

Mr. ROBERTSON: Because you are not applying to Jamaica for...

(*Sotto voce* comments)

The PRIME MINISTER: If that person comes here and applies for a passport, you have no basis for refusing him.

Mr. E. SMITH: You cannot refuse him.

The PRIME MINISTER: You have no basis for refusing him.

Mr. E. SMITH: No, you cannot.

Mr. SHAW: But you have Congo worm, you just can't...

(Cross talk)

The PRIME MINISTER: The technical position that I am pointing out, Mr. Speaker, is, here it is, here it is...

(Cross talk)

The SPEAKER: (Gavelling) Okay, let's stop the - let's stop the sidebar.

The PRIME MINISTER: If we follow the logic and the argument of the Member for North West St. Catherine, we end up in a situation where - we would end up in a situation where somebody who is still constitutionally, legally a Jamaican citizen can be a member of the U.S. Congress, can be a member of the U.S. Senate, can't become President because you have to be born in America. But you could be a member of the U.S. Senate, but you can't be a member of the Jamaican Parliament. You are a Jamaican. Right now you could be, under that, you can't.

One other issue that I want to raise, Mr. Speaker. The Member for Central Kingston quite rightly, quite rightly included in his resolution the question of residency. Now, there is nothing to preclude any person holding foreign residency - Green Card, or whatever colour card any country calls it - there is nothing to preclude that person from being a Member of Parliament. But it's an issue that we properly should take up.

If somebody has the option of passing some piece of law here that is wretched, and leaving here and heading straight to the airport - for they don't have to live under it - that's something that we need to look at.

Mr. ARSCOTT: Yes. Good point.

The PRIME MINISTER: We need to consider it. It may be that again - it may be that again, since we are such a transnational people, that it is something that we ought to consider and maybe accept. But I think the Member for Central Kingston has quite rightly put it on the table.

And, therefore, what I think we need to do - and we can't do it in a debate in this House - in the same way that we examined the matter through a Committee of Parliament fifteen years ago, I believe that we need to revisit it. Look at where we left off, where we had said now, look, you cannot be an Indian, Australian, New Zealander, and be a member of Parliament, you have to be a Jamaican. We need to pick up from where that discussion ended to say now, in addition to being a Jamaican, you must be nothing else. And in addition to being that, should you be allowed to have residence somewhere else. These are real issues.

I mean, some of the things that have been done in the interpretation of law, I have no quarrel with the Courts. If I have any quarrel with them - and it's an issue that I believe that this Parliament is going to have to look at - if I have any quarrel, it's about the level of costs that are now emerging out of a Court system. And I want to warn, Mr. Speaker, it is getting out of hand. Some people believe here that we must just leave it to Courts to just - Parliament must not put any strictures on Court. We go have to look at it. Otherwise, you are going to get to a stage where is only rich people can expect to get - can go to Court...(Applause)...because only they are going to be able to take the risk. Only they will be able to take the risk of having a Court award costs against you in the region of $25 Million. Bears no relation to your means...

Mr. SHAW: A contrived bill!

A Government MEMBER: Madness!

The PRIME MINISTER: Bears no relation to your means.

Mr. SHAW: A contrived bill!

The PRIME MINISTER: It's determined by what the other side says it costs their lawyers.

Mr. SHAW: Mek up bill! Contrived!

The PRIME MINISTER: So you can go to Court with a battery of fifteen lawyers, and it's fifteen bills.

Mr. SHAW: Bogus bills!

The PRIME MINISTER: And if we are going to protect the rights of people to justice, we are going to have to look at it. (Applause)

Mr. SHAW: Absolutely!

The PRIME MINISTER: But I want to suggest, Mr. Speaker that perhaps we ought to set up a Select Committee. Let them look at what the Joint Select Committee had done up to when they made the recommendation. Let them take on those additional issues that have become topical now, the question as to whether or not dual citizenship even of a Commonwealth country, should be allowed, or whether that should be completely forbidden. And also to look at the question of residency, and to see whether or not we can arrive at a consensus that would advise the actions that we take.

Bear in mind, as the member has pointed out, that to change this provision in law, we don't even have the power in Parliament to do it, because you have to go to a referendum. You have to go to a referendum to do that. But the process for that referendum must start

in here. And I don't think that we are going to get very far with debate when we are on our feet. I think we need to sit down around a table. A joint Select Committee is the best way of doing that. (Applause)

The SPEAKER: Miss Sharon Hay-Webster had indicated.

Mr. SHAW: When is your by-election, Sharon? (Laughter)

Mrs. HAY-WEBSTER: Mr. Speaker, I rise to speak on this Motion, Motion number 13, posed by the member for Central Kingston, which asks for members to declare their citizenship or permanent residency in any country other than Jamaica.

In speaking on this Motion, Mr. Speaker, I do so in order to make it clear, my choice of citizenship, make it absolutely clear.

I was born in the United States. My place of birth was not by virtue of my own act. I, have never taken an Oath of Allegiance to the United States of America.

A Government MEMBER: Nor Daryl!

(*Sotto voce* comments)

Mrs. HAY-WEBSTER: At the time of my birth my parents were Jamaican citizens, which, by virtue of our Constitution, meant that I was also entitled to Jamaican citizenship.

(Cross talk)

The SPEAKER: Please! Please! Could you allow the member to speak without interference.

Mrs. HAY WEBSTER: I also wish to place some facts clearly on the records of **Hansard**, and in the public's view, particularly in light of the range of commentary and debates on the matter of dual citizenship of members of this Parliament, and their choice of citizenship.

The Constitution of Jamaica, Mr. Speaker, does not prohibit dual citizenship. It does not state that dual citizens are not electable. What it does state is that no person can be elected to serve in Parliament, who is by virtue of his or her own act, under an acknowledgment of allegiance, obedience, or adherence to a foreign State or country. It is absolutely clear that the Constitution of Jamaica makes a distinct distinction, clear distinction between those under an acknowledgment of allegiance by virtue of their own act, and those under an acknowledgement of which is not a virtue of their own act. In other words, between those clothed with it by the virtue of birth, over which they have no control, and those who "voluntarily put on the clothes."

I am not, Mr. Speaker, under an acknowledgement of allegiance to the United States by virtue of my own act. I have never taken an oath of allegiance to the United States of America. If being born a citizen of the United States raises an element of allegiance to the United States, then that certainly was not by virtue of my own act or doing.

Mr. Speaker, this motion is linked to Section 40 (2) Clause (a) and 41 and these sections are not about dual citizenship, they speak to allegiance. However, I wish to quote section 41 sub-clause (1) Clause (d) of our Constitution which says: - **the seat of a member of either House shall become vacant, if he ceases to be a Commonwealth citizen**…

Mr. E. SMITH: Mr. Speaker, on a Point of Order, Mr. Speaker.

The SPEAKER: I think it is a very good point, Mrs. Hay Webster, we have a problem here you know, we have a problem.

Mrs. HAY-WEBSTER: What is that?

The SPEAKER: There is a matter in Court, you see…

Mrs. HAY-WEBSTER: I am not speaking to the matter in Court, Sir.

The SPEAKER: Yes.

Mrs. HAY-WEBSTER: No, I am not. Council has passed this and there is no matter here that refers to the matters in Court. If you will allow me to finish...

The SPEAKER: The matter is still in Court, the question arises whether, you see, the Standing Order is not being breached.

Mrs. HAY-WEBSTER: The Standing Order cannot be breached, Mr. Speaker, if I am quoting from the Constitution, how am I doing that, how am I breaching it?

The SPEAKER: No, the question arises in that, as you address - and I have had a chance to look at the rest of your statement, having just heard the first part. And it seems to me that any matter - the Standing Order, I don't remember the section now that has the possibility of influencing a matter in Court should not be presented here.

Mrs. HAY-WEBSTER: How am I influencing - you have looked at it, Mr. Speaker, how I am influencing, I am speaking to my status as a citizen of Jamaica. I am explaining my status as a citizen of Jamaica nothing else.

The SPEAKER: Could you please. **Reference shall not be made to any matter on which a judicial decision is pending in such a way as might in the opinion of the Chair prejudice the interest of the parties thereto.**

You see, it is true you are speaking to your status, but you will appreciate that is what is being challenged in Court?

Mrs. HAY-WEBSTER: No, Sir.

MEMBERS: Yes.

Mrs. HAY-WEBSTER: Mr. Speaker, what is being challenged is my eligibility prior to being nominated and I am not speaking to that here.

Rev. THWAITES: Mr. Speaker, would you allow me to be *amicus* to you?

Government MEMBER: No, Ronnie, you should know better than that. You brought it.

The SPEAKER: Yes, Reverend Thwaites.

Rev. THWAITES: The rule, the *sub-judicae* rule which is at the heart of that particular Standing Order has no application in a circumstance like this. Were it…

The SPEAKER: No…

Rev. THWAITES: Mr. Speaker, listen at least. The Speaker at least must listen, and we listen to each other.

(*Sotto voce* comments by Members)

Rev. THWAITES: If there were a jury, if there were a jury, of common persons who might be influenced by some remark made in this Chamber then that rule would be applicable. There is no such situation here, and it is certainly beyond the scope of any possibility that the declaration by the Member as to her status can in fact be construed as influencing that of an independent tribunal of superior jurisdiction seized with the law and the fullness of the facts, Mr. Speaker, that

Standing Order I respectfully submit, as *amicus* to you, does not apply in these circumstances and the Member ought to be allowed to continue.

Mr. E. SMITH: Please allow me, Mr. Speaker.

Mr. Speaker, with the greatest of respect to the Member from Central Kingston, as an attorney-at-law, I know he knows, or ought to know, that once the matter is the subject of a judicial deliberation, although the Parliament is the highest Court of the land, the Parliament is prohibited, estopped from hearing the matter.

Now, the Member from Western Kingston has said that he appears amicus curiae, the fact of the matter is this, that the Member, has sought in her presentation in this debate to declare her status, and then to justify her status, that is to say that she has circulated in this House a certificate - she has circulated in the House….

(*Sotto voce* comments by Members)

Mr. E. SMITH: She has circulated in the House, Mr. Speaker, a certification of citizenship of Jamaica from the Ministry of Justice. In other words, the Member has sought or is seeking to argue her case in this House, before the matter comes up for hearing in the Supreme Court of his Country.

Mr. PICKERSGILL: Don't listen to them.

Mr. E. SMITH: Shut your mouth.

(*Sotto voce* comments by Members)

The SPEAKER: Just a second, Mrs. Hay-Webster. Please, I am not going to stop Mrs. Hay-Webster from speaking on this issue. But on the facts on which she is stating matters relating to her personal status are matters which in Court she of necessity will have to file. And in the circumstances, Mrs. Hay-Webster, you can continue, but I strongly say, that you cannot state all of these things which of necessity you will have to put in a defense against you. I am now saying…

(Heckling by Members)

(*Sotto voce* comments by Mrs. Hay-Webster)

The SPEAKER: That may well be so, but I am not saying…

(*Sotto voce* comments by Members)

The SPEAKER: (Gavels) Members, Members, it seems to me - Member, please. Mrs. Hay-Webster Standing Order 35(2) is very clear reference shall not be made to any matter…

Mr. PICKERSGILL: Don't listen to them.

The SPEAKER: …on which a judicial decision is pending, in such a way as might in the opinion of the chair, prejudice the interest of the parties thereto.

I say, based on that Mrs. Hay-Webster, virtually, everything you have or remain in your statement would interfere with Standing Order 35(2).

Mrs. HAY-WEBSTER: Could I be allowed.

Mr. HOLNESS: Mr. Speaker, may I suggest, Mr. Speaker, that you direct the Member not to speak to any issues relating to her matter or her case.

The SPEAKER: That is what I said.

(*Sotto voce* comments by Members)

Mrs. HAY-WEBSTER: How can I not speak, Mr. Speaker, please?

Mr. KELLIER: Mr. Speaker, the Member is in her right; the Member is in her

full right to speak on the matter that is on the Order Paper that is being debated. And there is no limitation, that you can put…

(*Sotto voce* comments by Members)

Mr. KELLIER: There is no limitation that you can impose on her, in presenting her arguments in this House on that matter.

Mr. HOLNESS: On a Point of Order, Mr. Speaker, the Standing Order is clear…

Mr. KELLIER: The matter that is in Court has nothing to do - the matter in Court has nothing to do with the resolution that is here, it is two separate things, it is two separate things. You are not in a position to prejudge what the Court is going to say.

(Hecking)

Mr. HOLNESS: Mr. Speaker, but the Standing Order….

(Heckling)

Mr. KELLIER: It does not say so. The Standing Order does not say that she has a right to speak on the motion.

(*Sotto voce* comments by Members)

Mr. KELLIER: She has a right to speak on the motion.

The SPEAKER: Leader of Opposition Business just a second. No, no please just a second even **Hansard** - and I am just phrasing a part of it:-

> **matters awaiting the adjudication of a court of law should not be brought forward in debate.**

Mr. PICKERSGILL: Read that again, Mr. Speaker.

The SPEAKER: I will read the full thing.

> **Subject to the discretion of the Chair and the right of the House to legislate on any matter or to discuss any matters of delegated legislation, matters awaiting the adjudication of a Court of law should not be brought forward in debate.**

(Applause)

A MEMBER: Very clear.

(*Sotto voce* comments by Members)

Mr. KELLIER: Mr. Speaker, if that is the case, Mr. Speaker, we must examine the motion that is before us. You can't prejudge anything that is to happen in the Court. What the motion asks for is clear; it is very clear what the motion ask for. She is speaking to the motion. She is speaking to the motion

(Heckling by Members)

Mr. HOLNESS: Mr. Speaker, the Leader of Opposition Business is misled…

Mr. KELLIER: She is speaking to the motion.

Mr. HOLNESS: There is a matter in front of the Court…

(*Sotto voce* comments by Members)

Mr. KELLIER: She is speaking to the motion. If that be the case then the motion should not be disused at all. As long the motion is being debated she has a right to make her case, can you deny her the right to make her case?

(*Sotto voce* comments by Members)

The SPEAKER: Mr. Kellier, there is no reason why she cannot debate the motion, you know, but she cannot bring in all these factual issues which are issues that should be in Court.

Mr. KELLIER: No, no, there is no limitation on that, Mr. Speaker.

The SPEAKER: There has to be.

Mr. KELLIER: It is not in any way obstructing the work of the Court. What she is

doing is not obstructing the work of the Court.

Mr. HOLNESS: Mr. Speaker, both *May's Parliamentary Practice*…

Mr. KELLIER: It is not obstructing the work of the Court. It is not obstructing the work of the Court, therefore she must be free to defend herself.

Mr. HOLNESS: Mr. Speaker, may I have a word, Mr. Speaker. Both *May's Parliamentary Practice* and the Standing Orders gives the discretion to the Speaker. If in the Speaker's discretion the presentation of the Member could, could colour the judgment or impact on the judgment of the Court then the Member would have to desist based on the judgment of the Speaker. Mr. Speaker, from what you have said it is your judgment that the Member should not speak on any matter relating to her case or any facts thereof. And therefore, Mr. Speaker, I encourage you to make your final recommendation on this matter.

Mr. KELLIER: Which is ridiculous.

The SPEAKER: Now, listen Members, Members - even with Rev. Thwaites, the mover of the motion bringing in another section of **Hansard**, it is clear. He says that the Speaker and that in exercising its discretion the Chair should not allow reference to such matters if it appear that there was a real and substantial danger of prejudice to the proceedings.

Mr. PICKERSGILL: What is the real and substantial damage?

The SPEAKER: Have you read Mrs. Hay-Webster's statement?

Mrs. HAY-WEBSTER: Yes.

The SPEAKER: Have you read it. Everything there, everything in this statement will be a part of her defense. Members, I have ruled we cannot take it. (Applause) (Gavels)

Mr. PICKERSGILL: Listen, mek we come out of the place. Mr. Speaker, what have you – Mr. Speaker, what is the ruling?

(*Sotto voce* comments by Members)

The SPEAKER: She can participate in the debate but she cannot be reeling out all of these facts.

Mrs. HAY-WEBSTER: Constitutional facts.

The SPEAKER: Which can be a part of her defence?

Mrs. HAY-WEBSTER: Can I speak?

Mr. PICKERSGILL: You can yap till the cows come home.

(*Sotto voce* comments by Members)

The SPEAKER: In other words. Mrs. Sharon Hay-Webster, please participate in the debate without using personal references.

Mrs. HAY-WEBSTER: Mr. Speaker, I would lodge my grave disappointment particularly because eminent Counsel, a former Member of this House… (Cross talk)

Mr. MONTAGUE: Mr. Speaker, a Point of Order.

The SPEAKER: What is the Point of Order, Mr. Montague?

Mr. MONTAGUE: The Member, in speaking, Mr. Speaker, declared herself a United States citizen, she declared herself a US citizen.

Mrs. HAY-WEBSTER: That's not a lie.

Mr. MONTAGUE: Our Constitution, says a US citizen can't sit in this House and therefore cannot address this House.

Mrs. HAY-WEBSTER: Mr. Speaker, that is why I…

The SPEAKER: Until the Court has so declared, she will continue.

(*Sotto voce* comments by Members)

Mr. MONTAGUE: No, no, no, Mr. Speaker, she declared it.

The SPEAKER: No, but until...

Mr. MONTAGUE: She declared it.

The SPEAKER: Until the court...

Mr. MONTAGUE: She declared it.

Mrs. HAY-WEBSTER: On that very point...

Mr. MONTAGUE: She is a stranger in this House.

The SPEAKER: No, no, no.

Mr. MONTAGUE: She is a stranger.

The SPEAKER: No, Mr. Montague.

Mrs. HAY-WEBSTER: Mr. Speaker, on that very point...

Mr. MONTAGUE: Mr. Citizen - Mr. Chairman, she is not a Jamaican! She is a stranger. She cannot speak in this House.

The SPEAKER: One second, Mr. Montague.

Mr. MONTAGUE: She's not a Commonwealth citizen. She's not a citizen of Jamaica.

The SPEAKER: Mr. Montague, could you please listen? What the court decided - and I've read those judgments very carefully that...

Mrs. HAY WEBSTER: Mr. Speaker...

The SPEAKER: One second, please.

(Interruption)

The SPEAKER: Hold a second. On the point of order, Mr. Montague. The Court has to decide, not on the issue of dual citizenship, as Mrs. Hay-Webster quite rightly said, but whether or not in being a dual citizen she has breached the section of the Constitution. Now...

Mr. MONTAGUE: Yes...

The SPEAKER: One second. What she has sought to do, which is why I have so ruled, is to show that she has not breached it. And I'm saying that is the very issue in Court. And therefore, that is why I ruled that in trying to justify...

Government MEMBER: Ah-ah!

Mr. E. SMITH: She is putting a ....on the guidelines.

The SPEAKER:...being a US citizen and sitting in this Court, I'm saying but that is the very issue in Court. And that is why I ruled. So you are wrong. So, Mr. Montague, you are wrong. She has a right to speak until the Courtdecides.

Mr. E. SMITH: You cannot listen to Bobby Pickersgill.

Mr. PICKERSGILL: But she mus' listen to you.

Government MEMBER: Shut yuh mouth.

Mr. PICKERSGILL: Yuh think anybody want any opinion from you?

A MEMBER: Shut yuh mouth!

Mr. MONTAGUE: Yeah, but, Mr. Speaker, Mr. Speaker, the Member, Mr. Speaker, by her own action...

(Interruptions)

has clearly...

(Interruptions)

Mr. Speaker, Mr. Speaker, I would like to be heard...

(Interruptions)

Mr. PICKERSGILL: Then come with it.

The SPEAKER: No, Mr. Montague, I've ruled the point of order. There's no point of order.

(Interruptions)

Yes, Mrs. Hay-Webster.

Mr. PICKERSGILL: Si' dung. Chat yuh little St. Mary rubbish. Yuh tink is St. Mary this with yuh...? (Inaudible)

Mrs. SIMPSON MILLER: Mr. Speaker, Mr. Speaker, I think we need to bring some level of dignity back to the House.

The SPEAKER: Yes, we cannot continue like this. At the moment, Mrs. Hay Webster, Mrs. Hay-Webster...

(Interruptions)

Mr. ROBERTSON: And cannot speak in here.

The SPEAKER: No, no, no!

Mr. PICKERSGILL: Look at you!

The SPEAKER: Until the Court has ruled that she has breached the Constitution, she has a right to speak and I will allow her to speak...

(Inaudible comments by Mr. Robertson)

Mr. PICKERSGILL: Tell her. yourself.... yuh not a fugitive from justice.

The SPEAKER: Not in trying to justify

Mr. MONTAGUE: The Member has a US passport. Where is it? She has declared it. She has a US passport.

Mrs. HAY-WEBSTER: Mr. Speaker...

Opposition MEMBER: Sit down!

The SPEAKER: Mr. Montague, please, please. Yes, Mrs. Hay-Webster.

Mrs. HAY-WEBSTER: Mr. Speaker, if I may be allowed. If the Members of the House will allow me since you have interrupted, I'll wait.

(Cross talk by Members. Inaudible comments)

A MEMBER: No, no, no!

Mr. PICKERSGILL: Look at you. Look at yuh 'bout...

The SPEAKER: Please, please, please.

Mr. PICKERSGILL: Mussi tink yuh can... gwaun wid yuh rubbish!

The PRIME MINISTER: Mr. Speaker, would you allow me. This cannot continue like this...

The SPEAKER: Definitely not.

The PRIME MINISTER:... and it is coming from both sides of the House.

The SPEAKER: That's correct.

The PRIME MINISTER: You have certain powers, Mr. Speaker...

The SPEAKER: Which I may have to utilize now.

The PRIME MINISTER: ...use them. I will support you.

The SPEAKER: Very well. Members...

Mr. PICKERSGILL: What is that, a threat? What is that, a threat?

The SPEAKER: Members, this is the last warning.

Mrs. HAY-WEBSTER: Can I now speak?

The SPEAKER: Just a second. Yes. It is the last warning. If anyone interrupts Mrs. Sharon Hay-Webster by any shouting or interruption, I am going to ask you to leave the Chamber. Continue, Mrs. Hay-Webster.

Mr. E. SMITH: Yuh hear that Bobby?

Mr. SHAW: You hear that, Bobby Pickersgill.

Mr. PICKERSGILL: Rubbish. Yuh hear that, Bobby?

The SPEAKER: Any interruption, it must come from me.

Mrs. HAY-WEBSTER: Mr. Speaker, I crafted my presentation as a conscientious Member of this House. My counsel, and someone who I would regard as eminent counsel, and a former Member of this House, looked at my presentation and was sanctioned...This presentation was supported by them. Both those persons are practising lawyers. And Members of this House...

(*Sotto voce* comments)

Mr. SHAW: The Speaker has ruled.

Mrs. HAY WEBSTER: If you would allow me to finish. I'm speaking to the Speaker and no one else at this point. Mr. Speaker, I do not...

A MEMBER: You are rude, too.

(Laughter)

Mrs. HAY-WEBSTER: Mr. Speaker, I do not wish...

Mr. KELLIER: Mr. Speaker, you're not carrying out yuh ruling.

The SPEAKER: Please, please, please.

Mrs. NEITA-HEADLEY: Mr. Speaker, the ruling. He has to leave.

Mr. PICKERSGILL: Yes, what about yuh ruling?

Opposition MEMBER: The ruling.

Opposition MEMBER: What about yuh ruling?

Mr. PICKERSGILL: Yuh, gwine stop me now? (Interruptions)

Mr. PICKERSGILL: Nuh badda stop me then yuh no, sah.

Mr. KELLIER: Mr. Speaker, if we seeking the full cooperation we are committed to observing your ruling.

The SPEAKER: Yes.

Mr. KELLIER: An' if yuh doan' stan' by the ruling dat yuh mek den how we gwine continue to observe it?

The SPEAKER: Mr. Shaw...

Mr. KELLIER: We want to observe yuh ruling.

The SPEAKER: I will admonish Mr. Shaw. Please

Mrs. NEITA-HEADLEY: No, no, no! You made a ruling....

The SPEAKER: Yes. No, please, Mr. Shaw. Continue Mrs. Sharon Hay-Webster.

Mrs. HAY-WEBSTER: Mr. Speaker, as I said, I had no reason to expect, anticipate this kind of observation because as the Member from Central Kingston has pointed out, this is not a matter to be considered by a jury. It is a matter by the Supreme Court. That being the case and I must respect the ruling of the Chair, regrettably, I will not say all that which I would have wanted to say. But I will say it publicly...

Mr. PICKERSGILL: Yes.

Mrs. HAY-WEBSTER:...because my conscience is clear.

Mr. PICKERSGILL: Yes.

Mrs. HAY-WEBSTER:...about my service in this House as a third term Member of this House, the longest serving Member of that constituency leading it...(Applause)...And whatever I have to say that I would have said here, I would say it elsewhere. So if you don't hear it here, you would hear it elsewhere.

Mr. PICKERSGILL: Publicly and in Court.

Mrs. HAY-WEBSTER: Absolutely! And the only matter I would say then, I would

close with this. Prime Minister, I'm a very reasonable person.

Mr. E. SMITH: Address the Chair.

Mrs. HAY-WEBSTER: No, I'm addressing this to the Prime Minister.

The SPEAKER: Through the Chair.

Mrs. HAY-WEBSTER: Please, Mr. Speaker, to the Prime Minister. I'm saying this matter that the Government side has chosen to take on, we don't need subterfuge and breaching security to serve me papers. The lawyer, Mr. Williams, called me at least four times ...

Opposition MEMBERS: No! No!

Mrs. HAY-WEBSTER:...and I asked him. He says, oh, he wanted to avoid the embarrassment.

Mr. E. SMITH: Mr. Speaker, please, on a point of order, Mr. Speaker.

Mrs. HAY-WEBSTER: Mr. Smith, would you just allow me to finish?

Mr. E. SMITH: Mr. Speaker, on a point of order.

Mrs. HAY-WEBSTER: Oh, please!

The SPEAKER: Yes.

Mr. E. SMITH: Counsel who appears in the case...

The SPEAKER: Yes.

Mr. E. SMITH:...is not in a position to defend himself.

The SPEAKER: To defend. Well, I was wondering where she was going.

Mr. E. SMITH: Yes. It's unfair for her...

The SPEAKER: No, no, one second, no. Be careful where you go on that.

Mrs. HAY-WEBSTER: I'm simply saying for the matters which have been served - and ah raising it publicly because I have a concern that a standing member of the executive of the JLP could breach security just to serve me papers.

The SPEAKER: No, but...

Mrs. HAY-WEBSTER: That out of the way, that out of the way...

The SPEAKER: Yes, that's not a...

Mrs. HAY-WEBSTER: There are matters which have been filed...

Mr. ROBERTSON: Breach security? Who?

The SPEAKER: ..,there are matters which have been filed...

The SPEAKER: No, please, please.

Mrs. HAY-WEBSTER: ...in the Supreme Court.

Mr. PICKERSGILL: You are accustomed to breaching security so shut yuh mout'.

Mrs. HAY-WEBSTER: ...and I'm confident...

Mr. PICKERSGILL: You're accustomed to breaching security. Shut yuh mouth!

Mrs. HAY-WEBSTER: ...Mr. Speaker, Mr. Speaker, if I can have your attention now.

The SPEAKER: Yes.

Mrs. HAY-WEBSTER: There are matters which have been filed by the Government side seeking to question my election to this House. I am confident my service in this House as a citizen of Jamaica by choice...

Mr. PICKERSGILL: Okay, Member Shaw.

Mrs. HAY-WEBSTER: ...with allegiance sworn in and to Jamaica by choice, will put the matter to rest.

A MEMBER: Yes.

Mrs. HAY-WEBSTER: I encourage my colleagues, especially those in my parish of St. Catherine to, with the same candour and frankness, address the matters of this motion. Thank you, Mr. Speaker.

The SPEAKER: Thank you, Mrs. Sharon Hay-Webster. I think Mr. Peart then Mr. Hylton.

Mr. E. SMITH: Mr. Speaker, I've been indicating my desire to speak.

The SPEAKER: Well after they did. After they did. You come after Mr. Arscott.

Mr. E. SMITH: Okay, you want the best wine for the last, no problem.

The SPEAKER: That's okay.

(*Sotto voce* comments/Laughter)

Mr. M. PEART: Mr. Speaker, it is unfortunate that we have reached to this point in our Parliament. We have been devaluing the title, parliamentarians, systematically, over these past few years and we have reached the stage now where our integrity is in question.

Government MEMBER: What!

Mr. M. PEART: I was born in England and I came to Jamaica when I was one year old and I've been living here ever since, except for three years when I went to study in England again.

(Inaudible comments)

Mr. M. PEART: So, with respect to the Constitution, Mr. Speaker, my status is clear. But, Mr. Speaker, the Prime Minister said something and I think it is necessary for me to try to understand what he was trying to say because I got the impression he was trivializing something that to me is serious. The Prime Minister was implying that if you take the **Oath of Allegiance** in America, it is all right to come back to Jamaica here, having taken that oath and proceed as a normal citizen in Jamaica. Now, Mr. Speaker, the **Oath of Allegiance**, let me just read one part of it.

The PRIME MINISTER: Mr. Speaker, on a point of order.

Government MEMBER: That is rubbish.

Mr. M. PEART: Rubbish, rubbish.

The PRIME MINISTER: On a point of order...

Mr. M. PEART: Mr. Speaker, I said it...

(Interruptions)

The PRIME MINISTER: Mr. Speaker, on a point of order.

The SPEAKER: There's a point of order, yes.

(Shouting by both sides)

The PRIME MINISTER: Mr. Speaker, that Member is far too intelligent to so wilfully mislead the House.

The SPEAKER: You know when he asked the question, he was not listening to you, you know.

The PRIME MINISTER: Or, I'm expressing a belief, rather, I'm not stating it as a fact.

The SPEAKER: Yes, you were not listening.

The PRIME MINISTER: I believe he's far too intelligent.

Mr. M. PEART: Thank you.....

The PRIME MINISTER: What I said, Mr. Speaker, is that legally and constitutionally...

The SPEAKER: Yes.

The PRIME MINISTER: ...somebody who swears allegiance to the United States and acquires United States citizenship, unless that persons goes beyond that and comes to Jamaica and appears before the Minister of National Security and renunciates his Jamaican citizen, still remains a Jamaican citizen. That's the point I'm making. Not saying anything more than that.

The SPEAKER: Yes. I heard...Yes.

(*Sotto voce* comments)

Mr. M. PEART: Mr. Speaker, the point I'm making is this...

A MEMBER: Rubbish! Read it.

Mr. M. PEART: ...the Oath of Allegiance one has to take in the United States, states, and let me read it:

> "I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty of whom or which I have heretofore been a subject or citizen..."

The SPEAKER: Yes, but, Mr. Peart, Mr. Peart, that applies in the United States, it doesn't apply in Jamaica.

Mr. M. PEART: The point I'm making, sir.

The SPEAKER: Yes.

Mr. M. PEART: ...once you have taken this oath...

The SPEAKER: Morally, yes, you are right, but not legally in Jamaica.

Mr. M. PEART: How could you all in good conscience come into this Parliament...

Mr. MONTAGUE: Ask Sharon.

Government MEMBER: Check the passport!

(Inaudible comments by Mrs. Hay Webster)

Mr. M. PEART: ...and take the oath that you have to take...You have to take a oath here to come in here you know. And you are saying that is quite fine?

(Inaudible comments)

The SPEAKER: What the Prime Minister said, Mr. Peart, as I understand it, is that what is done in the United States is not legally recognized here.

Mr. MONTAGUE: That''s correct.

The SPEAKER: In other words, unless he comes here. That's what I understand the Prime Minister to be saying.

Mr. M. PEART: So, Mr. Speaker, having taken that oath, you are saying a Jamaican citizen having taken that oath comes back to Jamaica and says that doesn't apply to here in Jamaica, I can proceed as normal?

Mr. GALLIMORE: It's like a process.

Mr. CHARLES: That's why the High Court.....

(Inaudible)

Mr. PICKERSGILL: Because it's punishment...? (Inaudible)

Mr. M. PEART: Hm-hm.

Mr. PICKERSGILL: Doan' follow them!

Mr. M. PEART: No, no, no, Mr. Speaker.

Mr. GALLIMORE: If you come in front of him and get married you not married. (Inaudible)

Mr. M. PEART: As I said, sometimes it sounds like we trivializing this thing you know.

MEMBERS: No-o-o!

(Inaudible comments)

The SPEAKER: Look at what the...

A MEMBER: We are going to educate you now, Congo worm.

Mr. M. PEART: Me nuh wan' nuh help. I am crystal clear on that.

Mr. MONTAGUE: Read the book!

Government MEMBER: Read it loudly!

Mr. MONTAGUE: Come on congo, after three: one, two three.

Mr. GALLIMORE: You get it now?

(Inaudible comments by Mr. Pickersgill)

Government MEMBER: A, b, c, d...

The SPEAKER: As I understand it, what the Prime Minister is saying, Mr. Peart, what occurs in the United States is relevant to the US, but not here.

Mr. M. PEART: Mr. Speaker, we are talking about a person you know.

Mr. MONTAGUE: Hypocrite!

Mr. M. PEART: The act is on a person.

Mr. WARMINGTON: It's a process of law, here. (Inaudible)

Mr. M. PEART: So in other words we are saying it is quite okay. We, this Parliament to day is saying taking an oath, renouncing your allegiance to this country, Jamaica, is quite all right to operate back in Jamaica again?

The SPEAKER: It is the law, Mr. Peart. That's the law.

Mr. HOLNESS: Mr. Speaker, it is not . .

Mr. MONTAGUE: Hypocrite!

The SPEAKER: Please!

Mr. HOLNESS: Mr. Speaker, on the order of the House…

Mr. SHAW: I declare long time.

Mr. HOLNESS: Mr. Speaker, this is far too important a matter for us to be distracted in this way.

Mr. MONTAGUE: Hypocrite.

Mr. HOLNESS: The Member is making his point, they may not be correct points, and we can't make the factual determinations here. If we could allow the Member to make his point and then afterwards we rebut.

The SPEAKER: But that's what I have been saying.

Mr. M. PEART: Mr. Speaker, let me put it another way. Would it be acceptable to this Parliament for someone having renounced allegiance to this country to come and pass laws in this Parliament? I am asking that question.

Government MEMBER: Ask Ian and Sharon!

Government MEMBER: Ask Dabdoub!

Mr. M. PEART: Let me end with that question.

The SPEAKER: (Gavels) Mr. Hylton.

Mr. MONTAGUE: You see all . . .

Mr. PICKERSGILL: Silent!

Mr. HYLTON: Mr. Speaker, today the conduct of the debate in the House really, reminds us as to how acrimonious this entire issue has been and how badly we have handled it as a Parliament.

Mr. SHAW: One hundred million that you…

Mr. HYLTON: I would say to you, Mr. Speaker, that this issue is one that really calls for deep reflection and consideration. The Court has ruled in this matter in respect of some of the possible issues that arise from the

Constitution as currently drawn. It is clear, Mr. Speaker, that the Constitution is in need of updating because we have moved on. We have moved on in significant ways from what was contemplated as at the time of the Constitution.

Mr. Speaker, what is - if we were confused at the beginning of this debate and when the first cases were filed about what the law actually requires, the law is certainly settled in respect of certain aspects of the Constitution.

Mrs. NEITA-HEADLEY: Show him! Show him!

(Mr. Michael Peart took a copy of the Constitution to Mr. Shaw)

Mr. HYLTON: And it is to that aspect of the Constitution, Mr. Speaker that I think the first part of the Resolution asks us to address. But, Mr. Speaker, I would . . .

(*Sotto voce* remarks by Member Montague)

Mr. HYLTON: Resolution No. 13 asks for two things, for us first to state the status of citizenship. I declare in that regard that I have and hold Jamaican citizenship. That I have never held another citizenship of any other country. And in respect of Green Card, Mr. Speaker, let me say that it is the case that I have lived, studied and worked in the United States and elsewhere for several years and I have held a Green Card up until 2006 when I became Minister of Foreign Affairs and Foreign Trade.

As at that time, Mr. Speaker, without any prompting from anyone and without any duress, without any coercion, without the requirement of giving up a residency, I thought my position as Foreign Minister was not consonant with holding a Green Card. I voluntarily handed in and surrendered my Green Card to the United States Embassy here in Jamaica and sought and obtained a 10-year Visitor's Visa or Tourist Visa. So in respect of permanent residency, I now hold no permanent resident status in any other country and I hold no citizenship in any other country.

Let me make this point however, Mr. Speaker, that here again is where I think the debate has - we are to be very careful about the way in which this debate is being conducted. Because, Mr. Speaker, I do not believe, and I think until the courts rule on this matter, that the issue of residency and the residential requirement offends the law as it stands. That's my interpretation.

Mr. Speaker, section 41 is very clear when it speaks to three things, either declaration and acknowledgment or an act on the part of individual, which act requires an intention on the part of the person to become either a citizen or a subject of a foreign power. In many instances, and I can speak for my own self, that having lived in the United States, gone to school and worked, I never intended to become a United States citizen. At no time did that ever cross my mind. I never applied for, never sought a United States citizenship. But in the world that has emerged, of today, in a world of globalization where everybody and everything is now a village, a global village, that I believe the distinction still remains a meaningful distinction that if you have residence, however temporary and whatever the reasons are, that it is a qualitative difference to hold residency than it is to

declare and to request a citizenship. Because they bring with them different requirements, impose different obligations and different rules apply.

So, Mr. Speaker, I do not believe that the debate, I do not believe that the debate, and I have sought, I have spoken with the Member who moved this Resolution, that I believe an amendment is in order. Because in the other sense, to now when the debate is about dual citizenship and about nationality and about obligation, to then require Members to speak to residency in a very complex set of situation, I believe is an ambush. I believe is an ambush.

Mr. CHARLES: Why you didn't tell Dabdoub that?

Mr. HYLTON: I am talking about residency requirement. I am not talking about dual citizenship. And let me be clear. The Court is very clear about dual citizenship and the commitment to or acknowledgment, declaration of your allegiance or obedience to a foreign power. What is not so clear, although it's an issue, is whether a permanent resident status meets the bar of disqualification in this House; and that has to be, to my mind, to be decided. But my point is that to inject that into this and then to require that as a declaration at this point in time I think is not faithful to the debate as it started, as it is being conducted and I believe that it is an error for us to go in that direction. I have declared mine and it is up to others to declare theirs. But I do not believe, having supported - I believe the Court is clear on the dual citizenship. The Court is not clear and has not spoken to the question of residency and I believe that we should not go in that direction. We should in turn - and I do support the amendment moved by the Member from North West St. Catherine. Because I do think that the issue needs to be put to a Joint Select Committee or some other body within this House for it to be properly debated and for the relevant amendments to be made.

The issue of Commonwealth status, for example, a Commonwealth citizen is a very outdated notion. We have moved long past that. The world has changed in substantial ways and therefore it is appropriate, it is right, and I think we need to move in step with the changing times. And that section of the Constitution, that issue in the Constitution needs to be addressed and to be updated.

Mr. Speaker, I believe that this issue needs to be brought to an end. It has embarrassed this House sufficiently and it has imposed - it has taxed and imposed a number of us in substantial ways.

Mr. SHAW: Let's have the other by-elections. Stop the hypocrisy!

Mr. HYLTON: But, Mr. Speaker, I believe that this requires leadership. This requires leadership. And I must say to you that as often done, the Prime Minister who has many gifts, and too often in these issues when it requires leadership and for him to sustain that leadership, he descends in this House…

Mr. HYLTON: Yes, he did. He did in this House by raising the issue about time of the month and all of that. That is not the kind of leadership that this issue demands.

Mr. ROBERTSON: Withdraw that!

Mr. MONTAGUE: Withdraw that!

Mr. HYLTON: That's not the kind of issue that this issue demands and I am not withdrawing it, not withdrawing it.

Mr. PICKERSGILL: Withdraw what!

The SPEAKER: (Gavels) please, please, please!

Mr. PICKERSGILL: Don't withdraw anything!

Mr. ROBERTSON: If you had leadership on that side this wouldn't happen.

Mr. HYLTON: We need to bring this matter to a conclusion.

Mr. MONTAGUE: Point of order, sir.

Mr. HYLTON: What is the point of order now.

The SPEAKER: Mr. Montague, please it is an opinion, you know.

Mr. MONTAGUE: Mr. Speaker, this is a personal attack on the Member from West Kingston, the personal attack on the integrity of the Member from West Kingston.

Mr. ROBERTSON: It's the second time you guys do it.

Mr. MONTAGUE: It is a personal attack on the Member from West Kingston. The gentleman has to withdraw it. He needs to withdraw it. I can't sit here and allow this.

The SPEAKER: It's his personal opinion.

Mr. MONTAGUE: You talk about lack of leadership and all that.

(*Sotto voce* remarks by Government Members)

The SPEAKER: It is his opinion to which he is entitled.

Yes, Mr. Hylton.

Mr. HYLTON: I conclude where I started, Mr. Speaker, which is that this issue is one that has sufficiently embarrassed us, called into question our integrity as a Parliament and it is an issue that I believe it is high time that we find a solution to this issue, and that leadership is what is required to put this issue to rest.

I thank you, Mr. Speaker.

(Applause)

Mr. ARSCOTT: Thank you, very much Mr. Speaker.

I would like to - in relation to Resolution 13, Mr. Speaker, I would like to declare that I am fully a Jamaican citizen. I own no Green Card, neither do I own any passport and I have never had. Now, Mr. Speaker, what I would like to say is that in May of 2007, the People's National Party circulated to every candidate section 40 of the Constitution of Jamaica.

(*Sotto voce* remarks by Mr. Robertson)

Mr. ARSCOTT: Why you don't stop the talking and listen!

The SPEAKER: (Gavels) Could you allow the Member to speak please?

Mr. ARSCOTT: Thank you very much, Mr. Speaker. Section 40 of the Constitution of Jamaica was circulated to every member of the People's National Party who ran as a candidate and we were required to declare our position.

Mr. ARSCOTT: Therefore, Mr. Speaker, the party has been very cognizant of the fact of the requirement of the Constitution, therefore, from our conscience we know that persons should have read and signed off on that provision.

(Applause)

I would like to say that the Prime Minister has a habit of quoting, using Section

39 of the Constitution in respect of saying that a person can leave Sri Lanka and in one year become a Member of Parliament. But we all know that within the spirit of the Constitution that these things are impossible. No political party in Jamaica is going to bring a man from India or Pakistan or Sri Lanka to make him a Member of Parliament in Jamaica.

Government MEMBERS: Rubbish! Rubbish!

Mr. ARSCOTT: How you mean? How you mean! So what is the point of him making that point?

Mr. MONTAGUE: Ask Fenton! Ask Fenton!

Mr. ARSCOTT: That's what I am saying, theoretically, it is possible, but I am saying within the spirit of the Constitution that was never ever contemplated.

Mr. MONTAGUE: Talk bout Sharon. How Sharon win seat and a American?

Mr. STERN: You are interpreting it another way man.

Mr. HENRY: Whey im sey independent caan run?

Mr. ARSCOTT: You think a independent can leave Pakistan and come here and win a seat? A gwan bring a man from Pakistan and put a Central Clarendon and beat yu, then maybe you would a like dat.

The SPEAKER: (Gavels) Mr. Arscott, please, please address the Chair.

Mr. ARSCOTT: Mr. Speaker, I would like to say that ..... (Cross talk)

(*Sotto voce* comments by both sides)

The SPEAKER: (Gavels) No, Members, Members.

Mr. ARSCOTT: Mr. Speaker, could you have that Member removed from the Chamber? (Laughter)

Mr. Speaker, I think that if we as parliamentarians - it is not fair that we sit here as a dual citizen, pass a law, you leave Parliament at the end of the term, you catch a plane and you gone to either the United States or some place. I think it is incumbent on us because there is a moral issue which we have to deal with in terms of dealing with this thing. And, therefore, we are not saying - and it must be clear - that all positions in Government, that is the bureaucracy, should not have ...because we know the reality of Jamaica. But there are some positions which we think should be for Jamaicans and those Jamaicans who are committed to remain in Jamaica and work for Jamaica.

And, therefore, Mr. Speaker, I would just like to say that there is a question that, a moral question in front of us, in front of the Parliament that we have to address. And, Mr. Speaker, I think it is incumbent on all of us to get up and to declare our position as put forward by Motion No. 13, to declare our citizenship or permanent residency. Thank you, Mr. Speaker.

The SPEAKER: Mr. Smith, then Mr. Charles, then Mr. Ferguson.

Mr. HOLNESS: Mr. Speaker, before the other members continue, the Standing Orders require us to move for suspension to sit beyond 7:30. I therefore move for the suspension of Standing Orders to enable us to sit beyond 7:30.

The SPEAKER: Members, the motion before the House is for the suspension of

Standing Orders to allow the House to sit beyond 7:30?

Put to the House and agreed to.

The SPEAKER: Mr. Smith.

Mr. E. SMITH: Mr. Speaker, may I have your permission to speak other than from my assigned seat?

Mr. PICKERSGILL: That's not your assigned seat?

Mr. E. SMITH: No, it's not. Don't worry yourself, the next position is that one. (Laughter)

Mr. Speaker, for the purpose of relevance, I would like to first of all make reference to the particular notice, the subject of the debate. Mr. Speaker, it states as follows:-

> BE IT RESOLVED that every member of this Honourable House declare in this Chamber his or her citizenship or permanent residency any country other than Jamaica;
>
> AND BE IT FURTHER RESOLVED that as a matter of urgency, the Honourable House debate under what, if any, circumstances citizens with dual nationality ought to be excluded from parliamentary membership.

Mr. Speaker, the first section of the Motion, in my opinion, ought not really to have been the subject of a parliamentary debate. It ought to be a matter of conscience and it ought to be a matter of the application of the Representation of the People Act In so far as elections are concerned.

In relation to the second limb of the motion, Mr. Speaker, there is nothing in the Constitution which speaks to the question of dual citizenship. This is a phrase which has been used in this House, which has been used by the media at large and which unfortunately, has been adopted by this House. But in truth and in fact, there is no such status.

Mr. Speaker, in relation to the question of nationality, citizenship and membership of the Parliament, one has got to go back to the sitting of the Court at Buckingham Palace on the 23rd of July, 1962. Because, Mr. Speaker, that was the occasion on which the Order in Council giving rise to Jamaica's independence was in fact passed.

Now, Mr. Speaker, one must therefore have regard to the fact that, up to that time in 1962, Jamaica was not part of the Commonwealth per sey, but Jamaica was one of the dependent territories and Jamaicans carried a black passport called British Jamaican Passport.

Now, Mr. Speaker, what therefore was the reason behind Sections 39, 40 and 41 of the Constitution, because this is where we need to go?

Mr. Speaker, the British Commonwealth guarded its sovereignty of its people zealously. The end result was, Mr. Speaker, that persons outside of the Commonwealth, that is to say, countries under the control of the United Kingdom were regarded as foreigners. Therefore, United States citizens, citizens of most of the South American and Central American countries, as also citizens of certain European nations regarded as foreigners, and that is why even in our criminal law in relation to immigration, you still have two Acts of this Parliament. There

is a Commonwealth Citizens Act and there is also the Foreign Nationality Act, and people are dealt with differently in the Courts. Now....

Mr. PICKERSGILL: The law remains that way.

Mr. E. SMITH: Listen carefully now.

Mr. MONTAGUE: You might learn.

Mr. E. SMITH: Section 39 of the Constitution was inserted in order to ensure that no non-Commonwealth citizen could become a member of Parliament of Jamaica. And if you check the Constitution Order in Council, of all the countries who became independent from Britain, you will find a similar provision.

Mr. PICKERSGILL: I thought that's what I said.

Mr. E. SMITH: Now, let us look at Section 39.

a) "Subject to the provision of Section 40 of this Constitution, any person who at the date of his appointment or nomination for election, is a Commonwealth citizen of the age of 21 years or upwards; and

b) has been ordinarily resident in Jamaica for the immediate preceding 12 months,

shall be qualified to be appointed as a Senator or elected as a member of the House of Representatives and no other person shall be so qualified."

Now, Section 39 was specifically designed by the motherland to exclude citizens other than members of the Commonwealth, okay.

Now, let us look at Section 40 now. Section 40 in subsection 2(a) reads as follows:-

> "No person shall be qualified to be appointed as a Senator or elected as a member of the House of Representatives who is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State."

What foreign Power or State means in this section, Mr. Speaker, is a country other than a Commonwealth country.

Mr. PICKERSGILL: Yes.

Mr. E. SMITH: Now, the Supreme Court Adjudicature of Jamaica is charged with the responsibility of the interpretation of the laws of this country passed through this Parliament, including an interpretation of the Constitution.

Now, listen carefully now. Because of the recent election petition cases, the Supreme Court has been called upon to interpret Section 40 subsection (2)(a) as it relates to the question of your own act of allegiance, adherence, et cetera, as is contained in the subsection.

The Supreme Court has stated categorically, and this has been supported and confirmed by the Court of Appeal, that the mere taking of the Oath of Allegiance to a foreign State or Power, is not the only method by which allegiance can in fact be demonstrated. The Court has stated categorically, Mr. Speaker, that if you renew your passport, if you were born there as an

infant, or if you apply for a passport, having attained your majority adulthood, then that act without more is sufficient to fall you into the category of Section 40, subsection (2)(a). Good.

(*Sotto voce* comment by Mr. Pickersgill)

Mr. E. SMITH: So, guess what? I do not believe that it's appropriate for this Parliament, which is in fact the highest Court of the land, that has subjected itself to the authority of the Supreme Court to question the decision of the Supreme Court and by extension the Court of Appeal. (Applause)

A MEMBER: Very correct.

(*Sotto voce* comments)

Mr. E. SMITH: Now, Mr. Speaker, let me take the matter, for the purpose of clarity, one step further. Section 41, Mr. Speaker, of the Constitution - Section 41(1)(d), it states very clear:

> "The seat of a Member of either House shall become vacant if he ceases to be a Commonwealth citizen or takes any oath or makes any declaration or acknowledgement of allegiance, obedience, *et cetera*, to a foreign Power."

Now, Mr. Speaker, I believe that it was the Member from St. Andrew who spoke towards the end of his presentation - and I can't recall if you spoke about it too, and I believe that the Prime Minister himself, in his very loyal-like presentation alluded to the same fact that maybe the time has come, Members of this House, for us to seriously consider whether or not we ought not to re-visit Sections 39, 40 and 41 of the Constitution. Why do I say this? In 1962, when the Court at Buckingham Palace met for the purpose of the Orders in Council for the Independence, there was not, Mr. Speaker, this great and emotional desire for Jamaicans and Commonwealth citizens to settle otherwise than in Britain. In fact, leading up to Independence - six months or a year before Independence, there was a mass migration of Jamaicans to England so as to be in England before Independence was declared in August of 1962.

(*Sotto voce* comment)

Now, Mr. Speaker, the world has changed. Jamaica has - no longer has this emotional approach to residency in England. The economy has – the economies of the world have so changed, Mr. Speaker that Jamaicans are more now inclined by the thousands to go to North America, United States in particular, because Canada is still a Commonwealth country.

Mr. PICKERSGILL: England don't want them.

Mr. E. SMITH: Therefore, Mr. Speaker, it is my opinion, subject to statistics, that there are probably more Jamaicans living in the United States of America today, than there are living in England, because most Jamaicans who have been living in England have, in fact, migrated to the United States.

Mr. PICKERSGILL: Where you get that?

(*Sotto voce* comments)

Mr. E. SMITH: Trust me... let me re-phrase that. Many Jamaicans… a large percentage of Jamaicans resident in England have, in fact, migrated to the United States. The United States has, in fact, become, not

only our greatest trade partner, not only our greatest contributor to Jamaica's welfare - and I see the Minister of Labour looks at me, in terms of even the Farm Work Programme…

Mr. PICKERSGILL: Not any more. Where the farm work ticket them?

Mr. E. SMITH: …remittances *et cetera, et cetera.*

Now, Mr. Speaker, I do not want my presentation to be misinterpreted. I am not for a moment, saying that persons who serve in this Parliament ought not to have total and complete adherence and committal to Jamaica. But the fact of the matter is, we have so become - the international arena has so become united that you now have Jamaicans who are still Jamaicans, and who have not renounced their Jamaican citizenship, serving in high office, including Houses of elected representation - political representation in the United States. Because what we have failed to address in this House, Mr. Speaker, is the fact that - the mere fact that you swear allegiance and take on the citizenship of another country, such as the United States, does not without more and, therefore, does not automatically cause you to lose your Jamaican citizenship.

(*Sotto voce* comments by some Members)

Mr. PICKERSGILL: That is not what we talking about.

Mr. E. SMITH: Please… please… follow me, follow me. Now, I don't want to address matters in the Court right now, but suffice it to say, that it is irresponsible of anyone to say that a person who has sworn allegiance to, for example, the United States and taken on their citizenship, has become stateless. That is not true.

Mr. PICKERSGILL: Has become what?

Mr. E. SMITH: Stateless.

A MEMBER: How they must be Stateless?

Mr. E. SMITH: That's not true. That's almost a public mischief.

A MEMBER: Who tell you? Who said that?

Mr. E SMITH: No, no, I didn't say anybody said so.

(Cross talk)

Please, please, follow my reasoning. Now, therefore, Mr. Speaker, I believe that while the motion by the Member from West Kingston is well-intended, I would never challenge...

MEMBERS: Central Kingston.

Mr. E. SMITH: Well, did I say Western Kingston?

A MEMBER: Yes.

Mr. E. SMITH: Oh, I apologize. While the motion - you see I understand Central Kingston may not be with us any longer.

(Laughter)

While the motion from the Member from Central Kingston is well-intended… the contribution of the Member from Western Kingston, in so far as that contribution addresses the need for this Parliament to seriously look at the provisions of Sections 39, 40 and 41 of the Constitution, must never be underscored because at the end of the day, as the Member from St. Catherine who speaks – from time to time out of term – (Laughter)

Mr. PICKERSGILL: What?

Mr. E. SMITH: But the fact of the matter, Mr. Speaker, is this. I believe that we have reached a stage, in terms of international

trade, in terms of cooperation, in terms of how our people gravitate to the United States of America, and to other foreign countries, that is to say countries outside of the Commonwealth, we ought to look at these provisions to find out whether or not, Mr. Speaker, and to make a decision, are they relevant in 2011 and onwards.

(*Sotto voce* comments)

Mr. E. SMITH: So… no, no, follow me. Are they relevant? So, once you look at the Resolution now, because that is what the second limb of the Resolution invites us to debate:

AND BE IT FURTHER RESOLVED - listen carefully…

AND BE IT FURTHER RESOLVED that as a matter of urgency, the Honourable House debate under what, if any, circumstances, citizens with dual nationality ought to be excluded from Parliamentary membership.

And the phrase, if any, is very important because what this invites the House to determine is whether or not, should there be any circumstance under which, I use the phrase dual nationality only because it is used here - should be a bar to membership of this House.

Now, in so far as the first part of the Resolution is concerned,

BE IT RESOLVED that every Member of this Honourable House declare in this Chamber his or her citizenship or permanent residency in any country other than Jamaica. Now, let me take up the second limb of it - or permanent residency.

Now, Mr. Speaker, the question of permanent residency cannot arise because Section 39 speaks to the question that, look here, you have to be resident in this country, or has been ordinarily resident in Jamaica for an immediately - preceding 12 months. Now, as the Member said - and I understand there are several Members here with Green Cards that give them permanent residency in the United States…

Mr. PICKERSGILL: You agree with that; you agree with that, permanent residency in the Parliament?

Mr. CHARLES: You had applied for it and never get it.

(Laughter/*Sotto voce* comments)

Mr. E. SMITH: Now, my own view is this, that if… the motion... The motion, Honourable Member... the motion... do not...excuse...hello...do not engage...

Mr. PICKERSGILL: You remember you are an African Chief, you shouldn't be in here.

The SPEAKER: (Gavels) Members, please... Mr. Smith, please, just direct your attention to the Chair.

Mr. E. SMITH: Mr. Speaker, the motion, in so far as the first section is concerned, must accord with the provisions of the Constitution unless the Constitution has been amended, because the Constitution does not speak to permanent residency as a bar to this House.

A MEMBER: That's right.

Mr. E. SMITH: Indeed, the Constitution, Section 39 speaks to merely...

Mr. PICKERSGILL: Just asking to consider it.

Mr. E. SMITH: No, no, no, what is the point in asking a person to make a declaration if they have a permanent residence elsewhere,

such as a Green Card, when the Constitution itself is not a bar to that?

(Cross talk)

A MEMBER: Consider it then, consider it.

Mr. PICKERSGILL: You want a man with resident abroad to... (Inaudible)

Mr. E. SMITH: Now, Mr. Speaker, how do you put in practical motion the first aspect of the Resolution? How do we do it? That each person - there must be a special session of the House - both Houses, at which all persons must be present and they must stand up and declare?

(Cross talk)

Is that what is asked for?

Mr. Speaker, I agree with the Prime Minister, aspects of this motion need to be the subject of a select committee.

(Cross talk)

And my recommendation, Mr. Speaker, is that there be no - not really amendment as such, save and except to say, if your amendment is to the effect that the motion be referred to a Special Select Committee of both Houses, I have no difficulty with that. I do not know if you said it but if you did say so, you did not say it with enough clarity. That, Mr. Speaker, is my contribution.

A MEMBER: Very well done.

(Applause)

The SPEAKER: Mr. Charles.

(*Sotto voce* comments)

Mr. CHARLES: Mi and yuh apply same time. Don't open yuh mouth. Mi and yuh apply same time.

Mr. Speaker… Mr. Speaker, only because I indicated to you that I wanted to make a contribution, I am taking the opportunity to do so very shortly.

(Heckling)

Why... the Prime Minister's presentation...

Mr. PICKERSGILL: If that is the only reason, siddung.

Mr. CHARLES: ...fully explained what I would like to say. And the presentation from the Member from South West takes it to the higher level.

Mr. Speaker, one or two points were made here that I wish to comment on. First, let me say fully, I am humbly requesting that this House assemble either a Joint Select Committee or substantially intelligently debate the matter as to the relevance of whether a man holding a passport of another country and holding a passport in Jamaica is more loyal to that country than he is loyal to Jamaica.

(*Sotto voce* comments)

Mr. CHARLES: That is my presentation. You can close your ears if you don't want to hear. Mi and yuh apply one time so don't open yuh mouth. (Laughter)

Mr. PICKERSGILL: All right siddung now. If it is your presentation, siddung. I am a Jamaican from start to finish.

Mr. CHARLES: I am in full support and requesting that for some way, we find a way to re-visit Clauses 39, 40, and 41 of the Constitution.

(*Sotto voce* comment)

It may have been relevant then - and I am telling you, Mr. Speaker, speaking of the Minister of Labour who has to look at people coming to Jamaica to make contribution and have to apply for work permit, it's an experience.

Looking at Jamaicans abroad, who have become citizens by getting a passport and have never been asked to give up their Jamaican passport. In fact, States like New York do have Jamaica Day of American citizens who are carrying Jamaican passports who are contributing much to the United States. So, Mr. Speaker, I am requesting that we look at what the PM's presentation was making…

Mr. M. PEART: Declare you self, declare you self.

Mr. CHARLES: …about revisiting the thing. The Member from St. Andrew West was not very kind. I expect better from you, in your statement about the Prime Minister. You need to go and read what you said.

Mr. HYLTON: I know what I said.

Mr. CHARLES: A person who carries a permanent residency for the United States has more obligations to the United States than one who carries a passport.

Ms. GRANGE: True. They shouldn't be in Jamaica.

Mr. CHARLES: You lie every year that you live in the United States.

Government MEMBER: Every six months.

Mr. CHARLES: You have to visit the United States every year and every time you reach the immigration you sey I live here, I just go away and come back. You even corrupt members…

Mr. ROBERTSON: Falsify documents.

Mr. CHARLES: …in the Jamaica Customs to stamp your passport…

Mr. ROBERTSON: What!

Mr. CHARLES: …sey you just come.

Mr. SHAW: But yuh know bout the thing, you know.

Mr. CHARLES: Of course, I know about it.

A MEMBER: Immigration.

Mr. CHARLES: Immigration.

Mr. PICKERSGILL: What's the point you're making?

Mr. ROBERTSON: That it's corrupt.

Mr. PERALTO: Moral issue.

Mr. CHARLES: That boasting, there are so many of us in this Parliament who have permanent residency in their pocket over that side and over -

Mr. PICKERSGILL: Ehh? Declare yourself.

Mr. CHARLES: I coming to my declaration, don't worry about that, and fighting those who have passport. We need to revisit intelligently as to whether or not somebody born in St. Thomas…

Mr. PICKERSGILL: Can go to Trelawny.

Mr. CHARLES: …travel to the United States, marry an American, live there for thirty years, carry a permanent resident card for thirty years; another one lived there for five years and carries a passport, that one is more loyal than the other.

(Cross talk)

Mr. CHARLES: They have Jamaican passport, they're loyal here, they build their homes here, they invest here. You were the biggest presenters to these Jamaicans abroad about Diaspora, how you going to give them place in the Senate, how you going to bring them home, how we should do that with them and you come now to want to disqualify them

from serving. You want them money but you don't want to come home and serve in Jamaica. Let us look intelligently look at this question and see whether it detracts from our loyalty to the Jamaican flag and to the Jamaican people, to our service to our country.

I will tell you the truth. I am a global man.

Mr. PICKERSGILL: Oh, from Nigeria.

Mr. CHARLES: I believe that the country is no longer north, south, and west and all of that.

Mr. PICKERSGILL: Which country? You mean the world.

Mr. CHARLES: The world. And let me tell - you may consider it a laughing matter…

Mr. PICKERSGILL: You're a global citizen of the world.

Mr. CHARLES: And let me tell you there are a lot of people come here to talk you how loyal they are and if you believe that just having a passport make you loyal, yuh wrong. Look at your performance in your country

Mrs. HAY-WEBSTER: Thank you.

Mr. CHARLES: …to your Jamaican people…

Mrs. HAY-WEBSTER: Thank you.

Mr. CHARLES: …and to your obligation to your country and check your loyalty.

(Cross talk)

Mr. CHARLES: Now, there is something that we're not looking at, the democratic part of it.

Mr. PICKERSGILL: How you sey is one likkle presentation?

Mr. CHARLES: Every member of the Parliament on this side, had to sit before the General Secretary and other members of the selection committee and satisfy them that they were fully ready and capable to serve this country; that's item one. After you satisfy them, they now say to you, go to the constituency and you have to satisfy every member who vote for you that you are fully prepared, capable willing and ready to serve them.

Government MEMBER: Bobby, who pass you?

Mr. CHARLES: Now, the party accepts you and the people vote for you, that's their right. They don't have any right?

The man who ran against me had an American passport and American citizenship showing the people that he's better to serve them than me because he can help them to go to America. (Laughter)

You carry him out there. One of his trump card was, I can get over there see my passport here, Charles can't get you.

Mr. PICKERSGILL: Who said that?

Government MEMBER: Your candidate, (Laughs) that you approved.

Mr. CHARLES: Your candidate.

Government MEMBER: Oh, you neva hear bout that?

Mr. CHARLES: You never hear?

Government MEMBERS: Your candidate.

Government MEMBER: Repeat that, Pearnel, repeat that. Weh Pearnel sey? Repeat it.

Mr. PICKERSGILL: If him sey that, him woulda beat you.

Mr. CHARLES: What? Sey dat again.

Mr. PICKERSGILL: If him sey it, him woulda beat you.

Mr. CHARLES: If him did sey that, he would beat me. So therefore something wrong with the country. Something wrong with people that you talking about.

Mr. PICKERSGILL: I have no problem with a Jamaican having American citizenship.

Mr. CHARLES: I'm talking about the fact that he had American citizenship document and passport saying he was more qualified to serve them because him could help them to go to America. And you sey if him did sey that him should win.

(Cross talk)

Mr. ROBERTSON: Bobby, is true, you know.

Mr. PICKERSGILL: True.

Mr. CHARLES: Mr. Speaker -

Mr. ROBERTSON: You know I don't lie.

Mr. PICKERSGILL: I have to see the passport.

Mr. CHARLES: I ask the House to listen - take the advice of the Prime Minister, right.

Mr. M. PEART: Show us your Nigerian passport.

Mr. CHARLES: You know, I don't have any obligation to declare myself to you or him what passport I carry.

Mr. PICKERSGILL: If you never tell them was Nigerian you wouldn't lose the election.

Mr. M. PEART: Nigerian, man.

Mr. CHARLES: I tell what if you doubt the fact of my commitment to the people this country, when you had me in prison for one year you gave me one right, leave the country and don't come back.

Ms. GRANGE: And they put me on a plane.

Mr. CHARLES: You carried this lady to the airport….

Ms. GRANGE: Escorted.

Mr. CHARLES: …and say, you must migrate and don't come back.

Ms. GRANGE: Right.

Mr. PICKERSGILL: You write that in your book?

Mr. CHARLES: Of course, I write it.

Mr. PICKERSGILL: Me neva see that.

Mr. CHARLES: I'll never let you forget it. You were sending me away. Yuh send way mi wife and children.

Mr. MAIR: You don't shame?

Government MEMBER: And Ferdie too.

Mr. CHARLES: You terrorized them.

Mr. PICKERSGILL: Yes.

Mr. CHARLES: America had to take them as refugee.

Mr. PICKERSGILL: Yes.

Mr. MAIR: You nuh shame?

Mr. CHARLES: You gave me two weeks to go and look for them and if I don't come back in fifteen days you come for me.

Mr. MAIR: They come for you.

Mr. CHARLES: You coming for me. I came back in eleven days to show you that I didn't want to leave Jamaica and I will never leave Jamaica.

Mr. PICKERSGILL: But anybody accuse you sey you waan leave Jamaica?

Mr. CHARLES: You sey that you would only let me out of prison if I would do like

Minister Grange, go to the airport and don't come back!

Mr. MAIR: You guys disgusting, you know.

Mr. CHARLES: That is what you said. You were in the Cabinet; you took that decision.

A MEMBER: No, he wasn't in the Cabinet.

Mr. CHARLES: Oh, he wasn't in the Cabinet. What!

A MEMBER: No he wasn't in the Cabinet.

A MEMBER: He wasn't in the Cabinet.

Mr. PICKERSGILL: (Inaudible)

Mr. CHARLES: Oh, okay. I'll look in my book if your picture not there. If your picture not there.

Mr. PICKERSGILL: You're guilty of the teaching of mendacity. Your talk is mendacious.

(Cross talk)

Mr. CHARLES: All right. I'll withdraw that you were in the Cabinet, but you were in the PNP hierarchy. (Cross talk)

Mr. CHARLES: Where you discussed the matter. But anyhow, I not in any quarrel with you, you know. Because the fact is this - the fact is this that none of you inside here could deny the fact that I'm a Jamaican.

Mr. PICKERSGILL: That you what?

Mr. CHARLES: I'm a Jamaican.

Mr. CHARLES: Everything…

Mr. PICKERSGILL: But weh yuh take on it for?

Mr. CHARLES: Fully Jamaican, fully committed.

Mr. PICKERSGILL: But you're a Nigerian.

Mr. M. PEART: What about the Nigerian part?

Mr. PICKERSGILL: What about the Nigerian part?

Mr. CHARLES: That's my business. (Laughter)

Opposition MEMBER: You're a chief.

Mr. CHARLES: I'm also that.

(Cross talk)

Ms GRANGE: The Diaspora.

(Cross talk)

Mr. CHARLES: But Mr. Speaker, let me close – (Cross talk)

Mr. CHARLES: You know what bother you because of the amount of lands the man them give me you vex. The lands—

Mr. PICKERSGILL: Which land?

Mr. ROBERTSON: Don't talk bout it**.** Pearnel, don't talk about it.

Mr. CHARLES: Oh, you never know bout it. Talk to me afterward.

Mr. PICKERSGILL: So you going to retire to Nigeria, you have lands down there.

(Cross talk)

Mr. CHARLES: Anyhow to be very serious.

Gentlemen, ladies, Mr. Speaker, I would like to reinforce the point the Prime Minister made and after being so guided by my colleague from St. Ann, that this House consider revisiting Section 39, 40 of the Constitution and to decide whether some are more qualified than some to serve when they are citizens of Britain, citizens of Canada, or citizens of America; all foreign states. The

same people who want us to leave the Commonwealth are holding onto passport and saying that they are Commonwealth. We spent over Two Hundred Million dollars…

Mr. PICKERSGILL: You hear him, you hear him.

Mr. CHARLES: …of private money and the State's money over what I consider to be foolishness. And you, as Chairman of the PNP, is the architect of it with Daboub.

Mr. PICKERSGILL: What is that?

Mr. CHARLES: By taking people into court.

Mr. PICKERSGILL: No, no.

Mr. CHARLES: And over Two Hundred Million Dollars that I would love to give to poor people.

A MEMBER: Seventeen Million now.

(Cross talk)

Mr. CHARLES: Mr. Speaker, I don't know what the Member from Central Kingston will finally ask or request or amend. But I have full support for the presentation made by the Prime Minister that it is time for us to revisit that section of the Constitution on the basis of our connection with our people in the Diaspora, on the connection with our skilled people abroad, connection with people who have their children abroad became citizens, finish school and who'd like to come back home but are being told that they can't serve in certain areas. We would be robbed of a great prize if we don't consider it.

Thank you, Mr. Speaker.

Government MEMBER: Right on, Pearnel.

The SPEAKER: Dr. Ferguson.

Dr. FERGUSON: Mr. Speaker -

(Cross talk between sides)

Dr. FERGUSON: Mr. Speaker, I won't be long in my intervention on this occasion, but I believe, Mr. Speaker, that both sides of this House have been guilty of not being truthful in dealing with this matter of dual citizenship and permanent residence. Whether we are gonna go the route of Joint Select Committee or whether we're gonna be settling this matter in this debate, I believe that after a number of members in this House, it has cost them millions of dollars. It has cost the country millions of dollars and there is the possibility that there are others who will be paying millions of dollars.

And, therefore, we have a responsibility to this country, Mr. Minister, to deal with this situation and to take whatever decisions will be necessary to resolve this situation. It is my view that, left on its own, out of vested interest, this matter will not be resolved, and we will find and create every possible means of putting off a declaration.

And, therefore, my intervention, Mr. Speaker, is just to declare in an unequivocal way, that I am a citizen of Jamaica, I am a resident of Jamaica and no other country.

Thank you, Mr. Speaker.

The SPEAKER: Dr. Bartlett.

Dr. BARTLETT: Mr. Speaker, in 1981 I left Jamaica for the United States of America, as a student. I spent eight-and-a-half years there, in university. And during that time, in the community that I resided, I gave service at several levels, but at no time did I ever consider being a citizen or a resident of the United States. I have a son that was born in the United States, and he lives in the United States currently.

But you know, Mr. Speaker, when I listened to my colleague from St. Ann make that very passionate presentation, it reminds me of the fact that even in - and if you look at a number of the legislation in Jamaica, and the Acts in Jamaica, for example - and I am going to cite one, for example, the importation of animals in Jamaica was regulated by our Mother country to ensure that countries were placed in what they called scheduled countries. And so as to protect the Commonwealth, we here in Jamaica could not import animals from any other country except the Commonwealth countries. And that is the reason why today, Mr. Speaker, we can't even import a dog from the United States, because we still hold on to that kind of - the laws that were set down for us. The same thing is true in this case.

But, Mr. Speaker, today we consider Miami as what, the fourteenth parish of Jamaica, as Little Jamaica, because most of our trade is done with the United States. It is not fashionable for anyone to jump on a plane anymore and run to the UK. But it is quite fashionable for us to be in the United States.

And every day, almost every month or so, every year you take up a newspaper, you see where Jamaicans are holding very influential positions in the United States. As a matter of fact, I'll say this, that when I went to the United States to study, just about all of the members of the class that I went there with, who were from the Caribbean, including Jamaica, most of them are there. And you know what they are there as, Mr. Speaker? They are there as top professors in the United States, and they are indeed American citizens.

But why, why should those Jamaicans who are in the United States who would wish to return to Jamaica to give service to their country, why should they be prevented from giving service at whatever level they wish to give service, because of the fact that in seeking opportunities, opportunities for education and other things, they went to the United States, they have achieved there, and they want to come back to this country to give service to this country at whatever level they want to.

Indeed, Mr. Speaker, in the United States, in any State, you can be as much as the Governor. There are several governors in the United States who are not Americans.

An Opposition MEMBER: What?

Dr. BARTLETT: For example, Schwarzeneggar, who...

(*Sotto voce* comments)

Dr. BARTLETT:...they are Americans, but they were not born in America. Let me just clarify that, they were not born in America, but they are Americans. The only position that is reserved, and you must be born in America, is the position of the President of the United States. And even when you are born in one of the States outside, they will question it. For example, we know the case with Obama, how much they seek to say that Obama was not a United States - President Obama is not a United States citizen.

And so, Mr. Speaker, I have listened well to the presentations that have been made. And, Mr. Speaker, there are two positions in this Parliament that are referred to in our Constitution and that's the position of the

Minister of Finance, and the Prime Minister. And I think that in us seeking to modernize the laws of our land, I do not think that one should be prevented from serving in the Parliament if they are a holder, say, for example, of a United States citizenship. But I do think that the position of the Prime Minister, and the Minister of Finance, should be reserved for persons who are Jamaicans and nothing but Jamaicans, and no holder of any other nationality.

And so, Mr. Speaker, I am suggesting that when we - when this matter is sent to the Committee, we take a more enlightened approach...

Mr. HYLTON: You need to be enlightened.

Dr. BARTLETT: ...and see how we can ensure that we do not disenfranchise, so to speak, persons who are born in this country. And what other citizenship is greater than citizenship by birth? What other citizenship, Mr. Speaker? And so, Mr. Speaker, I think that we should take a more enlightened approach, and we should ensure that there are specific positions which we should say those are reserved for Jamaicans. In other words, you should be born in Jamaica, live in Jamaica, and have no other citizenship of any other country.

Those are my few words.

The SPEAKER: Thank you, Dr. Bartlett.

Mr. HOLNESS: Thank you, Mr. Speaker.

Very quickly, Mr. Speaker, I want to congratulate the Member from Central Kingston for bringing this very important motion.

The motion itself poses some difficulty, for example, Mr. Speaker, the mechanism that would be used for declaration. We understand what the member is trying to get at, which is the voluntary compliance of members in declaring their citizenship status. But what would happen for those members who choose not to declare? It would render the motion ineffective, though the court of public opinion would still…

(*Sotto voce* comment from Mr. Thwaites)

Mr. HOLNESS: …yes, the court of public opinion would still have an impact, but it would still defeat your purpose, in that you still would not then have the declaration of the member.

But, having said that technical difficulty, Mr. Speaker, I believe we should find a way to proceed. The debate has been very useful, but it can't carry us to the point of ensuring that, (a), we don't have a repeat of this situation in the future, and that we establish the proper mechanisms in law, to prevent such incidents of persons who are not appropriately entitled to sit in this House, occupying the House.

So, Mr. Speaker, in terms of my own view on the matter of whether or not persons who hold dual citizenship should be excluded from the House, my perspective is, Mr. Speaker, that if we could contemplate that there is a Commonwealth, of which persons who are citizens of other countries within that common group could hold positions in Parliaments within that group, then so too, Mr. Speaker, we must now consider that there is a new Commonwealth in existence, and that is the Jamaican Commonwealth of our Diaspora. And that there may very well be now the time for us to consider whether or not the Commonwealth of Jamaica extends

outside of the Commonwealth of our colonial heritage to the new economic frontiers of North America, other areas in Europe, and indeed, possibly other places in Africa. So we have to consider that, Mr. Speaker. So I am prepared to encourage a debate which would seek to allow persons with citizenship in other countries that we consider to be part of our commonwealth of resources, to allow them to participate in our government.

But there is a line that we must draw. And that line I would want to agree - I don't agree with the member from St. Andrew, Eastern very often on many of the issues. But on this one I would agree with him, that there are certain positions that we would reserve that the person must be singly a Jamaican citizen. For example, the position of Prime Minister, the position of Finance Minister, and there may very well be positions of the Attorney General, and so forth. We could examine where the line of allegiance should be..

Mr. KELLIER: Or the Chief Justice.

Mr. HOLNESS: Or the Chief Justice, it wouldn't only apply to politicians - could be drawn.

So, Mr. Speaker, I welcome the debate, I encourage the debate, and I would ask the member - we have had discussions about amending the resolution to make the resolution operable in the structure of our Parliament.

So, Mr. Speaker, with those few words, that's my contribution. May it please you.

The SPEAKER: Very well.

Rev. Thwaites.

Rev. THWAITES: Mr. Speaker, if we wish the public to have respect for the Parliament, we must have respect for each other here, and this debate has not shown that. And it is extremely unfortunate some of the remarks that have been made about each other, and the general disposition of the debate has been clouded by a standard of behaviour which has demeaned our proceedings. And the fact that the process has been delayed for as many months, raises the inference that this is not a matter that we wish to be candid and forthright about. And if you simply look at the attention and the attendance at the present time, it will reinforce that point even further.

The motion was brought at the time that it was, in a desire to short-circuit the lengthy, embarrassing, and expensive processes that the Parliament had wished upon itself, because of its inattention to what is the existing law. And had this been taken at the outset, as the member for St. Catherine, North West, said earlier, we would never have had to go through that. And it is to our culpability that we find ourselves having gone through that past and been in that position. In that respect, we are the architects of our own misfortune and the disrespect that attends us in many quarters.

I am surprised that many Members have not availed themselves of the simple opportunity. It involves no technicality whatever, yes, to simply state as some have, what their position is regarding compliance with the law. And, with all respect to you, I am sorry that you truncated the attempt, the sincere attempt of one Member to do just that.

However, Mr. Speaker, the public will judge those who decline to be present and those who decline to speak and to do that. And maybe another opportunity will avail

themselves. And compulsion is not the question here. The question is the simple honest declaration of every Member who represents his or her constituency to comply with the law of the land. And all the twists and the turns and the originating motions and the summons and appeals and the award of this and the rejection of that cannot change that simple clarity that is expected of those of us who occupy this Chamber.

And so the first part of the resolution that I brought has indeed been answered whether by acknowledgement as some have done here, yes, or by default which others have not - which others have brought upon themselves.

I included the issue of permanent residency, Mr. Speaker, in the drafting of that motion at the time that I did. Because I am under no illusions, there is no provision in our existing law that would proscribe a person who holds a green card for the United States, for example, to sit in Parliament. But the fact is, that such a status of that of permanent residence indicate inexorably a desire usually, to proceed towards citizenship, towards swearing allegiance in that other country. And therefore, it is simply no, no please…

(Sotto voce comments by Members)

Rev. THWAITES: It is means - and under the normal circumstances the Member for St. Catherine Central is correct, it means that they are under an obligation to live in another place.

Now under those circumstances despite the fact that there is no existing legal proscription, Mr. Speaker, I thought it was a good thing for us again just to state it clearly. Why - who we are, where our ties are, so that our constituents and this Parliament your good self could be under no doubt. There are no complications to that whatever. And as I have said, this has gone as far as we can go here. It will be seem whether in the outcome of this motion there is another occasion for people to do this. It would be salutary.

As far as the second limb of the motion is concerned, Mr. Speaker, I declared my position in the opening. I understand entirely the rationale why the 62 Constitution was drafted the way it was. And, given the assumptions of the world order and the alliances and the allegiances at the time it is not surprising. I agree with those speakers, notably my colleague from West St. Andrew who has indicated clearly that the world has changed. We are dealing with a different society a different demography. And I believe that it will always be an issue as to whether a person has divided loyalties. But I believe that this can be ascertained by a tissue of other requirements, other considerations that an electorate will take into account. And I do not believe it serviceable anymore for us to make citizenship in the United States or another country outside of the pale of the Commonwealth in ipso facto and absolutely, because when it involves swearing allegiance to that country a bar to representation. That is my personal view and it is based on a long view of where this society and this country is going.

Mr. Speaker, my view is that with the best intentions of governments past present and to come, if we follow the present system of political economy there will be never be a situation where all of our people can find useful employment. It would be a long, long time if at all, that is the disturbing and

depressing fact. In those circumstances as in many, many other countries of the world, out migration albeit difficult at this time, will have to be a possibility for many of our people. They do not lose what they were first and foremost Jamaicans, by becoming citizens of another country by that fact alone. And for that reason I readily adopt the suggestion and the amendment.

I ask your leave and that of the House to propose two amendments. First that the resolution be referred to a Joint Select Committee as has been suggested and that this as a matter of urgency consider whether the strictures of sections 39 and 40 of our Constitution need to be reviewed and under what - in what respects. And secondly, that the amendment suggested by the Member for North Western St Catherine that both the declaration at the time of nomination for election to this House and also, when one takes the Oath of Allegiance to this House that the appropriate affirmations be made to ensure that the law at the time…

The SPEAKER: The problem I am having now, Reverend Thwaites, you see, you have - where are we amending these two, the prayers?

Mr. HOLNESS: Mr. Speaker, just to be clear. Just to be clear there are two amendments on the table.

Rev. THWAITES: There are really two additions.

Mr. HOLNESS: Two additions, but the amendments suggested by the Member from St. Catherine regarding the necessary verification that must be done, that that should also be placed under the Special Select Committee of the House to review and not resolved in itself here. So how you term it Member would be that that would also be under the jurisdiction of the Joint Select Committee.

Rev. THWAITES: That is quite acceptable, Mr. Speaker, and therefore I would ask that the Motion be put to the vote with the amendment….

The SPEAKER: No, what are we putting? Are we withdrawing what is presently here?

Rev. THWAITES: Absolutely not.

Mr. HOLNESS: Mr. Speaker, we would have to withdraw the prayer for declaration.

Rev. THWAITES: Why?

The SPEAKER: You cannot pass something, Rev Thwaites, and there would be no base…

Mr. HOLNESS: You would have to, Mr. Speaker. The prayer for declaration would have to be withdrawn.

Rev. THWAITES: You know, Mr. Speaker; I am not withdrawing that at all.

The SPEAKER: Then you see the position I have - the problem I have Reverend Thwaites, if you pass a resolution calling on Members to declare their position there is no basis of enforcement.

Mr. HOLNESS: Which is the point I made earlier, Mr. Speaker, it would be very difficult to effect it. So you would have to withdraw that and place that under the review of a committee as to how it could be done.

Mr. SHAW: Mr. Chairman, let them write up the amendment and we take it tomorrow. It is untidy.

The SPEAKER: Yes, I think we should. There is no doubt you see Reverend Thwaites, could you agree with he House

Leader, the amendment, and we take it tomorrow when we meet. You see Reverend Thwaites, in all sincerity the question of the declaration is a voluntary thing. I can - as you quite rightly say, it is for each Member to do so. But as Speaker, I can declare my position, I have never had a passport but a Jamaican one. But I cannot force anybody to say so.

Rev. THWAITES: The fact that you cannot force somebody to do something doesn't make the resolution nugatory.

The SPEAKER: It does.

Rev. THWAITES: Well you know, if you want to take it with the greatest of respect that kind of sophistry and defeat the substance of the intention by that kind of technicality you go ahead, Mr. Speaker, I leave it to you.

The SPEAKER: Very well tomorrow we will - can we postpone it until tomorrow and you take…

(*Sotto voce* comments by Mr. Shaw)

Mr. KELLIER: Mr. Speaker, in light of where we have reached at this time, I would want to propose that we go the route suggested by asking for a suspension of the…

The SPEAKER: An appropriate burden for tomorrow.

Mr. KELLIER: …and we will return tomorrow understand the item and tidy up the loose ends.

The SPEAKER: Just to pass the appropriate wordings. Very well, thanks.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not propose do any further business today. I therefore move that the House do adjourn until 19th - let me put it this way until tomorrow, Wednesday the 19th of January when we resume our business.

The SPEAKER: Members, the motion before the House is that this Honourable House do adjourn until Wednesday the 19th of January at 2:00 p.m.

Motion put to the House and agreed to.

Adjournment taken at 8:24 p.m until January 19, 2011 at 2:00 p.m.

WEDNESDAY, January 19, 2011

PURSUANT to Proclamation the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2.32 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

MISS OLIVIA ATAVIA GRANGE, (JLP), St. Catherine, Central, Minister of Information, Culture, Youth and Sports.

DR. CHRISTOPHER CHARLES TUFTON, (JLP), St. Elizabeth, South Western, Minister of Agriculture.

JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

OTHER MEMBERS

DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern.

DR. ESMOND VERNAL PATRICK HARRIS, (PNP), Trelawny, South Central.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. OTHNEIL DAMION ST. ELMO LAWRENCE, (JLP), St. Ann North Western.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

DR. KENNETH WYKEHAM MCNEILL, (PNP), Westmoreland, Western.

MRS. NATALIE NEITA HEADLEY, (PNP), St. Catherine, East Central.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

THE MOST HON. MRS. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of Opposition.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

PRAYERS

Prayers were offered by Reverend Ronald Thwaites.

The House resumed its sitting at 2:32 p.m.

The SPEAKER: Please be seated. This Honourable House now resumes its sitting.

STATEMENTS BY MINISTERS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, late last year you will recall that I tabled the first set of reports of the National...

The SPEAKER: Please, please. Members, Members, let's cut the Committee meetings. The House Leader is giving a Statement.

EDUCATION – REPORT ON NATIONAL EDUCATION INSPECTORATE

Mr. HOLNESS: Thank you, Mr. Speaker.

You would recall that late last year we Tabled the first set of reports of the National Education Inspectorate. Mr. Speaker, this is a major achievement for education transformation in Jamaica.

The Report itself was Tabled - and I believe all Members would have had a copy of the Report, and my Statement is being circulated.

(MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern, entered and took his seat.)

Mr. Speaker, it is generally accepted that ducation is the key contributor to sustainable economic growth and development; and that it is through education that a country's populace is provided with the requisite skills, competences and knowledge base to benefit optimally from the opportunities inherent in a fiercely competitive global marketplace. As Jamaica positions itself to be the place of choice to live, work, raise families and do business, the clarion call is for an education system that is responsive, effective, efficient, equitable and accessible.

(MR. DERRICK FLAVIUS KELLIER, (JLP), St. James, Southern entered and took his seat.)

The National Education Inspectorate, the NEI, as we will term it shortly, is the Ministry of Education's response to the recommendation of the National Task Force on Education Reform 2004, that a national quality assurance authority be established to address the issues of performance and accountability in all public educational institutions. In line with this recommendation the Ministry formulated the policy and legislative framework for the establishment of an independent National Education Inspectorate to effect the changes complementary to the transformation of the education sector.

(HON. DARYL WESLEY PHILLIP VAZ, (JLP), Portland, Western, Minister without Portfolio in the Office of the Prime Minister with responsibility for Information and Telecommunication, entered and took his seat.)

Currently, the NEI operates within the legislative framework as stipulated by the Education Act 1965, section 39, which authorises the Minister of Education

"**to cause any educational institution to be inspected at such intervals as he may think fit, by persons authorised by him in that behalf and the Minister shall cause a special inspection of any such institution to be carried out whenever it appears to him that such special inspections are desirable."**.

Within this framework the National Education Inspectorate is empowered to inspect 1,014 public educational institutions offering primary and secondary education and make an objective assessment of the standards attained by the approximately 514,000 students enrolled in these institutions. The NEI is also charged with the responsibility to provide policy advice to the Minister of Education, who will present to Parliament a state of the nation report on the education system.

Consistent with this thrust, the NEI has adopted a globally accepted set of correlates against each school which is rigorously assessed – on which each school is rigorously assessed.

Under the Ministry's modernisation programme it is proposed that the central Ministry will become a policy-focused Ministry with operational policy implementation responsibilities delegated to a new department which we are forming, Mr. Speaker, the Department of School Services. During the transitional Phase 2, Region 1, which would be Kingston and St. Andrew, Region 2, St. Thomas, Portland and St. Mary, will model the new arrangement. Aligned with this direction the sample of schools inspected in this cycle of inspection comprises thirty schools drawn from the two regional models. Also included in the sample was the newly established Belmont High School, which we call - under the Centre of Excellence Programme, Mr. Speaker, we name that school the Belmont Academy.

Some of the major findings, Mr. Speaker. The inspection conducted in thirty (30) schools during April and June 2010 represents the first round of inspections by the National Education Inspectorate, since its establishment as a project of the Ministry of Education System Transformation Programme in 2009. Mr. Speaker, despite limitations in the scope and coverage of the sample, that is thirty (30) schools out of 1000 schools – it's really a very small sample and we really couldn't use the findings to generalize. But the data gathering methods used are sufficiently robust to provide indicative findings which should trigger further investigations into the trends observed and the range of contributing factors, which impede or enable success at the primary and secondary levels.

The major findings of the inspections related to eight (8) key areas. We looked at performance in leadership and management, teaching and learning, teaching methodology,

assessment, curriculum enhancement, students personal and social development, use of material resources, safety and security.

The Centre of Excellence school, the Belmont Academy, and the traditional high schools, Campion College and St. Andrew High School for Girls, were deemed in all areas assessed as being effective. This is a summary of thirty (30) schools selected for inspection across two (2) regions representing the parishes of Kingston and St. Andrew, which would be Region 1, St. Thomas, Portland and St. Mary, Region 2.

The thirty (30) schools inspected in Regions 1 and 2 received a combined rating - Now we have to be very careful with the interpretation of this Mr. Speaker - The thirty (30) schools inspected in the two (2) pilot regions received a combined rating of unsatisfactory on the eight (8) school effectiveness indicators addressed. But I pointed out before that that there were three (3) schools at the high school level that were deemed effective. But when you summarise the findings of the thirty (30), when you average the findings of the thirty (30), clearly, the picture is that in terms of eight areas of school effectiveness the overall result is unsatisfactory. This rating, however, masks significant variations by school type as well and within school levels. It is to be noted also that the thirty (30) schools selected represents, as I said earlier, a very small percentage, 9% of the total population of schools within Regions 1 and 2, which were used as the pilot regions.

At the primary level the overall rating is unsatisfactory, especially in the areas of leadership and management, teaching and learning, student achievement in national examinations, self evaluation and school improvement planning. Of the 23 schools inspected at the primary level only two were rated as good on any single indicator. So we see clearly that at the primary level we have a major problem - and this is just from a sample of thirty (30) schools - we have a major problem with school effectiveness particularly as it relates to the effectiveness of school leadership at the primary level.

At the secondary level the seven (7) schools received a combined rating of satisfactory with stark variations among secondary high, traditional high schools and Centre of Excellence. Secondary High schools were weak on all indicators related to student achievement as well as in leadership and management. Traditional High schools enjoyed ratings which ranged from good to exceptional. The School of Excellence was an outstanding performer with one of its best showing in leadership and management.

And I should just take the opportunity here, Mr. Speaker, to explain that the Ministry has developed a new policy regarding schools that are newly developed. So all newly developed schools will be administered under a programme which we call the Centre of Excellence Programme. And I will be coming to Parliament to give more details of that programme. But it gives a different structure to the management of the school. And what we have found is that - we now have two schools operating under the Centre of Excellence programme. And one of those schools was inspected during this report, and it clearly showed that just the change in the structure of governance and

management of the school can result in improved school performance. This school was rated as having a very high level of effectiveness in terms of school leadership. So we will be expanding this model to make sure that all new schools are operated under the Centre of Excellence model.

Traditional High schools enjoyed ratings which ranged from good to exceptional. We all know already, Mr. Speaker, that the Traditional High schools they have a long history, many of them, of strong community support, strong alumnae support and strong leadership and support from churches and trusts, and they have a culture and a history of proper school management and they usually perform well. And we see that in the results.

In the Secondary High schools, the newly upgraded high schools, as we term them sometimes, we have problems in those schools in terms of developing proper leadership, effective leadership, good governance practices, good management practices and it is reflected in this report.

Some recommendations, Mr. Speaker: The NEI is recommending that out of their inspection of schools that the Ministry develops what we call **predictors** of school effectiveness. And the more we inspect schools and the more we generate reports we will be able to identify certain factors which would immediately tell us right away, even without doing in-depth investigations or inspections, that we will know once these factors begin to show, is that we can make judgments as to whether or not that school is failing or whether or not the school is doing well. And the Ministry has started to look at how we could develop these predictors to help us intervene in schools much earlier than we now do.

The other suggestion is that the Ministry aligns its resources strategically toward school improvement. Right now, Mr. Speaker, the Ministry is involved in all areas of school development, but the NEI is suggesting that we focus our resources over a period of time on those schools that are performing poorly, those schools that demonstrate weak leadership, to make sure that they don't continue along the lines of failure and ineffective school operations, to make sure, Mr. Speaker, that within 10 years we should be able to reduce the gap between schools in terms of performance and in terms of management.

Another suggestion, Mr. Speaker, is that we should seek to engage the public, and by this process we are engaging the public in bringing the Reports to Parliament, in giving it to the Members of the House for them to look at the Reports for their individual schools that would be the start from this end of engaging the public.

And I want to say, Mr. Speaker, that when we table the Report, I'd really encourage Members to take the time to review the Reports. They are very detailed; and it would give Members information so that they could engage the Board Chairmen, who they recommend, the school Board members, who they recommend, sit down with them to say the Inspectorate has done this very detailed report on your school, and they have said that you are weak in this area, you are strong in this area, you are weak in this area, how can we work together to correct

those weaknesses and how can we work together to further advance the areas in which you are deemed to be effective. So, Mr. Speaker, we have started the process of engaging the stakeholders in supporting the development of the schools.

BRANDING

The Inspectorate is also suggesting, making the recommendation that we look seriously at branding schools and repositioning some schools. And I want to be very careful with this suggestion of school-branding. The suggestion really is, Mr. Speaker, that there are some schools that have a very good reputation and by virtue of their reputation they are able to attract resources and talent to their schools. Whilst there are other schools nearby that simply cannot attract the level of resources and talent needed, and there should be some form of cooperation where the brand-name of a good school is leverage to assist schools that are in need. That is a recommendation that has to be thoroughly examined and the implications considered.

The other recommendation, Mr. Speaker, is that - and this recommendation comes because the Report consistently points out that the major weakness in schools lies with the school leadership.

In all the Reports, school leadership comes up as a number one weakness. So this recommendation is that the Government should move to fast track the establishment of the National College for Education Leadership to enable the enhancement of leadership and management in schools.

(THE HONOURABLE ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Defence entered and took his seat.)

We have gone to Cabinet, Mr. Speaker, with a submission to establish the National College for Education Leadership. Once this is established, there will be a new framework for the appointment of school leaders, school principals. And I will be coming to Parliament with greater information about that.

Mr. Speaker, the Report also recommends that the Ministry moves swiftly to establish a regional entity to support failing schools, and I had alluded to that earlier.

In the transformation of the Ministry, we are now going to be creating a department, a department called the Department of Schools Services. And that department will align its resources to support schools that are deemed as failing schools. And the identification of a failing school, Mr. Speaker, will come from the Inspectorate. The Inspectorate after doing its Report will say to the Ministry of Education, school (y) is effective indeed is ineffective, rather, in these areas and we feel that this school is at risk of failure. And once that determination is made, Mr. Speaker, then the Ministry will move in with resources. But not just resources, we will also be utilizing special measures to ensure that where the management of the school is weak, that we intervene to support and where support is deemed as not possible because there are some schools, Mr. Speaker, where the management of the school has deteriorated so much that putting in more resources would be

just throwing good money after bad. And that something would have to be done, Mr. Speaker, in terms of replacing the management of the school, even to the point of dissolving the school Board and management and restarting the school under new arrangements.

So, I want to use this opportunity to place the nation on alert, that the Ministry of Education will not be sitting by and watching schools continue to fail and not intervene in a decisive way.

I want to just stop a minute...

(*Sotto voce* comment by Mr. Paulwell)

Mr. HOLNESS: ....I want to stop a minute, Mr. Speaker, and just to point out. I am sorry the Member from St. Andrew South isn't here, because recently the ministry had to intervene, with his support, in one of his schools. And I must commend the Member because he brought that situation to our attention, and we acted immediately and that action resulted in a change in the management of the school.

Recently, I had occasion to visit a school, a school in St. Thomas, the Minister of Energy's constituency.

Mr. ROBERTSON: Don't call the name.

Mr. HOLNESS: No, I won't. The school, Mr. Speaker, is a school that has failed. When I visited the school, the Principal was not there. The Principal doesn't speak to anyone on the staff.

Mr. JACKSON: You sure it was the school you went?

(Laughter)

Mr. HOLNESS: The Principal has all the keys, nobody can get into anywhere. They were at each others throat at the school, the teachers were all - it was just total chaos. But I felt very helpless, Mr. Speaker, because the Education Act doesn't allow the Minister or the Ministry of Education to immediately move in and we are doing the necessaries

Rev. THWAITES: That's crazy.

Mr. HOLNESS: I agree with you, that's a crazy situation, and we are making the necessary steps to address that. Which is why, Mr. Speaker, we have to go this route, because schools are managed by School Boards. They are managed by School Boards. We set policy and we hope that the School Boards will execute the policy.

(*Sotto voce* comment by Government Member)

Mr. HOLNESS: No, it's not so easy to fire the Board. And let me just explain, that's a very important point which at a later stage I will explain why it is not so easy.

But, Mr. Speaker, we now have set up an institution that doesn't depend on my judgment as Minister to say that this is a failing school. The National Education Inspectorate will inspect that school and the Report will come back to say, here are the objective areas of failure that the Ministry must act on. So the Inspectorate is so fundamental to transformation that this is a major step in transforming and improving our school system.

So, I am encouraging Members here the Report is submitted to you, the Reports of the 30 schools are on the Ministry's website, look at it, call in your Board members. As I said, you recommended several of them to the Board, look at them, look at the Report, work with them.

Mr. Speaker, I want to close my statement, Mr. Speaker, by saying that whenever I make statements regarding accountability in education, the first thing that comes to the minds of the listeners is that the Minister is intent on firing teachers and principals. We are well aware, Mr. Speaker, that you can't fire your way to higher performance. That's not the intention of the ministry of Education. The Ministry of Education wants to support our teachers and our principals towards school improvement. But where it becomes patently clear that there is negligence, that there is inefficiency, that members are - the teachers or the principals or school management is ineffective, then the Ministry of Education and the Minister of Education has to act.

And I believe, Mr. Speaker, after 60 years of public education in Jamaica, we are at a point where the performance of our schools is ..... Well, let me rephrase it, Mr. Speaker, the performance of our school, could be - our school system, could be considered a hindrance to our growth and development. If we don't get education right, growth and development may never come.

(Applause)

Mrs. SIMPSON MILLER: Hear, hear.

Mr. HOLNESS: And we tend to believe, Mr. Speaker, that when we get more money then we spend more on education. That is not the model, Mr. Speaker, that is not the solution. You have to get education rightin order that you can get more money. So it's not growth and development that gives you better education, it is better education that gives you growth and development.

(Applause)

So, Mr. Speaker, this is fundamental. There will be some feathers ruffled, there will be some principals who will take offence to what is said in the Report. We took a long time, Mr. Speaker, in coming with the Report, making it public because we gave the principals and the Board chairmen a right of reply, so they were able to look at their Reports and make their comments.

So, we are going to be acting in terms of writing to Board Chairmen and giving them general directions, because that's what the law allows us to do in terms of taking action on the points that were inspected.

So, Mr. Speaker, thank you for listening. Mr. Speaker, may I indicate that I have another statement to make.

The SPEAKER: Mr. Fagan, then Mr. Jackson and then..... **S**orry, always the Leader of the Opposition first, then Mr. Fagan, Mr. Fitz Jackson, Reverend Thwaites, then Mr. Paulwell.

Mrs. SIMPSON MILLER: Thank you very much, Mr. Speaker, and I commend the minister for taking this Report and the recommendations to Parliament.

Minister, I would just like to ask some questions and to make perhaps two recommendations, if you will. I would like to ask, for example, when will you be moving to the implementation stage, and whether you are going to be establishing an oversight committee that perhaps will report to Parliament that we can monitor the progress and to hold the schools accountable?

I have a major concern, Minister, that I think that you have a concern too; and it is the

shortage of spaces in the education system, which leads to the overcrowding of our schools. Many secondary schools are now in the shift system.

I think that this will certainly, and I think it is doing that, diluting the quality of education that we offer our children and the young people of the country, and we also expose them to danger.

I got a report, I think it was about last week, from St. Elizabeth, where an 11-year-old girl was seen, I think it was about 6:00 p.m., trying to get transportation to get home. She lives 20 miles away. And I would like to make a recommendation, whether the fact that PATH Programme is assisting with lunch and so, whether we could not now look at the PATH Programme in a serious way to see whether you could come up with some vouchers, the Ministry of Social Security, that would assist those children on the PATH Programme that are living very far away, 20 miles, 30 miles away from the schools, and have to be taking buses sometimes or struggling to get any form of transportation. And I think that this can expose them to serious danger, both boys and girls. And I really believe that - and this happens all the while - and I really believe that we should try to do something about that.

The other thing is in terms of our First, Second and Third Form students on the evening shift, I don't know how we can look at that because that also would expose a number of them to danger leaving school at that time, having to be trying to find transportation to get home very late, and you have - both the boys and the girls can be exposed to great danger. And these now the First, Second and Third Form students are the younger ones, and I really would love if you could explore the posibility of what can be done in terms of these students, these young ones in terms of the shift system. I would recommend that you re-examine this in a very serious way as you look at the implementation of the recommendations of this committee.

Thank you.

The SPEAKER: Mr. Fagan.

Mr. FAGAN: Thank you, Mr. Speaker.

The Minister gave us a summary of what has happened to date as far as this reform is concerned. But I would like to find out where do the Technical schools fall in this whole reform programme? I don't know if that was part of the evaluation process and if it means that over time the technical schools will be phased out and become part of this one big national Secondary School programme?

Secondly, I know also that the Government has provided spaces in some of the private schools. Nothing was mentioned in respect to how the monitoring would take place as far as as those students are concerned, and whether or not any assessment is being done to find out if what is expected of students attending those schools are up to par? Maybe the Minister would like to answer those questions.

The SPEAKER: You want all the questions first? Yes.

Mr. Fitz Jackson.

Mr. JACKSON: Through you, Mr. Speaker. Minister, I really welcome the information that you have presented to us and we share your conviction that going forward requires an educated society.

In terms of achieving the transformation which you are setting out to do, this represents a sampling so I don't figure the whole (entire) country is going to be assessed. Upon completing the assessment, I would like to get an indication of the programme of intervention. Because I accept that, even if you were to have completed the assessment nationally, the country doesn't have the capacity to respond at one blush. Is it that you are proposing to go on a phased basis? What are the criteria that you propose to use to determine the phases? But give us some insight as to how we are going to make this long march towards reaching to the level of development of our educational system that you propose. And I would also recommend that in going forward, even on that phased basis, that you seek to include as much as possible the Members of Parliament, notwithstanding the fact that the Board Chairmen are nominated by Members of Parliament. But as you might know in many instances there might be some disconnect between the Members of Parliament and those nominated Chairmen of Boards. So if you could, as a matter of *modus operandi*, inlcude us in going forward. And, of course, I am happy to make available to you one of the successful schools that has not been completed in your survey that you can use as a model for St. Catherine and Region 6 in the Ministry of Education.

The SPEAKER: Mr. Paulwell. No, sorry, Rev. Thwaites and then Mr. Paulwell.

Rev. THWAITES: Mr. Speaker, will the Minister agree with me that it ought to be the first responsibility of every Member of Parliament to ensure the proper operation of the schools in his constituency? Will the Minister also state what immediate action is going to be taken regarding these primary schools which have been inspected and are so embarrassingly failing? Further, would the Minister having regard to the very short time that the Centre of Exellence in Belmont has been in operation, consider that perhaps his approval of their results so far may be premature? Would the Minister also indicate when the Leadership College is likely to actually start and would he express the view or agree with the view that the idea of promoting senior teachers to the positions of principals, which is the norm I understand, is counterproductive in that it robs many classrooms of good teachers and also elevates to positions of administrative leadership persons who may not be adept in those skills.

The other factor that I would like to ask the Minister having regard to the results of certainly the two Traditional High schools, whether this would not support sentiment expressed in this House and held by me, that the deeper involvement of the churches, sponsoring churches, churches which can be brought to sponsor, is in fact a very important aspect of the regeneration and transformation of precisely these indices that have been pegged by the Inspectorate.

And finally, Mr. Speaker, will the Minister address the inadequacies and rigidities of the Education Code as a major deterrent for the kind of swift reform that is required by our education system and which is evidenced so clearly in this Report?

The SPEAKER: Mr. Paulwell, then Mr. Kellier.

Mr. PAULWELL: Mr. Speaker, a number of the questions that my colleague just raised were some on my list. But I just want to bring the Minister's attention formally to one of the schools that's included in this sampling and he and I have been having discussions on, namely Vauxhall Secondary School, where we have seen a school where for the last 10 years it has seen tremendous progression consequent on new leadership. But in the last two or so years we have seen a dramatic decline because of the breakdown in relations at the school, namely between the Board and the principal. And I am at a loss now as to where to go because the Chairman and principal are not getting on. And I believe that that can only be solved by a separation. I want to ask, again in relation to the role of the Member of Parliament because I have tried not to get involved. But I need your clarification because I think, I can't escape now getting involved to solve this problem because the school is deteriorating and it has been doing so over the last two years since this new person has been appointed to the Board. And believe it or not, I was not involved in that process of recommending the Chairman of that school Board.

Mr. JACKSON: How comes?

Mr. PAULWELL: I don't know.

The SPEAKER: Mr. Kellier, then Mrs. Natalie Neita-Headley.

Mr. KELLIER: Mr. Speaker, I just want to say that in commending the Minister here that certainly the Opposition fully accepts that education is indeed the key contributor to sustainable economic growth and development. And to let us be reminded that it was the National Task Force on Education Reform that was set up by us when we were in government that had recommended the enquiry to be established.

I just want to take the Minister's attention to the school performance table and to seek his response in respect to how does number three, teaching and learning content, knowledge, that section, teaching methodolgy and students personal and social development, when you look at the ratings, teaching and the one that speaks to students directly, the ratings are, as was said completely unsatisfactory.

So then, Minister, if it is that the teaching methodology and the teaching and learning content, knowledge, have found to be, particularly in primary and primary and junior highs and so to be so unsatisfactory, it means that there obviously is a another question to answer in respect of the training that these teachers received in the tertiary institutions. I would think that we have to look behind this curtain to see what is the cause of these indicators here being so low. Because obviously if we are saying teaching and learning content in primary, 50% unsatisfactory to poor; in primary and junior high, 43% unsatisfactory to poor and methodology which is key to the outcome, 75% unsatisfactory to poor and 86%, which is one of the highest indicators in that whole chart, it means therefore to my understanding, and you could correct me, that there must be a look taken behind this curtain to see what is the standard of training, the output that comes from the tertiary institutions. Because it is obvious from just a cursory glance here that they are not delivering what is expected of

them, hence you have all breakdown further down the road. So I would like you to respond to that. Because the student personal and social development, in the primary and junior high it's a 71% rated satisfactory whereas the teaching methodology is saying 86% rated unsatisfactory to poor. So we need to look at how these figures come around. Something seems not to be so consistent in the way those ratings are put out. So I would like you to comment on all of that, on those things, Minister.

Thank you.

The SPEAKER: Mrs. Neita-Headley.

Mrs. NEITA-HEADLEY: Thank you, Mr. Speaker. I just want to ask the Minister, will the Department of School Services have any involvement in the relationship that exists between the schools and the families, the schools and the communities from which the children come? While we inspect the schools and the failing schools, I think we need to also be looking at the failing children and the failing families which contribute to the failure of these students. The effect of the communities, sometimes violent as they are, often times place great pressure on the children being able to learn, and so whilst they are getting the proper teaching at school they aren't able to do the work that is required of them at home.

And following on the recommendation made by the Leader of the Opposition, certainly in my constituency, Mr. Speaker, there has been a tremendous pressure on my office as it relates to the provision of bus fares just to get to school. And the truth is we are not equipped to be able to help individuals students to get to school daily. And so whilst those that are on the PATH Programme are able to get lunch while they are at school, many of them are still not able to get to school. And so I don't know if we can find a way to have a system that will work between the Ministry and the Public Transportation System, which will allow for there to be the voucher system that was introduced earlier, to alleviate the pressure to get to school, in the first place, to be able to acquire the knowledge.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, I want to thank the Members for the very important questions that they have asked. The Leader of the Opposition wanted to know about the actual process of engaging the Parliament. When the task force was assembled to give direction to this process of school improvement, it was envisioned that the National Education Inspectorate would make a report to Parliament.

Now, just to be clear, the National Education Inspectorate is not yet - is not yet defined legally and independently from the Ministry of Education. It still operates under the legislative framework of the Ministry of Education. We will be seeking to have it established as an Executive Agency, and it will therefore make – it will make a Report to Parliament, and at that point in time, the Report would then be referred to either one of our standing committees, or we would move to have a new committee established that would be exclusive to looking at the Reports of the NEI. That would give Parliament a greater involvement in this whole business of school improvement. That is not yet decided,

but clearly, the House will be kept up to date when the actual framework involving the House is developed.

But, in the interim, as the Reports are completed and summarized, I will take them to the House, lay them as a Ministry Paper, the summary as well, and make a statement on them, so that we could continue the process while the legislative process is finalized.

In terms of the shortage of space and...

Mrs. SIMPSON MILLER: One minute... So, they will be the oversight authority...

Mr. HOLNESS: Parliament will have oversight.

Mrs. SIMPSON MILLER: Parliament will?

Mr. HOLNESS: Yes.

Mrs. SIMPSON MILLER: Okay.

Mr. HOLNESS: An Executive Agency is directly linked to the Minister, but the Report - the Report will come to Parliament just as how a Report would come to the PAC and the PAC can recommend. We want to have Parliament also involved, and make its own recommendation as to what should be done.

And the truth is that Parliament plays that function. Whenever we come before - the Ministry comes before a Committee of Parliament we usually get recommendations from the Members as to what needs to be done, but this will just now formalize it.

In terms of the shortage of space and the shift system, you would recall Leader of the Opposition, that in my first Budget presentation, I laid out a programme. Unfortunately, the fiscal circumstances of the country would not, at present, allow…

(*Sotto voce* comment)

Mr. HOLNESS: Yes. But I intend to go back to Cabinet with a modified programme. The truth is, Leader of the Opposition and Members, the truth is that we have 110 schools thereabout, on shift - high schools - 110 schools nationally, on shift now, and we could put in place a programme that would gradually implement - gradually reduce, rather, the number of schools on shift. We are doing that. Every year we take one or two schools off, but we really need a national thrust, in terms of school construction.

The emphasis right now is on removing the Junior High and All Age grades of primary schools, so that we now only have primary schools and high schools. Now, once we do that, we would be freeing up space at the primary level. So, you would reduce the overcrowding at the primary level. You would be able to remove the shift system at the primary level. But to do that, we must build more schools. And, as I said, I will be coming back to Cabinet this year with a modified programme of school construction to see whether or not it could be accommodated within the general fiscal framework.

(*Sotto voce* comment)

Mr. HOLNESS: Well, as I explained we need to build 100 schools. And certainly, to do that, you are looking at close to US$1 billion, and that certainly could not be accommodated within the fiscal constraints of...

(HON, PEARNEL CHARLES, CD, (JLP), Minister of Labour and Social Security entered and took his seat.)

Mrs. SIMPSION MILLER: Mr. Speaker, can I ask - Minister is agreeing to yield for further clarification because...

Minister, you said something which is very fundamental when you made the presentation, the fact that Education is so important, and if we talk about economic growth and development, to achieve that you need to have an educated population. And education is the future of any country. Show me an educated people and I show you a prosperous nation. How is it then, are we going to - we seek money, and I am not saying just this Government - Governments seek money for everything else: roads, we seek money to dedicate funds for - why can't we look at Education in a serious way, and try to get some dedicated funds to education itself?

That was how the transformation of education started. And, I am giving you full support, in terms of your position to the Cabinet, because we the need to - if we can deal with education, we will deal with - it will assist the economic growth and development, the alleviation of poverty, and also crime and violence.

Mr. HOLNESS: I thank you for the support, Leader of the Opposition. And, you know, the point is unassailable for there are two - usually when you talk about education you operate on two planks; one is access, which comes under building more schools, and the other is quality. The changes that we are focusing on now are the quality issues. The quality issues basically say the resources that we have now try to use them more efficiently and try to be more effective. So, we are focusing on the quality issues now, but you are right, access impacts on quality. So eventually, we will have to build more schools.

In terms of transportation, I want to just bring the House up to date very quickly. I had a discussion with the Minister of Transport and Works. He is cognizant of the problems that you have just raised. The issue is one of proper education planning to know where the education populations are, where they go to school, and match that against the public transportation system and their routes.

We have started a new programme within the Ministry called the National Students Registry. Some Members of Parliament would have heard about this, where we send out a very detailed questionnaire to all students in the schools and we ask them for address, how many miles they travel. We ask demographic questions, and that will be placed in our GIS database. So we will now be able to pinpoint where every child lives, where they go to school and match that against the bus route, so that we could then now start to plan appropriately for public transportation to carry the mass of students, which would then address the problem raised by the Member from St. Catherine about students. Once they get to school they get the benefit, but the problem is the bus fare to get to school.

So, we are addressing that from a planning perspective and you should start to see some improvements in public transportation. Because now we do subsidize within the Metropolitan Area, transportation

for students. We need to expand that now into rural areas but to do that, as I said, we need to know where the population exists, where they move to school, so we can properly align routes. So, that's being addressed.

In terms of the monitoring of students in private schools, I want to just say that the arrangement for placing students in private schools is a temporary arrangement until we are able to sufficiently build out the public infrastructure. So, those schools are not inspected under the National Education Inspectorate, but they are monitored by an Education Officer which we assign to the schools and they are monitored on a routine basis. Like you, Member, I do share the concern about the quality of education there. It is a work in progress and, you know, it is not, we... once we inspect a school that is using the current facilities of the Education Officer, and we find that school wanting, we don't send students to the school. So, yes, there are quality issues. We do monitor on a regular basis and where we find that the school is lacking, we withdraw our students.

In terms of the critical role of the Member of Parliament, the question raised by the Member from Central Kingston and the Member from East Kingston and Port Royal...

Mr. FAGAN: Mr. Chairman… just before you get there, sir, the matter of the technical schools...

Mr. HOLNESS: Oh, the technical schools are inspected by the Inspectorate. It is just that they were not inspected in this round, and it is not our intention to do away with technical schools. In fact, technical schools show, when you rank traditional high schools/newly upgraded technical schools, the technical schools do extremely well. In fact, they perform almost on par with traditional high schools. So, the intention is to continue to support and augment our support to them where possible.

Mr. FAGAN: Mr. Speaker, why wouldn't the technical school be a part of the assessment?

Mr. HOLNESS: No, no, they will be assessed. Remember now, we just started. We just did a sample of 30 schools; we are now in the field inspecting 40 additional schools. All schools will be inspected, but we don't have the capacity to inspect all the schools all at once. So, the technical schools will be inspected.

In terms of the role of the Member of Parliament, technically, there is no legal framework to involve the Member of Parliament in the management of schools…

(*Sotto voce* comment)

Mr. HOLNESS: …except for Thitchfield where there is a thrust that actually names the Member. Now, we have grappled with the philosophical position as to whether or not there should be political oversight of schools. And the general thinking is that you want to keep the politicians out of schools totally.

Mr. JACKSON: Not oversight inclusion.

Mr. HOLNESS: That has been…let's… well, the view has been that, you know, politics could be inimical to schools. I believe, however, that in the new model of accountability, I don't see how we could ignore the political representative, because the political representative is not there to destroy. Oftentimes, there are problems. But I believe that with proper guidance, the

political representative can be an agent for school improvement, which is why I am bringing the Reports to Parliament. I am providing them for the Members of Parliament to inspect. Eventually - we have changed the basis of appointing school boards, and that has given greater - in fact, the basis of appointment now officially states that the Member of Parliament has a standing in appointing the school board. I will be coming to Parliament with more details on the new framework for the appointment of school boards.

So, I would agree with you, Member, they are critically important, and the Government is slowly moving in the direction of giving the Members of Parliament greater role and recognition in school improvement.

In terms of my comments on the Centre of Excellence being premature, the point of fact is, Member, that they have performed well on the 8th... (Laugher) so, I can only make a comment on their present performance. What they do next year, I really can't say.

In terms of promoting senior teachers to the position of headship, of principals of schools, the establishment of the National College for Education Leadership will change all of that. We have a major problem in that we appoint principals and then seek to train them. That creates a major problem. With the National College and Education Leadership that will change. Principals will have to be trained first. They will have to meet a national qualification standard, and then they are appointed. And, as I said, I will come to Parliament with further details on that.

In terms of the rigidities and inadequacies of the Education Act, again that's an unassailable point.

The Education Act, Mr. Speaker, creates a disjoint. It requires that the Government pay teachers and fund schools but at the same time, it keeps the Government arms length from managing the operations of the school. So the Ministry of Education can't dismiss a teacher. If a school is underperforming, we have to give the Board general instructions and it is the Board that has to make a decision. So we need to change the Act to give the Ministry of Education greater powers to intervene where there is a clear failure - where there is a clear failure of school management.

Mr. Speaker, in terms of the observation made by the Leader of Opposition Business on the pedagogy employed, my view—and I'm not speaking now from any statistics or from certain knowledge, just my view on what this is saying, because we would have to do further investigations is not so much that the colleges are not training. What I've seen it is more so matter of supervision and practice; that's the issue. So it is how well the Principal of the school ensures that the teachers use the knowledge and experience that they have gained in the teachers college and practise in the school. So for me, Leader of the Opposition Government Business, it is a leadership issue. So if teachers aren't required to prepare their lesson plans, to use resource materials in creative ways then they won't do it. It's the Principal that has to make sure that there is a structure and that they are supervised properly; that's my observation on the matter.

In terms of whether or not the Department of School Services will interface with families. Yes, it will have that ability to interface?

Mr. Speaker, thank you for the time. I have one more statement, Mr. Speaker, to make.

The SPEAKER: Proceed.

Mr. HOLNESS: Recently, Mr. Speaker, the issue of corporal punishment has come to the attention of the nation. And particularly there is an article in one of our newspapers—one of our Sunday newspapers, regarding a student who was blinded in one eye by a teacher. Now, I've stated on many occasions, my own personal views on corporal punishment and I don't believe that the State should employ corporal punishment in the disciplining if students in their charge. That's a separate issue as to whether or not parents have the right to use corporal punishment. My personal view is that the State should not use corporal punishment in public schools or schools that are considered to be public institutions.

But separate and apart from my personal views, Mr. Speaker, there is a position taken by previous administrations against the violent treatment of children as demonstrated by Jamaica ratifying the Convention on the Rights of the Child in 1991. In so doing, the government is obliged to ensure that it does all within its powers to provide safe environments for Jamaican children. And you will recall, Mr. Speaker, that a special emissary from UNESCO came here, and we had him at the Bar of Parliament give an address regarding the rights of the child. So aside from my own personal view, governments present and past have taken positions to support the view of non-violence against children.

Other key provisions, Mr. Speaker, of the Convention—the Convention states that, all parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse while in the care of parents, legal guardians or any other person who has the care of the child; that's what the Convention says.

Other key provisions include Article 37 of the Convention which speaks to ensuring that children are protected from torture, and other cruel inhumane or degrading treatment or punishment.

Additionally, Mr. Speaker, under the Convention, Jamaica has agreed to recognize the rights of the child to education directed to the development of the child's personality, talents, and mental and physical abilities to their fullest potential; the development of respect for human rights and fundamental freedoms; the development of respect for the child's parents, cultural identity and national values and the preparation of the child for a responsible life in a free society in the spirit of understanding, peace, tolerance, equality and friendship.

Within the context of education Jamaica has committed, under the Convention, to take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the Convention.

Mr. Speaker, in conformity with the Convention of the Rights of the Child, the Ministry of Education has sought to take all appropriate administrative measures to ensure that the use of corporal punishment is discontinued in Jamaican schools. In May 2008, in my contribution to the Sectoral Debate I enunciated to this House the Ministry's policy directive against the use of corporal punishment in schools, arguing that it is more likely to inflame and destabilize the educational environment than bring order. And further that the belief that we can beat discipline in children or beat children into submission will only lead to chaos in the education system.

This presentation was preceded - well, this presentation preceded a school's bulletin in February 2008 informing the system in similar terms. We further indicated that we would be taking steps to reform the legislation to prohibit corporal punishment in schools without seeking to prejudice the necessary public consultative processes necessary in undertaking any significant change in the law. I have since made numerous statements and directives to the public education system regarding the Ministry's position on this important matter.

Mr. Speaker, I want to spend some time in explaining what is corporal punishment. And I have to take some time to do it because it is a critical issue. It is a critical issue.

The use of moderate and reasonable corporal punishment as a disciplinary sanction is legal in all schools in Jamaica except early childhood institutions because (a) a teacher who inflicts such punishment on his or her student has a justifiable defence to an action for trespass against the student except where it is expressly prohibited by statute. The use of this form of punishment is expressly prohibited in the Early Childhood Act and it prohibits the use of corporal punishment in early childhood institutions. And, of course, there are protections under the Child Care and Protection Act that would prohibit the use of corporal punishment. Under the Education Act and Regulations the use of this form of punishment as a disciplinary sanction is a matter of institutional policy which the Board of management of a school has the ultimate discretion to determine.

The Early Childhood Act bans corporal punishment in Early Childhood institutions. And some aspects of the Child Care and Protection Act would ban some forms of corporal punishment. The Education Act, however, does not expressly ban corporal punishment, so corporal punishment can be used within educational institutions that fall outside of Early Childhood institutions. So in Basic schools, Infant schools corporal punishment is illegal but it is not illegal in Primary schools and High Schools. But School Boards have the discretion to determine whether or not corporal punishment is to be used in their schools.

The truth is that some schools Boards have said corporal punishment is not to be used in their schools, others endorse it. But the Ministry of Education has given a policy directive. We have said that we do not endorse corporal punishment as a tool of discipline. The problem, however, is that it's an administrative directive and School Boards whilst they should follow it, at the end of the

day they are responsible for the school. We would want them to follow the directives that we give, but at the end of the day it is the School Board based on how the Education Act is structured that is responsible for the school; and we're well aware of this.

Now, the separation of powers of Government under the Jamaican Constitution provides that although the Executive, which is the Government, may undertake obligations and bind Jamaica in international law, if those international treaties involve a change in the domestic law or require the courts to enforce any provision of those treaties, the provisions of the treaties must be enacted as law in the Parliament. The Child Care and Protection Act was the primary response of the Government of Jamaica to its international obligations under the Convention. So effectively, Mr. Speaker, if we intend to move further then we will have to pass a law in Jamaica banning corporal punishment in schools.

A MEMBER: That's right.

Mr. HOLNESS: Section 62(d) of the Child Care and Protection Act, 2004 abolished the common law authority to administer corporal punishment in places of safety. I remember that debate and it came after certain disclosures were made in the House. In addition, Section 16 of the Early Childhood Act, as I said before, abolished the common law authority to administer corporal punishment in early childhood institutions. The statutory reform did not extend at the time to primary and Secondary schools administered under the Education Act.

The Education Act is the principal enactment governing schools in Jamaica. Under the Act and its regulations there is no provision that either expressly authorizes or prohibits the use of corporal punishment as a disciplinary sanction in schools. Except where altered by expressed language of an Act of Parliament, the authority to administer corporal punishment, therefore, exists at common-law. At common-law deliberate or negligent interference with an individual's person, however slight, may constitute a trespass.

The fundamental principle, plain and incontestable, is that every person's body is inviolate. However, there are special circumstances in which a trespass may be justified, such as the case where a teacher administers moderate and reasonable corporal punishment when required, or takes such action as may be reasonably necessary in the circumstances, to maintain discipline.

> "When a parent sends his child to school, he delegates to the teacher at the school, the power to inflict reasonable and moderate corporal punishment when required, in the way as a parent would have power to inflict moderate and reasonable corporal punishment in a proper case. And, that he delegates to the teacher the taking of such steps as are necessary to maintain discipline with regard to the child committed to the teacher's care."

That was the judgement in an important case regarding the use of corporal punishment. So where a teacher steps outside of the limit of what constitutes reasonable and moderate punishment or treatment, that teacher will be guilty of trespass to the person, and liable at criminal, as well as civil law.

Where liable at civil law, depending on the circumstances of the case, the Board of Management of the school may also be vicariously liable for the actions of the teacher, and by extension the Ministry of Education.

What constitutes reasonable and moderate punishment depends on the age of the child, the physical condition of the child, the method of carrying out the punishment, and the motive. To be lawful, corporal punishment must be, one, moderate, two, reasonable, and three, administered with a proper instrument, and four, administered for a proper reason, that is, not activated by malice, anger, distress, frustration.

Mr. JACKSON: Sounds good, but...

Mr. HOLNESS: Well, anything outside of this is not corporal punishment, it's abuse.

(*Sotto voce* comments)

Anything outside of that is not corporal - what is being passed off as corporal punishment is abuse. And I have to take the time to do it, because we need to bring the nation to an understanding that once we start to have mass education with all our population under the control of an institution called a school, then we must regulate how we discipline children. So we can't be administering corporal punishment out of frustration, anger.

Under section 9 of the Child Care and Protection Act:

> "A teacher or an adult having custody or charge of a child, commits an offence if he or she wilfully assaults, physically or mentally ill-treats, neglects, abandons, or exposes a student in a manner likely to cause that student unnecessary suffering or injury to health.
>
> On conviction, such a teacher could face imprisonment of between three to five years, or pay substantial fines, or both."

The section, however, does not expressly abolish the common law defence as to the justified use of moderate and reasonable corporal punishment for the maintenance of discipline by teachers. And this defence remains available for those who can establish the relevant facts.

Now, I want the members, Mr. Speaker, to follow me along this road. We have sought to research whether there have been any recent convictions in our local courts where the above defence, that is, common law is legal at common law, admissible at common law, and therefore, it is available for teachers to use. We wanted to see whether or not there were any cases of teachers being convicted, or anyone being convicted in our local Courts, where the defence of corporal punishment was used. Mr. Speaker, we were not able to find anyone being convicted of trespass on the person, or abuse, where the defence was, well, I was punishing the child using corporal punishment.

And I want to just move on further with that, Mr. Speaker. In 2009, a case was brought before a jury in a Circuit Court, a teacher used - and some people would remember this case - a teacher used a strap made of rubber to deliver blows to the palm of the child's hand. For the child - and this was because the child failed to complete homework assignment. During the administering of the punishment, the strap lashed the child around the wrist, causing an

injury, and consequent impairment in the use of the hand. So the child was spanked, using a belt, and it injured the wrist of the child causing some impairment. The child, of course, had a pre-existing injury to the hand, and this may have affected the decision of the jury, which found that the teacher was not guilty of an offence. The teacher, of course, used the defence that I could reasonably administer corporal punishment under the common law, and a jury agreed with that.

So, it's clear, Mr. Speaker, that the culture of the country - and I know that there are many persons on this side, many persons on that side, as well, who agree that corporal punishment should be maintained.

Mrs. NEITA-HEADLEY: Hear! Hear!

Mr. HOLNESS: And I won't dispute that. In fact, when I raised it in 2008 and at subsequent times, I paid very close attention to the public debate. And it is clear that Jamaica is divided as to whether or not corporal punishment is admissible. I want to be clear that I am not engaging in the debate about the general use of corporal punishment. The contention I am having is that we cannot continue to use corporal punishment in schools.

Under the scheme of the Education Act and the Regulations, the Minister may make regulations concerning the discipline of students in public schools, and those schools must abide by regulations made by the Minister.

Under the current regulations, Boards of Management are responsible for the conduct and management of the institutions for which they are appointed, including being responsible for approving guidelines and sanctions concerning school behaviour. The Minister may provide policy directives on such matters, however, although such directives have strong administrative weight, they do not amount to the force of law.

It is to be noted that the Ministry has no power to discipline or dismiss teachers who fail to comply with its policy directive against the use of corporal punishment. This authority rests with the School Board. Ensuring compliance of the prohibition against corporal punishment without legal sanctions, has in this circumstance, proved challenging.

Given that the policy directive is subject to the vagrancies of the individual philosophical and cultural perception of Board Members and the school staff, it is to be recalled that in the case in which the teacher was found not guilty - mentioned earlier - the case was actually brought before a jury, where it was not a Judge that was making a decision, but it was citizens who made a decision that corporal punishment is acceptable, even in the case where it caused or further complicated the damage to the child.

The Minister's power to make regulation regarding the discipline of students, extends to public schools only. However, there ought to be no duality when it comes to the treatment of children in Jamaican schools. Hence, legislative reform similar to the provisions of the Early Childhood Act and the Childcare and Protection Act to abolish and change the common law, are required under our reform.

The Ministry's jurisdiction - and I want to re-emphasize this point, Mr. Speaker - does

not extend to parents. We want to pass a law, Mr. Speaker that would ban corporal punishment in schools, only.

From a public policy perspective, Mr. Speaker, to be successful, the reform to abolish the use of corporal punishment in all Jamaican schools must not only make provisions for the prohibition of its use, but also for the introduction of alternative disciplinary practices. The abolition of the use of corporal punishment must also be seen within a wider conceptual framework for the removal of all forms of violence and abuse against children in schools, including verbal, mental and emotional abuse, which can be equally damaging to the child's wellbeing and physical condition.

With this in mind, the Ministry has developed a Green Paper on a Safe School Policy, to be submitted to Cabinet, and thereafter tabled in Parliament. And we intend to do this next month, Mr. Speaker. This Policy has its principal statement that all members of the school community have a right to a safe, secure and caring learning environment, and as such - and, Mr. Speaker, the Ministry has to support schools in creating such environments.

The Safe School Policy adopts, Mr. Speaker, multi-layered approach to school safety, and it comprises prevention, intervention - intense intervention, and crisis-management strategies.

Mr. Speaker, intervention strategies include the introduction of alternative disciplinary measures which emphasize positive and progressive approaches to discipline, and the provision of psycho-social support for students experiencing maladaptive behaviour.

Mr. Speaker, you would recall that we have now developed a special school to deal with students whose behaviour falls above the capacity of the school to manage. Mr. Speaker, we intend to open that school in April of this year. We are providing, Mr. Speaker, schools with assistance for behaviour management, and we are also, Mr. Speaker, training teachers. Behaviour management is now a critical course in teacher training.

So, Mr. Speaker, the general feeling that if we remove corporal punishment from the school system it will result, Mr. Speaker, in total chaos, I do not subscribe to that view. I believe that other countries have demonstrated that you can remove corporal punishment, and once you institute proper behaviour management practices, that the results would be far greater, far greater than schools that employ corporal punishment as their main means of behaviour modification and behaviour management.

The truth is, Mr. Speaker, that violence does not change the behaviour of students. The truth is, it doesn't. The truth is, Mr. Speaker, that we have relied on the whip for far too long.

Rev. THWAITES: Tell the police.

Mr. HOLNESS: No, but the same is true. We have relied on violence as a means of controlling our population for far too long. If we intend to make a break with our history, in terms of violence being used to control us, what better place to start than in our schools?

The SPEAKER: Mr. Fitz Jackson.

Mr. JACKSON: Minister, it is noteworthy that you've tabled this - make this statement on corporal punishment having just had the discussion about, you know, quality of education

But, Mr. Speaker, through you to the Minister. Personally I don't support corporal punishment, but to the extent that we allow it in our schools, I think what we need to do and what we must do, Minister, is to set out clear guidelines and measurable guidelines. I heard you speak about reasonable to moderate and that's all subjective, every person, teacher or whoever who inflict these kinds of punishment will tell you that in their judgement it is moderate, it is reasonable, it is justifiable.

I met with the staff of one of my schools recently and in fact, one of the undertakings that I gave was to obtain from your Ministry, that very same set of information because they want to institute corporal punishment but the teachers are scared out hell to venture down that path and make themselves vulnerable legally.

And I dare to say, Minister, though the authority is delegated to the School Boards, they themselves are and will be reluctant to take responsibility for instituting corporal punishment in our schools. So while we say on one hand it is authorised you can, it is not going to happen even in cases where the school leadership would want to use it.

My second point, you spoke about the limit in terms of the parents, I want to humbly submit, Minister, the time has long passed that we have to hold our parents responsible for the conduct and behaviour of their children in school. If a child misbehaved and has to be punished - whatever punishment whether it's suspension, whatever, expulsion, we perhaps have to say after two suspensions, three suspensions that child has to be removed from the school and to place in some sort of residential school community atmosphere and that authority that the parents would otherwise have is suspended. Because at the end of the day we are relying on our schools to a great extent because of the failure of many families to discipline our children, we are relying on the schools and when the schools fail to do that society pays the consequence. And because we as a society have to pay the consequence, we have to take the necessary step to prevent as much as possible, that from happening somewhere down the road. Because that child that has to get thrown out of school because of misbehaviour and the failure of the parents to exercise authority and discipline over that child, is left to the entire country.

So I want to ask you, Minister, to give serious consideration to that, you have my full support in that regard.

Mr. HOLNESS: Thank you, Member. Just to be clear. Because corporal punishment is permissible at common law, schools don't have to use it. Many schools don't have a policy stated regarding corporal punishment so teachers may choose to use it or not. What we would want school boards to do whilst we develop the legislation to explicitly band corporal punishment, is that within their schools they can set the rules that this school does not employ corporal punishment as a means of disciplinary instruction.

Now the challenge we face - and you have said it - is that how do you determine

what is corporal punishment? Now remember, common law is not a written standard, common law is the general conventions and the precedence set by Judges in cases that come before them. And what we have done in the Ministry is to look at all the cases that have gone before and wehave set - not under this Ministry long ago - the guidelines for corporal punishment. So for example - and I'm going from memory, the Permanent Secretary is here she can signal to me if I'm giving you the wrong guidance - but for example, corporal punishment cannot be conducted in the public. In other words you can't discipline the child using corporal punishment in front of the class. That's one of the guidelines, it must be done in private so it mustn't be done to humiliate or degrade the child, that's one of the guidelines. So you've asked for a specific, that's a specific one.

(Inaudible comment by a Member)

Mr. HOLNESS: No there are specific guidelines as to what part of the body you can use ...

Mr. PERALTO: And what you can use.

Mr. HOLNESS: ...and what you can use, so those guidelines are in the system.

Mr. JACKSON: Now?

Mr. HOLNESS: They are there, they are there so it's not as if we haven't - so we have already dealt with this business of what is outside of corporal punishment, but the issue for us is that if we leave corporal punishment as a means of disciplinary instruction in the schools and a teacher in using this method that is available at common law to control our class, accidentally hits a child and it results in some permanent and critical damage to that child.

How do we as a nation resolve the impairment of a child, that one child, *versus* our own cultural and social value system? Is it worth it that one child will be impaired for our own satisfaction that children must get lick? It's a choice that the nation must make. And I can't rush into making legislation without having these forms of debate. Because even if we were to pass a law tomorrow without the schools acknowledging that this is something that we will no longer do, then I will always have to be prosecuting and it would defeat the purpose. We would prefer that the schools understand that this is not something that we can continue to do and comply naturally by virtue of having a national debate and understanding.

And furthermore, Member, it is costly, it is costly, it is costly.

The SPEAKER: Dr. Bartlett.

Dr. BARTLETT: Mr. Speaker, the matter of corporal punishment is being introduced here. And you know, it against the background of a situation that occurred a year ago which is quite close to me, because my secretary's son is the subject of the article that was in *the Observer* over the week-end. He was blinded in his left eye from a teacher administering corporal punishment in an inappropriate way to another child and he was in the same line and the buckle of the belt caught him in his eye, tore the cornea and the iris and the child is now blinded in that eye.

That notwithstanding, Mr. Speaker, I will declare that for my own part I support capital punishment and I support corporal punishment and I have absolutely no apologies for that.

But, Mr. Speaker, as was said previously, Mr. Speaker, that any kind of punishment, whether it is done at home, or whether it is done in school, if it is done in a way that it becomes an abuse then there is a matter to be dealt with. And so when we take a situation if, indeed, there are guidelines for the administration...

The SPEAKER: Remember you know it's not a debate you know.

Dr. BARTLETT: I'm coming, I know it's not a debate, I know it's not a debate, but I'm just saying to the Minister, if indeed there is a guideline, or there are guidelines for the administering of capital punishment ...

MEMBERS: Corporal.

Dr. BARTLETT: ...or corporal punishment ...corporal punishment, then where a teacher vary from those ... (Laughter)

A MEMBER: Guidelines.

Dr. BARTLETT: ... guidelines...

Mr. MAIR: Sanctions imposed.

Dr. BARTLETT: ...then sanctions should be imposed. And in the case of the teacher at the offending school, that teacher is still there, no sanction has been taken against that teacher.

A MEMBER: Directive of.

The SPEAKER: The question the sanctions?

Mr. HOLNESS: I suspect the Member is asking why sanctions have not been taken against the teacher. As I said earlier - and I went through extensively - that the Ministry of Education by virtue of the Education Act, which govern us, does not have the power, or the authority to separate a teacher from their job it is the school board that has that function. We had given an administrative directive which we expect the school boards to follow, which says, corporal punishment is not sanctioned by the Ministry of Education, we expect that the school boards will act.

Now the Member will probably say, why don't I remove the chairman of the school?

There is a famous case, Mr. Speaker, where a particular Minister wanted a certain outcome. He gave a directive to the school board chairman and he didn't get the outcome and he revoked the appointment of the chairman. And the Courts rule that while the Minister appoints and he can remove he has to remove for cause and the cause can't be that the board chairman didn't follow the specific directions that were given by the Minister. The Minister can give general direction, which is what I'd given administratively. And that Board chairman had to be reinstated.

The truth is, Mr. Speaker, that for us to have the effect we would have to explicitly bring legislation to band corporal punishment. But as the Minister, Mr. Speaker, I'm very cognisant of the fact that legislation is not separate from the mood and tolerance of the nation. So before you reach to the legislative stage you have to consult.

We've spent a year and a half consulting with major stakeholders and this point the tragic incident that happened, which I really don't want to speak too much to because it could become an issue for the Courts, it could become. I want to make it absolutely clear to the nation that we cannot continue on the path of allowing corporal punishment within our public institutions.

The SPEAKER: Thank you, Minister.

Mr. Kellier.

Mr. KELLIER: Minister I take it that - I'm sorry I had to step out at the last minute of your presentation - but I take it that - by the copy of the statement that I have it indicates that you will be tabling a Green Paper.

Mr. HOLNESS: Yes, yes.

Mr. KELLIER: So that we'll have a full debate on all of this before we get to legislation. Okay I'm happy with that, but I just want for you to educate me a little bit on this point. While we are signatories to the Convention on the Rights of the Child, and the various articles in the Convention states - are fully set out for those who have managed to read it, but we can't sign these conventions at one level and then we go back and second guess them at another level by trying to tinker with what we've already agreed on universally. Because the Convention sets out very clearly - and you have quoted some of the sections in your statement - some of what the provisions are.

So while I think it is necessary to have the public discourse and all that and so forth - very useful - we have to be very careful that we don't, having given serious thought when we sign these conventions, to go back and do anything that will not be in keeping with what we've already signed.

So when we are doing this public education, Minister, I'd implore you to ensure that the tenets of the Convention be fully circulated to the public so they understand what we've already agreed on in respect of what we are going to be coming forward with.

The other thing is, I would like you just to jog your mind to some of the Asian Tigers, the countries that they claim produce when - and there's evidence of it - Singapore and those places, and to see whether or not, in their model...

A MEMBER: Their model.

Mr. KELLIER:...you know, of being able to lift the standard of education to get production and discipline in the society and all these things that contribute to development, whether or not that model, you know, could be considered, you know, some of those things that they do to ensure that the society stays on track, whether or not some of those things would be useful in our situation. I just think it is something that we may need to look at to see whether or not we can juxtapose any of those things...

Mrs. HEADLEY-NEITA: Apples and pears.

Mr. KELLIER: ...because it is something to look at. Right? Because we from time to time come and say, oh, we not do anything here in Jamaica. We not producing, we not this, we not that, we not the other. Look at the people in Singapore. Look at the people in Malaysia and so forth and so on. So you know, we are comparing two different things, Minister. So I just want you to look at that and give me a comment as to what you think about it.

Mr. HOLNESS: Member, to answer your question, the previous Government did not go all the way in banning corporal punishment in primary and high schools, precisely the reason why I am ensuring that there is the public debate and that is the cognisance of the public sentiment and support for corporal punishment. We have to, as leaders here, engage the people who

elected us. And we can't just thrust legislation on them. So in this dialogue, which I'm sure will be transmitted, that people will begin to think about this issue.

But I think we are at the point now where there is a clear case which demonstrates the difficulty with allowing corporal punishment - even if the teacher did not intend to - but having it as a tool could deprive an individual of their right to a useful life. And this is what effectively what this case demonstrates. And it can't be that a public institution can sanction that. That's the core of the issue, whether or not we're going to sanction it in a public institution. Whether or not it can be used by parents, whether or not it can be used by prisons or with the justice system, that's another debate.

The debate that I'm interested in right now is to ban corporal punishment in primary and high schools which would advance what we have signed to, the Convention of the Rights of the Child. Member, I close my presentation.

REPORTS FROM COMMITTEES

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, you indicated yesterday that the Standing Order Committee matter would be available.

The SPEAKER: The latest, Reverend Thwaites, is that the draft is being typed and we will definitely have it for next Tuesday, or as soon as possible. It is being typed, the draft. That's the latest.

(Inaudible comments by Mr. Jackson)

I have no idea. That's the information I'm getting. We'll have it shortly.

Rev. THWAITES: Are you satisfied, Mr. Speaker?

The SPEAKER: I'm not satisfied. But I can only give you the report as I get it.

Rev. THWAITES: No, Mr. Speaker...

The SPEAKER: I have asked, I have sked for...

Rev. THWAITES: You are the executive officer of the House.

The SPEAKER: Yes.

Rev. THWAITES: You can require that certain things be done at certain time and if they are not you need to take that action.

The SPEAKER: Definitely it must be dealt with before Tuesday, Reverend Thwaites.

Mr. JACKSON: And if not? You will apologize.

NOTICES OF MOTIONS GIVEN ORALLY

Mr. HOLNESS: Mr. Speaker, I have an exemption motion.

Mr. Speaker, I beg to give notice that at the next meeting of the House, I'll move the following motions:

WHEREAS subsection (1)(f)(i) and subsection (1)(g)(i) of section 41 of the Constitution of Jamaica require a Member of this House of Representatives to vacate his seat if he becomes a party to any contract with the Government of Jamaica for or on account of the public service, and, if any firm in which he is a partner, or any company of which he is a director or manager, becomes a party to any contract with the Government of Jamaica for or on account of the public service, respectively;

AND WHEREAS the Member of Parliament for Saint Mary Central, in his professional capacity as a medical doctor produces medicals.. (Is that the term?)

..medicals for the workers at the local plant of Nutrition Products Company Limited in Saint Mary...

A MEMBER: Medical services.

Mr. HOLNESS: It should be medical services.

A MEMBER: Yes.

Mr. HOLNESS: Yes.

AND WHEREAS the said Member is a shareholder and Director of Planners Trading Company, trading as Pals Pharmacy, this entity enters into pharmacy contracts with the National Health Fund to provide pharmaceuticals to citizens.

BE IT RESOLVED that this Honourable House, pursuant to subsection (1)(f)(i) and subsection (1)(g)(i) of section 41 of the Constitution and in recognition of him having disclosed the nature of such contracts and his interest therein, exempts the said member from vacating his seat for reasons of the contract aforesaid;

AND BE IT FURTHER RESOLVED that this motion be referred to the Ethics Committee and report.

Mr. Speaker, I further beg to give notice that at a later stage today, I'll move for the suspension of Standing Orders to allow me to take the motion.

There's one more, motion, Mr. Speaker.

Mr. Speaker, I beg to give notice that at the next meeting of the House, I'll move the following motion:

WHEREAS on the 17th day of March, 2010, this Honourable House of Representatives gave approval for the Special Select Committees which were appointed in that session of Parliament to continue with unchanged composition of membership, except where necessary by further motion taken and approved by this Honourable House;

BE IT RESOLVED with reference to the Constituency Development Fund Committee that the name, "Shahine Robinson", which was deleted, be added thereto.

And, Mr. Speaker, I further beg to give notice that at a later stage today, I will move for suspension of the Standing Orders to enable me to take the motion.

QUESTIONS AND ANSWERS TO QUESTIONS

Mr. HOLNESS: Mr. Speaker, there are no questions due for answer. But the Member from St. Andrew East Central, he is absent, but he tabled some questions yesterday for which I have the answers. If the Leader of ...

Mr. JACKSON: Defer them.

Mr. HOLNESS: I'll await the Member's presence.

The SPEAKER: That's next Tuesday.

Mr. HOLNESS: Yes.

The SPEAKER: Very well.

PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED

Mr. GALLIMORE: Mr. Speaker, on behalf of the Chairman of the Private Bills

Committee, I now move that a Bill shortly entitled:

The Mustard Seed Missionaries (Incorporation and Vesting) Act, 2011, be now read a first time.

The SPEAKER: The question is that the Bill presented by the Member be read a first time.

Put to the House and agreed to.

Bill shortly entitled:

The Mustard Seed Missionaries (Incorporation and Vesting) Act, 2011, read a first time.

Mr. GALLIMORE: Mr. Speaker, I beg to give notice of the second reading of the Bill.

PUBLIC BUSINESS

Mr. HOLNESS: Mr. Speaker, let's dispense quickly at Public Business with the two motions, notice of which I gave earlier.

Mr. Speaker, I now move for the suspension of Standing Orders to enable me to take the motion, the first one being the exemption and of which I gave notice earlier.

The SPEAKER: Members, I now move for the suspension of Standing Orders to allow the Leader of the House to take the two motions, notice of which was given earlier.

Put to the House and agreed to.

Mr. HOLNESS: Mr. Speaker, I now move for the suspension of Standing Orders to enable me to take the notice of which I gave for the reinstatement of Shahine Robinson, to the Committee.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the Leader of the House to take the motion, notice of which he gave earlier in relation to the reinstatement of the Member.

Put to the House and agreed to.

Mr. HOLNESS: Mr. Speaker, at Public Business today, we will continue

(*Sotto voce* consultations)

I did it, I did it. No, no, I...

Mr. Speaker, I now move that the motions to which I gave notice of earlier be agreed.

The SPEAKER: Both?

Mr. HOLNESS: Both.

The SPEAKER: Members, the matter before you is that the motions given by the Leader of the House, both motions, that is, the exemption motion for the Member from Central St. Mary and the motion for the reinstatement of the Member from St. Ann North East, be passed.

Motions put to the House and agreed to.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, we will continue at Public Business with the Protected Disclosure Act, Bill, rather, which was opened by the Prime Minister yesterday. The Minister of Welfare and Social Security, will continue.

The SPEAKER: Labour.

Mr. HOLNESS: Labour and Social Security.

The SPEAKER: Will continue?

Mr. HOLNESS: Labour and Social Security will continue the debate.

The SPEAKER: Very well. Mr. Charles.

Mr. CHARLES: Thank you, Mr. Speaker.

Mr. Speaker, before us for consideration and debate, is the Protected Disclosure Bill,

2010. The Bill, as we know, had its genesis in the Senate and was subjected to deliberations of the Joint Select Committee of Parliament. The Report of that Committee has been tabled and debated in the Senate and Members of that House have passed the Bill with 36 amendments.

Mr. Speaker, as Minister of Labour, with the portfolio responsibility for this matter, the Bill is of pivotal importance to me and to the Ministry of Labour.

The Bill proposes, as stated in the Memorandum of Object and Reasons, to create a framework to facilitate the disclosure of information regarding corrupt practices and other forms of wrongdoing at the workplace, and affords protection to persons making such disclosures.

It therefore recognizes the fact that workers are in the best position to know whether there is malpractice or corruption in organizations.

By promulgating legislation to protect persons who blow the whistle, the Government also recognizes that such persons could be subject to adverse treatment from employers which could well be detrimental to their continued livelihood at the workplace.

Mr. Speaker, the need for this legislation cannot be ignored. We live in a world where corruption is rife and Jamaica is no exception to this worrying trend.

Two leading UK researchers in the field of whistleblowing, Carr and Lewis have described it in the following terms:

> "Modern day corruption is endemic in character and contributes to poverty. It is a phenomenon that affects all aspects of society from business to politics, through to government and other areas of public life. Equally, it knows no boundaries and neither is it unique to developing countries."

Indeed, Mr. Speaker, the United Nations has itself recognized the detrimental effects that corruption has and can have on the society at large. So much so that in 2003, it adopted the Convention on Corruption, which came into effect in 2005. Jamaica signed that Convention in September 2005, and ratified it in March 2008, which makes us compliant internationally.

The Convention was designed to deal with corruption by engaging countries to promote and strengthen measures to prevent and combat corruption, facilitate and support international cooperation and promote integrity, accountability and the proper management of public affairs and public property.

The Bill we are debating today is but one further important step in our country's quest to build a better society.

Mr. Speaker, Jamaica is not unique in legislating the manner in which workers should go about exposing corruption. Many other countries have done so and we need not reinvent the wheel. Our draftspersons have therefore been guided in many respect by the laws of these countries. However, we must be careful to adjust these laws and international best practice to suit our local situation as far as are necessary.

It must be accepted that any law which seeks to protect whistleblowers in the workplace in this jurisdiction, must be examined in the context of the unique

Jamaican Industrial Relations landscape, which we know has a very long and rich tradition.

Mr. Speaker, it is especially important in the Jamaican landscape that the new Protected Disclosures law is seemlessly integrated in local employment law provisions, so that the legal protection already guaranteed to our workers is not eroded or disregarded all together. This is because as was so well stated by Lewis in his article, "Whistle blowing at Work, On What Principle Should Legislation Be Based."

It is important to remember that whistle blowing legislation does not exist in a vacuum. Often, it has been sewn upon employment protection legislation.

This is why, Mr. Speaker, it was vitally important that the views of the Labour Advisory Council, which I chair, comprising representatives of Trade Union Movement, the Employers' Federation and the Government were taken into consideration by the Joint Select Committee in examining this Bill.

I am pleased to say, Mr. Speaker, that the concern raised by the LAC were properly explored and the Bill before us shows a healthy regard for its implications to the Bible of Jamaica labour and employment law that is the Labour Relations and Industrial Disputes Act.

Mr. Speaker, the LRIDA is the foremost legislation in Jamaica, which govern employer/employee relations and disputes, which may arise between the two parties. This important piece of legislation seeks to ensure that industrial harmony is maintained at the workplace by making provision for issues such as regulation of industrial action, mechanism for handling industrial disputes, trade union membership, collective bargaining and the taking of polls and the protection from unjustifiable dismissal.

One of the first important changes that the Bill being debated today makes to the LRIDA, is to create a link between the LRIDA and the new Protected Disclosure law. This is done by inserting in Section 2, through Clause 29, a definition of "protected disclosure" as being that which obtains in the Protected Disclosure law. This amendment is a fundamental step in creating and enabling environment for the effective operation of the new regime in anti-corruption.

Mr. Speaker, one of the vanguard legal provisions of the LRIDA, which provides protection to a worker in relation to dismissal and disciplinary procedure is found in Section 12(5)(c) of that Act. Under this section, a worker is protected and given the right to reinstatement and/or mandatory compensation for unjustifiable dismissal. This section will be a key importance for any worker who believes that they have been placed at a disadvantage because of exposing corruption at the workplace.

In the Protected Disclosure Bill, such action is defined as being an occupational detriment. Clause 16 of the Bill provides that an employee shall not be subjected to any occupational detriment on the basis that the employee seeks to make, has made, or intends to make a protected disclosure. The clause further states that any employee who is dismissed as a consequence of seeking to make, making or intends to make a protected

disclosure shall be treated as being unjustifiably dismissed.

Mr. Speaker, the legal concept of unjustifiable dismissal is only to be found in the LRIDA. Only the Industrial Disputes Tribunal can provide the abovementioned remedy for an aggrieved worker. It is therefore, imperative that there be a consequential amendment to the LRIDA as proposed in Clause 29 of the Bill. This will synchronize the current law with the Protected Disclosures law when it comes into effect by inserting the definition of "occupational detriment" into the operations of the LRIDA.

Clause 17 of the Bill also provides further protection to the worker who makes a protected disclosure. It makes it rebuttable presumption that if a worker suffers occupational detriment at or about the same time that he makes a protected disclosure, the occupational detriment will be presumed to be a consequence of protected disclosure. The presumption can be rebutted by the employer if he can show that the act that constitutes occupational detriment can otherwise be justified. This provision is important in the context of any deliberation by the IDT in its quasi judicial capacity as it can hear arguments from the employer in defence of a claim by any worker.

This Honourable House will recall that in March last year, the LRIDA was amended to facilitate non-unionized workers having access to the dispute resolution mechanisms of the I.D.T. This was effected by amending the definition of 'industrial dispute' to clearly encompass unionized workers for disputes of rights and interests and the non-unionized for rights dispute only.

Previous to this, Mr. Speaker, based on the ruling of the Court in the now famous West Indies Yeast case, only persons who had the benefit at union representation could approach the IDT to seek any redress.

Mr. Speaker, in the year 2010, the amendment to the LRIDA is all the more timely in light of the purpose of this Bill, which we debate today. The Bill is aimed at encouraging all persons having a relationship with an employer who becomes aware of corruption and misconduct, to disclose this practice and to be protected from harm if he or she does so. Therefore, access to the IDT is even more crucial.

Clause 29 of the Bill proposes a further change to definition of "industrial dispute" in the LRIDA. This will make it clear that without limiting the effect of the current definition, the subjecting of a worker to occupational detriment on the basis that that worker seeks to or makes a protected disclosure, is to be considered an industrial dispute and can, upon following the established procedure within the Ministry, be a matter that can be referred to the IDT for settlement. Such amendment will give life to the purpose of the new law.

Mr. Speaker, Clause 22 of the Bill provides that nothing in the proposed amendment affects the right of the employee to seek redress for occupational detriment by following any process allowed or prescribed by law. This clause in essence, provides the door whereby aggrieved workers may enter and seek audience at the IDT.

It should, however, be noted that the worker may also seek compensation through the conventional court system and through any other mechanism currently available in law. Mr. Speaker, the practical operation of this Act is also of particular interest of the Ministry of Labour. The provision to be made in relation to the administration of the new system as stated in clause 21 is that of an oversight body. The designated authority is to be set up. Its role would be to administer not only the working of the Act, and the giving of guidance to whistle blowers and employers, but also to make recommendations for changes based on the implementation process and to institute a public information programme. The provisions in the Third Schedule are also to be taken into account by the designated authority in the execution of its duties. This will give the power to initiate and investigate or to take over an investigation.

Mr. Speaker, based on the Report of the Joint Select Committee it is not envisioned that a new entity will be created or to undertake this task, but rather, that an existing organization should be given that function. While the ministry is not proposing for it to be considered for the job, we want to state that we have the experience that the Ministry of Labour has found that we are the first port of call for many employees who feel that they have been wronged by employers, especially if they lack the protection offered by union representation.

As such, Mr. Speaker, whatever the mechanism used to establish the designated authority, for the record the ministry stands ready to assist in the process of advising and assisting both potential whisleblowers and employers.

In concluding, Mr. Speaker, let me say that the decision by the Government, of which I am a part, to promote the making of protected disclosure and to protect workers who make such disclosure, is laudable. The Protected Disclosure Bill when it becomes law, will enhance the protection offered to workers who make these disclosures. The Bill has admirably made the necessary connection between our current flagship employment law, the protection of workers as the new bastian of anticorruption. What remains to be done in practice, Mr. Speaker, is to properly sensitize the public, both potential whistleblowers and employees alike, to the provision of the new law and to encourage a culture of transparency and accountability. The Ministry of Labour in its vision to contribute to national development through the provision of efficient and effective law and social security services within the context of a globalized economy, is committed to providing whatever assistance it can to help the new protected disclosure law meet its stated objectives.

I therefore unhesitatingly, Mr. Speaker, commend the Bill to the Members of this Honourable House for passing into law. (Applause)

The SPEAKER: Thank you, Minister Charles. House Leader.

Mr. HOLNESS: Mr. Speaker, we will continue this debate next week when we will close. There are Members who want to speak on the debate and we have accommodated their requests, but we will be closing this debate next week. I should just use this

opportunity as well to signal to Members that we are going to close the Libel Report Debate as well next week.

Mr. Speaker, we now move to - Mr. Speaker, I am just reminded by the Clerk that yesterday I tabled an amendment to the Education Regulations and I would now like to have it referred to the Regulations Committee.

Mr. Speaker, I beg to move that the Education (Amendment) Regulations, 2010 under the Education Act, which was laid on the Table of the House on the 18th day of January, 2011 be referred to the Regulations Committee for consideration and report

The SPEAKER: Members, before you is the request of the Leader of the House for the matter to be referred to the Regulations Committee.

Put to the House and agreed to.

Mr. HOLNESS: Mr. Speaker, yesterday we sought to close the very interesting debate on the Private Member's Motion No. l3 brought by the Member from Central Kingston. We did not manage to conclude the debate yesterday. We were at the point of finalizing the terms of the prayer of the motion. We will now ask that the Member from Central Kingston present to us the amended resolution.

The SPEAKER: Okay. Reverend Thwaites.

Rev. THWAITES: Thank you, Mr. Speaker. I propose that the Resolution be put to the House in its present form with the following addition:

> BE IT FURTHER RESOLVED that the issues contained in this Resolution be referred to a Joint Select Committee of Parliament with a view to widen the discourse and to determine steps towards implementation of the objectives of the Resolution.

May it please you.

The SPEAKER: Members, are you aware of - I hope Members are aware of the addition of this Joint - the further resolution to number 13. I therefore will put it to Members of the House for its approval. This is Private Member's Motion No. 13 with the addition that was read by the mover of the motion.

Put to the House and agreed to.

The SPEAKER: The motion is carried. Oh sorry. Members, it should have been done with the amendment. So I should have first put amendment to the motion first, so just for good order.

I now put the amendment as stated by the mover of the motion.

The amendment to the motion put to the House and agreed to.

The SPEAKER: I now put the motion as amended.

The amendment put to the House and agreed to.

Rev. THWAITES: Mr. Speaker, may I implore you and the House Leader that the Select Committee be set up and begin to operate as soon as possible . . .

The SPEAKER: As soon as possible. Maybe next Tuesday.

Rev. THWAITES: . . .and that perhaps some timeline, indicative timeline should be given so that this matter indeed, as the Members almost unanimously said yesterday, could be put to rest once and for all.

The SPEAKER: Sure.

Mr. HOLNESS: In response to the Member, Mr. Speaker, we are very anxious to have the committee established. We have settled our three names. The Leader of Opposition Business, I am sure, will provide that we will formalize the process at the next sitting.

The SPEAKER: Very well.

Mr. HOLNESS: Mr. Speaker, the Member from St. Catherine North East will now open the debate on his motion standing at No. 3 on the Order Paper on the family.

(*Sotto voce* remarks by Opposition Member)

Mr. HOLNESS: No, not necessarily.

The SPEAKER: Before I ask, Mr. Mair. Please, we had a discussion that we are hoping that all Private Member's Motion that the mover will speak for around 15 minutes and other contributors a maximum of 10 minutes, so that we can, not only finish the motion promptly, but it will be a strong indication that when we take other Private Member's Motion, of which there are about 39 of them, that we can really finish them during this session of Parliament.

Okay, Mr. Mair.

Mr. MAIR: Thank you, Mr. Speaker.

Mr. Speaker, the motion before us is one that in my opnion is of utmost importance to our country and critical to many of the problems that we face today. The issue of family has been taken on by many of us before: our present Minister of Education in the Budget Debate of 2006, and by many others, whether they are journalists, members of the University of the West Indies, members of Government agencies, *et cetera*. The fact is that the weakening of the family in our social structure is happening and ut us un exchange for that of the individual who today is paramount as the unit of society.

Mr. Speaker, family is mainly centered around the children who are our future and the ones who will take care of all of us in due course. And what is of great concern is that data suggest that we as a nation are failing our children in many areas and that we urgently need to address that.

In an interview publicized in *the Observer* on the 9th of March last year, Mr. Bery Weir, Executive Director of the Women's Centre of Jamaica Foundation said, and I quote:

> "Our parents are joking. They are not taking their responsibilities seriously and we have to deal with it every day."

She was referring to the amount of teenage pregnancies they have to address on a regular basis.

If you look at the statisticsd, Mr. Speaker, for the last 10 years consistently, it shows that out of every five births in Jamaica one is from a teenager. That is unacceptably high when compared to the Latin America and the Caribbean region, which is one out of every 14. But also, Mr. Speaker, we are the highest in the entire region. And the question is, where were the parents? Statistics from the Women's Centre show that only 14%, only 14% of the teenage mothers that enter the programme reside with both parents. Hence the majority of these young women come from broken homes, single parent or no-parent-at-all homes. What about our young men? Data shows, and this has been

consistent at least for the last three years, that 65% of major crimes are committed by men between the ages of16 and 30.

(*Sotto voce* remarks by some members)

Mr. MAIR: But if you look at the statistics of men between the ages of 16 and 25 it shows that 50%, half of all major crimes committed in Jamaica, are by men between the ages of 16 and 25. And what is even more concerning is that approximately 20% are committed by men between the ages of 16 and 20. That's one of every five (5) major crimes committed by a youngman under the age of 20. And the question is, where are the parents in all of this?

Mr. Speaker, it is also evident that the children of our nation are under extreme duress as a consequence of their present environment. Many are continuously exposed to drugs, violence, high sexual content, abuse by adults. Unfortunately, our children are not exposed to enough love, care, guidance and protection.

The most recent Annual Report from the Office of the Children's Advocate indicates that as at December 2009, 6,023 children were in care of the Child Development Agency and 7,700 were offered services related to behaviour management problems. The Report also indicates that data collected from nine (9) hospitals in the year 2007, a total of 4,063 children of a total of 14,200 persons were admitted and treated at emergency centres for violence-related injuries. That is close to 29% of all admissions due to violent injury were children.

What is even more alarming, Mr. Speaker, is that 74.4% of the total admissions into hosptials due to sexual assaults were children, 74%. Statistics further indicate that the perpetrators of the majority of these violent acts are familiar or known by the victims.

So, Mr. Speaker, statistics show that our young women are getting pregnant, our young men are violent, and our children abused. Let us look at the environment in which they grow up. Mr. Speaker, the advent of technology - of the technological era, has brought with it instant availability of information, which has been good, because it helps us to be more informed, and to be able to take better decisions to make us more effective and efficient.

But with technology comes challenges. Our society has been bombarded, and to a great extent invaded and influenced by the culture of other societies, especially through Cable TV. We are slowly being culturized by foreign, and hence, adopting many of the social behaviour of other countries, in particular, the United States of America. We have aggressive TV programmes with high exposure to violence and sexuality from certain societies which are predominantly in its social arrangements, quite liberal.

You see through the news and regular TV programmes where children are divorcing their parents, discussions of abortion on demand, same sex marriages even with a right to adopt and raise children, single women getting artificially pregnant, with the semen, of someone who they don't even know. These, to a great extent, are societies where the individual - the individual is the core and the centre of society, not the family.

And I ask, do these values represent us as a society? Is it what we want for our people, and in particular, our children? These programmes are being viewed by the adults but even more worrisome, by the children. Then you have the Internet which is even worse, as there is basically access to anything, anywhere, on any topic. And here in Jamaica, we are actively promoting computer labs with access to Internet in our schools, with probably not really understanding what we are exposing our children to.

A MEMBER: Hear, hear!

Mr. MAIR: In other words, as far as I am aware, there is no specific legislation or regulation that will ensure that our children in schools will be protected from accidentally accessing websites of an indecent nature, even less so in our private homes. And whereas I believe in the right to privacy, what concerns me is that parents, I believe, are not aware of what their children have access to.

Mr. MONTAGUE: True.

Mr. MAIR: Because to a great extent, we the adults are quite ignorant on the matter.

A MEMBER: Yes, true, true.

Mr. MAIR: It is a matter that we need to deal with. Then you have the cellular phones which basically have internet capabilities, all kinds of videos are being transmitted between the children, and also, from adults to children.

Mr. MONTAGUE: Hear, hear.

Mr. MAIR: Mr. Speaker, this constant bombarding of our social environment by other cultures is slowly but surely eroding our value system. Our social behaviour and the consequences are being felt throughout society, especially our children.

Then you have the print media, Mr. Speaker, which I have been hearing for a long time through different discussions, that they are going to regulate - be regulating themselves, especially in the matter to deal with libel. But I ask myself, Mr. Speaker, why is it necessary for the print media to be printing in their newspaper a section (displaying Newspaper clipping) called, Adult Services. I don't think it is going to improve their sales.

(*Sotto voce* comments by some members)

Mr. MAIR: As a matter of fact...

Mr. MONTAGUE: Oh... what's that?

Mr. MAIR: When we hear - as the Member from Western St. Mary knows - about all these young women who disappear, they run away from home, and you wonder where they are, you wonder if they just pick up a newspaper and call a number.

Mr. MONTAGUE: That's where they go?

Mr. MAIR: What is even also of great concern, Mr. Speaker, is that if you look at the recently passed Sexual Offences Act, and you read Section 23, subsection (3) relating to the living on earnings of prostitution, which is prohibited, it says:

> "Where a person is proved to live with... and it goes on… and is proved to have exercised control, direction, and it goes on… and that the person is aiding, abetting, or compelling."

You might have a situation where prostitution - they commit an offence. The point I am trying to make, Mr. Speaker, (Displaying the Newspaper clipping) this is not necessary. It is really not necessary.

And then you have the influence of the radio. And there are some programmes that we hear with certain topics being discussed in a certain manner specifically by one radio programme that used to be with the radio station that was up UWI… and I think it is now with - it used to be with that radio station, 103, I think it was... and it's now on *Nationwide* with Ragashanti...

Mr. MONTAGUE: What!

Mr. MAIR: When you hear that programme, trust me, sometimes it's really disappointing, and you wonder where we are going.

Mr. MONTAGUE: Oh my!

A MEMBER: You have time to listen to that?

Mr. MAIR: And with this social environment in which our children are being raised, the question is, who is raising them? DR. MAUREEN SAMMS-VAUGHAN, Chairperson of the Early Childhood Commission and a well-studied and respected scholar in this subject, stated in an interview with the JIS on December 16, 2006, that:

> "In Jamaica, we have found that a disrupted family life with children having multiple caregivers is linked to aggressive behavior."

And she further says that parents need to provide guidance for their children until the brain is fully developed as

> "there is a whole lot more to parenting a human being than just having off springs."

Well, what does the data show? Eighty-four per cent of all births between 2000 and 2008 were from unmarried mothers, outside of wedlock. Marriage, Mr. Speaker, the commitment of a man and a woman to build a family is basically non-existent. The present Minister of Education, his contribution to the 2006 Budget Debate asserted,

> "when 80 per cent of births are to single mothers, there is something going wrong with the institution of the family. When 75 per cent of our children live with only one parent or no parents at all, then we must be concerned with what is happening to our families. When the father is absent from the lives of at least 70 per cent of all children in Jamaica, then we must be prepared to do something about it."
>
> (*Sotto voce* comments)

Mr. Speaker, our children are under extreme physical and mental duress due to the environment, due to the level of violence set upon then and one asks again, where are the parents, the family that should be protecting and raising them?

Mr. Speaker, there is an overwhelming amount of research on this matter of family and parenting. What we need to do is convert them into remedial action.

A MEMBER: Yes.

Mr. MAIR: Mr. Speaker, from time immemorial it has been recognized that family is the first natural community from which all other groupings of societies and nations derive from. Family is the bedrock of civilization. It is recognized in Article 16 of the Universal Declaration of Human Rights. It is even recognized in the Constitution of some countries. In particular, Mr. Speaker, if you look at the Constitution of Chile, the first article of Chapter 1, the first sentence says:

"Men are born free and equal in dignity and rights." That is the first sentence of their Constitution. The second sentence says: "The family is the basic core of society." So, family is recognized in different - as an important institution in different manners.

Mr. Speaker, family is the ideal environment for raising our children. It is their primary environment of socialization. Family is where parents raise children. Family is where life and love is born, nurtured and developed; where values, faith and traditions are passed on from one generation to another. Family is and must be the fundamental unit of society.

A MEMBER: Yes.

Mr. MAIR: If we recognize this, we then have to be, to in a proactive manner, take steps that will ensure that we not only stop the erosion of family values and family life but that we also start it's rebuilding and consolidation, so as to ensure a better future, not only for future generations but for ourselves.

A MEMBER: Hear, hear!

Mr. MAIR: Mr. Speaker, we, this Parliament, needs to consider the development of a comprehensive family policy for Jamaica.

A MEMBER: Hear, hear!

Mr. MAIR: And most importantly, implement it. All key players: the Government agencies, Parliamentary Commissions, the church, the schools, NGOs, everybody has to come on board to get the job done.

There are many things we can do, Mr. Speaker, that will influence behaviour and encourage family life. The registration of the child's father at birth, something that has been passionately pursued by the Member from Central Kingston, and that I know that the Government is presently working on, very important. We need to restrict access on the internet in schools. We need to empower the Broadcasting Commission, so they can effectively regulate what is being broadcast on our TV via open air or cable, so as to protect our children, especially from violent and controversial issues.

Mr. Speaker, as has been announced previously by the Government, we need to once and for all, establish the Parental Commission. The United Convention on the Rights of the Child acknowledges that every child has certain basic rights including, to be raised by his or her parents within a family. The parents need to get serious and get their priorities straight. We need to enact legislation that will hold the parents accountable for the raising of their children. Both parents are to be held responsible for the physical, emotional and psychological needs of their children. Parenting should be one of our children's rights. Parenting should be an obligation on the law for the mother and father of every child.

A MEMBER: Yes. Hear, hear!

Mr. MAIR: Also, much of what our parents know and practice, Mr. Speaker, is drawn from the general information and environment which we are living in, as I said earlier, and from their personal experiences. I think we also need to - we need a national educational programme to internalize meaningful parenting. So, I think we need to, kind of re-educate our parents about what family and raising children ought to be about.

A MEMBER: Hear, hear!

Mr. MAIR: We need, Mr. Speaker, to implement a system also, I suggest, that will monitor the men, the young men closely, from the moment they leave primary school. Our young men are not born criminals, you know, this 50 per cent I am speaking about. What happens after primary school is the problem. And probably instead of dealing with crime at the end when we already have the problem, why we don't try and deal with it prior to that, so we can guide the young men in the right direction, and ensure that they are not left astray, and stay on track.

Mr. Speaker, we need to enforce legislation that will ensure the removal of indecent material, especially on the murals in public areas.

(*Sotto voce* comment bo some members)

Mr. MAIR: I don't have a problem if there are certain materials in areas that are confined to adults only, but I have a problem when they are depicted all over the murals in public areas.

We have the Obscene Publication (Suppression of) Act which is quite outdated; we need to update it and enforce it. We need to give also, Mr. Speaker, the Office of the Children's Advocate and the Child Development Agency adequate funding, so they can fulfil their mandate we need also to ensure that we strength family life, education in our schools.

Mr. Speaker, in closing if we are to make a reality of our National Vision Statement; Jamaica, the place of choice to live, work, raise families and do business and if are to promote and protect our families as a way to eradicating poverty, crime and violence and bringing about development, we need to lead, lead and ensure that this is done. We need to ensure that our families are strong and vibrant for our children's sake, for our country's sake.

Mr. Speaker, in closing as George Benson sung in the

> "Greatest Love of All, I believe the children are our future, teach them well and let them lead the way…"

Ms. GRANGE: Hear, hear!

Mr. MAIR: …show them all the beauty they possess inside; give them a sense of pride to make it easier; let the children's laughter remind us how we used to be.

Thank you, Mr. Speaker.

(Applause by Government Members)

The SPEAKER: Thank you, Mr. Mair. Mrs. Robinson.

Mrs. ROBINSON: Thank you, Mr. Speaker.

Mr. Speaker, I open my contribution to this debate with a quote from Khalid Malik, the UNDP Resident Representative of the United Nations, and I quote:

> "The family is the basic component of our society and the world; it embodies our dearest feelings for human life and experience. Sustainable development is about taking a holistic view, bringing in economic, social and environmental aspects. The link between the two
> concepts is clear, though complex. Without access to jobs and a cleaner environment, families are unable to prosper. Equally, without conditions that nurture and safeguard their rights, families cannot thrive and in this—and this in turn holds back economic and

social progress. Functioning families are crucial to social cohesion and stability".

Mr. Speaker, the surest way of achieving sustainable development is through the development of human capital. It is the families that will provide us with this resource and their ability to impart proper values to their offspring that will dictate attitude towards education, work and ultimately productivity. Communities survive, Mr. Speaker, because of families with common societal goals coalescing to improve living conditions.

I want to congratulate the Member on the timeliness of this Motion.

(Applause by Government Members)

Government MEMBERS: Hear, hear!

Mrs. ROBINSON: Traditionally, the Jamaican family has been a very fluid structure. The Jamaican family does not fit into any of the usual sociological explanations, in that the family unit itself cannot be restricted to the traditional parameters. There exist several forms from large extended families to nuclear, single parent and sibling households. The Jamaican situation is much more complicated than standard family types. There is a proliferation of female headed single-parent households, with women from different generations running homes, grandmothers, mothers, nieces, sisters and aunts.

Mr. Speaker, there is a decline in family values and there is a very great emphasis placed on the role of parents and being a parent among young peopleYet, there is significant discourse among intellectuals in Jamaica that the family is losing its place as the vehicle of cultural transmission. And while the jury is still out on which other social institution has taken over its function, there seems to be some consensus that the family has lost significantly in terms of its central social position.

We have seen over the last ten (10) years unprecedented levels of crime and violence. Attacks on women and children have escalated both in terms of numbers and the degeneracy of the acts. High risk behaviour among our youth, higher numbers of unattached among that cohort, high levels of teenage pregnancies, high school drop-out rates beyond Grade Nine, and almost a feeling that our moral compass has become unhinged.

Government MEMBER: Hear, hear!

Mrs. ROBINSON: Mr. Speaker, some of the factors identified as having a negative impact on the family structure includes: economic hardship and poverty, a reducing labour market, migration, and out of migration we have children raising themselves, children that we refer sometimes as 'barrel children' they're bringing up themselves on their own; reproductive problems HIV/AIDS and other sexually transmitted diseases, violence and the inadequacy or failure of the critical agents of socialization to adequately prepare our children for the responsibilities of adulthood.

Vision 2030, Chapter Three of the documents outlines fifteen (15) national outcomes, five of which depend on our families to provide rounded, responsible and patriotic citizens.

Let's review them briefly - a healthy and stable population. Mr. Speaker, this has implications for nutrition which is directly

related to income levels and further to family types. Second, fertility rates. Those who live in nuclear families tend to have less children. And third, wellness which has to do with physical and mental health that is family related. World-class education and training, I would like to suggest that this outcome depends on the attitudes and values families place on education and the socialization that the child will experience outside of the formal school setting. It's not resources alone, as adequate and relevant parenting is critical components to the attainment of this objective.

Effective social protection, Mr. Speaker, is related to income levels of families which is correlated to family types and structures. A review of the *Survey of Living Conditions* will substantiate this. Linkages between family structures and income quintiles, security and safety, effective governance, a stable macro-economy are all hinged on our ability to produce citizens who are industrious, productive, entrepreneurial, and patriotic. These are values that are inculcated at young ages. As primary socializing agents the families have to embrace these values to pass them on effectively.

Mr. Speaker, we have become callous and cold, and indifferent and a renewal must take place, and where better to start than the home. We need to look at the lessons that we're teaching our children; we need to give them homes where respect and integrity are the cornerstones.

Government MEMBER: Hear, hear!

Mrs. ROBINSON: We need to discipline them without demeaning them.

Government MEMBER: Hear, hear!

Mrs. ROBINSON: We need to demand good manners and not forget our own. We need to see that their responsibilities are real, but not burdensome. We must praise them in a thoughtful way when it is due and we must teach them that excellence is work's real reward. And most importantly, teach them of the sanctity of life.

Mr. Speaker, we as legislators and leaders must renew our commitment to the upholding of the proper standards and morals that will ensure that our children become good citizens, and ultimately good family members.

(Applause by Government Member)

Mr. Speaker, I quote from Mother Teresa - it was Mother Teresa who said, "Kind words can be short and easy to speak, but their echoes are truly endless".

Government MEMBERS: Hear, hear!

Mrs. ROBINSON:

> **"**The greatest gifts that you can give your children are the roots of responsibility and the wings of independence."

And as parents we should all do that. Children are likely to live up to what you believe of them, so treat them as though they already are the persons they are capable of becoming.

Mr. Speaker, I urge all stakeholders and institutions that can help to make the necessary positive difference to come on board, do their part, and help to build a better Jamaica, So that we can really have better parents in the future - better families and better parents in the future.

Mr. Speaker, I support the motion. It has my full support. Thank you.

Government MEMBERS: Hear, hear.

(Applause by Government Members)

The SPEAKER: Mr. Charles.

Mr. CHARLES: Mr. Speaker, I could hardly be comfortable with a discussion taking place in this Parliament on the need to look at not only the economic state of the family, structure of the family but what is causing the great deterioration in family life.

Mr. Speaker, what we describe as poverty is one of the greatest setbacks for the development of family in Jamaica. People who are having children in many instances are children themselves. We need to teach family life. Parents need to be taught what it is to become a parent. We have families in Jamaica where people are literally trading fathers, searching for stability in the home. A woman searching for somebody just to help take care of herself and those children that have been placed in her care without a father finds herself having more children and poverty increases daily, circling around the family. No proper training facility, no home, no ability to send the children to school. They are unskilled, unemployed, underemployed; inability to support family.

Now, I know that it is easy to say call on the Government. It is not, in my opinion, as easy as that because the people who can really take of their children are not having all of these children. The people who can't take of children are having more children sand leaving them for the population of the prisons and the streets. How do we bring that under control? I'm not in a position to say. In some countries, people are restricted to certain amount of children, there's even sanction if you have more than you are able to care of.

The family is a natural and fundamental group unit in the society and is entitled for some protection from the society and from the State. Yes, the State provides health care and education.

Government MEMBER: To boy or girl.

Mr. CHARLES: There are some people who can't even access what the State is offering them. You go to some communities, Mr. Speaker, and believe me, if some one of these photographers or television crew would go into some of our communities in Jamaica and film them they would challenge anything you see on television that see you in some parts of the world that they say is only in those areas.

So, Mr. Speaker, what comes out of this unorganized or disorganized or unprepared family structure and family life? Child Labour. Mr. Speaker, the Ministry of Labour will tell you that we are bombarded with children out there "hustling" for survival, not only for themselves, but for mothers. And I specifically say for mothers, because there is no father around. How can you have a woman with a child in her stomach, one on her side, and one walking beside her standing on the sidewalk begging. And that is what our country is seeing. We drive past it.

I can't drive past it because guess what, the Prime Minister has instructed me to set up a social service for families of the farm workers. And in going out into the field, we are passing some things to go to the homes of farm workers that cannot be expressed in words. And we are very fortunate that we live in a country that when mango finish

breadfruit come in, and when breadfruit finish ackee come in.

Mr. SHAW: And yam is always with us.

Mr. CHARLES: We are very fortunate. Because if it weren't for that, there would be another problem. And I am talking about the economic and social sights, not necessarily the ones you are pushing, because I have to face it.

Mr. Speaker, we have had this problem for a long time. But a lot of things have caused a change in our culture. We have culture shocks, we have this dancehall business. When you drive past some of them in your car, it shakes up the car. And when you see some children, and you hear those little children sing those songs, I can't understand one word, but them know it all. And what it is saying leads me to say, if they - you know, these dancehall people could help the society, you know, they could help change the culture. Because if people are so attracted to the part that is destroying the society and the family, they could really put something in the society that we would be all attracted to, and the music, probably we would learn it faster.

Community Development. In the past we have had leaders who went throughout the country to establish communities. Many of us in this House were fortunate that the mothers and the fathers in communities were all our parents.

A Government MEMBER: Yes. Hear! Hear!

Mr. CHARLES: Miss Brown, when she tells any pickney in the district to do this, they better do it. That don't happen any more.

MEMBERS: No!

Mr. CHARLES: In fact, if the teacher speaks loudly to certain child that is doing certain things, they go home for the mother, and come to school to deal with the teacher who talks to her child. We have a different society to deal with, and it boils down to who is really responsible.

And I would like the member to look at the resolution. Because the fact is this, I don't know that I need to take blame for a teenager - a woman was twenty-seven and she had grandchildren already. Figure that out. It is not even something you can calculate, if you look into the numbers. But daughter follow mama, and mama follow grandchildren. And it is happening in society that I don't know what shock you are going to bring on, Minister, to have a change, and to start parents - teaching them to be parents, help remove the poverty that surrounds the breakdown in family life. We have lost hold of the church, we have lost hold of that. How have we lost that? Is it that children - is it the church's fault? When I was a boy my mother would make sure that you go to Sunday school, you go to Sabbath school.

MEMBERS: Yes!

(*Sotto voce* comments)

Mr. CHARLES: And you learn to sing a song, and you learn Bible lesson.

MEMBERS: Yes!

Dr. BARTLETT: And you recite them at church.

Mr. CHARLES: They have distributed Bible all over the society, and you can't find some Bibles in a house.

A MEMBER: Them can't read.

(*Sotto voce* comments)

Mr. CHARLES: Mr. Speaker, I believe that the perfect family could be at any level. There must be a man and a woman that can give support to the children. And I am not saying wife and husband now, because our society has different ways of putting it together.

(*Sotto voce* comments)

Guardians. The grandmother seems to be one of the greatest source of family life in Jamaica. Everybody carry home a child to the grandmother. And the grandmother is not able to take care of all of them at this time.

Mr. Speaker, from the Ministry of Labour and Social Security's point of view, we are trying to help to give a source of support to the family. The Ministry of Education, in cooperation with the Ministry of Labour, is trying to put education available - make education available to children at all levels, regardless of their background.

What we have discovered, Mr. Speaker, is that below the support that the Ministry of Education and the Ministry of Social Security are giving at the PATH level, there is a big, loose hole below. There is no home. You walk into some homes and you wonder if all who you see outside sleep in the capacity you see inside. And they can't go in until certain time in the night. And it used to be a laugh in society; it is real.

So, we have to make an appeal to - and I think the first appeal has to go to men. Men must consider children one of the greatest investments that God has made at his command. (Applause) Men who are still coming only when them hear the children going graduate, and them come and sit down and say, "a my boy dat!" (Applause)

And I make a different type of appeal to women, because I have gone through all the social situations that make some women having so many children, some women making so much sacrifice to help a child, and there is great sympathy there. But then, sir, they also have to try and protect themselves.

Mr. Speaker, the last point. The Fatherless Family. The Fatherless Family. It is losing economic support, financial support, residence, there is no home, and more, Mr. Speaker, the child cannot accept the education made available for them by the State. The child cannot accept that. They cannot go to school. They don't have clothes, shoes, food, books. They go to school for free education, the rest of it is they hungy. And they said Bustamante said it in this House once, I don't know if it is true. Which comes first? Can a child who is hungry accept education? Can a child who has no clothes go to school where education is available? And where is the parents' ability to satisfy that, so that the State that you are calling on can pick up its responsibility? Because the State's responsibility comes not bed and breakfast, but above that.

I feel proud that you bring this to our attention. And I can only tell you, sir, that I have a problem in facing it every day, the inability of the present family structure to create the kind of society that we are looking for in the Twenty-first Century, and whatever can be done, this Parliament can make a contribution. Thank you very much. (Applause)

The SPEAKER: House Leader.

MEMBERS: Suspend.

Mr. HOLNESS: Mr. Speaker, this debate is of great interest, and members have appealed that they would like to participate next week when we meet again at a later stage. So, Mr. Speaker, we will suspend debate for today.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business today. I therefore move that the House do adjourn until next Tuesday, the 25th of January, when we will resume our business.

The SPEAKER: Members, the motion before the House is that this Honourable House do adjourn until Tuesday, the 25th January, at 2:00 p.m.

Put to the House and agreed to.

The SPEAKER: This Honourable House stands adjourned.

The House of Representatives was adjourned at 5:48 p.m. to resume on Tuesday, January 25, 2011, at 2:00 p.m.

THE HONOURABLE HOUSE OF REPRESENTATIVES

SESSION 2010 – 2011

TUESDAY, January 25, 2011

PURSUANT to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2.19 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

MINISTERS OF STATE

THE HONOURABLES:

DARYL WESLEY PHILLIP VAZ, (JLP), Portland, Western, Minister without Portfolio in the Office of the Prime Minister, Minister of Information and Telecommunication.

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

OTHER MEMBERS

DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. FENTON RUDYARD FERGUSON, (PNP), St. Thomas, Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

DR. ESMOND VERNAL PATRICK HARRIS, (PNP), Trelawny, South Central.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

DR. KENNETH WYKEHAM MCNEILL, (PNP), Westmoreland, Western.

MRS. NATALIE NEITA-HEADLEY, (PNP), St. Catherine, East Central.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. DEAN ALEXANDER PEART, (PNP), Manchester North Western.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

PRAYERS

Prayers were offered by Mr. Desmond Mair.

The House resumed its sitting at 2.19 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

STATEMENTS BY MINISTERS

Mr. HOLNESS: Mr. Speaker, the Minister of Labour and Social Security has a Statement.

The SPEAKER: Mr. Charles.

Mr. M. PEART: Minimum wage?

The SPEAKER: Mr. Charles.

Mr. CHARLES: Thank you, Mr. Speaker.

The SPEAKER: Mr. Charles, you have copies for circulation?

(HON. MRS. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, entered and took her seat.)

Mr. CHARLES: I must apologise. I will let you have it. It's somewhere around but I am not in a position to give it to you now. I will let you have it in a few minutes.

The SPEAKER: Minister Charles, normally it is circulated.

Mr. CHARLES: I could get it and then you suspend the Standing Orders.

The SPEAKER: You see Minister Charles, it's normal for you to have it ready at the time you are making the presentation. So…

Dr. DAVIES: Just *ad lib* and give me the paper. You know what is on it. Give me the paper.

The SPEAKER: You don't have a copy at all that we can get a copy right away?

Mr. CHARLES: Mr. Speaker, copies are somewhere around, but I am not able to give you at this stage.

Dr. DAVIES: Give me the copy and you just talk. When will we get it? House Leader, we hold you responsible.

Mr. CHARLES: I could wait.

The SPEAKER: Minister Charles, let us recommit it shortly.

Mr. CHARLES: I could wait until they come.

The SPEAKER: Yes**.** We'll recommit the item shortly. Just hold and then we will recommit when the copies are ready.

FORMER SPEAKER MACPHERSON PASSES ON - TRIBUTES

Mr. HOLNESS: Mr. Speaker, before we proceed with the Business of the House, Mr. Speaker, last week - and we have been doing this with some frequency - another member of the House, in fact a former Member of the House, in fact, Mr. Speaker, a former Speaker of the House passed away last week. As is the custom in the House - MR. RIPTON MACPHERSON - we would take the time, Mr. Speaker, to pay our tributes to his memory and to his work. I invite Members who would want to do so to do so now.

(MR. ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Defence, entered and took his seat.)

(DR. THE HON. CHRISTOPHER CHARLES TUFTON, (JLP), St. Elizabeth, South Western, Minister of Agriculture and Fisheries, entered and took his seat.)

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Mr. Speaker, thank you very much.

The Opposition wishes to record its sympathies and condolences to Mr. MacPherson's wife and family.

(DR. THE HON. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing, entered and took his seat.)

As is well known, he served as Speaker of this House between 1972 to 1980 and represented two constituencies over in St. Catherine during the period of time that he sat in this House.

For those of us who knew him, Mr. MacPherson was a very dignified man, a man of the highest integrity and he served his time as Speaker in this House certainly with distinction. He served also, Mr. Speaker, out in the wider field as President of the Cornwall Bar Association for some time in Western Jamaica and again he gave very distinguished and yeoman service there. He was someone you could always depend on to give good advice. I remember when we came here in 1989, that group of us who came in '89 and are still here will recall that he was called upon to give us some insight as to the parliamentary procedures and how we should operate within the Chambers. Sadly to say we have departed from some of it, but nonetheless, he was able to give us some very good advice as to parliamentary procedures.

I would like to take this opportunity, Mr. Speaker, to ask you to direct the Clerk at a later stage, to do the usual courtesies for the Honourable Ripton MacPherson.

Thank you, Mr. Speaker.

The SPEAKER: Thank you, Mr. Kellier. Leader of the Opposition.

Mrs. SIMPSON MILLER: Thank you very much, Mr. Speaker.

First of all let me extend condolences to his wife and his children and other members of the family.

(DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern, entered and took his seat.)

(HON. WILLIAM JAMES CHARLES HUTCHINSON (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture and Fisheries, entered and took his seat.)

He was a very outstanding Jamaican. His was a life of service. He is from a family who believes in serving country and putting country above self. His sister who predeceased him, DR. PHYLLIS MACPHERSON-RUSSELL, was an outstanding educator. And I believe that contribution that Mr. MacPherson made to this Parliament, to his constituency -then constituency that he represented and to the people of Jamaica, will always be remembered.

He was a very quiet, calm person but very firm. And he sat in the seat you are now occupying, Speaker. And I can tell you, he was one kind of a Speaker.

And so, today as we mourn his loss I hope that his wife and other members of the family will take comfort in the fact that the greatest service that one can give is service to one's country. For he served and served well. May they be comforted by the powerful warm embrace of the Almighty during this time of sadness as they grieve.

(Applause)

The SPEAKER: Thank you, Mrs. Simpson Miller. Prime Minister.

The PRIME MINISTER: Mr. Speaker, I am sure I am not the only one in this House who bemoans the fact that we are having to do this too often in recent times. We have lost seven (7) former Members of this House within the last year.

RIPTON MACPHERSON, Mr. Speaker, as has already been pointed out, served in this Chamber from 1972 to 1980. I suspect that there are not a few Members of the present House who have never met him. There are in fact only three Members of the House who at some point in time served with him while he was a Member of the House and Speaker of the House: the Leader of the Opposition, the Member for Eastern Hanover and myself. And I believe I am the only one who entered Parliament at the same time that he did in 1972. Those persons who knew Ripton will concur that he was a man of urbanity. He was a man who displayed at all times a level of civility, charm that would endear him to almost anyone. He was, in my view, certainly in the time that I have been here, one of the best Speakers that the Parliament has produced. But it doesn't mean that I always agreed with his ruling.

I remember on one occasion during a Budget Debate, I was chosen as one of the three speakers from the Opposition benches - to tell you how far we have come. In those days - nowadays we may argue about the order in which persons will speak. In those days there was a big argument as to who was to speak from each side. And the Government at the time objected to my being one of the Opposition speakers.

Dr. DAVIES: Hear, hear!

The PRIME MINISTER: For good reason, because they knew what I had to say. (Laughter) And the moment that the late MR. ALLAN ISAACS had completed his presentation I rose in my place. The Speaker looked at the Leader of the House and said, Mr. House Leader, would you please make arrangement for the business of the House. So I protested. I said, Mr. Speaker, I am the

only person on his feet. And I looked him straight in the eye and said and you are looking at me. I have caught your eye. His response to me was that the fact I am looking at you doesn't mean that I caught your eye…(Laughter) …and proceeded to ask the Leader of the House to make arrangements for the business of the House.

(MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern, entered and took her seat.)

What was amazing is that when I was leaving Parliament - well wasn't that same day because we had to stage a walk out, but the following day when I was leaving Parliament I saw him at the door and he says, you know I didn't want to do what I did. I said well I don't know what you mean by that. He said, but you understand what I mean, don't you? And I still remained silent. He said, don't you? And I nodded my head because I understood. He meant no ill-will.

In his rulings he was firm, he was passionate about the business of the House. He was a committed Parliamentarian. He was very passionate about the discipline that the House should demonstrate. And his love of Parliament and the extent to which he became so involved in Parliamentary work and Parliamentary business and tradition earned him the respect of many parliamentarians throughout the Commonwealth. Indeed, he served as Chairman of the Commonwealth Parliamentary Association, and shared with us in Parliament some of the innovations that were being introduced in other Parliaments across the Commonwealth.

(MR. LUTHER BARTLETT MONTEITH BUCHANAN, (PNP) Westmoreland, South Eastern, entered and took his seat.)

As I said, Mr. Speaker, we have lost someone who made his contribution in the time that he was here. And even after he retired from politics he remained active. He relocated to Montego Bay. He returned to his law practice. He served as President of the Montego Bay Chamber of Commerce, he served as President of the Cornwall Bar Association. And he was active and continuing his work up to virtually the time that he died.

(MR. RUDYARD CONRAD SPENCER, (JLP), Clarendon, South Eastern, Minister of Health and the Environment, entered and took his seat.)

His wife advised me that he had been going to office on his usual schedule. For the last two weeks he had reduced that to a few hours a day, and even on the day that he died his secretary was at home with him and he was going through matters with her, and then suddenly took ill and passed away.

As he deserves, Mr. Speaker, the Government will be according him an official funeral, which will take place next week Saturday, Saturday the 5th of February, at the Cathedral of the Most Blessed Sacrament in Montego Bay, and I am sure that many of us will make the effort to be there and to say farewell to another stalwart of this Chamber.

The SPEAKER: Thank you, Prime Minister.

Mr. Fagan.

Mr. FAGAN: Thank you, Mr. Speaker.

Mr. Speaker, I did not get the opportunity to work with the Honourable Ripton - Speaker, as many other members here. But I am sure the people of South East St. Catherine would not forgive me if I did not say a few words on their behalf.

Modern Portmore, as it is today, would not have been what it is without the work of Ripton MacPherson. He started to represent that constituency, not in the same configuration as it is now, but for the most part, most of what it is now was part of what he represented. When he came to that part of Portmore, that area was virtually like a crab bush, Mr. Speaker. And so he started his work as far as the infrastructure is concerned, and he started to work. And in fact, at one time he was doing eight schools, never seen in the history of Jamaica. Bridgeport High School, Bridgeport Primary, Bridgeport Infant, Waterford Primary, Waterford Infant, Waterford High School, Naggos Head Primary, Naggos Head Infant, all of those schools were done during the time of his representation.

He went further, Mr. Speaker, to establish complexes in Bridgeport and in Waterford, where those complexes could house the police station, the post office and clinic, and also a library. The fire station which now exists in Waterford was part of what he represented, and in fact, that fire station now serves the entire Portmore.

Mr. Speaker, the people of South East St. Catherine will have this legacy, they will always remember Ripton McPherson for his work. I am told that he was a very unassuming person. I am told that he was somebody with high discipline and was always willing to listen.

(HON. DARYL WESLEY PHILLIP VAZ, (JLP), Portland, Western, Minister in the Office of the Prime Minister with responsibility for Information and Telecommunications, Entered and took his seat.)

Mr. Speaker, I would like to, on behalf of the people of South East St. Catherine - and I am sure Fitz may want to speak - the Member from South – because he, the Speaker himself, did represent South St. Catherine. And I believe that the people of South East St. Catherine would want me to express condolences to the family and those who are close to the member. On my behalf, I would like to express deep condolences.

The SPEAKER: Thank you, Mr. Fagan. Mr. Fitz Jackson.

Mr. JACKSON: Mr. Speaker, I wish to join my colleagues here in paying tribute to our past Speaker of the House and Member, who, as my colleague from South East indicated, did represent part of my constituency, which spans into the Spanish Town area now.

I never had the opportunity to meet him personally while he served, but I have had a few encounters with him subsequent to his tenure in the House. I found him to be really a gentleman. And from my interaction with my constituents, mainly the older ones who have served with him in their active years, spoke fondly about their experiences with him and the person that he was; committed to the development of the areas in the constituency,

committed to the development of the people in the constituency. And he has left a rich legacy on which I have tried to build as a succeeding Member of Parliament for parts of that constituency. (Applause) I hope that I will do him justice and honour in my ensuing years as Member of Parliament.

On behalf of my constituency, those who have benefited from his service, I wish to convey their gratitude for those sacrifices he had made during his time. (Applause)

And as all of us know, Mr. Speaker, public service is one of personal sacrifice, and sacrifice to your family. And so to his family, I want to say thank you for giving him to us, we appreciate that. And may his soul rest in peace. Thank you.

The SPEAKER: Thank you, Mr. Fitz Jackson.

Dr. Duncan.

Dr. DUNCAN: Permission to speak from a place other than my own.

The SPEAKER: Granted.

Dr. DUNCAN: I rise just to reaffirm, confirm, and to add to the tributes to the Honourable former Speaker of this House, SIR RIPTON MACPHERSON.

First of all, as the Prime Minister reminded us, I am one of those three persons still in Parliament at this time who served with him as Speaker, and can also attest to his firmness and fairness in those days when I attended Parliament.

Secondly, that also led me to interact with him as the Chairman of the Boundaries Commission. In those days those were the older days, as you remember, Mr. Speaker, when the Electoral System and the control of it was in the hands of the - whoever was the governing party at that time. And as exists now, he was Chairman - as Speaker, he was Chairman of the Boundaries Commission, which as it is now has three members on either side, with the Speaker therefore wielding considerable influence, if not power. And my recollection is that on both sides we had extreme difficulties with him, in relation to getting a consensus in relation to boundaries. I remember, however, as his rulings in the House in relation to the boundaries, he also was firm and fearless and fair.

(MR. FRANKLYN R. WITTER, (JLP), St. Elizabeth, South Eastern, entered and took his seat.)

Maybe one of the lasting tributes that we could make to the Speaker - to the former Speaker of this House, is to look very seriously at one of the last outstanding areas, one of which could be a knotty problem, but one of those last areas in our electoral system that the political parties still have some level of authority over, that is the setting of the boundaries, and to move that into the hands of the Electoral Commission of Jamaica. With all of the difficulties that have arisen recently, we have to consider it if we are going to be true to the principles that we hold dear.

Finally, as the Chairperson for that part of the island of the People's National Party, in which Comrade Ripton MacPherson resided, I want to, on behalf of Western Jamaica and Region Six in the People’s National Party, to add to the tributes, and to say to his wife and his family that we will be there with you in this period of mourning, and we hope we can continue to be there with you after the funeral

is over. And that we are happy that an official funeral has been accorded to Comrade, Former Speaker Ripton MacPherson.

Thank you very much.

The SPEAKER: Thank you, Dr. Duncan.

Reverend Thwaites.

Mr. THWAITES: Mr. Speaker, my last recollection of the late Parliamentarian, Ripton MacPherson, was at a Committee meeting - I wonder if you were a part of it - in 1998, when under the Chairmanship of the late Donald Buchanan, a look was being taken at the situation of the pensionable rights of former Members of Parliament. And if we would wish to do honour to the memory of the Late Ripton MaPherson, we would pay attention to the fact that he and other former Parliamentarians, many now deceased, brought to the attention of that Committee, and therefore, to the House, as to the inadequacy of the health benefits and the pension arrangements for members. He exempted himself from the situation, because he had, after all, a learned profession, which he could hang out his shingle and return with some difficulty, to practise.

(MR. MICHAEL ANTHONY STERN, (JLP), Clarendon, North Western, Minister of State in the Ministry of Industry and Commerce, entered and took his seat.)

But he pointed with altruism to the situation of many of his colleagues who had left their work, or in other ways prejudiced their own enterprises in order to serve in this House. And he argued before that Committee, cogently, indeed, passionately, Mr. Speaker, that we were doing no service to the democracy of this land, and there was no frugality that was reasonable in arguing that we were - we ought not to consider these very important matters.

This springs to my mind as we pay his memory honour today, and it remains still the onus and the purview of members of this House and indeed, your good self, to ensure that the proper arrangements are considered, not just by ourselves, but with the help of others, whose fairness can be perhaps better vouched, in order that those who serve in this House do not suffer financial disregard and difficulty in their waning years. The proper health benefits and the proper pension need to be looked at from time to time, having regard to the ravages of inflation and other factors in the economy. This was the passion of RIPTON MACPHERSON. And I would ask that we place it back on our agenda, in order to do his memory justice and to offer equity to us and to those who will follow us.

Thank you.

The SPEAKER: Mr. Peart.

Mr. M. PEART: Mr. Speaker, I rise to pay tribute to the passing of the late Ripton MacPherson. He served this Parliament as Speaker, with distinction. Whilst I was not present, I had the fortune of whilst representing this Parliament in the CPA, to have met other Parliamentarians across the Commonwealth who had him in high esteem. And in fact, Mr. Speaker, long after his sojourn in this Parliament, he was always available for consultation. And in fact, at our post-election seminars, he was always available to assist in making presentations, so that the new Parliamentarians would be able

to enter this Chamber with a little more confidence.

So my condolences to his family, and we recognize the contributions he made to Parliament and to Jamaica.

Thank you.

The SPEAKER: Members, we will ask the Clerk to send a letter - card of condolence. But in the usual customary manner the House will rise for a minute's silence.

(A minute's silence observed by Members of the House)

The SPEAKER: May his soul rest in peace and light perpetual shine upon him.

STATEMENTS BY MINISTERS

NATIONAL MINIMUM WAGE – INDUSTRIAL SECURITY

The SPEAKER: Minister Charles.

Mr. CHARLES: Mr. Speaker, two weeks ago I tabled in this House the Minimum Wage (Amendment) Bill 2010 to facilitate the increase in fines and penalty payable for breaches of the provisions of the National Minimum Wage Order, 1975 and the Minimum Wage (Industrial Security Guards) Order, 1982. At that time Members of this House enquired when will the National Minimum Wage and the minimum wage for Industrial Securities be increased. Today, I am happy to report that the Cabinet has approved an increase to be made to the National Minimum Wage, and the minimum wage for Industrial Security.

With effect from the 20th of February 2011, the National Minimum Wage will be increased from $4,070 per week for a 40-hour work week to $4,500 per week for a 40-hour work week.

The Minimum Wage and Fringe benefits for Industrial Security Guards have also been increased with effect from the 28th of February 2011. Minimum wage has been increased from $6,050 per week, to $6,655 for a 40 hour work or $166.38 per hour. Laundry allowance increased from $27.50 per hour to $30.25 per hour, Firearm Premium allowance increased from $30.25 per hour to $33.28 per hour, Dog Handler's premium allowance increased from $20.35 per hour, to $22.39 per hour.

Mr. Speaker, previously these allowances were not payable for any period in excess of 40 hours in any work week. The Government has decided that the cap has to be removed so that allowances will apply to every hour that is worked by a security guard. We cannot accept that a security guard carrying a gun for 60 hours could only be paid for 40 hours allowance, so we have removed the cap.

Life insurance coverage for security guards has also been increased from $1.5 Million double indemnity to $2 Million double indemnity.

Mr. Speaker, I have commissioned a study to ascertain what is considered a livable wage. In light of all the circumstances prevailing in Jamaica at this time, the work in this regard is not yet complete. However, based on the fact that no increase was made to minimum wage in 2010, the Government has decided to effect the stated increase at this time. I want to make it clear that as soon as the study is complete, Members of this House will be supplied with copies of the study and

this House will guide where we go from here with the minimum wage.

Mr. Speaker, the relevant Ministerial Order which is subject to affirmative resolution of both Houses of Parliament will be tabled next week.

Mr. Speaker, we make the statement now, because people like the owners of security have asked for one month advance notice so that they can make commitment - make connection to their employees, and employers.

Thank you.

The SPEAKER: Mrs. Simpson Miller.

Mrs. SIMPSON-MILLER: Thank you very much, Mr. Speaker. I am going to ask you to allow me because I will be absent from next week's sitting as a result of my having to attend the board meeting UNITAR's Board Meeting in Geneva, so I will not be here. But I want to raise some questions to the Minister.

Minister, I understand your challenge. Every Minister meet the same challenge every time you are to increase the minimum wage. And this is for the people at the bottom. And the increase of $430, and the per hour $10.75, Minister, this cannot even buy an icy mint, cannot buy an icy mint. But Minister what is more disturbing - and I understand that there are people who are minimum wage earners themselves who employ others. But trust me, Minister - I have a list of some consumer - the Consumer Affairs Commission, Grocery Survey Results, December 9 and 10.

Minister, a kilo of chicken, is for $302.45. And I took the cheapest one. Cooking oil $145.40 I did not put - well corned beef, Lasco $173.97 cornmeal $107, and then I could down, counter- flour this list does not include margarine, vegetables, eggs, toothpaste, soap, disinfectant. And think about the woman with children, or the man, bus fare, lunch money, no infant formula on this list, no ground provision; no sanitary napkins. But, when I checked a few of the items on this list, it came to - the take home would be $2,723 that would be the take home pay of a minimum wage earner. It doesn't have the things I mentioned - I mean yam, banana, sweet potato, no vegetable, it doesn't. And I am just saying, Minister, we are going to have to find a way, I know you had a study done on livable wage. This certainly, no one, none of us inside of this Parliament, not one of us inside of this Parliament, taking a friend for lunch would be the cost, and this is what the people with two, three children, some going tertiary institutions. And I really feel, time come, time come, we have to find a way, and they wait so long and then, some employers said give us more notice and they are given more notice. What happen to the minimum wage earners who are finding it difficult to even find food for themselves and their children, but they give their children priority.

Minister, Minister, I did not believe that minimum wage means that it should be starvation wages. And I understand your challenge. I have been there, and others over here have been there, we understand. But this is not a normal time, we are not operating in normal times. And as a former trade unionist, with another trade former unionist on that side, I am shivering to think, it came to Cabinet and the two of you signed off on it when the workers of this country, receiving

minimum wage must live the way they are living. No, Minister, all of us, Government and Opposition we have to find a way because we must make things a little better for those at the bottom, the minimum. (Applause)

Mrs. NEITA-HEADLEY: It can't work, it can't work.

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Thank you, Mr. Speaker.

Minister just for clarity. We have - based on your statement, I know you will be laying the orders for affirmative resolution next week so we will have a fuller debate then. But just for some clarification. How does this announcement which you have made now, how does this affect the sugar workers? Because there is a correlation between what is done now with minimum wage as it affects the sugar workers who, you know, some are very restive at this time.

And the second thing, which I would like clarity on now for the benefit of us all; you had indicated before that the livable wage discussions and recommendations should be in by March of this year. Assuming that it comes on time and we have the debate on it, are you in a position to advise the House at this time whether or not you would be able to make an adjustment after the livable wage discussions have been completed, during this - the coming financial year? (Applause)

Because as the Leader of the Opposition has explained very graphically, leaving out a lot of the items, you know, what is required based on the Consumer Affairs Department basket, you know, we are in some difficulties.

So we are going to have to discuss it and work it out. I just want you to clarify those two points for me, Minister, right as to whether or not - how it affects the sugar worker at this time. Because once you announce here they want to know what their position is. And also, where we go immediately after we get the report, where the adjustments are concerned.

The SPEAKER: Dr. Davies.

Dr. DAVIES: Thank you very much, Mr. Speaker.

Mr. Minister, I will be making a more substantive contribution next week when you bring the affirmative resolution.

I would like you to answer, to follow up on this livable wage - what is it, a commission? Whatever it is. Are there terms of reference, is there a time line? So when will we – when will we as Parliamentarians have a chance to see a preliminary report or whatever? Or do we - will we have an opportunity to make a contribution before that Commission or before that Committee, whatever we call it. But I would like to know what is the timeline and what is the opportunity for Members of Parliament to make - to have an input in this.

I say this, Mr. Speaker, because if there is one area where our Jamaican technocrats have done considerable amount of work recognised internationally, it relates to the issue of measurement - measuring poverty, monitoring poverty levels et cetera. And it would be very, very useful if that work serves as an input in the deliberations of this livable wage. So I'd like to have some firm responses because I myself would like to testify before that committee.

(MR. ROBERT DIXON PICKERSGILL, (PNP), St. Catherine, North Western, entered and took his seat.)

Mr. JACKSON: Mr. Speaker...

The SPEAKER: No, just a second. Minister Charles, there are others who would like to ask some more questions, you want to answer now or you want all the questions first?

Mr. CHARLES: Follow your guidance.

The SPEAKER: Well answer those first then.

Okay, Mr. Fitz Jackson.

Mr. JACKSON: Thank you, Mr. Speaker.

Minister, one of my questions follows on that of the Member from South St. Andrew, in respect of that study that you referred to in your presentation. Yes, I'd like to know what time-frame. But secondly, is it that the increase contained herein represents an interim increase pending the results of that study, which I presume would be in short order, but your indication to the timeframe would confirm whether it is so or not? That's one.

Two, Mr. Speaker, we are aware that a number of minimum wage earners are persons who are employed by employers who are holding contracts with the Government. They happen in security, janitorial services and a number of other services. What I've found out is that in many of these instances these workers, who in effect are being paid from the public purse, are not paid at the minimum wage level and we tend to take the position that it's not our responsibility. But Minister, I want to submit that one of our responsibilities as Government is to look out for those who are most vulnerable; and invariably many of these persons for whatever reason, are not able to adequately fend for themselves in this regard. And as such I believe we have an obligation as a State, given that the payments do come from the public purse, to ensure that at the very end these employees get the minimum wages.

And in fact, I want to also suggest, Minister, that your Ministry, if it's not being done already, give special consideration to some monitoring mechanism for these workers - especially security guards and generally those who are contracted - working from contracts through the Government.

And finally, Minister, in order to preserve the intent of the minimum wage going to those persons who are so engaged for that level, that in contracts by the Government, we make provision that the wage element is not one that is bidded on but that is set and is not up for negotiation. And the other cost, like material cost and other services, those are where bidders can vary their cost, depending on their own efficiencies - their internal efficiencies - and ability to manage those contracts, to ensure that we don't expose the workers who are working for these contractors of the Government in any, you know, deleterious way.

So I really submit that, Minister, that you give consideration to those latter points. Thank you.

(DR. KENNETH LEIGH O'NEIL BAUGH, (JLP), St. Catherine, West Central,

Deputy Prime Minister and Minister of Foreign Affairs and Trade, entered and took his seat.)

The SPEAKER: Minister Charles.

Mr. CHARLES: Mr. Speaker, let me first explain to Members of the House. Minimum wage is not a negotiated rate for people who are working. Every person has the right to negotiate the rate that they charge for their service. The Government sets a minimum wage....

Mr. PICKERSGILL: Every year yu come back wid the same thing. Nuh badda repeat it. We know dat.

Mr. CHARLES: You know something, propaganda is the cheapest commodity in the world, even the poor can buy it.

Dr. DAVIES: Stick to the question.

Mr. CHARLES: Even the poor so you stop your propaganda and foolishness.

Mr. PICKERSGILL: You are the Dean of that faculty.

Mr. CHARLES: Even the poor can buy a stomach full of it.

(Inaudible comments by Opposition Members)

Mr. CHARLES: Mr. Speaker, Mr. Speaker, nobody in this House, neither on that side or this side is unsympathetic to people at the bottom of the ladder.

(Inaudible comments by Opposition Members)

Mr. CHARLES: Nobody. All of us - I have the responsibility not only to look on who is getting the pay, but who is paying it.

Mr. PICKERSGILL: How all of a sudden yu so inclusive?

Mr. CHARLES: I have to do the study - the consultation, and I know that certain actions that I take can put more people out of work than keep some in work. And those two persons over there who were former Ministers of Labour are fully aware. But as I say, I could come here and sell a stomach full of propaganda to the poorest man because you don't have to pay for it.

Mr. PICKERSGILL: Yuh betta check **Hansard** what yuh use to say. Yuh remember what yuh used to say?

Mr. CHARLES: Mr. Speaker, It is a fact that these are not normal times and that is why the Prime Minister has instructed...

Dr. DAVIES: Hold on, yuh know wey yuh a sey?

Mr. CHARLES: ... that until the study...

Mr. PICKERSGILL: Yes.

Mr. CHARLES: ... of living wage is complete somewhere in March, April thereabout, we are to proceed with...

Mr. PICKERSGILL: Who a do the study, nuh your Ministry?

Mr. CHARLES: ... an increase in the minimum wage. When the study is complete, it was proposed that every Member of this House...

Mr. PICKERSGILL: Yeah.

Mr. CHARLES: ...will get a copy of it. That it will be properly discussed, that we will consult on it and we'll find a way forward together.

Dr. DAVIES: That sound vague.

Mr. CHARLES: It is expected that the study will be finished...

Mr. PICKERSGILL: When you get so inclusive I get worried. (Laughter)

Dr. DAVIES: Ruddy and I go to school together.

Mr. PICKERSGILL: You and Ruddy gwine study it first? Answer nuh man? (Laughter)

Mr. CHARLES: You know, Mr. Speaker...

The SPEAKER: You just continue, Mr. Charles. Ignore the *sotto voce* comments.

Mr. CHARLES: You'd be surprised to know, Mr. Speaker, that I had consultation...

Mr. PICKERSGILL: Yes.

Mr. CHARLES: ...with Members on that side as to the effect of the present minimum wage and what we can do.

Mr. PICKERSGILL: Call name.

Mr. CHARLES: Ask her to tell you.

Mr. PICKERSGILL: What?

Mr. CHARLES: Ask her to tell you.

Mr. PICKERSGILL: Sey what? (Laughter)

Govt. MEMBER: A who yuh a talk?

Mr. CHARLES: A question was asked, Mr. Speaker, a question was asked, Mr. Speaker, as to how it will affect the sugar workers and that's a very sensible question. The former Minister understands...

Dr. DAVIES: Former Minister of what?

Mr. CHARLES: ...that one little shift can throw the whole sugar industry in chaos.

Mr. PICKERSGILL: Former Minister of what, Agriculture?

Mr. CHARLES: So I'm to advise you that the sugar workers minimum wage is at the same level at the national minimum wage and they have been negotiated by their trade unions. So it will not affect the sugar industry at this time.

Mr. PICKERSGILL: Yuh mash up the bauxite company so a talk bout sugar industry.

Mr. CHARLES: I cannot guarantee, Mr. Speaker, that after this House...

Mr. PICKERSGILL: Yes.

Mr. CHARLES: ...in consultation, decides how do we go forward after the study, right, and I make a promise to you...

Mr. PICKERSGILL: Yes.

Mr. CHARLES: ...it will be done in consultation and we take a nationalistic approach that protects the worker and the employer.

Madam Speaker the Leader of the Opposition is well aware...

(*Sotto voce* comments by Mr. Pickersgill)

Mr. CHARLES: ...Madam Speaker the Leader of the Opposition is well aware. She has had the problem before, in that we raise the minimum wage and workers are put on daily pay instead of weekly. And several workplaces where we had two and three workers one and two had to leave.

Dr. DAVIES: You're making that up as you go along.

Mr. CHARLES: It is not an easy road. And nobody over there is more aware than we do.

Mr. PICKERSGILL: Check **Hansard** what you used to say. Yuh remember what yuh use to say?

Mr. CHARLES: Don't come here wid yuh propaganda.

Mr. PICKERSGILL: Check **Hansard**.

Mr. CHARLES: I'm saying to you ...

Mr. PICKERSGILL: Yes.

Mr. CHARLES: ...it is the cheapest commodity in the world, even the man without money can buy it - a stomach full of it.

Thank you, Mr. Speaker.

Mr. PICKERSGILL: You are the Dean of that faculty.

Dr. DAVIES: I was just tying to get an answer to a very simple question. Is there a timetable? Are there terms of reference for this Committee? When can we expect...

Mr. HIBBERT: End of March.

Dr. DAVIES: ...it's not an open-ended situation.

(Inaudible comments)

Mr. CHARLES: I did say, Mr. Member, that the commission was given out sometime ago and we were promised by the end of March, we should have a full report. And it is expected to come to this House as soon as the Report is handed in to us.

The SPEAKER: Okay. Mrs. Simpson - sorry - is that Mrs. Simpson Miller?

Mrs. SIMPSON MILLER: Mr. Speaker, I just want to remind the Minister it was no consultation. He said the Opposition speaker over there, but there are three of us, for sure, inside here who were involved with the trade union movement before we became Members of Parliament.

Mr. M. PEART: Pearnell yuh nuh know dat?

Mrs. SIMPSON MILLER: We have a responsibility to protect the rights of the workers of this country...

Mr. KELLIER: Hear hear!

Mrs. SIMPSON-MILLER: ...whether we are still actively engaged with the trade union movement or not, that was our training and part of our background. And it is supposed to die with us...

Ms. HANNA: Hear, hear!

Mrs. SIMPSON MILLER: ...not before we die.

Ms. HANNA: Hear, hear!

Mrs. SIMPSON MILLER: I am going to be holding - and Minister when you said you consult, if you whisper something to me and said to me, don't mention to anybody at all, I could not have a meeting with my ...

(*Sotto voce* comments by Government Members)

Mrs. SIMPSON MILLER: Any Minister - or if the Prime Minister says to me, I'm going to say something to you in confidence, I am not going to go and have a meeting with my side to say it, because I was told that it is not to be said to anybody. And so you said you're gonna take it here, I held it, I never said anything, but you know I told you right there and then you are in trouble, but I could not support what you were coming with.

Mr. Speaker, I'm therefore asking the Minister who indicated to us that when the study is ready, he is going to be taking it here and we are going to be having some consultation. Minister, remember what you said, consultation, not confrontation...

Mrs. NEITA-HEADLEY: Yes.

Mrs. SIMPSON MILLER: ...consultation.

Mrs. NEITA-HEADLEY: That's it.

Mrs. SIMPSON MILLER: We await...

Mr. PICKERSGILL: And not retract.

Mrs. SIMPSON MILLER: ...we await the consultation when we can have some more discussion, some more fulsome

discussion on this particular issue that I believe - it is not about political one-upmanship ...

MEMBERS: No.

Mrs. SIMPSON MILLER: …it is about the people who are at the bottom of the pay scale. (Applause)

MEMBERS: Hear, hear!

Mrs. SIMPSON MILLER: And so all of us must then sit, when we get that study on the livable wage, and have some discussion and work together how we can deal with it, to lift the position and the living standard of the masses of the people of this country.

Thank you.

The SPEAKER: Mr. Fitz Jackson.

Mr. JACKSON: Thank you, Mr. Speaker.

I don't know if the questions I asked had slipped the Member. But I specifically asked, one, if the increase granted here, represents an interim increase pending the livable wage study that you made reference to in your statement?

And I asked the question, Mr. Speaker, because the Minister's discussion of the matter conveys some appreciation that the minimum wage may not bear any relevance to what is considered a livable income. So that's the basis on which I asked that specific question.

Mr. JACKSON: The second question that I ask:

Is the Minister prepared to, as a matter of urgency and importance, given:

1. The high inflation that obtains and the impact on our low income earners to ensure that those who are being paid indirectly from the public purse are not victims of the very law that we are enacting here?
2. Or you have announced in respect of what the minimum wage ought to be? And thirdly,
3. Whether or not, the Minister is prepared, through his presence in Cabinet to, as a matter of policy on the part of the Government, ensure that contracts by the Government, the salary - wage element of it are not bided on, but it be set up-front so that those who are contractors are literally compelled to ensure that there is a pass-through of those minimum amounts to workers?

Those are the three specific questions that I'd like the Minister to give me some clarity on.

The SPEAKER: Allow him then to answer. Mr. Charles, could you...

Mr. CHARLES: Mr. Speaker, I thought I had explained fully to the Member that the Government has commissioned a study which will guide this House, all of us as leaders in our own right, as to what the country can afford. And therefore I am not prepared to anticipate what the study is going to bring. But whatever it brings, this House will take a decision as to the way forward.

On the other question. Last week we amended the law to make sure everybody is aware of the strong sanctions that will be applied where the Minimum Wage Order is defied. And you are well aware.

Madam, the consultation was not necessarily made with you. But I discussed

the matter with your colleague on your left. The one that we had was private, as you have said.

Mrs. SIMPSON MILLER: Okay. And I could not betray your trust.

Mr. CHARLES: Thank you. Thank you.

Mr. PICKERSGILL: You are a whistle-blower.

Mr. CHARLES: Thank you very much.

The SPEAKER: Mr. Charles, Mr. Jackson is asking for the answer to the third question. Remind him, Mr...

Mr. JACKSON: The question is Minister, are you prepared to give consideration for, as a matter of policy, contracts negotiated with the Government, particularly in certain sectors where they are disposed to paying minimum wage, that those wage factors, salary factors, are not bidded or negotiated, there is a carry-through...

Mr. M. PEART: Automatic carry-through.

Mr. JACKSON: ...automatic carry-through, and in effect you would leave the other elements in a contract for provision of services to be the negotiated element in order to preserve the minimum payments going through to the workers?

Mr. CHARLES: Mr. Speaker, as I said earlier, minimum wage is not the negotiated wage, and every worker or contractor is free to set, discuss, apply and negotiate a wage for their performance.

(Inaudible comments by Mr. M. Peart)

However, whether it is the Government, government agent, private or any person in the country that pays below the minimum wage, the Minister of Labour and his organization will take strong sanctions against any such persons or organization that is not living up to the rules as set by the minimum wage.

The SPEAKER: Okay, last question from Mr. Hylton.

Mr. HYLTON: Minister, Minister, could you say whether the terms of reference of this study...?

Mr. CHARLES: I didn't hear that.

Mr. HYLTON: Could you say whether the terms of reference of the study that you have alluded to, whether that includes the productivity and its impact, the wage - minimum wage and its impact on productivity and hence competitiveness in the economy?

(Inaudible comments by Mr. Pickersgill)

Mr. CHARLES: Yes, you are correct.

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper Number 4**
  The National Plant Health Policy.
- **Ministry Paper Number 5**
  Cabinet Agenda Issues for January 10, 2011.
- BroadcastingCommission's
  Monitoring and Compliance Reports for the quarters April to June and July to September, 2010.
- **Certified Appropriation Accounts**
- Houses of Parliament - 2009/2010
- Ministry of Labour and Social Security 2008/2009
- Ministry of Justice - 2008/2009
- Passport, Immigration and Citizenship Agency - 2007/2008.

The SPEAKER: Yes, Reverend Thwaites, I know you were going to ask about the last two. They are available.

Rev. THWAITES: Can we remember the rubric we set for ourselves, that we don't announce them before, unless we have them or unless you say where they are to be found?. Where are the broadcasting, eem...?

The SPEAKER: Copies are available, Mr. Thwaites, if you would like.

Rev. THWAITES: Please tell us then, sir, so that we don't have to do this.

The SPEAKER: No, remember, we said that a lot of these copies will be available for those who would like the hard copies but they will be on the website.

Rev. THWAITES: Sure, Mr. Speaker, so just tell us where it is to be found. Announcing it without indicating where it is, is absolutely pointless.

The SPEAKER: Okay, it will be on the website, Members, but hard copies will be in the library and also today, if you would like a hard copy.

BILLS BROUGHT FROM THE SENATE

The Clerk read the following message from the President of the Senate.

> "To the Honourable House of Representatives: I have the honour to advise the Honourable House of Representatives that on the 14th day of January, 2011, a Bill entitled:
>
> AN ACT to promote and strengthen measures for the detection, prevention, investigation and prosecution of corrupt conduct, to provide for the offence of corrupt conduct and offences relating to corrupt conduct; to provide for the establishment of a department of Government to be known as the Special Prosecutor for Corruption with special responsibility for the detection, prevention, investigation and prosecution of corrupt conduct; to repeal the Corruption (Prevention) Act and the Parliament(Integrity of Members) Act and for connected matters was passed in the Senate with 49 amendments.
>
> Signed: Oswald G. Harding,
> President of the Senate".

The PRIME MINISTER: Mr. Speaker, can I signify my willingness to take charge of the Bill which was just read out.

The Corruption Prevention (Special Prosecutor) Act, 2011,

read a first time.

The PRIME MINISTER: Mr. Speaker, may I also give notice of second reading.

NOTICES OF MOTIONS GIVEN ORALLY

Mrs. HAY-WEBSTER: Mr. Speaker, just a matter of clarification between yourself and the House Leader. My motion on discussions in respect of the anti-crime initiatives, when we had closed that discussion, there was the indication given that there was going to be a Report tabled....

The SPEAKER: Could we deal with that at Public Business rather than at this time. I think it comes under Public Business more. Okay.

Mr. THWAITES: Mr. Speaker...

The SPEAKER: Yes.

Rev. THWAITES: Could you inform me if the Select Committee that was struck at

the - or resolved at the last meeting in respect of my resolution on Dual Allegiance has been properly constituted and when it will...?

The SPEAKER: I think that is at Public Business.

Mr. HOLNESS: No.

The SPEAKER: It's here? Very well.

Mr. HOLNESS: We are at the point now.

The SPEAKER: We'll do it now.

Mr. HOLNESS: And I'm sure the Member will be happy to know that we have the motion for establishing the very Committee.

Mr. Speaker, I beg to give notice that at the next meeting of the House I will move the following motion:

> BE IT RESOLVED that this Honourable House appoints a Committee comprising the following Members:
>
> Andrew Holness
>
> **Mr. M. PEART:** You have to be safe.
>
> **Dr. DAVIES:** You declare yet?
>
> **Mr. HOLNESS:**
>
> Mr. Clive Mullings...

You didn't declare either.

> **Dr. DAVIES:** Four Paths. (Laughter)
>
> **Mr. HOLNESS:** Spanish Town.
>
> Mr. Ernest Smith
>
> Mr. Anthony Hylton and Reverend Ronald Thwaites,

to sit jointly with a similar Committee to be appointed by the Senate to consider and report on Private Members' motion Number 13, of 2010, as amended, brought by the Member of Parliament for Central Kingston, which called on Members of the House of Representatives to declare in the Chamber, his or her citizenship or permanent residency in any country other than Jamaica, and approved by the House on the 19th day of January, 2011.

Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of Standing Orders to enable me to take this motion.

QUESTIONS AND ANSWERS TO QUESTIONS

Mr. JACKSON: Mr...

The SPEAKER: Hold, Mr. Fitz Jackson. Yes, House Leader.

Mr. HOLNESS: With regard to the Standing Orders, Mr. Speaker, the time for questions has passed. Mr. Speaker, I'll ask for the suspension of Standing Orders to allow us to take questions beyond 3:15.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the House to take Questions and Answers to Questions, beyond the time of 3:15.

Put to the House and agreed to.

Mr. JACKSON: Mr. Speaker, at the expiration of 21..

The SPEAKER: One second. I haven't seen that...

Mr. JACKSON: You haven't seen it? I had sent it...

The SPEAKER: Could you hold quickly and pass it on. Mr. Clarke.

Mr. CLARKE: Thank you, Mr. Speaker

Mr. Speaker, at the expiration of 21 days, I'd like to ask the Honourable Minister of Agriculture and Fisheries these 11 short questions:

The SPEAKER: Thank you, Mr. Clarke.

Dr. DAVIES: You receive the guarantee?

Question 1: Would the Minister indicate the amount of sugar produced by the Government-owned sugar estates for the 2008-2009 sugar crop?

Question 2: Can the Minister indicate the original estimate for the Government-owned sugar estates?

Question 3: Can the Minister indicate what was the amount of sugar committed to sell the Italian firm, Eridania?

Question 4: Can the Minister state if the commitment to Eridania was met?

Question 5: Can the Minister state the price paid by Eridania for sugar bought?

Question 6: Can the Minister state the cost per pound for producing sugar by the Government-owned sugar estates for last crop?

Question 7: Can the Minister state the price for sugar sold on the local market?

Question 8: Can the Minister state the price for sugar sold to the United States of America last crop and the agreed price for this crop?

Question 9: Can the Minister state the price of sugar on the world market for last crop and presently?

Question 10: Can the Minister state how much sugar is committed to Tate and Lyle for this crop and at what price?

Question 11: Can the Minister state what the estimated production will be on the Government-owned estates and the production cost?

Mr. HOLNESS: Mr. Speaker, I have answers to questions posed by the Member from...

The SPEAKER: Is he here? I think I saw him...

Dr. DAVIES: He's here.

The SPEAKER: Doctor Phillips, the answer to your question earlier, are you...

Mr. HOLNESS: Appropriately, Mr. Speaker, may I seek leave of the House to...

The SPEAKER: Will you accept the answers to the questions at this time, Doctor Phillips?

Dr. PHILLIPS: Yes.

The SPEAKER: Okay. Doctor Phillips, could you make your...ask the question.

Dr. PHILLIPS: Mr. Speaker, I would seek answers to the questions posed by the Minister of Education, standing in my name.

The SPEAKER: Did you get a copy of the answers?

Mr. HOLNESS: The answers are circulated, Mr. Speaker.

Question 1: Will the Minister indicate whether or not an audit was conducted recently at the Buff Bay High School? If

yes, would the Minister indicate when the audit was conducted and what occasioned the decision to undertake such an audit?

Answer: Yes, an audit was conducted in May 2009. The audit was prompted by a letter received from a former employee alleging instances of victimization and financial irregularities.

Mr. PICKERSGILL: Whistle-blowing.

Mr. HOLNESS:

Question 2: Will the Minister indicate how many schools in Jamaica have been audited during the period 2008 to 2010 and provide a full listing of the schools?

Answer: Between 2008 and 2009 we planned 108 audits. We actually completed 72 audits in 2009 to 2010 again we planned 108, we completed 83 audits. So inclusive, between 2008 and 2010 we audited 155 schools.

Question 3: Will the Minister indicate whether or not an audit was conducted recently at the Porus High School? If yes, would the Minister indicate when the audit was conducted and what occasioned the decision to undertake such an audit.

Answer: The Ministry of Education did not audit Porus High School during the period in question.

The SPEAKER: Doctor Phillips.

Dr. PHILLIPS: Mr. Speaker, just some follow-up questions. First of all in relation to the Porus school, the Minister is aware no doubt that an audit was conducted by the Ministry of Finance. Can the Minister tell us whether this audit has been discussed with the Ministry of Education?

Mr. HOLNESS: Mr. Speaker, I am aware that an audit was conducted but my certain knowledge of the audit was after the fact. I became aware after the audit was conducted and I received not a formal copy of the Report, not a complete copy, but I received a Summary Report on the audit. So I did not have a chance except recently...

(Inaudible comments by Mr. Pickersgill)

…to review the audit in its entirety.

Dr. PHILLIPS: Can the Minister indicate whether or not he is aware of the audit having been made available to the Board of the Porus High School? In view of the fact that there have been public comment by the Chairman of the Board, I believe, to the effect that they have not had knowledge of the findings. May I ask if the Minister is aware that in the usual course of audits like this that there is a chance given to the affected parties to at least respond. Can you tell whether this has taken place?

Mr. HOLNESS: The Chairman of the Porus High School wrote to me by, I believe it was early last month, pointing out that the Board did not receive a copy of the final audited statement. I would want the Member

to recognize, Mr. Speaker, that the audit was conducted by an agency external to the Ministry of Education.

There is a view, Mr. Speaker, that there should be some form of coordination or collaboration in doing the audit.

(*Sotto voce* comments by Opposition Members)

Mr. HOLNESS: I take the position, Mr. Speaker, that the agency which falls under the remit and authority of the Ministry of Finance should conduct their audit separately from the routine audits conducted by the Ministry of Education. They act as counterbalances and counterchecks.

The point to be noted, Mr. Speaker, is that the audits conducted by the agency outside of the Ministry of Education could be thematic, they could be looking at a specific issue. The audits conducted by the Ministry of Education are general and look at the school operation in totality. And so, Mr. Speaker, I wouldn't want the two audits, the two auditing arms to be placed together, or a requirement be put on the table for them to work together.

Dr. PHILLIPS: Mr. Speaker, would it be reasonable for us to assume that the purpose of the audits overall, whether by the Ministry of Finance or by the Ministry of Education, is to enhance the good order, governance of the schools affected. And would it be, in that instance, if the Minister would so accept, wouldn't it be entirely appropriate if there are findings done if it is conducted in '09 early....

Mr. M. PEART: Whatever the findings.

Dr. PHILLIPS: That well before the matter comes to public view and you are thus informed that those findings would be at least shared. Not only with the members of the Board and the Principal, but in fact be shared with the Ministry so that, if there are remedial actions to be taken, those actions could be undertaken by the Ministry with portfolio responsibility?

Mr. HOLNESS: As I explained, Mr. Speaker, I received a summary of the findings of the audit. It is…

Dr. PHILLIPS: When?

Mr. HOLNESS: Approximate..... I don't want to give you a specific time because I will have to consult my notes on that, but it was certainly before the matter was brought to this House by yourself, in fact, before you made the matter public.

I want to be clear, Mr. Speaker, in responding to the Member, that it is not usual for the Minister of Education to review audits of schools, it's not the usual thing. I became aware of this matter because it involved, (a) the President at the time of the JTA, who came to me to complain that his school was being audited, so I took an interest to find out what was the matter that was of such import that an audit could be done outside of the Ministry of Education.

On the matter of whether or not the Ministry should have been informed and whether or not we should share information, information was shared. And one of the discoveries, one of the things we found from the audit was in regard to the operation of the school canteen. And now we are under - we are now considering seriously whether or not we should not develop a policy position on how school canteens ought to be operated.

I want to just make it clear, Porus High School is not the only high school that has

these problems with the operations of canteens. And the suggestion that we are considering is whether or not we shouldn't just make it a mandatory position that all school canteens should be contracted out on a concessionary basis, operated by a concessionaire, so we are looking.

Dr. DAVIES: Is the decision made?

Mr. HOLNESS: It's not made, we are now looking at it and examining that position. So, yes, there was the sharing of the information. Yes, a policy position is being considered and probably will come out as a result of this. And I just want to make it clear again, Mr. Speaker, that Porus High School is not the only high school that has problems with canteen operations or other forms of audit queries.

Dr. PHILLIPS: Mr. Speaker, might I ask the Minister that you plan, it appears, approximately 108 schools at least in 08/09 and 09/10, how many schools are there overall in the system, might I ask?

Mr. HOLNESS: Just over 1,000 schools.

Previously, our audit capacity would give us about 60 schools being audited on a yearly basis. In 2006, in 2006/2007, we audited 101 schools and that was because we had to conduct a special audit of schools to look at grant accounts.

Since then, we took a decision that we would increase our auditing capacity because we are on our drive for accountability, which is why you are seeing these increased numbers. So next year, you will see more schools being audited.

Generally, you would want to audit approximately 15% in terms of a random sampling of schools, to adequately cover the schools to make sure that accountability and transparency is at its highest.

Dr. PHILLIPS: Mr. Speaker, just two other points.

You are suggesting as I understood you, that the schools are selected, randomly?

Mr. HOLNESS: Randomly.

Dr. PHILLIPS: In the random distribution of schools it would appear, that whether by the Ministry of Finance or the Ministry of Education, we have this situation where, at least over the past two years we have had the school headed by the Head of the JTA, the school, headed by the President Elect of the JTA, and the school headed by the immediate Past President of the JTA. It may be coincidence, but in the randomness of the selection of the 1000 schools, wouldn't it seem to give an indication that there was an enhancement of the randomness?

Mr. HOLNESS: You know, I was waiting for this question, because of course, the entire purpose of asking the question is to get to this point. But just to be clear and I want to rest - I need to rest the Member at ease and I need to assure our principals that there is no witch-hunt, and let's just be clear.

We do not select schools for auditing based upon the political positions known or unknown of the heads of the schools.

Dr. PHILLIPS: Not political heads or party.

Mr. HOLNESS: Or whichever position they may occupy. The point of fact is, that schools are selected randomly, but some schools self select. For example, in the case of Buff Bay High, we received a letter. Now,

the letter came from a source that in our judgment was a credible source. In fact, it came from a past employee who occupied a position of significance in the school, making certain claims. Now, once that is done, once a claim is made, the Ministry could not just put it aside, we had to respond, and we responded. I don't know what generated the audit for Porus High.

Mr. M. PEART: Up to now?

Mr. HOLNESS: I certainly don't know. What I do know is that the school was audited. But I know for Buff Bay, it was generated by virtue of a letter. And what we have discovered....

Mr. BUCHANAN: What about Herbert Morrison?

Mr. HOLNESS: No, I am not aware of Herbert Morrison's circumstances.

But what we have discovered, Member, is that a significant percentage of the time when these letters are sent to us and we investigate, there was actually some instance of - I would say fraud or misappropriation or just poor management and allegations. When the allegations are made, but when we actually investigate, some - most of the times we find that there was some instance. It speaks generally to the need to improve the accounting and management of schools. I don't want to make any specific allegations or cast specific aspersions on any school. It is a general problem within the school system.

Dr. PHILLIPS: But, Mr. Speaker, let me say that my information is that where we are now, is that we have the past President, which was Porus, we have the current President, which is the Buff Bay school, and the President Elect, which is Herbert Morrison, which in my understanding, based upon information, that I think is in the public domain, that all three of those schools.....And it is a coincidence which at least begs questions as to the randomness. But let me, let me.... There is - can the Minister give us the assurance that in all instances the standard practice of allowing the affected parties, the principals and the others a chance to respond will be given in the usual fashion. It was not given in the case of Porus.

Mr. HOLNESS: Member, let me just say that whenever an audit is done, the Ministry of Education takes extreme care with giving natural justice and due process to the persons who may be implicated. So they are given a right of reply.

We also take great care not to publicly embarrass persons who may be implicated for a good reason. And that is, once you begin to bring education in disrepute in this way, it spreads to everyone, it's a taint that affects everyone. And our teachers have to stand up in the classroom as leaders and if they can't be instructional leaders because their credibility and respect is called into question, then you begin to have a serious problem in the education system.

That doesn't mean that we don't take action, we do take action. In fact, since I have been there, several principals have had to resign and some were dismissed because of instances of fraud. But we are very careful how we deal with it. And having this kind of debate enters new ground, enters new ground. And I am saying we have to now be very careful.

But, Member, you have to also acknowledge that the Opposition, the Government, the public is calling for greater accountability....

Mr. M. PEART: And transparency.

Mr. HOLNESS: ...and transparency.

Mr. M. PEART: Government by news carrier.

Dr. PHILLIPS: If you will permit me, Mr. Speaker.

The SPEAKER: Can we wrap up now?

Dr. PHILLIPS: It would seem to me, this is more by way of a suggestion, is that we really have to examine collectively, the kinds of tasks of management, of the bursars in the circumstances, the real circumstances in which schools operate. They are collectors of fees, dispensers of funds, including all of the things like tuck shops. And you have, generally speaking, one bursar overburdened by a very difficult situation, who tends to be doing all of this. So I would urge that, in keeping with your commitment to look at the management arrangement, we need to either beef up the systems and the persons in the schools managing, or consider the situation whether by each school or by regions, of really putting some professional managers in place in that. Because there is obviously a need and there will always be the possibility of this kind of appearance of targetting emerging.

Mr. HOLNESS: Just to answer the Member's question very quickly. The Ministry acknowledges that there is a weakness in the management of our schools and we will be the first person to tell you that certainly schools are overburdened in terms of what they are required to do. But much of the problems exist because there is - school leaders are not following the procedures laid down, either because they don't know them or they don't take the time to know them, or they just don't want to practise them. That's a serious issue. And what we always say to our school leaders, our principals, is that if you follow the procedures, if you follow the procedures as laid down you are protected.

In fact, you will recognize, Member, that much of what is said in the Report on Porus and indeed on Buff Bay, are procedural errors. The principals did not follow procedure. In the instance of Porus High, $1.8 Million is reported as being missing from the tuckshop. The reports revealed that there was a lack of procedure: invoices not being presented, proper accounting procedures not being followed. So we want to be clear, Mr. Speaker, that whilst we acknowledge all the difficulties in education, that there are certain basic steps, certain basic procedures which we are at pains, Mr.

The SPEAKER: Mr. Fagan.

Mr. FAGAN: Mr. Speaker, I am a little worried because I know that the tuck shops, for most part, help with the day-to-day operation of the schools. Many times the schools disbursement is so low that they really don't have the funds to carry on. But the question though, because I can understand the Ministry of Education doing its audits. I am a little baffled because of a tuck shop, why is it that the Ministry of Finance would get involved? And it begs the question of whether or not these tuck stops are registered with the Registrar of Companies? What was it that the Ministry of Finance was trying to find out?

The SPEAKER: But, Mr. Fagan, this was a question that should have been asked last week, I think.

Mr. FAGAN: No, sir. I wasn't here last week. That question was not asked.

The SPEAKER: No, but if you weren't here, too bad.

Mr. FAGAN: No, but the question was not asked, sir.

The SPEAKER: No. With due respect, I mean, the Minister of Finance in that ministry was asked.

Mr. HOLNESS: Just to help the Member quickly, Mr. Speaker. First of all, let us be clear. When it comes to the public's fund it's not just a tuck shop. And I reject that argument that we are wasting time over a tuck shop.

Miss HANNA: Nobody say that!

Mr. HOLNESS: No, no, no. I am sure the former Minister of Finance would not subscribe to that notion.

Mr. FAGAN: I didn't say that, Mr. Speaker. I did not say that.

Mr. HOLNESS: The public fund is the public fund.

Now the other issue as to whether or not, because that's where the Member was going, funds were missing. Nobody is saying that the funds were taken. What the report has shown is that there are certain administrative and accounting weaknesses where they cannot account for $1.8 Million. The police would have to now go and investigate whether or not a fraud was committed. But certainly the report has identified certain administrative weaknesses, which we in the ministry are addressing.

The SPEAKER: Miss Lisa Hanna.

Miss HANNA: Mr. Speaker, Minister, last year in the PAC, Mr. Speaker, the Ministry came before us and we had extensive dialogue with some of the issues as reported by the Auditor General's Report. A number of issues came to light, including breaches of procurement, breaches of procedural guidelines. But I am curious as to why, for instance, something like that was not in that Report, one. And two, what is the role of the Auditor General if it is that their responsibility is moving forward to deal with things of that nature? Minister.

Mr. HOLNESS: Forgive me, Members. The Report, as I said earlier, lists breaches of procurement guidelines, administrative procedures and policies set down by the Ministry of Finance which all Government agencies must follow. For example, issues to do with proper invoicing, issues to do with signing on cheques and the balances that you need to put in place when you are issuing cheques, issues that are standard practice in any Government agency, those procedures, including procurement procedures as well, those were not followed.

Miss HANNA: With respect, Mr. Speaker, perhaps the Minister misunderstood. Because the PAC actually deals with all of those issues and the PAC actually deals with a lot of those issues, and a lot of those came up with agencies and other instances in the Ministry of Education. My concern, however, is when it is that we are perhaps - and I recognize your concern in terms of seeing where schools are perhaps not dealing with funds accurately. But if there is a

duplication of responsibilities, it can't be that you have the Auditor General who is responsible for looking at situations like this, in which it is reported, and at the same time the Ministry of Education doing the same thing. Where is the crossover?

Mr. HOLNESS: Just to assist you, Member. What happens is that there is an exception report which comes to the PAC. In other words, once - it's a thousand schools and many agencies, so the Auditor General will pick up those items that rise to a level of exception. And I don't know what the level of exception is but there is such a level. And those matters come to the PAC. There are other matters which are dealt with routinely by the Permanent Secretaries of the ministries. So, for example, an audit of a school that showed procedural problems, the Permanent Secretaries would deal with that providing it doesn't rise to the level of exception.

The SPEAKER: Mr. Peart.

Mr. M. PEART: Thank you, Mr. Speaker.

Mr. WARMINGTON: Who you recognize?

The SPEAKER: Mr. Peart.

Mr. M. PEART: Him mus' recognize mi over you, man. Look pan yuh!

(*Sotto voce* remarks by Members)

Mr. M. PEART: Mr. Speaker, I just want some clarification as to the purpose of the audit for Porus High School.

(*Sotto voce* remarks by Members)

Mr. M. PEART: Now let me explain. An audit is done at the beginning of 2009, the principal

The SPEAKER: You know, Mr. Peart, this is a matter that was dealt with last week.

(*Sotto voce* remarks by Government Member)

Mr. M. PEART: Bear with me. I am asking the purpose of the audit. If the principal of the school and the Board is not advised of the findings of the report, if the school is not advised of the findings, what is the purpose of the report? What is the purpose? If the Member did not bring it to the Parliament here that document would still be in the Minister of Finance's hand hold like a sword of Damocles over the man's head.

Government MEMBER: What!

Mr. WARMINGTON: Mr. Speaker, when the issue first came here the Minister gave the assurance that, if needs be, he would have made the report or the investigation report public. I have seen no copy of the Report laid in the House.

The SPEAKER: It was laid last week.

Mr. WARMINGTON: The Report from Porus and Buff Bay?

The SPEAKER: Yes, it was laid last week. Okay.

Mr. HOLNESS: It is very important to note that the Ministry of Finance, and I believe I can speak as a member of the Government, that the Ministry of Finance is at liberty to protect public funds anywhere public funds are used. It is not my business as the Minister of Education to question when the Minister or the ministry, or an agency of the ministry sees anything that would suggest that there needs to be an investigation.

Of course, Mr. Speaker, and Members, let me just declare, just to be clear. There was

never and under my administration as Minister of Education, any attempt to hold a Damocles sword over anyone. Truth be told, Mr. Speaker, is that we didn't bring this Report to the public light, we didn't do that.

Mr. SAMUDA: Peter Bunting did.

Mr. HOLNESS: The Presidents of the JTA, past and present, I am sure, Mr. Speaker, never felt like they couldn't say what they wanted to say and be as critical as they wanted to be because of any report. I certainly never held anything over anyone and I object to that comment made by the Member.

Mr. WARMINGTON: Mr. Speaker

The SPEAKER: Mr. Warmington, in spite of what you heard from another Member, it was laid last week.

Mr. WARMINGTON: But I have been told . . . Buff Bay and Porus.

The SPEAKER: It was laid.

Mr. WARMINGTON: For both Buff Bay and Porus.

The SPEAKER: I know copies were circulated.

Mr. WARMINGTON: There are two reports we are asking about here, Buff Bay and Porus.

Mr. FAGAN: Mr. Speaker.

The SPEAKER: No, we can't have . . .

Mr. WARMINGTON: There can't be two persons on their feet.

Mr. PICKERSGILL: Then why you don't sit down! (Laughter)

Mr. WARMINGTON: Do we have a copy of the Buff Bay and Porus?

The SPEAKER: I know only of the Porus. I saw the Porus Report last week.

Mr. WARMINGTON: Hold on. No, no. The Minister says he gave me. I would like to see both reports made public, both reports made public.

Dr. DAVIES: Mr. Speaker, I had posed the question to the Minister of Finance and he presented me with - he promised to present me with copies of the various reports. He gave me seven reports. They were not circulated generally, they were not circulated generally, he gave me. Anybody who has a copy - I gave the Member from East Central St. Andrew a copy, but they were not circulated.

The SPEAKER: Oh well, I got a copy. I thought that it was circulated generally.

Mr. PICKERSGILL: The Speaker always gets a copy.

Mr. M. PEART: Mr. Speaker.

The SPEAKER: Yes, Mr. Peart.

Mr. WARMINGTON: No, no, no! Mr. Speaker, if I ask about the reports, I was told, and you advised me that they were laid. I was misled.

The SPEAKER: Sorry. It was presented in the House.

Mr. WARMINGTON: No, no! The Minister said he got copies.

The SPEAKER: I got a copy.

Mr. WARMINGTON: You got a

The SPEAKER: No!

Mr. WARMINGTON: Mr. Speaker, the other Members did not get a copy of the Report. You were privileged, Mr. Speaker. You were privileged to have gotten copy. The Member who questioned the issue got a copy. We have not gotten copies. I am asking that the Report be made public that

every Member of the House, you have 60 Members, get copy of those Reports.

The SPEAKER: I don't see a problem.

Mr. WARMINGTON: I am asking that the Report be laid on the Table of the House that each of us get a copy.

Mr. PICKERSGILL: All right, you make your point. Sit down!

Mr. WARMINGTON: Don't you dare! Don't you dare cross that line!

Mr. PICKERSGILL: You made your point.

Mr. WARMINGTON: Don't you cross the line now, Bobby!

Mr. HOLNESS: Mr. Speaker, it is not usual for school audits to be brought to the Parliament of the land.

Mr. WARMINGTON: You promised!

Mr. HOLNESS: It is not usual, but if the Member insists, it is his right to request it of the Minister, and out of a duty to this House I will make it available to the House, in which case it becomes a public document.

Mr. Speaker, the question was raised in a *sotto voce* way albeit, regarding whether or not Herbert Morrison was being audited. I am reliably informed that Herbert Morrison, which is the school of the President Elect of the JTA is not being audited in the current batch projected.

Mr. BUCHANAN: It is about to; it is on the verge of being.

(*Sotto voce* comments)

Mr. M. PEART: Mr. Speaker, I asked a simple question and I have not received an answer. The question is this, an audit was done of Porus High School, the school principal and the Board has, up to today, not received a copy of the audit. What is the purpose of the audit if the school is not going to get it?

The SPEAKER: My only concern...

Mr. M. PEART: If you find irregularities and you don't tell the school, how are they supposed to deal with it? That don't make no sense.

The SPEAKER: My only concern is, Mr. Peart, is that...

Mr. HOLNESS: It is my certain knowledge that the school was informed of the issues in the Report. They may not have gotten...

(*Sotto voce* comments by some Members)

Mr. HOLNESS: No… Mr. Speaker, by virtue of the letter written to me, the Chairman of the school explained that he has not seen the Report. My understanding, Mr. Speaker, is that the issues were sent to the school for their response.

Dr. PHILLIPS: Just to be clear, Minister, we are not, on this side, arguing that schools must not be audited. What we are concerned about is how the schools get selected in the audit. And there is a perception because - in fact, in the case of Porus, you have the President then of the JTA, made a public comment along with the principals and vice principals in February '09 about the lack of timeliness of monies coming to the schools, and the next thing that occurs is that there is an audit of the school. That is what creates the bad impression. We are not opposed to audits. And then we are wondering when nothing comes of it - you don't share it with the school. We are concerned also that we were told here in this House...

The SPEAKER: Okay, okay...

Dr. PHILLIPS: …that $1.8 Million was the canteen's thing – the take of monies missing. And as far as we understand, there has never been $1.8 million taken in over the relevant period in the school. It is an estimate put forward by the Minister. We have to be very careful about how we select, why we select, and how we treat the results after we get it.

(Applause)

Mr. HOLNESS: Mr. Speaker, it is important to reiterate, because disingenuously it is being presented that there is misuse of our audit powers. Schools are randomly selected.

(*Sotto voce* comments)

Mr. HOLNESS: No, this is what I am saying, they are randomly selected. What the Ministry of Education, in its audit admits, we randomly select schools. There are some schools that are self-selected by virtue of reports brought to our attention, incidents that we have discovered, or sometimes schools even ask us to audit.

(*Sotto voce* comment)

Well, it would appear that in the case of Buff Bay, someone wrote to the Ministry, who a former employee, making certain allegations which did not appear to us to be trivial.

The SPEAKER: Okay, we are going over the matter again. Okay, Miss Sharon Hay Webster, you had a case.

Mrs. HAY-WEBSTER: On behalf of the Member of South St. Catherine, at the expiration of 21 days, the following questions will be put to the Minister of Works and Transportation:

1. Has the programme and schedule of road repairs under the Government's Jamaica Infrastructure Development Programme for the parish of St. Catherine and other parishes changed?
2. If the answer is in the affirmative, can the Minister state what these changes are for St. Catherine and South St. Catherine in particular?
3. Can the Minister say whether the projected US$60 Million budgeted for the 2010/2011 Fiscal Year is on target for completion with the period?
4. Can the Minister confirm whether the required revenue flows to support the repayment obligations under financing agreement with The China Export and Import Bank are in place?
5. Can the Minister state what the current and projected revenue streams, and what are the corresponding amounts to be expended over the duration of the programme and the financing?

The SPEAKER: Thank you.

PUBLIC BUSINESS

Mrs. HAY-WEBSTER: Mr. Speaker, I had moved a motion here in respect of the - of my concern on anti-crime matters. The close of that debate, we had had an agreement that the movement forward would see the Tabling of a Report on crime which would have allowed us, at the end of the session before Christmas to have the opportunity to peruse such a report...

A MEMBER: Peruse...

Mrs. HAY-WEBSTER: …peruse such a Report and prepare ourselves for debate. As I stand here, Mr. Speaker, we have received no such Tabling of Reports and I have received no indication from the House Leader as to how the matter will be addressed. I know I had had some discussions with you, and there was an indication of some follow-up. How shall we proceed, especially in light of the spike that we are seeing again in crime? Much as we would want to laud the work of the police and our military, there are key factors we need to have discussion on, Mr. Speaker. And I really believe that we must follow through with this.

Mr. HOLNESS: Mr. Speaker, the Member's detailing of the event is correct.

Dr. DAVIES: Accurate… precise?

Mr. HOLNESS: It's accurate. We will, Mr. Speaker - we are actually in the process of preparing such a Report.

Dr. DAVIES: Is that accurate?

Mr. HOLNESS: That is accurate.

Dr. DAVIES: Okay. Is that true?

(Laughter)

Mr. HOLNESS: As soon as that...(Laughs) Mr. Speaker, as soon as that Report is available to us, of course, the Member - well, the Minister who is responsible is not a Member of this House, and it would have to be taken by a Member of this House, and as soon as that Report is available… in fact, what I would say to you, Member, is that certainly before this session of Parliament is over, before we go into the Budget season that we should have that Report here, and we could then proceed with a more informed debate.

Mrs. HAY-WEBSTER: Mr. Speaker, while I am happy that he is willing to follow through on the commitments given, I am a little bit concerned when I hear, before the current session is through. We are in January, this session finishes in March. It means you can lay it just before the end of March. We would then go over into a new legislative year, Mr. Speaker.

(*Sotto voce* comment by some Members)

Mrs. HAY-WEBSTER: It means we would have to put a motion back on the Table.

Mr. Speaker, crime and anti-crime measures are not matters we need to play around with. Not when we are asking for international help, and not when within the Caribbean Region there is a clear cry for solutions to this matter.

The SPEAKER: Yes, but Mrs. Hay-Webster, the motion was concluded, you know. It was for information you were going to get the Report.

Mrs. HAY WEBSTER: No, no, no, Mr. Speaker. Check back **Hansard**, please. I agreed that we would take that approach as a change in the motion. And that is the approach that was agreed from discussion in the House on the day. So, this is not just a Tabling of a Report. It is to followup on the anti-crime measures that the country needs to consider and give room for every Member of the House to have an input.

The SPEAKER: Okay, we will wait and see when the Report comes. Dr. Guy.

Dr. GUY: Mr. Speaker, the Report of the Ethics Committee is before this Honourable House. This Committee Report Mr. Speaker, dealt with the exemption motion from the

Member from St. Andrew South Eastern, and she - the Member sought exemption because she is a member of the Faculty of Social Sciences at the University of the West Indies. The Committee met, Mr. Speaker, and has recommended that this Exemption Motion brought on behalf of the Member, be approved.

The SPEAKER: This, unfortunately, should have been done at Reports of Committees.

A MEMBER: No, no, no…

The SPEAKER: No… at Public Business? Okay, we can do it at this stage. Members this was the Report of the Ethics Committee, chaired by the Speaker from a referral from the House in respect of an Exemption Motion. The matter was presented by the Member, Dr. Guy for approval.

Put to the House and agreed to.

The SPEAKER: The Report is approved. Yes...?

Mrs. DALRYMPLE-PHILIBERT: Mr. Speaker, a Bill entitled: AN ACT for the incorporation of the Mustard Seed Missionaries and the vesting of property in the Body so incorporated is before the House.

The Bill is to be examined by the Private Bills Committee, but before this can be done it has to be read a second time. I, therefore, ask for the Bill to be read a second time.

The SPEAKER: Members, the question before us that the Bill, the Private Members Motion be read a second time.

Put to the House and agreed to

Bill entitled:

"AN ACT for the incorporation of the Mustard Seed Missionaries and the Vesting of property in the body so incorporated,"

read a second time.

Mrs. DALRYMPLE-PHILIBERT: Mr. Speaker, I therefore, ask for the Bill to be referred to the Private Bills Committee of the House of Representatives for consideration and for report.

The SPEAKER: Members, the motion before you is as indicated by the Deputy Speaker.

Put to the House and agreed to.

Mr. HOLNESS: Mr. Speaker, the main Public Business today - well, Mr. Speaker, before that, I have a motion. (Laughter)

Mr. Speaker, I now move for the suspension of Standing Orders to enable me to take the motion, notice of which I gave earlier. Of course, Mr. Speaker, that is the motion regarding the establishment of the Committee to deal with the motion brought by the Member from St. Catherine.

The SPEAKER: Members, the motion before you is for the suspension of Standing Order to allow the House Leader to take the matter, notice of which was given earlier in relation to the setting up of the Joint Committee to consider the motion debated and presented by Reverend Thwaites last week.

Put to the House and agreed to.

Mr. HOLNESS: Mr. Speaker, I now ask that the motion be approved.

The SPEAKER: Members, the issue before you is for the approval of the motion.

Put to the House and agreed to.

Mr. HOLNESS: We will continue debate, Mr. Speaker, on the Protected Disclosure Act, commonly called the Whistle Blower Legislation. The Prime Minister

opened the debate last week, and we agreed that we would facilitate the presentation of Members this week as well, and we intend to close the debate today.

Mr. Speaker, we will also continue debate on the Report on the review of Jamaica's Defamation Law which was started in the previous week, and we intend to close today as well.

A MEMBER: So, no Parliament tomorrow?

Mr. HOLNESS: Yes. We have other business tomorrow.

Mr. PICKERSGILL: So, how you closing?

The SPEAKER: Mr. Paulwell.

Mr. PAULWELL: Thank you very much, Mr. Speaker.

Mr. Speaker, as was noted in the Senate, the Opposition, by and large, supports the Bill that is before us. And as one who was a member of the Committee, and I must say a very hard-working Committee, because we spent many hours listening to submissions from the public - and we had quite a number of groups that came before us - I feel reasonably assured that we have put the best effort to bring to Parliament a Bill that will go some way in dealing with correcting issues of corruption in the Government.

As a member of the Committee, I don't intend to delay the House too long because we adhered an opportunity to go into issues, and made recommendations for amendment, and those were incorporated in the Bill.

I want to say, Mr. Speaker, that what we are seeing is a continuation of a process that started some time ago, to tackle the issue of corruption in government and in the society generally. And, we are giving legislative effect to measures, to institutions, to bodies that are designed to assist in this very significant effort. And this is another such one that we are doing, by enabling persons who we are glibly referring to as whistle blowers to be empowered to perform.

The Bill, Mr. Speaker, is seeking to facilitate the disclosure of information regarding corrupt practices and, of course, other forms of wrongdoing in the workplace, and to afford protection to persons that are making such disclosures.

And I know the Prime Minister had highlighted, but I just want to say that in terms of what we mean by disclosure, it is the presentation by an employee of information on the conduct of a coworker or coworkers or the conduct of the employer and that that employee reasonably believes that that conduct is improper. And the Bill seeks to define what is meant by improper conduct to include acts that are criminal in their nature or conduct which is likely to create gross mismanagement, or threaten the health or safety of any person. And the Bill places on employers and persons to whom disclosures are made, the duty of investigating the complaint and also a major issue has to do with the whole issue of confidentiality.

Mr. Speaker, rather than reciting the provisions that have already been presented, I want to raise some issues that came up and that I believe at this stage, I should highlight. The first one had to do with how do we deal with public officers who are constrained by the Official Secrets Act? This was a major debate because for many of us in the Committee, we believe that the time has come

for us to take a strong and sensible look at the law termed the Official Secrets Act and whether for us not to contemplate its further usefulness in this Information Age, where people are requiring greater transparency, where we have an Access to Information Act that people are seeking to utilize. Why is it that we still have this anachronism, this relic? Why do we need to regard public information, information that affects government in this way?

The Bill in dealing with that provides for an indemnity against public servants who make disclosures. And at Clause 15 (1), 15 (2) rather than making an exemption to the Official Secrets Act, the law provides for an indemnity—an immunity this section affects, and I'm dealing with 15(1), this section applies notwithstanding any duty of secrecy or confidentiality or other prohibition of or restriction on the disclosure of information under any enactment, rule of the law, contract or practice.

Mr. Speaker, this is a classic conflict of laws situation. And though we resolved it in this way, I believe that the greater good would be served if we spent some time having a serious discussion about the Official Secrets Act. And for this Parliament to recognize that that law ought not to be in existence anymore; and in keeping with greater openness, greater transparency, we now need to abolish the Official Secrets Act. And I'm making that submission as one of the matters that now arise from this process.

Mr. Speaker, we also deliberated and again I'm pleased that we were able to incorporate in the Committee's work a new feature of the Bill that wasn't there at the outset. Because for this to work it is going to require tremendous guidance from a body that is constituted to implement the law. This can't be left up to the whim and fancies of employees or employers. I think there has to be a body that has oversight jurisdiction, oversight function that has the power to implement the laws that has the power to educate people. And so I'm very pleased that we were able to agree at Section 21 and indeed the Third Schedule for the designated authority to be instituted as a critical part of the management of this law going forward.

And I want to pause, again, because we're treading on new territories, we're going on new grounds. And if you want to encourage people to utilize the important provisions in this Bill it is going to need somebody, some institution that will drive it, that will enable the public to understand the provisions, to enable those who seek to utilize the provisions to be protected and that you do need to have this designate authority. And what we're seeking, Mr. Speaker, is not to build additional bureaucracy or to add to the bureaucracy, but that there are existing institutions that we believe are capable of performing the function. So the Minister has the power to designate an individual or entity as the designated authority for the purpose of this Act.

The authority is established under the Third Schedule and it will have certain functions. In furtherance - at Clause 21(3) it says:

> "in furtherance of its functions under subsection 2 the designated authority shall publish such procedural guidelines regarding the making,

receiving and investigation of disclosures under this Act as it considers appropriate. It will also provide such assistance as may be practicable to any person who seeks to make a disclosure under this Act, any person who is a designated officer, employer, or other person subject to the requirements of the Act. And, of course, on an ongoing basis plan, implement and monitor public awareness programmes aimed at informing and educating employees, employers, and the general public".

These are measures, these are provisions that in the Committee we decided that they ought to be a part of this Bill. And I think it is quite significant. We did not indicate in the Committee as to where this power should rest, but in looking at the landscape now, you have various offices. You have the Ombudsman's Office, you have the Contractor General's Office. These are offices that can easily incorporate the provisions of this law for the law to be housed there, and so we are not intending for there to be an increase in the bureaucracy.

Mr. Speaker, the Committee was very preoccupied with the issue of secrecy and confidentiality. In fact, our work was delayed tremendously because of a recognition that we have a culture in the country whereby if colleagues whistleblow on each other it is regarded as a dastardly act. And those Members were so preoccupied that people should be able to disclose without the fear or the threat to their personal well-being. There's this culture that many of us are aware of especially in some of our inner cities about informer fi dead. And this law is going to heart of that culture and it is to try to elicit a level of courage and bravery on the part of our people who understand and appreciate that we have to move away from this culture. We have to ensure that where there are wrongdoings we bravely bring them to the attention of our employers.

Mr. Speaker, a very important aspect of the law is a period after three years when a review will happen. Again, I think this is very important, we're breaking new ground. And after a three year period, Parliament will be called upon to review, to see how the law has been implemented, its effectiveness, and to see what changes are going to necessary to make it more effective, if needs be, and that is assured in Section 27.

Mr. Speaker, there is a matter I want to raise and even though we had signed off on it at the Committee level, on reflection I'd just like - and it's a very simple matter - to raise it to see if another approach could be adopted. And it is at Clause 9 (2) where it gives the Minister, it says:

"the Minister may by order subject to negative resolution amend the First Schedule that deals with the designated authority-sorry that deals with the list of persons who are prescribed. It says the Minister may, change those articles, may prescribe new rules in relation to the persons that are deemed to be prescribed or by prescribing or modifying the categories of prescribed persons to whom disclosures shall be directed. And the order may specify the subject

matter in relation to which a person is so prescribed".

I believe in reflection, Mr. Speaker, that this matter of prescribing persons to whom disclosures shall be directed is so important and fundamental to the success of this law that it really ought not to subject only to a Negative Resolution, but rather it should be one that we all confront and deal with. And so my own view now is that we move that to being an affirmative resolution given the significance, the tremendous importance of that listing of persons and that it really ought not to be left to a Minister to change that listing, but rather for the Parliament of the land to so do.

So, Mr. Speaker, those are some of my observations, those are some of the highlights that I wish to bring to the debate. Again, to remind the House that we do have after three years an opportunity to revisit the law, to tweak it if we need to, and to observe its effectiveness over that period of time. As I mentioned before we have to deal with this culture, this reality where coworkers are supposed to standby each other and people are not to rant on each, but to recognize that we have to change it if we're going to have a more effective system of governance in the country and that where there are wrongdoings they need to be brought to the fore and that this law will enable the protection of those persons who wish so to do.

Thank you very much Mr. Speaker.

The SPEAKER: Thank you, Mr. Paulwell.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, while supporting the general intention of the legislation, I wish to state at the outset that it is pointless us taking it to conclusion today while the Official Secrets Act remains in place.

The provisions of this legislation run entirely counter to my last reading of the Act. And unless the apparent and I believe the real contradictions between this piece of legislation and that is concerned, we are merely placing people in a dilemma, and the entire system open to disrepute.

I am less sanguine than my friend from East Kingston, with regard to the repleteness of this Bill, while again asserting that it is important and salutary to give persons an opportunity without penalty or threat, to disclose incidents of wrongdoing. We have to be very careful that we don't make ourselves into a nation of **peeping Toms**. That is equally a tendency of this nation and our culture, as is the tendency to have a "squaddie" mentality and to say nothing that will demean or disturb the problems of our mates of one sort or another. So let us be clear what it is we are doing.

And I crave your leave and that of the House very quickly to go through sections of the Act which seem to me to be in their width and in their imprecision, detriments to its effectiveness.

First of all, in respect of the – of section 2, the definitions, if you look at section 2(b), definition of an employer, Mr. Speaker, the employer is defined as one who permits or who has permitted another person to assist in any manner in the carrying on or the conduct of the business of that person, whether any obligation to provide remuneration or reward to that other person.

Look at the width of that, Mr. Speaker. Would that include the postman who is engaged in carrying on the conduct of the business of somebody else? Would it include someone who may not have the authority normally associated with the term "employer", but who in fact fits on all fours with the definition there? The draftsman needs to look at this carefully, otherwise it casts a net that is too wide, and is unenforceable in the long run.

Further, Mr. Speaker, when you look at the issue of defining "improper conduct", there is no problem with criminal offence, obviously.

"Failure to carry out a legal obligation."

Mr. Speaker, do you understand how wide that could be? It is so broad as to have little meaning. What is it, a person who breaks a traffic light? A person who unfortunately and wrongly, against the law, disperses litter?

When you look at number (c),

"Conduct that is likely to result in a miscarriage of justice."

Where an employee finds out that there is inequitable wages for, example, Mr. Speaker, would that cover there? We have to be careful what it is precisely we are trying to do, notwithstanding a perfectly fine intention which underlies this resolution.

Let me go on –

"Conduct that is likely to threaten the health or safety of a person."

How wide is that, sir? So every act of non-compliance, for example, with the Factories Regulation, every act which may be in some respect considered by the whistleblower, the potential whistleblower, in relation to a parental handling of children, or the issues in a schoolroom, is this part of it too? I am not trying to trivialize to make a point, I am trying to ask for a greater level of clarity and precision in what we are putting forward, which involves legal liability.

Let me go on –

"Conduct that is likely to threaten or damage the environment."

Good Lord, Mr. Speaker. So when the public authority who is explicitly bound by this Act, fails to pick up your garbage and threatens the environment, aren't they too, liable? Can action arise in that regard? And there are so many other instances that one thinks of.

"Conduct that tends to show unfair discrimination on the basis of gender, race, place of origin…"

Very good, yes. But to what extent are we going? Who with the designated authority or with some unwritten code of good sense prevent us from prying and preventing, and intuiting issues that involve privacy, other constitutional rights in respect of that particular rubric, I ask.

I turn the pages of the Act, Mr. Speaker, because when you go on, in the same section 2, and look at some of the definitions of "occupational detriment", one of which, number (g), if you look at it, is "…being provided with an adverse reference". You know what that's going to do, Mr. Speaker? It means, as happens in parts of North America – I had witnessed an occasion to know this, that in order that you don't – you aren't considered to be taking it out on anyone, what you do is to – when you are asked to write a reference, you write saccharine nonsense about that person, so as

to protect yourself, yes. We have to be again far clearer, it seems to me, and more restrictive in the instances that we set out.

> "Denied appointment to any employment, profession or office."

Can you see the welter of legislation - of litigation that can take place when someone feels that because they reported on someone else, that that is the reason why they didn't get the promotion? I am not saying there isn't a mischief to be corrected, but I am concerned about the breadth of the language.

What constitutes being threatened with any of the actions specified in paragraphs (a) to (h)? What is the nature of a threat as it's understood? Is it in the normal common law definition of a threat? Is it something more ephemeral? All of these things concern me, in terms of how we are proceeding with this Act.

Could we have in section 3, the objects of the Act –

> "facilitate and encourage the making, in a responsible manner…"

Is there a definition of responsible manner that is escaping me?

And may I point out in section 4, that section 4(2) where –

> "A disclosure of information is not a protected disclosure if the employee making the disclosure commits an offence by making it."

Well, I am aware of the section quoted by the Member for East Kingston, regarding section 9, is it – section 15, excuse me, regarding immunity. But on the face of it, this runs absolutely counter to the Official Secrets Act, yes, where disclosures of many different sources do in fact constitute an offence.

Mr. Speaker, I am concerned about the – section 6, section 6(2) –

> "Where a disclosure is made orally, the person receiving the disclosure shall within 24 hours after receiving the disclosure, cause the disclosure to be reduced into writing containing the same particulars as are specified in subsection (1)."

Is this not elevating hearsay, Mr. Speaker, eminent Counsel, as you are. How does this sit with the law of evidence? What credit can be given in any tribunal to this, in such circumstances? And for the life of me, if anyone could explain the full meaning of subsection (3) which follows, reading:

> "Nothing in this section precludes any person required to establish procedures under this Part, from operating procedures that are established other than pursuant to this Act, but which are not inconsistent with this Act."

What does that really mean, sir?

Mr. PICKERSGILL: Section 6 subsection…?

Rev. THWAITES: This is subsection (3) of section 6.

Mr. PICKERSGILL: Three of six.

Rev. THWAITES: Yes.

Going on, sir. In subsection (vii) – in section 7, excuse me, Part 2 - subsection (2), listen to this. This is the section that deals with the disclosures qualifying for protection, and reads, subsection (2) –

> "Where an employee makes a disclosure, in accordance with the procedure established or authorized by the employer or otherwise prescribed, to a person other

than his employer, the employee is deemed to be making a disclosure to his employer."

So, does that mean that I can go to the media, because I am going to a person other than my employer, even if so authorized? And am I not running the risk – does that not run the risk of creating an even greater mischief than the one that it is intended to curb, Mr. Speaker?

Mr. Speaker, go on to section 8, if that doesn't stop you.

"Subject to section 12…" It reads –

"…a disclosure made by an employee to a Minister qualifies for protection if his employer is –

(a) a person appointed under any law by the Minister."

Now, this is – again, I am pointing out the inconsistency with the Official Secrets Act, because section 8 includes every single public servant. So you can't have – I respectfully wasn't clear on what the Member for East Kingston was saying, where he intimated that we have cleared up the difficulties between this Act and the Official Secrets Act. It seems to me that quoting section 9 – section 15, rather, is not enough to resolve that conflict at all.

Mr. Speaker, I am concerned further and briefly of the Schedule. Because it is – referring to the Second Schedule on page 20 of the Bill, I note in the Third Schedule, regarding the Procedure upon Investigation by the Designated Authority, in section 1 subsection (2) –

"Nothing in this Act shall be construed as requiring the designated authority to hold any hearing."

And further –

"Regulations made under this Act may prescribe the practice and procedure to be adopted at any hearing."

Mr. Speaker, if we are signing off on this Bill though, do we have the regulations?

And secondly, sir, if there is no requirement to hold any hearing - we have just gone through in the last hour and a half in this House, a thorny issue which went - although it was not stated, except by me, *sotto voce* – that went to the heart of the rule of natural justice, yes, *audi alteram partem*.

Mr. Speaker, there has to be some point which comes before subsection (2) of section 3 of the Third Schedule, on page 21 of the Bill, where the other party, the person who the whistle is being blown on, is brought - the issue is brought to their attention.

And I suggest, having regard to that, I am also referring to subsection (3) of section 2 of the Second Schedule, which gives the investigator the same powers as a Judge of the Supreme Court. Again I ask, does that bind him to the rules of evidence that normally govern a Judge of the Supreme Court? And if so, how does that circumscribe the very liberality that it has been sought to achieve before?

All the questions that I am asking and more that I could set out, Mr. Speaker, are not intended to at all take away from the usefulness of the philosophy, and indeed, the principle behind the legislation, which I support.

But I reiterate that the wording of it needs considerable resolution and tightening. And secondly, and perhaps more significantly, we cannot proceed to pass this until we deal with

the repeal of the Official Secrets Act and its replacement with a much more constrained and appropriate piece of legislation, having regard to the need for confidentiality in certain limited state instances, and also making it consistent with other legislation of the modern times, to do with the Access of Information, and indeed the establishment of the Whistleblower.

May it please you. (Applause)

Mr. PICKERSGILL: Mr. Speaker…

The SPEAKER: Mr. Pickersgill.

Mr. PICKERSGILL: I am really concerned. And I would like to endorse everything that the last speaker just said. I don't think this thing is implementable in its present form.

One of the questions I would like to ask, where is it operating, and what's the success rate? And, was this taken from laws in other countries?

(*Sotto voce* comment from a Government Member)

Normally – I didn't hear everything that the Prime Minister said, he might have said that. If he said so, I am sorry.

But really, just a cursory reading, I go back, Mr. Speaker. When you say "conduct that is likely to threaten or damage the environment," we all know that the main cause of flooding is because people deposit rubbish in the gullies. How you going deal with that? Tom Strokes said that he saw Mary Jane throw a little rubbish in the gully? And when you don't have the facilities to collect the rubbish, is the government going to be sued for not picking up the garbage? They are spoiling the environment.

How you – "Conduct that is likely to result in a miscarriage of justice." Who is going to be the judge of that? And how you mean "failure to carry out a legal obligation?" What does that mean? You go to Court and the Judge fine you, and you don't satisfy? But what about bailiff then? Or what is it saying? And the entire section, "improper conduct" – I don't know what this fancy term means either, "occupational detriment", I mean from employer and employee, and how it affects the labour - this thing – this thing doesn't – as Jamaicans say, 'it nuh ready', it nuh ready.

"Regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct". This is the Objects of the Act, section 3. And then again, Mr. Speaker – and believe me, I understand the Memorandum of Objects and Reasons.

But the First Schedule, Mr. Speaker, help me – Prescribed Persons to Whom Disclosures May be Made:

Auditor General, Bank of Jamaica, Bureau of Standards, Children's Advocate, Commission for the Prevention of Corruption, Commissioner of Police, Contractor General, Director of Public Prosecutions, Electoral Commission of Jamaica, Fair Trading, going down to eighteen. What does this mean? You go and you make disclosures in these offices? Is that what it means, Mr. Speaker? So what about the designated authority? What? You would go there and then they go to the designated authority, and the designated authority does not have to charge?

This thing is so disjointed. A person commits an offence if he prevents, restrains

or restricts any employee from making a – and look at the fine. Mr. Speaker, under section 23, is it (e) and (f)

> **"being an employee, purports to make a disclosure under his Act knowing that it contains a statement that is false or misleading or reckless or as to whether the statement is false or misleading."**

I think the fine for that is $2 Million. A little mischievous poor man, $2 Million. And then you go,

> **"…a person who without reasonably excuse fails to comply with a requirement imposed by the designated authority in the lawful exercise of the functions of the authority under this Act, commits an offence and is liable on summary conviction in a Resident Magistrate Court to a fine not exceeding quarter million or to imprisonment for a term not exceeding three months."**

You know all of this thing is poor people you a talk bout. Mr. Speaker, no, I understand as I said, the memorandum, but this is not ready, I could not sell this. And I want to know where in the world you have something like this operating with this kind of content. And I must tell you, Mr. Speaker, I have not read it thoroughly, but what I see here…

A MEMBER: A good thing, Chairman.

Mr. PICKERSGILL: Prime Minister, I need to know, I don't need to go any further, you need to answer these questions because this cannot go anywhere. And Minister reporting to Minister. You think I would want anybody come reporting to me as Minister.

(*Sotto voce* comments by Members)

Mr. PICKERSGILL: At least I can say I have been, and it is not likely that you will be. So you shut your crop.

No, Mr. Speaker, really I agree with the last speaker, that this thing - we cannot pass this as it is, it is not implementable and I am prepared to say that. It is not implementable and it is going to cause more trouble and confusion. And the last speaker used a lovely phrase, whether you want to call them informer or Peeping Tom, you know you are going to say if somebody really go around and sell this thing and a little man want to give trouble get people in trouble.

The SPEAKER: You are on your feet, you know, Mr. Pickersgill, speak in the mike

Mr. PICKERSGILL: It cannot work.

Thank you, Mr. Speaker, it cannot work, can't work, this thing is not ready.

The SPEAKER: Mr. Mullings.

Mr. MULLINGS: Mr. Speaker, the Whistle Blower Legislation is being debated in a certain context and we must not forget that context. The context is that we live in a country that, unfortunately, is very high on the *totem pole* in terms of corruption. We are living in a country where unfortunately many people have been murdered for fear that they would disclose things, be they are corrupt, be they criminal, and in fact, we have to bear in mind that in approaching this, yes, it is new ground for us. But let us not throw the baby out with the bath water. Concern has been raised about entities that are not funded from the public purse and whether those entities ought to come under the rubric or the influence of this legislation. But the yard stick must be whether that entity is conducting

business that could very well, redound to the detriment of the public. For instance, if I am operating a business and I am releasing noxious substances or producing a product that can have implications for the public safety, albeit that I am not funded from the public purse, ought that entity escape the influence or the consequences of Whistle Blower Legislation? I think not. In fact, if we look in other jurisdictions, notably in the United States, where companies have in fact been found creating products and releasing substances that in some instances cause cancer and the employee being privy to that and alerting the public, the entity to that, recourse has been had against those entities.

In the Bernie Madof situation someone was very well made aware of Bernie Madof's activities and complained to the Securities Commission which did nothing, and of course, we know what has happened because of the failure to act. ENRON, as the Minister is indicating is also another situation. So we ought to look carefully as to how we make a distinction between public and private and whether that distinction is as clear cut as we would like to believe.

I think the yardstick as I mentioned before of the impact on the public, in terms of public safety is a real one, and so the legislation would take into account.

I have heard concerns being raised about whether helpers are going to tell tales on their employers and whether they are doing something in their boudoir or their kitchen, that is to trivialize quite frankly, this legislation. And I think as well that the suggestion of having entities to oversee the implementation of the WhistleBlower Legislation, we seek to ferret out those who would seek to be superficial or vexatious.

I would not like to pour scorn on the legislation, because as I indicated before, Mr. Speaker, that it is very important for us to tackle these issues of corruption, these issues that are inimical to the public interest in terms of public safety. And possibly, and I heard the concerns raised by the Members, if you look very carefully to see whether those concerns are as fundamental as we may fear. And I am not saying they are not real concerns, what I am saying is, that let us not seek to dilute the effect of the legislation and therefore defeat its purpose.

And I hear you Member, I hear you, but I would like us to look carefully at the import of the legislation what is it designed to do. And if we look at the Memorandum of the Bill; the Government has decided to introduce legislation in Jamaica to facilitate the disclosure of information regarding corrupt practices and other forms of wrong doing in the workplace and to afford protection to persons making such disclosures. So essentially the legislation is to protect those persons who reveal.

Now I hear the concern where persons may want to cry foul with the effect or design to bring public opprobrium or disgust on the employer, we understand that. And I think one of the safeguards against that is whether we have the entity that will oversee this legislation. But in seeking to prevent such an eventuality, are we in danger of allowing the elephant through. Because if we are to make a distinction as being urged that one, the entity is now funded from the public purse and ought not to be here, what of the ENRON

what of the Bernie Madof's are they to escape the effect of the legislation. Or, in terms of whether it is to be - in terms of whether the entity is happening within the private domain of an individual. We have to look at the effect of the persons activities, wrongdoing corrupt practices. And I think that the dangers complained of or feared ought not - are not rather as fundamental, I might be wrong, I might be wrong, are not as fundamental at we make out.

What I would urge with respect, what I would urge is that if the Members could reduce to writing what they believe their concerns are, and possibly the Committee or whatever mechanism could be arranged for that to be canvassed and looked at carefully, I think that, that could go a far way in dealing with some of the concerns or indeed, for a way to make the amendments, if necessary.

I know we are now on the same page about dealing with the issues, the objectives of the legislation, but at the same time, I would urge that if we do that, we do that with some dispatch because we are in fact facing a very real problem in terms of wrong doing, in terms of corruption and it is something that we delay at our peril.

Thank you, Mr. Speaker.

The SPEAKER: Honourable Prime Minister.

The PRIME MINISTER: Mr. Speaker, some commitments have been made in the contributions made by some Members to this debate that cannot be ignored, ought not to be brushed aside. But I think they deserve more than just acknowledgement.

I am not sure whether what we are seeing is some refreshing departure or some disturbing dissent in terms of how we conduct the business of the House. This is not a Bill that simply popped out of nowhere, it is not a Bill that was contrived by the Cabinet, directed to the Chief Parliamentary Counsel and then simply dumped on the Parliament. This is a Bill that was subjected to intensive consideration by a Joint Select Committee of the House. And one would have assumed that the kind of concerns that are being brought to attention now, would have been aired and discussed in that Joint Select Committee. They would have taken even more time than they took, and they took a considerable length of time; and if they couldn't resolve then, then the Report would have indicated that there was a disagreement among the Members. The recommendation of the majority would have been stated and if necessary a minority report would have been submitted. But it seems to me, my own observation, is that the dismissive, almost ridiculing of the proposals in the Bill is a disservice to those Members of the Committee who have laboured for as long. (Applause)

Express reservations if you will, but to give the impression that the people who put this together were lacking in some sort of intellectual depth, as if to say well, this is - it is unenforceable. What do you mean by damaging the environment? It means that if people throw garbage. And some of the comments quite frankly do not suggest that the sources of the comments have really taken the time to read the Bill. I am not saying it is a perfect piece of legislation, it is not. But I really think it is a little unfair to give the impression that it is hardly worth the paper that it is written on.

You know what is interesting? What is interesting is that in the other place where the matter was debated - and I'm not saying that that place is a fountain of perfect wisdom, they make mistakes like we do sometimes, but we can't ignore their own comments - this was the view expressed by Mr. KD Knight, when the matter was debated there:

> "I also want to commend the Government for having introduced what I regard as a landmark legislation."

Let me tell you what Senator Mark Golding said:

> "It has, I think, the potential to do tremendous good. I also think it has some inherent limitations which may or may not be overcome in how it is administered in practice."

And he went on to make a very interesting point. He made the point that because of the persons to whom the reach of this Bill is limited - contrived - he cited the example of a church, where the members of the church know that the administrators of the church are investing the churches' money in Ponzi schemes and want to blow the whistle on it. But they wouldn't be covered by this because they are simply church members, they are not employees paid or unpaid. So what he was thinking to do supporting the Bill and seeking to identify areas that perhaps we need to take another look? Perhaps we need to strengthen it. It would have been much more useful if that was the tone of the views that were expressed.

Quite frankly, we can't ignore the concerns that have been raised and for that reason I'm going to propose, Mr. Speaker, that we don't take it through committee and into third reading today. I want to get some time for us to visit some of those issues to make sure that if there was an oversight we can correct it. But I really - I wasn't a member of the Committee - but I really - I kind of feel it for them, I feel it for them.

Now let me just respond to some specific issues that were raised.

I mean I'm more than a little disappointed, for example, that the Member for Central Kingston who is normally, normally more constructive criticised almost fighting the impracticality - the lack of clarity. But unlike what he has done on so many occasions before, didn't even bother to say to us, I suggest that you do this, or I suggest that you put this in. He raised the question, for example, of where a disclosure is made orally, the person receiving the disclosure shall within 24 hours caused the disclosure to be reduced in writing.

Now that makes such eminent sense. A whistleblower gives me - blows the whistle verbally to me - tells me something. What this is saying is write it down, make a note of it, don't keep it in your head because when that matter is pursued later be sure that you wrote down as soon as possible after you received the information, what that information is so that you're not groping around for memory. And the Bill is simply saying within 24 hours. Commit it to writing, it's almost as if that is a ludicrous provision in the Bill.

Section 6 subsection (3) - and if you read the sentence - if you read the section slowly, slowly you'll understand what it is saying.

Now remember that the Bill makes provision that employers - not provision a

requirement - the Bill says that employers must put in place at their workplace, procedures for the receiving of complaints. So you run a big company, you must lay down procedures and you must say: If you want to make a complaint and enjoy protection under this, this is the procedure for making that complaint. Complaint must be submitted to the HR Manager for example, that's what the Bill says.

And this section says nothing in this section precludes any person who is required to establish procedures - that's the boss man - who is required to lay out these procedures where you make the complain to the HR Manager. Nothing will preclude that person from operating procedures that are established other than those spelt out in the Act, provided they are not inconsistent with the Act. So the Act sets out the minimum.

But suppose you want to lay out more elaborate procedures, so long as those elaborate procedures are not inconsistent with the Act, you are free to do that. The procedures that might work in my bakery shop may not be the same procedures that will work in Grace Kennedy. Give them the ability to lay out procedures so long as they are not consistent. And this section is read out as if who on earth could have drafted this piece of, you know, something?

Another complaint, section 7 subsection (2): Where an employee makes a disclosure in accordance with the procedure establish or authorise by the employer, or otherwise prescribed to a person other than the employer, the employee is deemed to be making the disclosure to the employer. And this is portrayed as if how this is going to make sense? How can you understand this? It's simple. Where Mr. Douglas Orane is the employer for Grace Kennedy, and he says when you're making your disclosure I am busy, you make it to the HR Manager, then the obligation under the law that allows you to make it to your employer, once you make it to the person that Mr. Orane has designated you have fulfilled the law you have made it to your employer. That's what it says. I mean I'm not a lawyer and I don't think I have to be a lawyer to understand it.

The Member for Central Kingston raised one point which I think has great value - and that is why I believe that we should take time - the question of the right of that person against whom the whistle is blown to a hearing. And if you look in the Second Schedule or - is it the First or Second - if you look in the Schedule it says here: Nothing in this Act shall be construed as requiring the designated authority to hold any hearing. Now that is the designated authority that is to be designated by the Minister. I don't recall in my own review of the Bill whether a person is entitled - it is perhaps something that should be covered by the laws of natural justice but we can't rely on that. It's something that I believe that would have to be spelt out and I certainly would want to take some advice.

Before you proceed to take action against a person about whom a disclosure is made, there's a process that would have to chip in as well. So that's something that I think we need to look at.

The final point I want to make at this stage, because as I say what I'm going to suggest, Mr. Speaker, let's take some further

council. And since I introduce the Bill effectively what I'm doing I'm closing the debate on the Bill. Let's take some further council. I had already circulated through the Leader of Opposition Business, some amendments that we had proposed and it perhaps may be appropriate for me to just speak very briefly...

The SPEAKER: Prime Minister, may I suggest that since you are going to have a look again at the Bill, that when we return...

The PRIME MINISTER: We take the amendments of that Bill?

The SPEAKER: ...to Committee Stage we can do the amendments and any changes that may arise.

The PRIME MINISTER: Yes I think it's necessary for me to explain so that they may at least have an appreciation.

The SPEAKER: Okay.

The PRIME MINISTER: In Clause 2 of the Bill, I had spoken when I open, to some difficulties I had with the definition on conduct that shows gross mismanagement, impropriety or misconduct in the performance of services which involve the use of public funds. And I had expressed a preference at that time to widening that to go beyond just use of public funds. I have been persuaded in lengthy consultations that the Bill is really intended to address matters of corruption. The Bill really is not intended to, in a sense, sanitise the conduct of private business and therefore its restriction to where it involves the use of public funds.

I even felt myself, that it ought to include exercise of public authority which may not necessarily involve the use of public funds. But I was told - I was persuaded - that that would be taking us into an area that would be too vague and was not likely to be a source of problem.

But what we are proposing, Mr. Speaker, is that we delete the words 'performance of services which involve' and simply say 'where conduct shows gross mismanagement, impropriety or misconduct involving the use of public funds'. So we're not confining it to the delivery of services.

There was an issue that was raised as to whether or not this is a - whether or not this simply dropped out of the sky. You know we look very closely at legislation that exists. The ones we found very closest to our own kind of jurisprudence and our own body of laws was the United Kingdom, New Zealand, Canada and Zambia. And it's interesting that Zambia - we may have said that you know, this is the kind of stuff that UK and Canada and New Zealand would get excited about, but Zambia has very interesting provisions to deal with whistleblowing. It is an important adjunct.

It's not the - fighting corruption can't be done with any one weapon. It can't be just Special Prosecutor, it can't be Corruption Prevention Commission it is something that has to be fought on every possible front with every possible kind of weapon. Some kind of corrupt people are immune to some kind of weapon. They are others who will succumb and therefore it is one more tool in the tool kit to tackle this scourge.

Now some amount of trivialisation was made of the definitions of improper conduct and again we need to clarify it. When we say improper conduct means conduct that is likely to threaten or damage the environment, we

are not making a misdemeanour out of that you know. We're not making an offence out of conduct that is likely to damage the environment that must be covered by whatever law deals with that. What we are saying is that it provides a basis on which a disclosure can be made if the conduct about which the disclosure is being made has to do with something that will damage the environment. That doesn't mean that the person is going be locked up and sent to prison for damaging the environment, it simply means that the person receiving that complaint first of all, can accept the complaint because the conduct in relation to which you are making the disclosure damaging the environment, falls within the definition of proper disclosure that would trigger protection under this Act.

Once you get that you investigate it or you caused it to be investigated. And if you investigate it and find that the person throw a box out of ... first of all we're talking about employees here we're not talking about the public generally, we're talking about employees. This thing doesn't reach to ordinary members of the public. Whistleblower protection is to protect employees who bring information to the attention of their employer, but who in the past might have lost their jobs for that.

What he complained about is that, look, I have noticed somebody doing something that is damaging the environment. Well, if he didn't make that complaint maliciously, baselessly, what it means is that you cannot fire him for that.

You cannot deprive him of a promotion for that. If he is to be deprived of promotion you must be able to say, well, he is deprived of promotion because his performance is below the standard required. But you have (at) least allowed a leg where somebody can say now, the reason why I have been by-passed in promotion is because I dared to complain about the conduct of this gentleman who is the boss' favourite. And if the investigation reveals that the denial of promotion was justified on grounds of performance, so be it. If it proves, however, that it is because the man dares to go rat on some senior executive why he has been denied promotion, the law seeks to give him protection. That's all it does.

So the question about whether you have, you know, damaged your environment, only in the investigation you can decide whether that is to be referred to some other authority for prosecution. Whatever! But this simply defines, establishes the basis on which somebody who makes a disclosure can get protection

But in Clause 9, Mr. Speaker, we are seeking to remove subsection (1) and to substitute for it...We have set it out in the amendment sheet. Perhaps we can come to that when we get there. Ah, this is the point. What it requires...I think this was the section that required, not only were you obliged, if you were making it to a prescribed person, not only would it require you to reasonably believe that that prescribed person had the statutory authority to investigate. But that prescribed person also had to have the authority to investigate and if you didn't satisfy those two, then the protection under the law wouldn't apply to that disclosure. And we felt, no. If you think that this is a

matter that the Contractor General ought to investigate and you notify the Contractor General, whether the Contractor General has the authority to investigate that matter or not, the protection must be yours, once you have demonstrated that he genuinely believed that this is a matter that came under the Contractor General.

We have sought to amend section 18 dealing with the process of the investigation itself. Again, we can return to that. We are introducing an amendment which is, I think, important and necessary. Let us say I were the Contractor General and somebody who makes a disclosure to me, when I look at the complaint I realize that it doesn't fall within my scope of authority.

Firstly, we are saying that these prescribed persons can only investigate those matters that within their statutory authority. You don't want the Contractor General now going ahead to go investigate matters that the Auditor General should be investigating. But what we are seeking to do in the amendment is to say now, if you receive a disclosure, which having examined it, you realize doesn't fall within your authority. You have an obligation, you are required to refer it to the authority that has that jurisdiction. So you can't just say, well, it's not really for me entirely. You must pass it on to the Auditor General or you pass it on to the police, or you pass it on to whichever other prescribed authority would be responsible for that.

Now, the final point I want to make, Mr. Speaker, before we sort of prepare ourselves to go into Committee at a later stage, has to do with the Official Secrets Act. And I share the concern. I was amazed, I was surprised, because I didn't know before. When the point was raised by the Member for Central Kingston, I asked the Leader of the House, reach for the Official Secrets Act for me. And he said it's not in the books. So I spoke with the Chief Parliamentary Counsel. He says you won't find it there. It's not one of our laws in here. It is something from 1911 that was applied to us before Independence. And remember that provision in the Constitution that saved whatever laws were in existence before Independence. So when I'm reading it, it has...See if you can reach the document there for me. I just sent it back.

(Mr. Holness reaches for the document and hands it to the Prime Minister)

I didn't know that this was the Official Secrets Act that governs Jamaica.

(The Prime Minister displays the document to the House)

First of all, it has a Coat of Arms here that I don't recognize. (Laughter) Eh? This is the Official Secrets Act of Jamaica. And it has some provisions here about not taking photographs or sketches of places that may be indirectly useful to an enemy and all this kind of thing. I agree with you that it has to go. But the notion of simply just dispensing with it and then we move on, is something that we need to be cautious about.

There is going to have to be a framework dealing with confidentiality within the public service. Nuh family can' run unless certain matters are dealt with in a particular way. Nuh business can run. I don't know how I would run a government if the discussion I'm having with my secretary, or the discussion I'm having with my Permanent Secretary is information that can be just passed out. I talk

with my permanent secretary at 8 o'clock and by 10 o'clock that information is somewhere, when I was just exploring a possibility. I wasn't making a decision. Nuh country can' run suh. And therefore what we talking about is getting rid of this anachronistic something that we have and seeing if we can agree, what is the framework to be put in place. We have the Access to Information Act. We know that there are certainthresholds of access that we have established, where it involves national security and so on. We are faced a situation now for example...

(*Sotto voce* comments)

The PRIME MINISTER: We are faced a situation now and those on the other side who have served in Cabinet will appreciate the seriousness of it.

Mr. PICKERSGILL: You hear...? Remember you're not one. Be respectful.

The PRIME MINISTER: An announcement was made. I wouldn't even put it as strong as an announcement. A comment was made by a Minister about a particular project - I can't remember what the project was now - that he was looking at. And that he would be going to Cabinet to seek approval. He hasn't come to Cabinet yet. Up to now he hasn't come. It's the Minister for Transport and Works. Up to now he hasn't been to Cabinet yet.

A MEMBER: Who wrong jungle?

The PRIME MINISTER: Up to now, as Prime Minister, I do not know what it is that he intended to propose. But his Permanent Secretary got a letter from the Contractor General demanding to see the draft of the Cabinet submission that was being prepared. It hasn't reached submission yet. It hasn't come to Cabinet yet. When it comes to Cabinet, the Cabinet Office has to go through it to make sure that it is consistent with the rules for submission, that it is consistent with Government policy. Very often Cabinet Office will send back a draft submission, it's not ready for Cabinet yet because it has not satisfied these following conditions. But the Contractor General...And under the law he has that power. So if the Permanent Secretary had drafted something in pencil, on a note pad, even before the Prime Minister has seen it, the Contractor General is entitled to it. I'm saying we going have to look at the rules.

My intention is not to allow government sort of insulate it, protect it area to do as it likes. But the efficient administration of Government cannot run without some framework of secrecy, otherwise I'd be afraid to talk to a Minister, for next thing now the Minister has to go disclose to somebody else. Or the Minister may be inclined to disclose to somebody else, counsel. I've said, for example, the Access to Information Act, and even the Contractor General Act, runs into collision with the oath that we take.

When a minister takes an oath that I will not on any account whatsoever disclose the counsel and advice of the Cabinet. And then you get a letter from the Contractor General: I require you to provide by 3.00 o'clock on Friday the 17th, the following information. And if you don't, you'll be liable to penalty of imprisonment and what not attacking the Contractor General. (Laughter) It was I, it was I that chaired the Joint Select Committee that dealt with the Legislation in 1983. Many of the provisions in there were offered by me. So please, ah beg of you! I'm just saying that

these are issues that we are going to have to focus on.

So I agree entirely, this has no place. And if next year we are going to be celebrating 50 years of Independence, then I would like to say, bye-bye to this before we get to that fifty.

Mr. HYLTON: It's not only that.

The PRIME MINISTER: Not only... I agree. I agree. And interestingly, in a discussion that I had with Members of the Opposition, the Leader, the chairman for life was there... (Laughter)

Government MEMBER: Wrong jungle.

The PRIME MINISTER: It's time yuh mek way for some youngsters now all the same you know! There comes a time when all of us have to go.

(Inaudible comments)

No, no, but in a discussion that we had, the Member for North-West St. Catherine was there. The issue was raised and it's something that we want to pursue, that let the good not be the enemy of the best. There are important elements of reform on which we have long agreed. Some of it we can deal with here. Some of it has to be referred to the people. I really am interested in saying now, let's see what we agree with and let's lift them out, let's put them in place because 50 years of Independence musn't catch us with still so many elements of our sovereignty not yet protected. And it is something that I certainly want to pursue with the Opposition. And this is one of those that will have to go.

What I see here is a lion on one side. And it don't even look like the Lion of Judah either! And I don't know what is that on the other side. I really want to see my own Coat-of-Arms on every piece of legislation that I have to live by. And therefore I agree with you on that.

So what I am going to propose, Mr. Speaker, I'm going to close the debate now. We're going to take advice and quite frankly I think the Committee environment will allow us in a more deliberative way to deal with some of the areas of the Bill that need improvement. And we certainly will look at those points that have been raised that we think point the way to improving even on what has been brought to us here from the Senate.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, we will now move on to deal with the Report on the Review of the Defamation legislation. We intend to close that debate today as well, so Members who would want to participate in that are free to do so now.

The SPEAKER: Okay, Dr. Chang.

Dr. CHANG: Thank you, Mr. Speaker.

Thank you, Mr. Speaker. As a member of this Committee that looked at the Report, I won't detain my colleagues too long, but I think it is of some interest to note that this evening as we close the debate on the review of this particular Report, we have just completed a debate on one what is termed as the Whistle Blower legislation, which we'll conclude hopefully in a short time, and laid in the House this evening is another piece of legislation to it, a Special Prosecutor for corruption.

Taken together - it was just laid this evening. I think the Corruption Prevention Special Prosecutor Act, which really means when taken together reflects, despite

whatever differences may exist, the Parliament taking steps to ensure we have an appropriate framework to deal with corruption that is so widely spoken of within society, and that of which note is made that as a country, we have developed a reputation that we are pretty high on the list of those with corrupt practices.

The SPEAKER: Dr. Chang, what are you speaking on, what....

Dr. CHANG: I am speaking on the Defamation Act, I am just saying.....

The SPEAKER: Oh, Oh, well get to it please. (Laughter)

Dr. CHANG: .....the three companion things this evening. (Laughter)

The one that I am about to speak to the Defamation law, Mr. Speaker, is one of that piece of legislation that is central to the exercise of fundamental right, human and constitution right - the right to freedom of expression.

Critical to the exercise of this particular right of course is a 'free press'. It is against this background then that we saw the establishment of the Small Committee, or a Committee chaired by Justice Small, distinguished Jamaican Jurist to review the law. And your committee was then asked to review it using this particular Report as a guide and a basis to look at recommendations for changes in the current legislation. And while using this particular Report to ensure we got the comments of many stakeholders.

This approach, of course, Mr. Speaker, is one that commends itself for future emulation. It was a very useful way of making changes in what is really a matter of fundamental importance, the freedom of expression of people.

The changes we sought, Mr. Speaker, were to ensure transparency and accountability in the form of good governance at this point in time. And that's why I alluded to the other bits of legislation that were on the House at this point in time.

The current trend, of course, is that the right to freedom of expression is a fundamental right and the Defamation Law should be liberalized to accommodate this right at this point in time. That was the basic moot behind the particular review.

The points have been presented by previous speakers, I would not seek to repeat them. The Committee sought to accept the majority of the recommendation. In fact, we recommended some 13 out of 15, and accepted a number of other suggestions in particular from the Media Association and other stakeholders that were present.

I would just like to take note of a couple of points on a general basis. 'Freedom of expression' is today viewed in more than one context. It's not just a matter of freedom of the press. In dealing, one might question whether a 'free press' is equivalent to 'freedom of expression', and I will comment on that further.

It is also true that a number of modern thinkers in the economic field see freedom as development. Amartya Sen, recent awardee of the Nobel Prize, and, therefore, freedom of expression has to be seen as a much more fundamental part of the development process. And indeed, is correctly equated with development, good governance and democracy.

At some point in fact, some regard it as symbiotic, but in a society without freedom of expression guaranteed under law, sometimes the freedom assist to proceed democracy where democracy exists, freedom of expression protects democracy and encourages good government.

Free press operating in a country with a legislative framework that allows for effective investigative journalism and strong responsible debate is maybe the most important tool in ensuring good governance. Even more than the kind of legislation we seek to put in place although necessary.

The Constitution, Mr. Speaker, may provide the framework for good government, but it is the freedom of expression that becomes the primary instrument of achieving good and transparent governance. It provides the factual information to generate meaningful debate. It allows for open debate and it is out of this kind of contentious democratic debate that will generate appropriate government response in a democratic society. These policy responses, are of course, critical to quality government and it is against this background that we must look at the proposed modification or changes to the Defamation law.

One must admit, Mr. Speaker, that the recommendations will never be seen as perfect, there will be differences of opinion because one will always have to balance freedom of expression by the media against other issues such as the individual right to the protection of his or her good reputation, and a need to ensure in some way, that truth will always supercede rumour and personal opinions. The present recommendations move us in the right direction. We are not perfect, but one would argue that at this point in time in our history, our state of development, the current technology and the ownership structure of the media, where we are is a good place to be and a step in the right direction and we would be able to use this to move on from here at a later stage. The urgency, of course, Mr. Speaker, must be to follow through to ensure that the recommendations are codified in the legislation, and the appropriate instructions are given to the Parliamentary Counsel to bring them to us at a early date, in order to continue to develop the kind of legislative framework that we need for good governance, transparent governance and to continue to fight against corruption in the public.

I would, of course, would not complete without commenting on two areas that continue to generate some discussion. One of course, the most interesting one of course, and I am not a lawyer here, but your Committee of course, in looking at the treatment of public officials went with whatever be considered the history of English jurisprudence, and encapsulated by law as in the two famous cases, in the North American instance, Sullivan versus the New York Times. In the English case, the Reynolds case, which has set the case law and precedence for dealing with public officials.

(The Speaker left the Chair at approximately 5:43 p.m.)

Dr. CHANG: I am not reading the law, I am referring to the situation here. (Laughter)

We decided to stick with the English jurisprudence and for good reason. It's what we are familiar with, it is what our tradition

legal system is and it of course, allows for greater flexibility in the judiciary.

I would also like at this point, Mr. Speaker, to raise the issue of what really compares 'freedom of expression' with freedom of the press' because the two things are not synonymous. I recall getting involved in this particular debate when we were looking at the Constitutional Reform sometime ago withe the late Justice Kerr.

Freedom of Expression is really what we need to protect, freedom of expression by individuals in an open society and their right to speak freely, access to all information as required in an educated society, to make decisions that are important themselves and to ensure that they can be properly ventilated.

Indeed, one would say in the context of the press or the media maybe as oppose to the press, modern technology demands transportation and other interests in recent times some made a successful press just a major business. The press is not really freedom of expression, it's another business entity in many cases operated by largeconglomerates. And therefore, they have to be made to operate within some kind of legislative framework that will hold them accountable. It is important that that is imparted in today's world.

The press, the press, Mr. Speaker, is not a body of bright, young professionals sometime attractive that occupy our media box from time to time. It is as much the grey suited individuals, little known, who sit in boardrooms across the country.

Some say true democracy died with the Ancient Greeks, and some may question whether the death of the community newspaper and community radio station was not the death of what you might call the free media. As now, the press is dominated in some way by media owners to a large business interest and tend to reflect the business interest. And the whole situation where in fact, there is a particular structure, which I don't want to get too deeply into, but most of our leading opinion leaders are not really journalists. If we are looking at protecting journalists, part-timers, no disrespect to my colleague from Central Kingston, (Laughter) they write opinion columns and they lead Talk Shows. The professional journalists who are supposed to be governed by the professional ethics are very really the ones who determine the character of news and information in this country.

And for that reason, I am not sure we are at this stage where we should take the ideal view of a total freedom for the media as oppose to guaranteeing freedom of expression.

Of course, while technology creates problems, and maybe set the stage to threaten the very freedom of the press and expression we are protecting, it also in the long run solves its own problem. And, maybe because I have a scientific background, you know, technology is what change the society mostly. And today, the internet, and wireless digital technology is again leading to an emergence of a certain level of individual expression that can be spread widely and easily that is restoring integrity of individual freedom. Hence, we have things like Wickileaks, Facebook, Twitter, and all the things that any individual can stay in one corner of the globe

and very short time initiate news, information to a wide cross section of people. That of course, is what will guarantee freedom of expression if protected in the new order.

Therefore, Mr. Speaker, changing the legislation has to guarantee freedom to publish information, not only ensuring effective policy responses as people are informed, but that will in fact generate better governance, it will protect against destructive self interest that may seek to destroy character, sincere and sensible action for personal gains, and that is what we seek to balance. And I said, I think we have achieved some level of that at this stage.

It is not fundamental truth, it will change in time. The correct balance is important and so may argue it, but as I said I think we have received that balance in a reasonable way today and we look forward to seeing the recommendations codified into legislation early date.

Lastly, Mr. Speaker, I speak as a layperson on the question of whether we should cap damages was raised in a committee and we decided not to do so at this stage. In many ways, while not stated, is an expression of confidence in the integrity and competence of a judiciary. But the truth, Mr. Speaker, is that as I alluded to the emergence of the individual again as a new source of news, information, as education and technology changes and increasingly, I mean, with the Whistle Blower legislation, individuals will now find more opportunity to express their opinion, ferrets out information and transmit it to a wide cross-section. And therefore, the instruments available by expression of your opinions and for transmitting news and information becomes much more widely available and therefore, more easily transmitted. Maybe at a future time, we have to provide a legislative framework, which seeks to create a framework for charges in such instances because increasingly many more individuals could be exposed to legal action as oppose to large companies and conglomerates which currently control much of the media houses.

Is something we have to monitor. The protection of the freedom of expression is indeed fundamental and vital to a democratic society. But as technology changes the way we operate, as the character of governance changes and democracy deepens, we have to monitor it and take steps to make necessary correction and legislation in the future will find that possible. We have to take steps to do it as we see fit today. It is on this basis, Madam Speaker, I recommend we accept the Report and proceed to take the required steps to codify the recommendations as quickly as possible into law.

Thank you. (Applause)

Mr. HYLTON: Madam Speaker, the previous speakers, I think very deliberative, very educated and I think balanced presentation, I think obviates the need for me to be long in what I have to say. I want to associate myself with much of the remarks that the speaker had to make on this very critical question. A question that really has preoccupied us for quite some time, generated far more heat than light at various stages in the conversation in the debate. And I think has brought us to a place where having looked at the committee report and then - the Small Commission Report and then the

Committee's Report, I think it has brought us to a very balanced place in the discussion. And while various stakeholders may not be particularly pleased or happy because they didn't get everything that they wanted in this Report, I believe that having regard to time circumstance and where we are and the stage of development and, as the previous speaker said, pointing to things such as technology, the structure of media ownership and professionalism and professional journalism and something else, Madam Speaker, the push toward specialization as globalization takes hold in, not only the media landscape but so many other aspects of our daily lives. So that he makes the observation quite correctly that in very many instances a number of the contributors are not journalists themselves, are not part of the media fraternity, but persons who claim to have expertise or specialized knowledge in particular areas and particular topic that media, the particular media house relies on in packaging the information and marketing it and presenting it to the public.

I just want to touch on three things very briefly. In a fundamental way the speaker just before me spoke to, and I agree again, the fact that what we really ought to be protecting is the freedom of expression. And his rationale and reasoning was impeccable, which is that the media and freedom and protection of the media itself is quite another set of consideration, far more complex and far more nuanced in its contemplation because at the heart of it these media houses in the main are businesses and are therefore motivated by and have to adhere to various and more complex rules of ethics, range and principles of sustainability, profitability. These are all very important considerations.

And I would say, Madam Speaker, that one aspect of this is the question of the constitutional context for the media. And it is variously described, the media is variously described as the Fourth Estate and the watchdog for the democracy. Madam Speaker, in that sense, we have argued the case, the consideration has been given for protection, the various protections, privileges, rights and freedom of the media. But in that same vein, Madam Speaker, the issue of the media's role in deepening the democratic process is one that I think comes to the fore and must be argued consistently with that role as a member of the Fourth Estate.

And yet Madam Speaker, in a recent conversation that I had with a media manager from one of our more leading media houses, I must tell you I was very concerned about the position that this particular media manager took when I raise the question that if the argument about the protection of the media and about the reform of the defamation laws is to be sustained on the basis of constitutional principles, then media managers and media houses have to give serious consideration to the role that they must play in the reform process of our democracy, more particularly as we come to debate and discuss campaign financing as an element of governing, as an element of ensuring that we have a democracy that is responsive to the various interest and is much more balanced than it sometimes is. And I specifically asked if in that role the media is prepared to ensure that time, space is given to carrying the democratic debate, the issues

to the people, to the country. And the response, Madam speaker, was quite surprising to me and shocking. The person simply say to me we, are you crazy, we are a business.

(*Sotto voce* remarks bo some Members)

Mr. HYLTON: And that's where they make their money, as you say.

Now, Madam Speaker, no one begrudges and one understands that the media, as it currently is configured, is a business in the main. But if it is a business then we must recognize it is a business and it should be treated therefore as a business. But what we have is an amalgam of and sometimes some very vague and confusing arguments that on the one hand we should be protected because we are defenders and protectors of the democracy. On the other hand - well, the rules should be suspended or they should be attenuated because we are a business. I think those require - there are two different sets of consideration. And therefore in that very conflicting and confusing justification and argumentation I think the media houses run into very serious difficulty. It cannot be sustained on these conflicting arguments. If it is that you are the watchdog and you are promoting the deepening of the democratic process and you are the Fourth Estate, then you have to be consistent with that and take it to a logical conclusion. So I think that the Report has it correctly. I think it has been, I believe, a valuable contribution to - as I said what started out as a very heated debate sometimes generating more heat than light. I believe that this Report is enlightening, it is balanced and I believe it is heading in the right direction.

I would just touch briefly on the question of the public figure and its role in the whole discussion and defamation and the approach to regulating or monitoring the role and function of public officials in their role as public officials.

It is the case, Madam Speaker, that the Sullivan principle which is borne out of another culture, another context that requires and places the burden squarely on the shoulders of the public officials, is a creature of a United States set of circumstance with its own jurisprudence, constitutional jurisprudence and cultural and media and business context. To apply this in our circumstance I believe would stretch, not only the imagination, but I think we would stress and constrain credulity and I think would overcompensate in the context of what I just described, a media with different justifying roles as to what sustains it and what is its real focus, it's real purpose, it's real objectives.

In the US itself that whole approach to jurisprudence has begun to turn on itself. So that who is a public official is now one of the dominant arguments, someone who is introduced or thrust into the public light, who make some statements to the media on various issues. This has become a very slippery slope in the United States itself and therefore one that I believe that we were well advised not to emulate and to follow that course of action, but to really look at the situation as we now have it, look at the state of our development or underdevelopment in many respects and to ensure that in this context we do not over subscribe or overcompensate for what is a laudable

objective, which is the transparency and the supervision of our public officials to ensure that they are accountable to the public as well. So I believe that the Sullivan principle in this context is not one that we should grasp. As I said before it's an evolving situation and perhaps we will get to that stage where that is something that we may well want to consider down the road, but we are not there as yet. In the Reynolds case, the very well reasoned case, take into account a lot of the relevant considerations and I support the position taken here.

The issue of capping damages, Madam Speaker, is again a route of the same argument that I make from the very beginning, is the media fish or fowl. And the technology, as was said, may be leveller after all and we may yet get to a stage where, rather than having megaphone through the media houses, we have a cacophony of noises of different point of views and the public having to discern and to make, therefore, its own impression. In that context I think you may need to look at the whole issue of damages because the question of insurance, who is insured and what is business, who is operating in this context and who is the purveyor of the various views and opinions, I think have to be taken into consideration.

So, Madam Speaker, I believe that the Report is a balanced one. I would like to commend the members of the committee for examining and I believe on balance, have made the right decision, the right judgment. Time, of course, this is a matter in effluction, time will tell, and there is need, I believe, for the updating and reviewing as we go along. But I want to commend the members of the committee and to believe that the Parliament and the Parliamentary Committee has gotten it right on this very important issue.

Thank you, Madam Speaker. (Applause)

The PRIME MINISTER: Mr. Speaker - Madam Speaker, I am sorry, Ma'am. The Chair is more elegant when you are there. I want to record my thanks to the Members who have contributed to this debate. Let's recall, Madam Speaker, that this is not a debate on the Bill. This is a debate on the Report of the Select Committee. The contents of the Report will now go to the Chief Parliamentary Counsel for the Bill to be prepared, which will then be signed off on by Cabinet and it will come back here, so that we will have a second go around at it to look at the specific provisions. But I am grateful for the Members who have spoken. I too feel that it is an important step forward and I say so, not wanting to repeat what I said when we opened the debate.

(The Speaker returned to the Chair at 6:05 p.m.)

As somebody who has been, perhaps moreso than anybody else a victim of the unyielding, painful pressure of the media, no matter how annoyed I get at times - and I do get annoyed at times - but I feel that it is an important pillar of our democracy.

We don't think that we are being unfair when we insist that there is an aspect of the conduct of the media that can never be legislated. There is no libel law, any slander, defamation law, that can completely define ground that must not be trodden on. We have to leave a lot of that to the good judgment of the media practitioners themselves and the

media owned. We don't believe that they have any fewer stakes in the future of this country, and the institutions that will ensure the prosperity of this country than we do. We feel that they are as committed as we are.

And therefore, we appeal and we depend on them to, as we mature - and that maturing is something that's a continuing process, and no country has got it perfectly right yet. I was quite interested the other day to look at the index of countries worldwide, in terms of press freedom. And I can't remember the countries now, but I was so amazed to see some of the countries that we had surpassed, countries that you would assume that, you know, Press freedom was so solid and institutionalized, and yet we were ranked above those countries. Some of them, Members of the OECD; some of them major developing countries, and yet we were ranked above them.

And yet we can never take that for granted. We can't say we are there now so we can lock off. We have to constantly strengthen those institutions that will preserve the democracy that we cherish so much. It is a job for all of us, not just the legislators. It is a job for all of us.

And, Mr. Speaker, I hope that when the recommendations of the Committee are translated into draft legislation, I hope that they will hastily reflect the views and the recommendations that were signed off on. Can I just finally, once again, record my appreciation to the Members of the Committee that had reviewed the defamation laws, Chaired by MR. JUSTICE HUGH SMALL and comprised of a number of distinguished persons. At least one of them no longer with us, but I thank them for the work that they did. They did the groundwork. The Committee did the review. We are here to effect all of that and to have that passed into law. That process has begun, and I want to thank the House for the support in going forward in this way.

The SPEAKER: Members, the Resolution before you is - I think it is Number 7 - anyway, just complete the debate and it is for your approval.Put to the House and agreed to

The SPEAKER: The Resolution is approved. House Leader.

Mr. HOLNESS: Mr. Speaker, I would like to - well, there is a Report from the Regulations Committee which we will now take.

The SPEAKER: Very well, thanks.

Mrs. DALRYMPLE-PHILIBERT: Thank you, Mr. Speaker.

Mr. Speaker, the Regulations Committee met on 18th January, 2011, and we were asked to examine the Income Tax Amalgamated Payroll Remittance Regulations (2010) under the Income Tax Act in accordance with Standing Orders Number 73, Section 1.

And in our deliberations, Mr. Speaker, we looked and we approved the Schedule for the Employer's Monthly Statutory Remittance Payroll Deductions under this Act. And we found that the Schedule, as it was formulated, would indeed facilitate smoother bureaucratic process, and create greater efficiency in the system.

And so, Mr. Speaker, the Report now, having been laid on the Table, we ask for it to be adopted. But before I do so, I would like also, on behalf of the Committee to express to

the Clerk, to the Houses of Parliament and her staff, our gratitude for their efforts in helping us to prepare and have this Report laid before the Houses of Parliament.

The SPEAKER: Members, before you is the Report of the Regulations Committee of the House on its deliberations on Income Tax Amalgamated Payroll Remittance Regulations (2010).

Put to the House and agreed to.

The SPEAKER: Adopted.

Mr. HOLNESS: Just one final house keeping matter. I would like to move for the suspension of Standing Orders to re-commit the item, Notices of Motions Given Orally, to enable the Minister of Health to give notice of a Bill that he intends to bring to the House.

The SPEAKER: Members, the motion before you is for the suspension of Standing Orders to allow the recommittal of the item Notices of Motions Given Orally.

Put to the House and agreed to.

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Mr. Spencer.

Mr. SPENCER: Thank you, Mr. Speaker.

Mr. Speaker, I beg to give notice that at the next meeting of the House, I will move to introduce and have read a first time, the Bill shortly entitled: Health and Allied Professions and Services (Miscellaneous Penalty Provisions) Act 2011.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business today. But, before I move for the adjournment, Mr. Speaker, I want to remind Members that we will be meeting tomorrow, where we will continue the business of the House. We will have two Private Members Motions, and there are other Government business which we will deal with.

The SPEAKER: The motion before the House is for....

Mr. HOLNESS: May I move the motion, Mr. Speaker?

The SPEAKER: Sorry.

Mr. HOLNESS: (Laughter) Mr. Speaker, it is not proposed to do any further business today. I therefore, move that the House do adjourn until tomorrow Wednesday 26th.

The SPEAKER: The motion...

Mr. HOLNESS: You are in a hurry, Mr. Speaker. (Laughter)

The SPEAKER: I don't know why. The motion before the House is that this Honourable House do adjourn until Tuesday...

MEMBERS: Wednesday.

The SPEAKER: Sorry...Wednesday 26th January at 2:00 p.m.

Put to the House and agreed to.

The SPEAKER: This Honourable House stands adjourned.

The House accordingly adjourned at 6:13 p. m.

THE HONOURABLE HOUSE OF REPRESENTATIVES

SESSION 2010 – 2011

WEDNESDAY, January 26, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:26 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters

AUDLEY FITZ ALBERT SHAW, (JLP), Manchester, North Eastern, Minister of Finance and the Public Service.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

LAURENCE GEORGE BRODERICK, (JLP), Clarendon, Northern, Minister of State in the Ministry of Mining, Energy and Telecommunications.

MICHAEL ANTHONY STERN, (JLP), Clarendon, North Western, Minister of State in the Ministry of Industry and Commerce.

OTHER MEMBERS

MR. COLIN ALFRED A. FAGAN, (PNP), St, Catherine, South Eastern.

DR. ESMOND VERNAL PATRICK HARRIS, (PNP), Trelawny, Northern.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston Eastern and Port Royal.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

MR. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern.

PRAYERS

Prayers were offered by Reverend Ronald Thwaites.

The House resumed its sitting at 2:26 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL
(See Listing)

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 6**
  Cabinet agenda issues for January 17, 2011
- Report of the Integrity Commission appointed under the Parliament (Integrity of Members) Act for the year ended 31 December, 2009

  And
- Audited Financial Statements for the financial year ended March 31, 2009

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Mr. Shaw.

Mr. SHAW: Thank you, Mr. Speaker.

Mr. Speaker, I beg to give notice that at the next meeting of the House I will move to introduce and have read a first time a Bill shortly entitled

"The Jamaica International Financial Services Authority Act, 2011".

(DR. THE HON. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing entered and took his seat.)

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business today the Minister of Finance has two matters regarding the Provisional Collection of Tax Act which he will take. We will then proceed to continuing our debate on the Private Member's Motion brought by the Member of St. Catherine North East regarding the family; and then the Member from Central Kingston will open the debate on his resolution on the Road Traffic Act and certain proposals he has made in these resolutions. That will be the extent of our business today.

We will recommit at a later stage, Mr. Speaker, Reports from Committees and Announcements in order to deal with certain regulations concerning the Education Act.

The SPEAKER: Thank you, House Leader. Minister Shaw.

Mr. SHAW: Thank you very much, Mr. Speaker.

Mr. Speaker, in accordance with section 3 of The Provisional Collection of Tax Act, the Provisional Orders in relation to the matters that have been tabled are to be confirmed by affirmative resolution of the House of Representatives within the next thirty days on which the House sits after the date of publication of the Order in *the Gazette*.

Income Tax Provisional Order No. 5 relates to that part of the revenue measures

introduced in January 2010 by the Ministry of Finance, that made changes to the progressive rate of income tax. As a temporary measure, individuals earning above $5 million annually would be charged, and are being charged, an increased rate of income tax as indicated. Basically those earning below $441,000 there is no rate, of course, that's the threshold. And those earning between $441,000 and $5 Million the existing rate of 25% is applied. And those earning $5 Million to $10 Million would attract a rate of 27.5%; and those earning above $10,000 (sic) $10 Million *per annum*, would attract an income tax rate of 35%.

Mr. Speaker, by virtue of Ministry Paper dated January 19, 2010 the two increased income tax rates of 27.5% and 35% are to expire on March 31, 2011, this year, as promised by me when I made the announcement in January of last year. A resolution is therefore being sought to confirm and to extend this Order so that it persists until March 31, 2011.

The Income Tax Provisional Order No. 8 relates to the corresponding changes, they work together, Mr. Speaker, to the rate of income tax applicable to nonresidents. So No. 5 is to residents and No. 8 is set aside for nonresidents as a result of the revenue measures introduced by The Income Tax Provisional Order No. 5.

Therefore it relates to the rate of income tax payable by nonresidents, the increased rate, which is the same as I described before.

(DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central, entered and took his seat.)

(MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern, entered and took her seat.)

This Order also, Mr. Speaker, speaks to the relief of income tax on dividends income derived from resident companies effective January 1, 2009.

A resolution is therefore being sought to confirm and to extend this Order so that in respect of the increased rates it persists until March 31, 2011.

Accordingly, Mr. Speaker, the House of Representatives is being asked to confirm and extend in accordance with section 3 of The Provisional Collection of Tax Act, The Provisional Collection of Tax (Income Tax) (No. 5) Order, 2010 and The Provisional Collection of Tax (Income Tax) (No. 8) Order, 2010 by affirmative resolution *via* The Provisional of Collection of Tax (Income Tax) (Confirmation and Extension) Resolution, 2011 tabled before the Honourable House today.

I seek your approval.

(MR. CLIVE ARTHUR MULLINGS, (JLP), St. James, West Central, entered and took his seat.)

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Mr. Speaker, again we are being called upon to support this tax measure being brought here by the Minister. But what I would like the Minister to tell us - and we understand the reasons basically for it. If you have that information with you, Minister, is if you could tell the House, because this has already been implemented.

(Mr. Shaw nods.)

Right. So you should have some figures to tell us, because we would like to know what

additional amounts of tax you intend to use this measure to garner in respect of the overall hole that you may have to fill in the budget exercise - because we know that there is shortfall as you have said before - but we want to know what is the shortfall that this measure is designed to fill. And whether or not you are contemplating to further take a look at the threshold by which there is exemption, because inflation has somehow taken a bite out of the dollar, as you are well aware, and it makes the threshold now, at one stage had looked very attractive, but expenses have crept up upon us and hence the threshold may need to be looked at again to see if in the coming budget, in the next financial year you can do something more about the threshold so that we can get easement there again.

(MR. ERNEST AUGUSTUS SMITH, (JLP), St. Ann, South Western, entered and took his seat.)

The fact of the matter is, Minister, we must remember that we are on a wage freeze and if we are on a wage freeze and workers can't get any increase - we have moved the ceiling on the NIS. So it means that the contributions will go up in certain categories and it means that the take-home pay is going to be less. So there is a wage freeze on what you are getting, general cost of living is increasing and the wage freeze is there. So it will be left to you now to see if you could use the threshold in the upcoming thing to help us a little to get a little comfort, since I take it that this wage freeze may be going on a little more. But if you could tell us the figure, how much we plan to raise by this exercise overall.

(MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern, entered and took his seat.)

Mr. SHAW: Mr. Speaker, let me indicate to the Member that the question that he has asked me is a question that I have already directed to my tax department and they are working on that information. What they have told me, however, is that they feel pretty confident that the initiative has not been as successful as we thought it would be; and in part because they feel that income earners at those higher levels, once they saw that the initiative was taken in this way it is apparent, and I am just saying at this stage it is preliminary, but it is apparent that other mechanisms, circumvention mechanisms were found in order to avoid paying the full amount of taxes.

It is in part one of the reasons – well as you know, Mr. Speaker, we had indicated that this was an event that would - a tax that would cease by the end of March of this year. But I will undertake that when I get that information I will share it with you.

Now, Mr. Speaker, in relation to the question of the income tax threshold, I take the points that have been made by the Member and would still suggest to him that, having regard to where we are coming from with the threshold, which was originally in the region of just over $200,000, that we have come a long way. It doesn't mean that we are - we feel that we are where we are, because when we compare our threshold with other regions like even Barbados and so on, when denominated in Jamaican dollars you find that their threshold is in some cases close to

J$1 Million, or over a million Jamaican dollars. So we have ways to go.

What I can indicate, Mr. Speaker, is that at this very moment, looking at the entire picture of our tax reform agenda - and it's not to say that all of our decisions will roll out by the end of this fiscal year, but I can indicate that certainly in the budget presentation there are certain aspects of tax reform that are going to be confronted and will be announced at that time. And by tax reform we don't necessarily mean a tax increase or specific tax types, but in terms of the overall administrative reform as well as the system, in terms of the taxation system. It is something that is preoccupying me now on a very regular basis. I have virtually meetings every two days going through all of this now. Because one thing I can tell you, Mr. Speaker, we have not been short of studies on taxation. We have had the Matalon Report, we have had the Partnership for Transformation, we have had a synthesis of all of those various reports coming, including reports from the Competitiveness Study done by the Inter-American Development Bank. We have had benefit of the CARTAC Report of the IMF that was done looking at the administrative reform as well.

So in all of this I would indicate that we will look at the question of the threshold without being able at this stage to give any undertaking that there will be any immediate change. But what I do give undertaking of, is that when we look at the World Bank Business Report on doing business in Jamaica, it's not a very good report. It shows that there is too much bureaucracy that militates against business and it shows that the taxation system is one of the worst systems globally. We are something like 175 out of 183 countries. So it tells us, Mr. Speaker that we've got to do something and do something quickly.

Now we have started. I want to indicate, Mr. Speaker that we had promised the consolidation of statutory deductions and we have started that process. It is within that context that we did not get it started until we had sold off on the matter of the NIS ceiling.

Mr. SHAW: Now, we have started. I want to indicate, Mr. Speaker, that we had promised the consolidation of statutory deductions, and we have started that process, and it is within that context that we didn't get it started until we had settled off on the matter of the NIS ceiling.

But I want to indicate, Mr. Speaker, that our dry-run in December, of one consolidated form, in which, instead of a business person having to fill out five forms to goes to the NIS, to the National Housing Trust, Education Tax, PAYE, and one other I can't remember right now, five of them, as of December there is one form.

Rev. THWAITES: Omar suggested it and you have done it.

Mr. SHAW: Pardon me?

Rev. THWAITES: Omar suggested it and you have done it.

Mr. SHAW: Well, fine, fine!

Rev. THWAITES: Good move!

Mr. SHAW: Thank you.

And there is now one form, Mr. Speaker. And on that one form it means that there is one payment, one place, one cheque that's drawn. And you can do it online and then the Tax Department do the distribution

thereafter. And then that system will go through until January, 2012, we will have the opportunity now for the first annual return to be made, once again in a consolidated way. So that, Mr. Speaker, will lead to assisting in the process of simplification, and help towards making the whole process easier. And there are many other initiatives like that, that we are looking at now, and I will be announcing those in the House in due course.

Thank you very much, Mr. Speaker. (Applause)(Mr. Thwaites rose)

The SPEAKER: No, Reverend Thwaites, unfortunately the matter has been closed. You should have spoken before the Minister responded.

So the resolution…

Rev. THWAITES: The Minister was answering the Opposition Leader's question.

The SPEAKER: The resolution – there are two resolutions, Members. First, I have to put Number 8 on the Order Paper, as indicated.

Put to the House and agreed to.

The SPEAKER: I now put the resolution as indicated as Number 9 on the Order Paper.

Put to the House and agreed to.

The SPEAKER: Both resolutions passed, Minister Shaw.

House Leader.

Mr. HOLNESS: Mr. Speaker, we will now – before we do that, Mr. Speaker, we have dedicated Wednesdays, and we have said that we will meet for as many Wednesdays as we can, to the end of this Parliamentary session, to clear the Order Paper of Private Members' Motions. It can only be possible if we have the support of Members, Members who have indeed tabled their motions to be debated.

We will continue with the motion brought by the Member from North East St. Catherine. And the Member from St. Catherine, South Central, will be participating and will start the debate.

The SPEAKER: To be fair, though, House Leader, the Member from Central Kingston is usually here, so we can - and he has, I mean, 90 per cent of the motion. So we could really…

Mr. HOLNESS: Well, we can thank him for being here.

The SPEAKER: No. But we can really put some more of his motions over the next couple weeks, okay. Very well.

The continuing debate is on the motion from the Member from North East St. Catherine. So other members who are prepared to speak now – Mrs. Sharon Hay-Webster.

Mrs. HAY-WEBSTER: Thank you, Mr. Speaker. I rise to support discussion on this motion. I am sorry, Member, that I had not been here for your presentation when it was made, and for the presentations of the others.

But the good thing, Speaker, I must commend the House for how quickly we get the Minutes and the **Hansard,** so that we can see the outcome of the discussions. So I had the opportunity to see the contributions from the Members from North East St. Ann and North Central Clarendon.

I am very supportive of the need for this kind of discussion in the House. It ties back somewhat, Member Mair, with the discussions that I had wanted to see, in

respect of the social change we see necessary as part of the anti-crime initiatives.

Why is this discussion necessary? Because truly, as you have all pointed out, family is the cornerstone of every nation. It is – people are the greatest primal essential and supreme source of wealth in any nation. And if we see that there are some difficulties that are taking place, then we are duty-bound, as leaders, to try and find some solution.

And as you all had pointed out in your own presentations, the issue of teenage pregnancy, the issue of crime, in particular, the very stark facts as laid out by the Member from North East St. Catherine, in respect of sixteen to twenty-five age range, for the incidence of crime and the loss of life also, amongst our young men.

There are some simple values that I believe we need to define. The Member from West Central St. Andrew, in his own presentation – I remember how well we received it, I remember how well that presentation was received in this House. And he asked a critical question then, how do we want a Jamaican to be defined ten to twenty years from now? And we still haven't answered that question, Member. And I think we, as leaders, need to define from discussions with the State agencies that need to influence that kind of push that we seek to bring them in and hear what are the values? We have had Values and Attitudes programme before, but what are the values that we are really looking for in how a Jamaican is going to be defined and accepted? Is it that we want all to be seen as bad man and bad woman, and have energy, don't mess with us? No.

We have the best athletes in the world, recognized on the world stage, the best entertainers recognized on the world stage. But there are other talents we have which must be allowed to come forward. And they won't come forward, Mr. Speaker, if we don't have an organized effort to pull that out and enable it.

And that's why I want to speak to the issue of joined-up governance, because that's really what we need, as I see it, in respect of the search for solutions on this. I don't know that it makes sense us going through all of the stats that you have given and pontificate some more on how bad it is. How we going to resolve it? How we going to resolve it?

So what I would want to propose is that we are going to see some collaboration between a Ministry of Education, the youth-related agencies, sports-related agencies, social development agencies, and the Social Policy Research Units, as they exist at the tertiary level, where we get to the table and begin to look at the reformulation of social policy and the implementation of a planned programme of social change. We can't define it in here, we need to consult with our constituency and allow it to be defined. What do they see as their vision? Where do they want to go?

But we must provide leadership by insisting that we want to improve parenting, because if you improve parenting, you improve the family structure, you improve the kind of social dissonance that we see happening now. Whether or not there is that cultural impact that we cannot escape from, because we are part of the global network now. We open up communication, we get

stuff coming in on our Blackberries, stuff coming in on our normal phones, and stuff on our cable. And you can't really control, in a sense, how much information is there that your children and our young charges are exposed to. But what we can try and influence is their response to it, what they accept, what they reject, based on how we, ourselves, conduct our spaces within the community. So we have to look at reformulation of the individual family and the community family.

I want to speak, Mr. Speaker, to some of my own experience, in terms of my constituency. I want to look at the Central Village Business Watch Committee, and the impact of JSIF and the Innercity Basic Services Programme, the SDC and Ministry of Education, and how we have been able, just for example in Central Village, to begin to effect some change. Through the Committee and work that we have been doing between Big Lane and Little Lane, and up on the hill in Windsor Heights, we have been able to build out community leadership, and have some change.

But I want to make an appeal, in speaking about the kinds of things we have been able to do. At the New Testament Church, for example, we have a camp every summer that has been going for the last six years, Mr. Speaker that the only focus is on the young men who are in trouble within the communities. You bring them in, you keep them for that time, and give them a different view of themselves and their space, you find some change that's taking place. You see them shifting away from the corners and the gangs, and the different family. It's because there is lack of family why they shift to organized space of the gangs. PMI can tell you that, the Violence Prevention Alliance research has shown that, and the Victims Support Unit has shown that, based on the hearings that they have done within communities. So let's take the social research information we have and let's act on it now.

But one of the things that I would want to encourage us too, within our own constituencies – and I want to put it forward to CDF, and I hope I can get support from the Members of the House on this – CDF does not allow us to fund recurrent expenditure, such as salary or major consultancy for a long period to do a social-change programme such as this.

But I would make the appeal, though, Speaker, in keeping with what the Member has put forward. If I, for example, could have carried forward on a project that I had, which I call The Hundred Families Programme - we are going to take twenty families from each division, hold that first hundred for a year, and in that set of families, we're improving their access to supports that are necessary to ensure that that family can live. What's the decent standard of living, as defined? Are they there? And it's not me, as the politician, who is choosing them. Within the community the Citizens Association says these are the twenty families that we see are most at risk. How are we going to lift them up? But we are making sure that those hundred families share the information amongst themselves. So you are getting the movement across political divide, and social divide, too. We have seen it happen before in smaller units that we have done. But if we can get that

done in a wider and deeper and integrated sense, we can get that change we seek, Mr. Speaker.

I have seen for myself where when we have had development programmes underway - where they tell me it can't happen, too much violence, it's not possible - we had sixty-five people – Member Kellier, you remember that? From the very first Lift Up Jamaica project in St. Catherine, sixty-five people who worked across political divides to ensure that the gabion baskets were built out back for those sewage ponds out by FIDCO. We had no loss of life, we had no fight and tribulation. People cooked, worked and lived together for that time, and learned a new skill. They moved to a different level and had a different sense of themselves. The only way you get change is when you plan it. It can't happen from a wish and a prayer.

So, one of the things I would want to appeal is, I would hope that the CDF would allow us, especially the innercity, Mr. Speaker, and I know you can relate to this – that where we can find the kind of social change initiatives that we need, allow us to carve, create and fund the social-change consultants that we need to be in place for a four to five-year period, that we can work with the university also, and track the change, and ensure that we are getting the kind of development of family - individual and community - that you seek. It's a very critical thing that I think we need to take on in a focused way.

But I don't want to just put that forward as my thing. What I would want to suggest as an outcome, Member, is that we bring in JSIF and ask them what their results of the Innercity Basic Services Programme has been. We bring in the Violence Prevention Alliance and the Victims Support Unit and the PMI, and SDC, and let us refer this matter to the Human Resources and Social Development Committee. That's the change, Member that I would want to suggest as an amendment. Let's take it to Committee and have the consultation at the highest possible level that would allow us to agree. Let's agree on what are the platforms, and where we are going. Sure, we have the **Vision 2030** there, but how are we going to achieve that?

I see the comments that the Member from North Central Clarendon had made - and I am not trying to weave all the comments together, but just to observe. You are doing something as you had indicated under instruction from the Prime Minister and bringing social services to the Farm Work families programme.

But if some of that same experience was shared across with other rural development programmes and with other social development initiatives, we would get a net work of experience that established and we can begin to carve and feel in a very tangible way the change that we would like to see. But we can't have you doing that in Labour and Social Security, Minister of Education doing that with the parenting support programme through the regional offices and the Guidance Counseling programme and SDC doing their programme through community development and NYS doing a separate programme through their Youth Development programme and the Centre for Youth and Development doing their programme.

Everybody is doing a little bit of something and what you get is a fruit cake that is going to fall apart because there is not enough binding ingredients in it. So we really do need a network, we need joined-up governance as an approach. Where within each Parish there is a critical set of agencies that sit down and say for the next five to 10 years, this is where we are focused, this is what we are doing to enable the redevelopment of the family structure.

As we pointed out, we do not have the core family that is defined so to speak by western tradition and Westminster tradition it is just not there. So let accept our reality, lets also accept the negative that we don't want to continue to have and then let's decide how we want to change it. Now we can't individually as the 60 Members here, decide on that change. So all I am saying, let's set the agenda for social change that is responsive, tangible, measurable and impactful. Let's practice some joined up governance for the sake of the Jamaican family and let's have the courage to implement real time care and exercise decisive leadership.

That is my only cry in support of this. (Applause)

The SPEAKER: Thank you Mrs. Sharon Hay Webster. Miss Lisa Hanna.

Miss HANNA: Thank Mr. Speaker, I wasn't sure if I was actually going to speak on this motion but I felt compelled to do so for a number of reasons. But I want to come at it from two different perspectives.

One is to highlight certainly the moral implications. But two, to look at the educational perspectives that we face and to really identify how it is that both contribute to one another.

I support the motion coming from the Member. And one of the - certainly from the educational perspective, one of the issues that is critical. Quite recently there is a book and I am not sure if you have read it yet it is called the **"Battle Hymn of the Tiger Mother"**, and it has been getting quite a bit of interests overseas. And really what it speaks to, is the political incorrectedness if there is - if we can coin it that way - of a Chinese mother who decides to implement Chinese norms on raising her children in a westernized world, particularly against the background that she believe that if her child was going to succeed in this global economy and in this global village that they needed to have certainly more values and social mores and discipline to merely go forward in the educational structure, so that they would have more choices and they would be able to compete with other children.

One of the dilemmas that we face certainly as a country, and it is something that I do when I speak to the principals and teachers in my own constituency, is that I have to say to children and our teachers that we are no longer competing against children in South East St. Ann or in the Jamaican classroom. We are competing against children in other countries from around the world and we are competing for the same jobs. Because as we all know, we talk about this global village and this communication technology but we do so and really don't understand how it really has impacted on our everyday lives and on the success of our country.

The issue, therefore, if you are looking at social decay and in terms of family, you have to take it from my mind, Mr. Speaker, you have to look at how a family will now address a child staying in school. It is not enough to just say well, we to keep families together and perhaps we can incentivize families to stay together and really hold them responsible for their child going forward. But, Mr. Speaker, certainly as legislators, we have to come up with a vision for this country that recognizes that the youth are the most critical and important force to ensuring that our survival of our country is hinged on their development. And until we can come to that realization and say well, here is where we want our country and what we want our country to look like in the next 10 to 20 years, it is only then that we will say well here is what we have to put in place to identify and reach to that level.

But in looking at family, Mr. Speaker - and I was drawn to a letter that was sent and I have signed to it. We are the law makers of this country and when the Political Ombudsman is going to write to say that he is disgusted with our own behaviour and how we are conducting ourselves in this Parliament, I am hard-pressed to understand how it is that we are therefore going to ask a parent to say listen, we want you to keep your child in line and we want you to uphold the moral and social justices of this country when we are not doing it amongst ourselves. (Applause)

(*Sotto voce* comments by a Member)

Miss HANNA: I am reading a letter and I have read a letter from the Ombudsman. Whether or not the Ombudsman believes that it is true, I don't think that all 60 Members in this House have bad behaviour. But certainly when you look at some of our Members you can concur that some of us do have bad behaviour, and I think most persons can agree to that statement. (Applause) And I think if we are honest with ourselves, we can agree to that statement. But let us not get sidetracked by that statement. The truth of the matter is, and I can refer to it - the truth of the matter is, if we are going to take a decision to hold our parents accountable we have to hold ourselves accountable as well if we want moral accountability… (Applause) ….and if we want to build moral and social justice in this country.

Right now, in situations - and that is why I say there is a correlation between the two, Member. There is a correlation between persons dealing with and staying in our social environment, in our school environment in keeping with a vision for this country as well as understanding the discipline that where we would like our country to go. And so even before we can even get to saying well, here are the social programmers which the Member from St. Catherine was speaking about in terms of joined-up governance, I really believe we need to take a step back. When you consider that and you have said it, 75% of all our crime is committed by persons under 30. Two weeks ago in my constituency, and I saw this, where two persons came from another parish, saw a school boy at the bus stop jumped off of the van held him and stabbed him. And the entire place went into uproar, and the residents themselves decided to take justice into their own hands.

Now, until we say to ourselves well here is where we want our country to go and we are going to utilize your will power but you have to become educated, because we cannot move the country if we don't move it this way and certainly have the discipline to do it. Then, Mr. Speaker, we could come here all the time and talk about legislation. Legislation are pieces of paper that you enact in courts of justice, if you get to that far; and that you hold people accountable by the rules of the society. Having a piece of paper doesn't necessarily mean that it will get implemented; having the will power to implement it actually gets it done.

All of us are in this Parliament because we love people, all of us are serving because we love people, all of us want to live and die in Jamaica because it is the country that we love. All of us hurt because we see a country that is in social decay and perhaps we believe at this point is repairable. But I wonder, Mr. Speaker, especially with losing a number of our young people, especially in our schools where the majority of wounding that is taking place are taking place between students and students.

(*Sotto voce* comment by a Government Member)

Miss HANNA: Not in the schools themselves. But Minister, you had to come to South East the last time to deal with an issue where something took place.

Mr. Speaker, the time is now, it really is now. We don't have a lot of time not only to compete globally and use our young people to move our economy and push it forward, Minister of Finance, but certainly to hold our young people accountable and hold our parents accountable, Minister, for understanding that the only way we are going to move this country forward is to make sure the generation that we are depending on is successfully equipped to do so.

And so I want to just say that I support the motion, and I hope that we all, on principle, have the resolve to not only to set the example but to put the things in place and implement them. And not only do a number of things only intended to make our young people feel nice, but we do them because we believe it is the right thing and we keep them disciplined on a path. And whether or not we follow the examples of the tiger mother, which perhaps many persons don't follow, but all of us had a Jamaican mother whether it was our biological mother or father or guardian back in yesteryear that use to hold us to certain standard and I would like to see us go back to that.

Thank you, Mr. Speaker. (Applause)

The SPEAKER: Mr Broderick.

Mr. BRODERICK: Thanks for the opportunity to participate in this debate, Mr. Speaker.

It is almost as if I feel *déjà vu* I would say that as laudable as the motion is, that 50 years ago, I am sure that the very same motion was being debated in this very House.

Every year we come with another set of platitudes of values and attitudes and the moral, reshaping of the nation. And we bemoan the ill-treatment of the underprivileged and we find every adjective that is appropriate in diagnosing the issue. And every one of these submissions, Mr. Speaker, I am sure were valid arguments. We have never been short of planning and we

have perhaps spent the first half century of our independence replacing Plan A, with Plan B, and Plan B with Plan C, and we have seminars, and we have select committees, but somehow we can't get out of the planning stage, or we can't get out of putting in place what we would consider modern up-to-date legislative reforms.

Perhaps as we reflect on all the ills that afflict our young people, we could probably take a step back in time and reflect with ORLANDO PATTERSOn when he wrote *Children of Sisyphus*.

Not so long ago I took up a daily paper and I saw the statistics on child abuse and incest, perhaps that should be the topic we focus, why is there so many incest. But we shy away, from subjects that are difficult and we get ourselves in the periphery and never to the substance that has left this society with half, if not all, its young people absolutely and totally disillusioned and are losing faith in us as law makers. (Applause)

There is no one fix. Each and every one of us here represent some 40,000 or more people in our constituency. And each and every one of us is capable to verbalize and testify how broken down community life has become over the years. Let us instead of worrying where we were born and where we came from, ask ourselves when last can you see a sincere district meeting held by the pastor of that district and that there is a father of the district who listens to disputes, those disputes which the Member spoke about that lead to violence. There are no elders commanding respect. And that is because we have systematically stripped them of the respect that they are due. We no longer have the post mistress who was the Guidance Counsellor to the young girls, we no longer have the district constables, we no longer have the senior policemen. If they are stationed in my constituency in Crofts Hill they live in Kingston, or they live in Linstead. They are never around after the hours of work. And there is a total absence of leadership at all levels. The teachers in the average school if they teach in Crooked River they live in May Pen. There is no recourse of that child to go and receive some additional assistance over some problem that an adolescent young girl would have. (Applause)

Mr. BRODERICK: But to come back to Gordon House...

Mr. MONTAGUE: All the parson.

Mr. BRODERICK: I will beat the drums again...

Mr. MONTAGUE: All the pastor move.

Mr. BRODERICK: ...2011 Member Broderick, Member Charles, Member Thwaites and in 2020 some other guys with some nice interesting names will be beating the drum again.

Mr. MONTAGUE: True.

Mr. BRODERICK: And I don't understand how we do not feel that we are no less impotent than the impotent drones.

Mr. MONTAGUE: Careful, careful.

Mr. BRODERICK: Yes, we must be, because we are not creating new forms of governance that is making any effective change in social values and lifestyle changes. And so I am saying, why don't we seriously - so many thing give us difficulty when we're trying to do it on our own - let's have a bipartisan approach, let's look with a different degree of seriousness. It doesn't exist. Look

at the things that were good which we threw away. Look at the youth camps that used to run. Look at the days when Cobbla was effective. Times have changed and, yes, look at the stadium lying idle up in Sligoville and none of us are upset. A di 'Chiney Man' money, a di 'Chiney Man' money! What a wonderful place to rally a youth programme around. (Applause)

A MEMBER: Hear, hear!

Mr. BRODERICK: What a wonderful place to engage the military, not just to chase cops and robbers, but to reform them before they turn robbers. (Applause)

Mr. MONTAGUE: Amen!

Mr. BRODERICK: What better place? And we drive past it and watching it rust away and come here to legislate away our problems.

A MEMBER: Hear, hear!

Mr. BRODERICK: I get bored in this House, Mr. Speaker. I get so bored in this House...

Mr. MONTAGUE: Sometimes.

Mr. BRODERICK: ...sometimes I wish the cameras could hear me snore.

A MEMBER: It si yu. Dat a election talk. (Laughter)

Mr. BRODERICK: Election talk? I want you to listen what's coming out of this here mouth. Not very often you hear what comes out. Listen and learn.

We need - seriously Member - to identify programmes that give hope.

A MEMBER: Hear, hear! Like the... (Inaudible)

Mr. BRODERICK: Nobody is expecting magic, we have to work with what we have. There's no going to be no Chinese Road Programme to rescue the youth. We have to formalise our programmes ourselves.

I'm sorry to see some of our colleagues get little worried, eeh? Because I am asking us on the two sides of this House to throw away all the style, throw away all the noise you love to make and go deep inside you and find things that concern young people. Find it. Find it and let us put our heads together and we can address it.

I worked in a programme some years ago, and it was piloted by the American Group, I won't give details. The programme was simply to lift inner city kids out of the New York area, out of their environment for Summer programmes; and that particular Programme was centred around giving them computer skills. But more important than the skills was to show with them how people lived outside of their ghastly surroundings.

Have we ever attempted to genuinely lift those poor kids out of those miserable circumstances and let them truly have a Summer of hope in some project?

A MEMBER: Amen!

(Inaudible comment by a Member)

Mr. BRODERICK: I tell whoever has to be told, you too.

A MEMBER: Yes.

Mr. BRODERICK: And it's no one person.

A MEMBER: Hear, hear!

Mr. BRODERICK: These programmes shouldn't start just two, three years ago.

A MEMBER: Yes, 18 years.

Mr. BRODERICK: These programmes should have started way beyond. You had that long period of grazing in the meadows without doing anything. (Applause)

Mr. MONTAGUE: Hear, hear, hear, hear!

Mr. ARSCOTT: You were doing well.

Mr. BRODERICK: This is no blame me, blame you.

Mr. MONTAGUE: Exactly. Hear, hear!

(Cross talks/*sotto voce* comments)

Mr. BRODERICK: These are deep ancient history is which it should be recorded on.

Mr. MONTAGUE: Yes, go with it my brother.

Mr. BRODERICK: So don't come wid 'tell Babsie'.

Mr. MONTAGUE: Yes, out of order.

Mr. BRODERICK: I tell you wait for lesson 2, this is chapter 1 for you.

(Cross talks)

Mr. ARSCOTT: You were doing well as you know.

Mr. MONTAGUE: Yuh going on well mi son. Speak to the Speaker.

Mr. BRODERICK: Doing well for you is when you are politically correct. Doing well for me is when I share the truth. (Applause)

Mr. CLARKE: Talk di tings.

Mr. MONTAGUE: You need to speak more often.

Mr. BRODERICK: Mr. Speaker, the motion couldn't be more timely.

Mr. MONTAGUE: Yes.

Mr. BRODERICK: And I commend Member Mair...

Mr. MONTAGUE: True.

Mr. BRODERICK: ...for bringing back what you could call something we all ought to have a common understanding, that we must not let today pass. And let us take up any public tabloid and see that we are guilty of neglecting young people. It means we are not communicating with them; it means that we believe that we can come in here and pass a tablet like Moses bringing it down and say, here are the 10 Commandments. The world has changed.

A MEMBER: True.

Mr. BRODERICK: Moses would have a good - hard time to get his 10 Commandments read today...

A MEMBER: Yes, sir.

Mr. BRODERICK: ...because him competing with MTV and - what's the one ...

Mr. MONTAGUE: RE.

Mr. BRODERICK: RE and ...

Mr. MONTAGUE: And BB.

Mr. BRODERICK: ...and BB. All right, Bobby know them all. (Laughter)

We have to understand that there are several distractions.

A MEMBER: Moses law would put pon Facebook.

Mr. BRODERICK: The church has tried its bit - and God help us if the church wasn't there - but going and eating a big breakfast every year at Pegasus can't do it, can't do it. (Applause) I know it's symbolism, but some of them who go and eat that breakfast, when them done eat it and wipe them mouth and gone, all those platitudes and whatever lessons they were given, have gone through the ears.

Mr. MONTAGUE: True, sah.

Mr. BRODERICK: I try to practise what I preach.

A MEMBER: Hear, hear!

Mr. BRODERICK: I try to work with the youths in my constituency.

A MEMBER: Hear, hear!

Mr. BRODERICK: It's not time to wind up. Mr. Speaker, I should be allowed to talk till next week.

Mr. MONTAGUE: Talk if yu waan talk.

Mr. BRODERICK: I should be allowed on this topic to talk till next year.

Mr. MONTAGUE: Talk if yu waan talk.

Mr. BRODERICK: ...because we are all in here guilty! Each and everyone of us, not the portfolio person, we are all guilty of benign neglect, of failing to find programmes that can translate in hope for the future for the young people of this country, to show them that joining a gang - if I were them I'd join a gang too, because what else do I have to join? I'm not part of that other society of affluence and have- it-all. So I join the nearest thing to give me comfort. Join the gang. Life has no meaning when there is nothing laid out for you. We are like dinosaurs in here and I'm one of the dinosaurs.

(Inaudible comments)

Mr. BRODERICK: And I know when I speak like this it is not necessarily liked. And I am going to say I hope that the rest of this discussion - this debate, is not laced with convenient platitudes, but that we go for some soul-searching in trying to find solutions to make a better day for the young people of this country.

(Applause)

The SPEAKER: Thank you, Member Broderick.

Now remember, Members, even though it is not yet in the Standing Orders, we're trying to stick to 10 minutes.

The SPEAKER: Very well, Dr. Harris.

Dr. HARRIS: Or less, Mr. Speaker.

Mr. Speaker, I welcome this motion moved by the Member from North East, St. Catherine, but more so, in the atmosphere in which it is going to be debated.

This is an issue that is not contentious and cannot be contentious and cannot be politicised and ought never, ought never - we must be passionate, or we must have vigorous debate in this House, Mr. Speaker, but we cannot politicise it.

Mr. MONTAGUE: Tell the Member from Central Kingston.

Dr. HARRIS: Mr. Speaker, there are many angles that we could take this debate and I know that it would be referred to the Committee to fully ventilate the issues and to come up with the proposals to look at the family as the basic and fundamental economic group.

A MEMBER: Economic.

Dr. HARRIS: I said economic group.

And although we can look at it from different angles, Mr. Speaker, I want to make mention of some angles that I would propose that the Committee look at it, from my own perspective.

From where I sit, Mr. Speaker, years ago we had looked at the family unit in our constituency and we wanted to make a change in the way people think. We agree that it must start with the family, but at the same time, we agree that some family member are no more amenable to change than some and so those family members should be targeted.

Now we looked at the way we do our social programmes - and the Minister of Health is not here - but, Mr. Speaker, not many of us in here understand that the Ministry of Health has information on all of

us from before we were born, from before we were born. They know of our parents, they know of the circumstances in which we were born - and the Minister of Education is looking at me - and I want to propose that for example, the guidance counsellors in our schools, starting from the early primary and even before that, take an interest in those records because it makes no sense to wait, Mr. Speaker, until a child is 13, 14, 15 and then that child is part of the correction system and then we say this child needs to go to some other type of school.

The red flag should have been raised, Mr. Speaker, from very early after a child, number four is born to a mother of 20 years old in a public institution. The red flag should have been raised a long time.

PATH should have been on board already, because you know that if a child is born in a family where there are two parents, it is going to be difficult. If it is a single parent you know beforehand, you can predict that this is going to be a challenge. It does not take a rocket scientist to say to the Minister of Labour, send the PATH person into the hospital to investigate these persons then and there and make the support based from that level.

Now, Mr. Speaker, another angle that we could look at it so - another angle that we could look at it is the economic angle. One parent in our environment is difficult to sustain a family. One child, two children, whatever number, one parent it's very difficult. That one parent will have to work as well to sustain. If that parent does not work it becomes even more difficult. If you have two parents life is easier to go along. We must - the State must start to look into these things, Mr. Speaker, and intervene earlier.

I won't pass my 10 minutes, Mr. Speaker.

But when we were to look at - and part of this process, you know, is not only about mother and father living in one house, sharing one budget, it also has to do with property, grandparents coming down. It has to do with the land titling, it has to do with the availability of the resources of the former generations coming down to this generation and how that is spread and how that is made useful to this generation.

And that is why the Land Titling issue becomes part of this whole economic package that must be presented to families.

(Inaudible comments by Members)

There is.

Mr. Speaker, this issue about family is so wide, Mr. Speaker, that you can choose whatever angle, but the bottom line must be the focus on that unit.

Mr. Speaker, recently, I was made aware that some schools require mandatory medical examination in pre-primary institutions. And I want to congratulate the Minister for giving - it is not a guideline as yet, but it is instruction to the early childhood institutions. Many issues can be solved at that level. And the learning process at that level could be enhanced if some of those children were to be identified at that level, at that stage, and then the remedial work were to start there and that would change some of the families. And if we were to recommend, Mr. Speaker...If you were to look at families with disabled children, it is something that we do not discuss openly.

But many of us who have relatives who are disabled or in our own families who are not - I wouldn't say are not - are special children then, we will understand the burden that it puts on that particular family. These are real issues and must be addressed. They cannot be addressed by the family unit. They must be addressed by the State.

Now, much has been said about violence, and I would paraphrase it to say, anti-social behaviour. These are issues, Mr. Speaker, that as I said earlier, must be identified early, because intervention late in the day, when we hear mention of gangs and joining gangs, is not appropriate. Very closely linked to violent behaviour, because violent behaviour is usually in boys. Very closely linked to violent behaviour is the anti-social behaviour of girls that will manifest itself in pregnancy and drug use. It is the flip side of the same coin. If we have stable family units, girls will move out of homes at a later age. They will achieve more while they are at home and they are in school. That is public knowledge.

Now, this issue, Mr. Speaker, is so fundamental that I would like to say though, that this issue has been brought on the books many times since I am here, and that has not been a very long time. But ten years is a lifetime for many. And I would want to say to many of us in here, we have no control over what was discussed, 20, 40 years ago. What we can control is what is discussed today and the direction that this debate takes. I believe that we are in the now and we must start today to plan for that society that we want to live in, work in and retire in, raise our children in and our children's children in.

Mr. Speaker, there is a lot to be said, and I know many persons are going to say it. But my question will be to the rest of us in here today. Will we, not only talk today but will we have the - I wanted to say testosterone - but, the will, the will to do what is necessary to implement the policies that will come out of that committee and to make sure that we not only formulate the plans, because many plans in different sectors have been formulated. But we have the commitment to implement them to change the way we relate to the society. If we in this House here today were to commit ourselves and speak freely, because what I see here is a bi-partisan arrangement that could very well be a conscience vote on any issue that could come up to fundamentally change the way we structure our society. We all are on the same page and we all want the same things. It is for us today to do it and not only to think about doing it.

If it were to please you, Mr. Speaker. (Applause)

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, the best gift my father ever gave to me, was to stay with my mother during the period of my growing up and to provide the strength that was needed to raise a child in the environment of Jamaica.

Mr. Speaker, I believe the best gift you have given to your daughters, and I to my children, and many others here, is to remain with them. We are failing in this discourse to deal with the fundamentals of vision of practicality. I would ask the Member when he closes, to consult with the Minister of

Education, or perhaps he will speak and tell us where is the national parenting policy, It's very important, eh. We haven't seen it. We expect that it is nearby.

All of the remedial efforts, all of the efforts at community development are going to have less then the required impact, if we do not deal with the issue of personal responsibility. And the vision of family that we have, deriving from our history, is no doubt a complex one, but there are some basic essentials. A child is best brought up and a family is most suitably created when vulture builds on nature, when culture is not in conflict with nature. And nature prescribes that young people, children come into this world by the action of two parties, a man and woman. And while our history may militate against the formal Judeo-Christian model of the nuclear family – obviously some of us support that – but it is a fact that due to many legacies, not least of all the viscid paretude of slave society, that is not our reality for ninety-odd per cent of our people.

But what we are here to do, is not the modern day, Mrs. Bourne's, Mr. Speaker, to have people get married in mass weddings. But what we are here to do is to extol at the level that we are, the high virtues of fidelity and of constancy. And whatever you do in respect of family life, whether you are married, whether you are in faithful partnership, that is your choice. The society – and the ethic can be used to promote a particular model. And so it should be. So it should be, but the essence of it, of the human value (which) is both spiritual and philosophical, but also highly utilitarian.

Any statistic will tell you that the child is likely to do better in school if he comes from a home where a man and a woman, surrogate or natural parent is there. Now, it appears to us in modern culture as if we are invading on people's priority because we have adopted a sexual ethic that if it scratches you, you must itch it. But that can't be the vision for the future.

In fact, Mr. Speaker, we are very fortunate you know. While the pith of the resolution is correct, that we have a distinct weakness of family structure, I marvel at the number of persons who provide surrogate parentage in Jamaica, where a mother or a father is absent and you have a Goddy, or you have a big woman in a yard and what she does to raise the children that are there. My heart burns, as I'm sure everyone's does, at the number of men who wish to be good fathers but find themselves unable to approach the mother of their child with anything resembling a contribution to that child's welfare at the end of a week, due to prevailing, long-standing and even more now, aggravated economic conditions.

And therefore, you know, Mr. Speaker, this is why in this forum I have pressed for the registration of fathers. And I'm glad that that enjoys bipartisan support and hope that it will soon be implemented. It is extremely important, though, that we recognize the cultural influences that are at work. And we should use our CPTC, we should use our JIS, dwarfed as they are by all of the foreign cable impulses. But, you know, Mr. Speaker, we are far too close to Miami for our own welfare, you know.

Mr. E. SMITH: Oh, yes, you can say that again!

Rev. THWAITES: Yes. But what we need to do is to use those things over which we have to control. Not for squalid propaganda about ourselves, but rather to uplift those values. Because, Mr. Speaker, you know, every young woman hopes to have a stable relationship with some man. And every young man, despite after sowing his wild oats, wants to know that he has some stability, some permanency of emotional affection, and we have to cultivate those values.

When we have a family life course in our schools, when I call in this Parliament, yet to be favoured with the time to debate it, for a greater insertion of the churches, not for confessional purposes, but to uplift basic ethical standards, that marvellous phrase used by that great preacher, DR. BURCHELL TAYLOR, at the funeral services for MRS. MAXINE HENRY-WILSON'S father recently, that *Epic of Love*, that transcends all human institutions and goes to the heart of maintaining a family.

And so, Mr. Speaker, we don't flinch in this Parliament to know the limits of legislative power. Passing laws can't do this. It can do some things that are conducive to the upliftment of the family. But by example and by precept, using the institutions and the support of government, we can do a lot to recognize at this juncture whatever it has been in the past, that the slackness and the do-what-you-feel-like and then the consequences are picked up by the State or by nobody, manifests in the prisons, and on the gallows, and in the premature deaths, can't work for a functional society.

By this intervention, and in so many other ways, were we to be as explicit as the other Members have enjoined us to be, affirm that the future of our society, the vision of it, is of children, young people, brought up in situations where there is a male element and there is a motherly element and that people need support to engage in this. They need the support as has been done in developed countries, of amenable tax programme. They need the support of jobs, jobs, jobs, Mr. Speaker. Nothing can enervate a father's desire to care for his family more than the incapacity to find honest work.

In Central Kingston now there are three generations who have never worked, grandfather, father and now youth. We fail to understand in our lack of planning or in the witlessness and low horizons of our thinking how much this does, what this does to break down not only GDP figures, but the very fabric of the basic unit of society. Mr. Speaker, this one goes to the heart of human behaviour. It is the most sublime thing that any human person can do, is to raise a child properly, in the image and likeness of the God that he is.

If we recognize that as the first principle, the source of happiness and fulfilment, not in the OJs, not in the Honourable Mr. or Mrs. Not in the Right Reverend or the medal holder, but in the simple and noble act of being father or mother, we shall have taken conclusive steps and our reasoning will follow to do those simple things that will uplift, uplift the institution of the family. It goes to the core of personal relationships. And it is that that we must lift up and extol today.

I thank you. (Applause)

The SPEAKER: Mr. Ernie Smith

Mr. E. SMITH: Mr. Speaker, I speak from where I stand only with your permission. (Laughter)

The SPEAKER: Permission granted. (Laughter)

Mr. CLARKE: You will not speak. You will not speak. (Laughter)

Mr. E. SMITH: Mr. Speaker, my colleagues who have spoken on this motion before now have echoed sentiments which I share. Indeed, Mr. Speaker, aspects of this motion has been debated in this House, but under a different topic, or aspects may have come from proposed legislation.

Mr. Speaker, I have sought, Mr. Speaker, to break the motion into two halves, and that is to say, Mr. Speaker, reasons for the decay in morals in the Jamaican society, reason for decay in values and the consequent effect of the two on the decay in family life.

The motion also asks the question, Mr. Speaker, as to what changes are necessary to address these aspects of decay by way of either legislation in the first instance, or by way of institutional action. And at the end of the day, Mr. Speaker, the motion seeks to say that if we can achieve a wresting of these areas of decay, then the consequent results will be, we'll create citizens of good character, citizens who are empowered with knowledge, which is critical to the concept of nation building.

So that, Mr. Speaker, when you look at the motion, it can invite debate and argument in respect of several areas and aspects of national life.

Indeed, Mr. Speaker, no one person speaking on this motion can indeed exhaust all the causes of the decay nor can in fact propose all the necessary remedial action, that, Mr. Speaker, would take a book.

I have decided, therefore, Mr. Speaker, to approach the motion by addressing just two areas of the reason for the moral decay in the society.

Now, first of all, Mr. Speaker, where there is no quality of the children of a nation, the nation automatically decays. Where the moral values of our children, where our children lack self actualization, the desire to achieve, the desire to become productive, then it means in effect you have a nation that will eventually waste away and foreigners will invade the land, not by way of armed forces, but they will automatically come in and gradually take over, whether it's a question of your commerce, whether it's a question of your hospitality industry, whether it's a question of your medical institutions, whether it's a question of your educational facilities. Where your children lack that self actualization and desire to achieve, eventually, you have a nation that is going to be taken over by foreigners.

Mr. Speaker, it is my opinion that one of the main, the main causes of our decay in morals has to do with our music industry.

(Applause by Government Members)

Mr. E. SMITH: We have allowed, Mr. Speaker, for whatever reason, we have allowed musicians of almost every area to set the standard for our children. We have allowed Deejays to throw up to us daily on the radio stations, at parties, in buses music

that can only be classified as degrading, slack, filthy, demoralizing and teaching our children to go the wrong way.

(Applause by Government Members)

Mr. E. SMITH: And, Mr. Speaker, it is a personal view that I have, because you see, you hear it every day - and that is why I said in this House before that the Broadcasting Commission over the years has failed to perform the function for which the members were appointed. Because some of what we hear, some of what our children - you hear our children sing, some of what our children prefer to sing and repeat, rather than learning anything about Civics or Mathematics or science that can benefit them, Mr. Speaker, believe me, any Broadcasting Commission that allowed such music airplay, the Commission should be fired. That is my view.

Because, you see, Mr. Speaker - I think I said it during my contribution to the Sectoral Debate last year. Do you know, Mr. Speaker, some of our five, six, seven, eight, nine, ten and eleven year-olds, who we would want to see excel in GSAT, do you know that they know some of the most filthy songs for which they cannot benefit in school and they do not know the second verse of the National Anthem. They probably don't even know the first verse. They don't even know the National Pledge. So it begs the question, have we sold our country to musicians? Have we allowed the gun culture that musicians over the years have thrown at us to take over this country? I am saying yes to that. I say yes, not only as a legislator, but I say yes as a defence lawyer. I see it everyday.

A fellow came before the Circuit Court in St. Ann today, charged for illegal possession of firearm and ammunition, and he was wearing, Mr. Speaker, a belt with this massive unsightly buckle with two guns crossed.

(Laughter by Members)

Mr. E. SMITH: And this is because, Mr. Speaker, we have allowed the musician to set the standard for us. Look at our boys, look at our boys how they dress on the street. How can you have a student going to any high school or any school for that matter, his pants is way down almost to his knees....

A MEMBER: His brief up to his navel.

Mr. E. SMITH: ...his brief up to his navel, and he has this massive belt with two guns crossed on it, going to school.

In other words, you see....

Government MEMBER: Gun culture.

Mr. E. SMITH: ....it is that gun culture, that culture of violence, Mr. Speaker. Then there is another type of buckle that they use, the one with skull and bones, death, murder, and what are we doing about it?

I have said to teachers from time to time, do you not see how the students dress inkeeping with the music that they hear to school? And when you check it out, you know, Mr. Speaker, those students who had that behavioural pattern - and there are too many of them in this country - they are the ones who fail. They are the ones who later end up in Court. They are the ones whose parents will abuse Members of Parliament to assist that child to go to school and you do assist and he goes and do what, learns nothing, he has no interest in that.

I raise another point, as I said, the subject matter is very vast. I raise another point.

If our teachers do not have the necessary moral authority or legislative authority to say to a child, your dress conveys the wrong impression, you cannot wear that to my school.

Mr. M. PEART: They have a dress code man.

Mr. E. SMITH: Is it that there is a dress code? There must be a dress code.But is it that teachers are afraid to implement or to ensure that the dress code is adhered to? Is it that teachers are afraid because the society has so changed, because if you talk to the boy and sey you caan come to school like dat, come out a me class, the next morning, his mother is going to come and beat off the teacher.

Mr. M. PEART: Exactly.

(*Sotto voce* comments by both sides)

Mr. E. SMITH: So that brings me now, Mr. Speaker, to my really final point, and that is, and this is something that - I know that all of us as fathers, all of us as legislators, we know that it's so. What is it that we can do to cause parents to show more interest in their children other than on Graduation Day?

Government MEMBER: Profile.

Mr. E. SMITH: Mr. Speaker, I have asked myself on many occasions, I stop on the streets, driving pass I see students behaving in a certain manner, particularly if they are students of the great institution Junior University, the York Castle High School from Browns Town, I stop and I speak to them, I chastise them.

Opposition MEMBER: Easy yu self.

(Laughter by members)

Mr. E. SMITH: I chastise them, Mr. Speaker. Manner of dress, attitude. I know children who walk one mile to come to Browns Town to take a taxi three chains up the road to go to York Castle or to Browns Town High School, because they want to be ina particular taxi, because they want to sit beside a particular taxi driver, because they want to be put in the bus by a particular conductor and back-up man, because they want to listen to some vulgar music to prepare their mind for learning for the day.

A MEMBER: Hmm!

(*Sotto voce* comments by Members)

Mr. E. SMITH: So I ask myself the question, Mr. Speaker, are parents seeing their children when they are leaving for school?

A MEMBER: What's the point?

(Applause)

Mr. E. SMITH: Are parents showing interest in their children, or is it that they are just dressing them up and sending them to school and don't care what happens? Are parents checking on their children's school work? Are parents checking on their children, why you took three hours to come from school when you are on the first shift that ended at 1.00 o'clock, and you are coming home at 5.00 o'clock and you were not at the library?

And that is why I say now, Mr. Speaker, our PTAs are so inactive. If we had vibrant Parent/Teachers Association in this country, like I know they have in some countries, where it is the PTA that run the school literally, because mothers are there checking

on their children. Mothers are there, fathers are there checking on the institution to see whether or not the facilities are in place conducive to learning.

During the summer holidays, every year, I try to get parents to join me to do voluntary work, to make sure that the school, the plant is in a condition ready for the children come September. And God bless the number of parents who turn up. I am telling you. And we need, Mr. Speaker, to - the churches, all the institutions now need to come together and let parents know that they have a national parental responsibility and duty to protect their children and to prepare them not only on Graduation Day.

A MEMBER: Hear, hear!

Mr. E. SMITH: Now, Mr. Speaker, as I said, the motion speaks to the question of whether or not legislation can in fact effect the change and remedy the defects, change the - arrest the decay of our morals, values and family life. And it also speaks to institutional action. I believe that one of my colleagues mentioned about Cobbla, et cetera, et cetera. Mr. Speaker, let us accept without question, as I wind down, Mr. Speaker…

(Laughter)

Let us accept, Mr. Speaker, without question...

Mr. CLARKE: It better you wind up.

(Laughter)

Mr. E. SMITH: …that for whatever reason - and my friend, the former Minister of Agriculture knows this because he and I, we sit and we talk about these things. Let us accept without question that the statistics presented to us by the Honourable Minister of Education in relation to the standard of our students, or some of our students in several institutions, that is a fact. Let us not fool ourselves, and tell ourselves because this child is going to this high school or that high school he is destined to be a Pearnel Charles or a…

(*Sotto voce* comments)

…or an Ernest Smith.

(Laughter)

I was looking around for examples - I was really looking around for examples, (Laughter) …but both from St. Ann. Mr. Speaker, let us accept this, because this is not a subject that you can rush, you know. This is the future of a nation we are talking about.

(*Sotto voce* comment)

Let us accept that there are too many of our children 'graduating' from school who can hardly read and write from high school. Let us accept that as a fact.

A MEMBER: Twenty per cent.

Mr. E. SMITH: Let us accept that most of them you see as back-up men, most of them you see walking on the street in this indecent fashion, exposing their underwear, most of them form the criminal list in the course of Jamaica. I am telling you. Let us accept, Mr. Speaker, that one of the institutional action that we can take is to ensure - and this is about the fourth time I am saying this in this House - that we ensure that community centres do not lie out there bare and fallow in the sun like a reaped cane field.

Mr. M. PEART: Keep dance.

Mr. E. SMITH: Let us make sure that our community centres are transformed and converted into adult educational institutions. And if it means that...

Mr. M. PEART: Resource centres.

Mr. E. SMITH: …you have to force young people to go there and learn to read and write and to learn a skill, Mr. Speaker, I believe that the time may well come that we have to do so.

A MEMBER: Yes. Get the parents to come too.

Mr. E. SMITH: We have to rescue our nation, you know. Because all of us in here, when we are dead and gone, we have children and grandchildren and great grandchildren who are not going to migrate from Jamaica.

(*Sotto voce* comment)

Mr. E. SMITH: We must ensure that we do what we can now, to create an atmosphere that will, not only give rise to nation building, but also to a nation whose values and morals are of the highest possible standard.

Thank you, Mr. Speaker.

(Applause)

The SPEAKER: Thank you, Mr. Smith. Dr. Bartlett.

Dr. BARTLETT: Thank you, Mr. Speaker.

Mr. Speaker, I sat here and I listened to my colleagues speak on this matter, and I wondered to myself how many times in the past in this Parliament, we have heard similar sentiments expressed, and what have we actually done to it. And the question is whether or not what we call moral decay today was the same things that were called moral decay yesterday and the day before.

Mr. Speaker, the history of humanity and the history of technology is similar in many ways. Man's quest to do things better over time, has resulted in major technological development. And these scientific endeavours have made it possible for the almost impossible, to become possible. Technology, Mr. Speaker, has also changed the way we do things from one generation to the next and also within generation. In short, Mr. Speaker, technology has altered our social and cultural evolution.

Mr. Speaker, sociologists and anthropologists have created theories that explain man's social and cultural evolution. One noted anthropologist LEWIS MORGAN, he categorized man's social evolution in three stages. He looked at the stage of savagery and the technology that was associated with savagery; the technology of fire, the bow, and pottery. He went on to look at the era of barbarism and look at the technology that came with barbarism: the domestication of animals, the agricultural revolution and metal working. And then finally he looked at the third era of man's evolution which is that of civilization, in which the alphabet and writing became an important part of the whole system.

Another anthropologist LESLIE WHITE, he measured our cultural and social evolution in our use of energy. And he considered energy from man's muscle as a very important part of our technological development: energy from domestic animals, energy from plants, energy from natural resources where we get to the oil and coal, et cetera, and finally where we are today in nuclear energy.

Yet another expert GERHARD LENSKI used information and communication technology to measure cultural and social evolution of man. He posited that the more information and knowledge a society is given, the more advanced it is. There is a price, Mr. Speaker, for advancement as we expose more

individuals to concepts which were headed to be considered sacred, and in some cases privilege.

The issue of right and wrong, righteousness and virtuousness, good and bad become hot topics as we seek to preserve what we think is being eroded.

Mr. Speaker, **Webster's College Dictionary** defines moral as pertaining to, or concerned with conduct or the distinction between right and wrong. It offers a number of synonyms including righteous, just, virtuous and good. But, Mr. Speaker, before we can determine whether there is moral decay in our society we have to ask what is right conduct? What is meant by right and wrong, and determine whether a person is righteous, just, virtuous and good.

Mr. Speaker, if we declare that there is moral decay with respect to sexual practices, I am quite clear in my mind what I am speaking about, but it might not be clear to you, Mr. Speaker, or anyone else in this House exactly what I am speaking about. The changing level of tolerance in our society today, Mr. Speaker, for abortion, same sex relationship, and our dance hall music, is considered by many as a good example of moral decay. However, Mr. Speaker, those benefiting from these practices may consider them as important moral steps forward.

What constitutes moral decay, therefore, Mr. Speaker, is debatable. However, one group in our society traditionally, has been singled out for criticism, and that is our young people, particularly the youthful challengers to the establishment.

The difference in generational conduct has almost always been seen as threatening tradition. And this view has been accentuated in our lifetime by the segregated status of young and old, and the growth of a commercial youth culture. Peer group pressure, Mr. Speaker, is much stronger on our generation Y and our baby eco generation, than it was on us the baby boomers and our generation X kids.

(*Sotto voce* comment)

Our generation Y kids are remaining in school much longer, much because they are the kids of the baby boomers who are considered to be the generation which created the greatest wealth. Our oldest baby eco kid is 14 years old this year. They have not yet graduated high school, but they are being exposed to more information than we have been exposed in our lifetime. The information revolution, Mr. Speaker, is not going away. It is coming to us whether we like it or not.

Mr. Speaker, even in longer historical times when the family was considered closer, there was complain about the young. The World War II generations who were the parents of the baby boomers, complained bitterly about the youngsters who were involved in the period of the greatest social and cultural renaissance. It was the era, Mr. Speaker, of the Hippies, the Rastafari Movement, the Black Power Movement, the skinheads, communism, the Cold War, the Civil Rights Movement, women wearing two-piece bathing suits. And, Mr. Speaker, when the first woman wore a two-piece bathing suit, it was seriously decried as a shame by some.

Mr. M. PEART: It was exciting.

(*Sotto voce* comments)

Dr. BARTLETT: Most, if not all of these activities, Mr. Speaker, were regarded as immoral, or as acts of immorality.

The lamenters, Mr. Speaker, of moral decline, even those at the more liberal end of the criticism spectrum, tend to forget their own youthful exuberance. Even those of us who managed to keep alive the enthusiasm of our youthful cause often end up decrying the new generation for failing to recognize the good and truth which we ourselves have come to hold and cherish. Maybe the things we worked for, hard, and cherished so much, are now seen as irrelevant, or not so important to the current generation.

Of note is the inescapable fact, Mr. Speaker, that most children of those who made most radical break in society refuse to follow their parents into the utopian world that they thought they had created - and, Mr. Speaker, we know of a lot of examples right here in our own country.

We cannot for one moment, consider that they are not real problems facing our society today. The real problem is that problems like those before us do not respond to easy solutions. We must recognize that changes in society have undermined many traditional ways of thinking and doing things. In the process, it has contributed to alienation that many feel. And this has led many to turn to drugs, alcohol, and other forms to escape from the reality. The change in our industrial manufacturing base of this country has meant that there are fewer high-paying jobs for the uneducated, or poorly educated. The result is that we have created a greater gap between the haves and the have nots.

One way the excluded see themselves surviving is to organize into gangs, and rob and demand their share of the pot.

Mr. Speaker, as a society, what we have done? Rather than dealing with the root problem we deal with the symptoms by seeking to build more prisons and give harsher punishments. We go a step further, Mr. Speaker, by enlisting more of our young people as uneducatable and even irredeemable and then finally we decry the drop in moral standards. There are many kinds of behaviour that lead to cries of immorality. Sexual orientation and sexual promiscuity draw a lot of fire, also the high level of divorce to name a few of the lesser evils. As our society change, so is the moral compass. I do not think we can legislate morality, but all of us here, Mr. Speaker, can lay the foundation and set the example of what we consider to be just, kind, good, and right and hope others will follow.

Mr. Speaker, I commend my colleague for raising this matter and I hope that the Resolution can be referred to the Human Resource Committee so that there can be a deeper and further discussion of this very important matter.

Thank you, Mr. Speaker.

(Applause)

The SPEAKER: Mr. Peart.

Mr. M. PEART: Mr. Speaker, I rise in support of this Motion I think has come a very critical time and is worthy of our consideration.

Mr. Speaker, let me start off by reminding us of what we have heard so many times when we speak of the good old days.

The good old days when we used to go to school and if we get beaten by the teacher and your parents heard about it you got another beating. The good old days when you were walking in your community and you see elderly people coming children had to behave themselves properly. We have moved from that stage, in the good old days, to what you could almost call now a free for all, where in fact the elderly in our society feel intimidated rather than respected.

And sometimes we speak about these matters and spend so much time talking about the symptoms we overlook the causes. It's a very complex matter, Mr. Speaker, and just by the presentations we've heard so far you can understand it's a very complex matter. But from where I sit as a Member of Parliament, what confronts me on a regular basis is the fact that we have so many mothers that are raising their children without any fathers. You found out - if you want to get an estimate it might be anecdotal, but ask any MP when it comes to August and September back to school arrangements, where are the fathers? Absent, absentee fathers and that has whole, long complex list of thing associated with it. Why are they absent? Some people say it goes back from slavery, some people relate it to the economics. They are unemployed, they have no money, so they run away from their responsibilities.

I have a running battle with the Minister of Education because I fought to have high schools in my constituency and I manage to have the Winston Jones High and the Cross Keys High School. And the concept was for children in the areas, in my constituency, could very easily get to school...

Government MEMBER: Right.

Mr. M. PEART: …and get home back.

Government MEMBER: Exactly.

Mr. M. PEART: And the biggest problem that confronts these schools now is that students are coming from Mandeville to these schools. Low performers, recalcitrant children, poor family background as you would call it, high absentee rate, troublemakers. And when I ask the Minister, why we don't have zoning of schools, he says we cannot take away the right of the parent to decide where to send their child.

Government MEMBER: Zoning.

Mr. M. PEART: That sounds good theoretically. But then I ask the question, how many of these students that are being placed in Winston Jones High School or Cross Keys High School, how many of these children or parents knew of the school before they are selected to go there? Not many. They end up at these schools because Manchester High School refuses to take them, Bishop Gibson High School refuses to take them, DeCarteret College refuses to take them. So they are literally dumped…

Government MEMBER: In your constituency.

Mr. M. PEART: …in my constituency. And when I sit down in my office in Newport, Mr. Speaker - well, let me not stretch it too far and say in the morning, because I'm not there when they're go to school, but when I'm there when school lets off, you see the buses coming from Cross Keys and from Asia, Pratville with students passing Newport going to Mandeville, then you see the same buses coming back now, full again, coming from Mandeville carrying

students to Cross Keys, Asia, Pratville, and those areas. Now why are we transporting children from Cross keys to Mandeville to go to school and then turn around now and transfer children from Mandeville to come to Cross Keys to go to school? It doesn't make any sense. But what we find now is that the brighter ones are creamed off by Manchester High School, Bishop Gibson High School, and DeCarteret College. Creamed off from South Manchester to come to Mandeville and then "rejects" are dumped in my constituency. That causes an enormous amount of problems. Almost every time I visit those two schools I see the Principals actively involved in reprimanding students. And when I question them, the ones that are coming from Mandeville. So the question that is raised about the community, this school is supposed to be a part of the community.

A MEMBER: Hear, hear!

Mr. M. PEART: And if you're going to have these schools that are catering for, I don't know what nowadays, it is contributing to the problem. And I am going to beseech the Minister of Education again, listen to me and my plea…

Mr. HOLNESS: Zone the schools.

Mr. M. PEART: …to zone the schools. Because when you check the attendance records of the students that have to travel from Mandeville into my constituency they have the worse attendance records. I remember I was speaking to the Principal of Winston Jones High once on the matter and she said, Mr. Peart, it has reached a ridiculous stage now where one student from Comfort Hall, the Minister—the Member from North East knows Comfort Hall, on the St. Elizabeth border was assigned to go Winston Jones High School in South Manchester. He has to take a transport from Comfort Hall to Mile Gully, transportation from Mile Gully to Mandeville and then another transportation from Mandeville to Winston Jones High school. Four different transports to get to school and if you put it at Fifty Dollars per fare they can't afford it.

Government MEMBER: Four Hundred Dollars a day!

Mr. M. PEART: They have to pass-the student could just turn up the road three miles up the road to Balaclava High School. He has to pass Mile Gully School, Mandeville All-Age, DeCarteret College, Manchester High School, Bishop Gibson High School, May Day High School, all of those schools that student has to pass, you know, to get to the one - he couldn't find the school. In fact the parents say he was absent for the first week of the term because they didn't find where the school was.

(Inaudible comment by Government Member)

Mr. M. PEART: Winston Jones High School. So I'm saying we have to look at each component and try to deal with each component part that contributes to the decay in our society. And I'm saying that students that identify with communities perform best than the ones that are strewn about the place.

Then you have the question now of poverty which is tricky one. As I mentioned earlier, the fathers neglect their duties and responsibilities. Some of them because, as you said, dem just wutliss and some of them because they can't afford it; they are not working, they are unemployed. And the best

way to deal with the problem is to avoid it, so they absent themselves. And we, all, as Members of Parliament have to come rescue many, many mothers. I remember the worst story I ever had was one mother who came to me in desperation and she said, Mr. Peart, last night when it got to 7 o'clock and I realize a can't find no dinner fi dem tonight I just tek mi belt and beat and send dem to bed. I felt that one from the bottom of my heart. How many cases of mothers you have…

Government MEMBER: Too regular.

Mr. M. PEART: …by themselves struggling with children, no fathers. I don't know how we can legislate that one, but that is a critical component in this problem that besets our nation.

Then we have the problem of teenage pregnancy. We have laws in this country that a girl has to be sixteen and over to consent to sexual activity; sixteen and over. And if we check the statistics - where the Minister of Health is - how many teenage pregnancies you have below sixteen years of age and how much action is taken by the police, it is embarrassing. It is embarrassing. As the Member from North Clarendon said, we are overlooking many of these things or we just accept them. They become the norm. But that contributes to the cultural deterioration or the moral decay in our society. We've read in the newspaper where mother, grandmother, daughter in the problem at the home as to who is to stay home with the baby because everybody want to go to **Passa Passa** or wey de thing name. They want to go to the dance.

Mr. MAIR: Their priorities are wrong.

Government MEMBER: True, true!

Mr. M. PEART: And when you hear about these dances and what goes on there I hear at some of the dances they carry a mattress to put in the middle of the dancehall.

Mr. MONTAGUE: A what?

Mr. M. PEART: A mattress.

Mr. MONTAGUE: To do what?

Mr. M. PEART: Check it out. Well, you are from St. Mary.

Government MEMBER: Them go a the dance go sleep.

Mr. MONTAGUE: Them a go the dance go to sleep? Lock it down.

Mr. M. PEART: Mr. Speaker, many people romanticize bout the ghetto and ghetto life. But I have yet to see anything good about it. All I can say about the ghetto what I know about it is, God bless those people who have managed to rise up out of it. We have been neglecting these people for too long. On the few occasions that I have ventured into them in the Corporate Area, I'm disgusted by what I see. Every week, regularly, the garbage man comes and picks up my garbage at my gate, and when you drive along these places and see mounds of garbage meters high.

Mr. HENRY: More values.

Mr. M. PEART: Why can't they be given the same treatment?

Mr. HENRY: More values.

Mr. M. PEART: We need to look at some of these things. There was an experiment done with rats, where a number of rats were put in a confined space, fairly large, and given ample food and they lived happily ever after. The same rats with the same amount of food were given a minute amount of space, and they were congested. And

despite the amount of food that they had, the rats started to fight among themselves. There are lessons to be learnt from that.

Mr. Speaker, one Member, the Member from South West, St. Ann mentioned what happens on the buses, but pornographic material is all pervasive in our society now.

You will have a situation where a family lives in a one-room house, and they have a television and a video, and the elders are inside watching a blue movie and the children outside peeping through the window. They are not allowed to come in and see it, but they can stay outside and peep. What kind of result can we get from that kind of environment? It can't work. I think all of those things to do with pornography should be banned. And you have people on the road selling them like they selling patties.

Mr. E. SMITH: Children watch them in buses on the way to school!

Mr. M. PEART: So we have seen, Mr. Speaker, where technology is supposed to be used to advance our societies now and improve our quality of life. But there is a flipside to it, because anybody can get a little dish and connect up and pay some money – they ask somebody to pay something in the United States for them, and they get any channel they want in the world, and watch anything; burn it on a CD, spread it all over the place. I don't know if we have the capacity to manage that, because sometimes when you try to lay down laws to deal with these things, it all happens, it becomes a profit centre, and more people prey on it.

Mr. Speaker, some years ago former PRIME MINISTER, P.J. PATTERSON, spoke about a **Values and Attitudes Programme** that we should start. Unfortunately, at that time it was beaten down as political football. And I said to myself, if we had run with that ball at that time probably we wouldn't be here today debating the matter.

Mr. BRODERICK: It's not too late, man. You probably can run with it now. Pick it up now.

Mr. M. PEART: But, that horse gone through the gate. Let us hope that this one, we will run with it. But it is going to take much more than legislation to deal with it. It requires a movement, a movement.

When you look at what is happening now in the Middle East, what is happening in Tunisia - in Tunisia, one gentleman going to university had a little fruit cart, selling fruits and vegetables. And the police told him that he can't sell on the road anymore, and he persisted, and they took away his cart. And he burnt himself, set himself alight and died, and we have a revolution. It doesn't take much to spark it off, you know, all we need is some political will. And I think if every Member of Parliament, after we have gone through a Committee, a special Committee to deal with this matter, buys into the movement to rescue our society, rescue our children, it will come a long way, come a long, long way to improving our society.

So, Mr. Speaker, I wholeheartedly, one hundred per cent support this motion. And I give my commitment that whatever it takes for me to assist, I will be part of this movement.

Thank you very much. (Applause)

The SPEAKER: Mr. Mullings - or Mr. Stern.

Mr. STERN: Mr. Speaker, I rise in support of this resolution. It has come at a very critical time in our country, when it comes to morale and ethical values.

But, Mr. Speaker, there is some level of confusion when it comes to our children today. Many of our children did not grow up into an environment where they know what is a family. They don't know family values. Some of them did not have grandparents who grew up with family, they didn't have mothers that grew up with family, and they are getting ready to have children and therefore, not able to pass on that information or that culture to their children. So there is a level of confusion.

There is also a level of conflict. There is conflicting information that floats within our media, whether it's international media or otherwise. Because there are definitions being given internationally, about how a family is to be made up, whether or not it's same sex or different, in terms of sex. And this is a level of confusion at this time. And, therefore, it comes back to whether it's an old culture or new culture you are going by.

In our culture, I know how I grew up, and therefore, I might want to impose my culture on the new human being. We have to decide the choices, whether or not we give people free choices in Jamaica, right, whether or not we impose our old learnings through our Christian upbringing.

And, therefore, I know many of our colleagues here today have said a lot that I would repeat, and it makes no sense I repeat. But I agree that we need to look seriously at the morals and values, and how we want to shape this so that our future generation can really pass this on, the values and attitudes to their children. And, therefore, it may take some kind of State intervention, in terms of the teaching within our school, of family values and attitudes. It may take some State intervention in terms of the new parent/teachers policy that is being put forward by the Ministry of Education.

I know that we have increased our social safety net over the last two and a half years, in terms of welfare benefit, we have increased that drastically. We have helped out with health care, and we have helped out with allowing many more students to attend high school. But we need to strengthen more social curriculum in our school setting, and it cannot be at the cost of the family or the individuals. It cannot be at the cost of the individuals. (Applause)

And if we are going to intervene to make corrective measures, we cannot ignore the social condition under which we grow children. You have the one-bedroom house, you have the boyfriend coming there at nights, and you have the condition under which these living standards are done. And, therefore, we also have the neighbours who live very close. Certain mechanisms have to be studied as to how we arrest some of these anti-social conditions.

Respect within society. One of my colleagues spoke eloquently about the lack of respect at all levels in our society, and how we have lost many persons, and interest of persons coming forward to represent within the community, or become leaders of communities. People have stayed away from leadership within communities because they feel that they are going to be criticized, or

vilified, or in some way be attacked if they take up responsibilities within communities. And, therefore, you find only probably politicians, or even the Church, to a limited sense, because the Church is out there but many of them are not tackling the issues at the social level and welfare level. Many politicians nowadays that are criticized so much, are the ones that are dealing mostly with the social and welfare issues in the communities.

And, therefore, I am asking that coming out of this debate, we can seriously pool together all the issues , and work through the community – the Committee, the Human Resource Committee, to make recommendations to this Parliament, so that we can institute mechanisms to stem the anti-social behaviour, and we can stem the immorality, the lack of values, and also to build new structures, and to help to advocate better structures that can bring about a family unit within communities, that again will help to guide this society that we live in and love so much. Many parents could depend on the grandparents to give some kind of guidance to their children, and then, that trend would continue on.

Many times we have people who come back from the United States, or from Canada or Britain, and they would make exclamations about how things have changed drastically in our society, because they find out that the way how people treat people and communicate with people, not being respectful of saying some of the things that they were used to in the small little village, and they would say, what has become of us. And it was a shock to them, because many of them would make the statement that they went abroad, their parents may have gone abroad and left them with their grandparents until they could send for them, and their grandparents brought them up in the right and proper way. So a single mother can bring up a good child. Right. I agree with that.

Mr. MONTAGUE: Hear! Hear! (Applause)

Mr. STERN: What we have is a community problem within the society. We have a community problem, where there is so much breakdown of those units that it becomes chronic, in terms of the behavioural actions.

So I am going to support this motion, and hope that it's not just debated here, but it really culminates into some kind of action that will help us to stem and arrest this problem, moving forward.

Thank you again, Mr. Speaker, for allowing me time to speak. (Applause)

The SPEAKER: Thank you, Mr. Stern. Mr. Mullings.

Mr. MULLINGS: Thank you, Mr. Speaker.

First, I must commend the Member from North East St. Catherine for bringing this motion, and the contributions that have been made. In fact, they have been seminal in their analysis, in terms of putting forward some possible solutions.

I must confess that I was in fact attracted to the notion put forward by the Member from Central Kingston, in saying – looking at the culture and the nature. And it's very important, because we must not make the mistake of believing that if you don't have a nuclear family, then the children are going to

be dysfunctional. I am not by any means suggesting that we ought not to strive towards that.

Indeed there are some families that do have more than two children and we have been told that you have to have two children. And if you don't have two children then it would follow that you won't be able to be a good parent. There are some families who have many children, some families indeed where the mother - the adoptive mother, the essential question is whether you are going to have the kind of values which are espoused firstly in the word of God in the Bible. We must not refrain from that, we must not be afraid to look at that, to see how far we have departed from those values. Have we failed now to put God at the centre of what we are doing? Do we pay lip service to God? Do we pay lip service to the Commandments? Are we witnessing now a falling away because we believe we have all the answers?

The Member from St. Ann indicated his concerns about music and he is quite right. And it is just not that sex is power, because sex indeed is at the essence of procreation and the energy of mankind. But we have so skewed it for economic benefit and we have used sex to denigrate women. We have used it to say that we are someone because it helps to procreate and have many children, so the values have been undermined. But worse yet - and this is where I would like to think of the idea of cultural nature. What you have now for instance - and there is a connection with bleaching the skin, where black people are now seeing a sense of self worth coming from the lightening of the skin. In fact, one musician in one song has indicated he uses blue soap, and I remember…

A MEMBER: Cake soap.

Mr. MULLINGS: Oh cake soap, which is blue. (Laughter)

I remember in the 1970s where black pride held sway. (Applause) You are proud of who you are. What we are seeing now is where our young people are seeing entertainment as the way to live, and we are buffeted by these images, yes, from overseas and within. And so what we find is that our family unit is being eroded by these messages. And some of us unwittingly, some wittingly, are victimizing some of these persons and some of these activities.

I'd like to make an appeal to the Minister of Education and to the Government, and - as a solution and I believe, Minister, we must do this as a matter of urgency. The Member has kindly showed me his opening in **Hansard** but there is something I note here, and it is causing me grave concern. And he says, and I quote "In other words, as far as I am aware there is no specific legislation or regulation that ensure that our children in schools will be protected from accidentally accessing websites of an indecent nature even less so in our private homes. And whereas I believe in the right to privacy, what concerns me is that parents I believe, are not aware of what their children have access to.

Now alarm bells went off in my head because I remember continuing the process of the e-learning and having access to the computers in school, and it is very laudable. But we must at this point in time, Minister and Honourable Members of this House, seek

to include software that will immediately deactivate any such access; and it is possible.

Because, Mr. Speaker, I remember when I was in Canada - I was in Canada and we went down to the lobby and I was utilizing a computer, trying to get on to *the Observer* website to see what was happening at home, and every time I went to the headline in *the Observer* it was blocked saying I was trying to access a porn site. And for the life of me I could not understand how could it be that this computer, in a public space, and I am trying to get on to my local newspaper, *the Observer*, and it has been deemed a porn site. Only to realize, Mr. Speaker, that the headlines on that particular day was dealing with children, children on school buses who were engaging in sex.

A MEMBER: Oh!

Mr. MULLINGS: But immediately it was blocked. And so, Mr. Speaker, the time now - and I urge the government not to be an unwitting facilitator of our children having access to these websites. As a matter of urgency, we must include those software to automatically deactivate that possibility. (Applause)

Mr. Speaker, before I take my seat, I would like to say as well, that the issue of falling standards is one which is almost time immemorial, facilitated by the immediacy of our technology, yes. But at the same time I urge us to deal with the problems that are besetting our children in Jamaica today. They are being seduced by the rhythms of the music, which facilitate the immediate repetition of lyrics which are dysfunctional, anti-social and disrespectful, that is the fact. (Applause) And our children are smart but they will are looking in the wrong direction.

I also believe, Mr. Speaker, that we must make efforts - because we can't legislate everything and the Members are quite right, we can't do that but we must not be failing in our activities in that regard. We have to reach out, not only to our constituents, because there are some of us, in society, where there is mother and father who are quite wealthy and their children are quite dysfunctional, who see money as the yardstick of respectability, power and access, whose children rely on the names of their father or mother or their money to buy their way through. That is because there is no proper value system in that home. Nuclear as it is, stable as it is, but dysfunctionality is coming out of it.

So, Mr. Speaker, this - I wholeheartedly support this motion brought by the Member. I believe that the contributions from the membership here have been excellent. I commend not only to those present, not only to those persons who are watching on television or on radio, but I also commend those who also like to criticize us, like the Political Ombudsman that indeed good work is done here.

Thank you. Mr. Speaker.

Mr. SHAW: Thank you, Mr. Speaker, I just have a very brief intervention, but I have listened very carefully to all of the presentations so far and I would like to join in commending the Member from North East St. Catherine for putting forward this very very important motion.

Mr. Speaker, I think the - much of what we have said, all that we have said is a pretty

accurate description of the crisis that we face, and it is a crisis. Because it is a crisis of human development, it is a crisis in which we are failing in our duty to adequately secure our future, by preserving our young people for the future. And, if we don't preserve and protect and develop our young people for the future then the question is, when we leave what kind of a future we would have left behind. And so, I think that, that as in so many other things that we have to be confronting now, whether in the field of finances which is my ball of whack, where we have had to confront debt, we have had to have a debt exchange of unprecedented, if not monumental proportions that has been recognized all over the world.

Perhaps, Mr. Speaker, we need a kind of debt exchange, a kind of JDX for a reversal of standards in our country. And in charting that course for that JDX, for the falling standards that we all know, we see it, we have enumerated -each speaker has spoken about different aspects of it. And even after we have long debated this, there will be so many other aspects that we have not even mentioned it in this Honourable House. But some of them are even unmentionable, some of the things that we know are happening in this country. And so it is a problem that is going to have to be dealt with from multiple angles. It is not a single angle approach.

One of the things that we have discussed - and I hope that the Minister of Education will comment on it in his own presentation - is that we have talked about the question of character education in schools, the need for character education. What do we mean by character education? And that is something that I would like to see that is in the curriculum of our schools, and it mandatory like when we were growing up and civics was a mandatory course in schools. (Applause) And just like you have civics, we need a mandatory course, Mr. Speaker, in building character. Because it is the character of each individual that collectively puts together the character of a nation. And when each of us dies and we are put into that box and we are buried, Mr. Speaker, no matter how much money we have had, no matter how much resources we have garnered, the only thing we are buried with is our name and it is our integrity and it is our character. It is the quality of life that we have lived.

And so, since we on both sides of the House have recognized this as an item of outmost urgency - and I agree with the Member from South Manchester that when the issue was first put on the national agenda called **Values and Attitudes** that if in need that campaign was pursued and pursued with absolute diligence and consistency over the years, I think we would be better off today. Because the truth be told, Mr. Speaker, I think we are worse off today. The situation, as my mother would say, is getting from bad to worse.

And so let this not just be an exercise in talk. Let this, Mr. Speaker, be an opportunity when this breaks out into deeper discussion, let it end with a programme for action, because when it comes to rescuing our children the time for action is now, not later. (Applause) So we need character education.

We need a national campaign to restore a healthy respect for family life. We need a national campaign to create a sense of

responsibility of fatherhood among our men, especially our young men who have this notion that they simply move from one woman to the next and cast their seeds far and wide, and have no sense of responsibility for any of the children that emerge.

Mothers are coming to us as Members of Parliament. I will never forget the day one mother came to me and she had seven (7) children with seven (7) different fathers, and not one of them, not one of the fathers is even at the house, not one of them. And they are coming to the Member of Parliament because, that is big daddy, has to take care of them.

Now it is one thing, and that is bad enough but the truth is, those seven (7) children, are short-changed, they are bewildered, they are misguided, they are in serious trouble. And Mr. Speaker, we have to be serious about this thing. We must leave no unguarded place when we examine this issue. We must leave no stone unturned, Mr. Speaker.

We must look at legislative mechanisms to the extent that we have to. We must look at enforcing standards and giving the courts more teeth to impose a sense of responsibility on our fathers as well, Mr. Speaker, in my opinion. (Applause) And we must not exclude anything from our thought processes if we are going to successfully create a reversal to what is happening now.

And so, Mr. Speaker, if we want to rescue our future we have to rescue our children. And I commend the Member on this motion. And I think if and nothing else, if this Honourable House can come up with a plan and work on this one that we can rescue our children, it would be a great beginning for all of us in Jamaica.

Thank you very much. (Applause)

Mr. PICKERSGILL: Rescue the perishing, care for the dying, Jesus is merciful, Jesus will save.

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Thank you, Mr. Speaker.

I too wish to firstly commend the Member - I too wish, Mr. Speaker, to commend the Member from North East, St. Catherine, for bringing this Private Member's Motion to the House for debate. Indeed it is a very timely motion, Mr. Speaker, and I think that the Members who have spoken so far I wish to agree with them for the most part, in the comments that they have made.

I just want to, in hindsight, Mr. Speaker - I know that many of us on just listening to the Minister of Finance speak awhile ago, did recall that the former Prime Minister, Patterson, had launched this **Values and Attitudes** Campaign many years ago at the Conference Centre with stakeholders from all over the country, to discuss this whole business of values and attitudes and what was the core of it. And this really led back to the base, which was the family and the breakdown in family life that had attended upon the society and all that sprang from it. And at the time it was not a very popular and...

Mrs. HAY-WEBSTER: There was a lot of fun made about it.

Mr. KELLIER: ...you know, it was not a very popular theme. And so, Mr. Speaker, the entire society did not buy into it at the time.

And while we did extensive consultations, recommendations have been made coming out of that consultative approach that took place at the Jamaica Conference Centre. And I'm just going to say at this point that as soon as the Human Resource Committee meets to deliberate on these matters, that one of the documents they should refer to, so as not to delay us too long and not trying to reinvent the wheel, is to look back at some of the recommendations that came out of that consultative approach that took place on the Values and Attitudes Campaign. And like I said in hindsight, those who - wherever they are in the society at this time, that did not come on board with that campaign, I'm sure they are now recognising that they made a serious mistake in judgement.

We'll have to examine the role, Mr. Speaker, of State agencies and indeed ministries and as to what - the way the government architecture is structured, to see whether or not it is structured in such a way that allows for the agencies and those who work with the agencies to really zero in on this matter in any specific way. Whether it is going to take an integrated approach of a number of agencies and NGOs and so on, to get together to really attack this problem because it cannot be attacked from any one angle. It is a multifaceted problem that faces us and to get to this thing we have to have all the different stakeholders working together. Within the Ministry of Education, the Ministry of Health, the Ministry of Youth and Sports and indeed, within the Ministry of Local Government. And very critical in this equation, Mr. Speaker, is the Ministry of Housing.

Some time ago - many years ago during the late 70s when one of our former Prime Ministers, again, the RIGHT MOST HONOURABLE MICHAEL MANLEY, went to the UN to deliver a speech. I don't remember what year it was, but it was way down in the 70s, it was all about the business of housing. It was coming from the premise whereby at that time in Jamaica, thousands of families lived in one room houses, one room, all over the country. And that led to a kind of untenable situation where mother and father was in the same room and all the children were still part of that same one room syndrome and that something had to be done about that situation; because the family couldn't exist that way, you couldn't build a proper family life relationship in that kind of atmosphere. It led to a serious breakdown in the whole business of the family structure and hence the business of housing was put on the agenda as a very serious item to be considered seriously as to going forward, you know how would we approach that situation. So we must add housing to it.

We cannot afford any longer in this country if we want to build proper family life and good family values and so on, we cannot anymore afford to have common law wife and husband - well common law relationships - and wife and husband in some cases, living with three girls and boys in the same one room situation. In modern Jamaica in the 21st Century that is just not on. So the policymakers, us in here that give some direction but the final policies have to

emanate from the Cabinet and the Government, have to take into consideration very seriously how we approach this business of housing.

And adding to that in another sense, Mr. Speaker, while not condoning any illegality, we must also consider what we do when we go about bulldozing housing as well, because you have families living in them. And when you bulldoze some of these places and scatter the people without any proper arrangement for relocation and rehabilitation, that in itself is contributing to the very problem that the Member would like to see solved by this resolution that he has brought here today. So we need to look into that very, very deeply to see how we can get around it. But we can no longer afford - and I call upon the - I implore the conscience of the Members of this House in supporting this resolution, to ensure that we speedily find a way to change that situation of the one-room family house situation. It just cannot work.

The Millennium Development Goals, Mr. Speaker, the eight (8) of them, that was adopted by our leaders in 2000, and hoped that the tenets of this development plan would have been achieved by 2015: eradicate extreme poverty and hunger, achieve universal primary education, promote gender equality and empower women, reduce child mortality, improve maternal health, combat AIDS, malaria and other diseases, ensuring environmental sustainability and develop a global partnership for development. All of these things, all of these things impact on the family, all of them. And basically if you have dysfunctional families in the country it will stymy our efforts in trying to achieve these goals by 2015, here in Jamaica. And I don't know that we would want to find ourselves running afoul of a convention of which we have been a part of - that we have signed on to.

Let us look at the rights of the child under the Convention, just some of the things that, some of the Articles speak to. And as you know, Mr. Speaker, there are some 43 to 54 Articles, if not more, that speak to the rights of the child under the Convention. Because again, the children are really the centre of the family structure. They are the future. We keep saying that all the while that children are our future and we have to treat them right and so on and bring them up in the right way and all that, and that is true; and that is where the focus has to be, right.

Now Article 3 that speaks to the best interest of the child. The best interest of children must be the primary concern in making decisions that may affect them. And all adults should do what is in the best - what is best for children. When adults make decisions they should think about how their decisions will affect children. And this particularly applies to budget, policy and lawmakers.

Article 5 speaks of parental guidance and government should respect the rights and responsibilities of families, to direct and guide their children so that as they grow they learn to use their rights properly. Helping children to understand their rights does not mean pushing them to make choices with consequences that they are too young to handle.

Article 15 speaks about the freedom of association. Children have the right to meet together and to join groups and organisations,

but not gangs, as long as it does not stop other people from enjoying their rights. In exercising their rights, children have the responsibility to respect the rights and freedoms and reputation of others.

And you know, in all the debates that have gone on, Mr. Speaker, there is just one thing I would hope that does not leave from this House, because we all know how sensationalism can distort the good substance of a good debate. And I would not want what the Member from Clarendon North said, to be given the wrong impression that, you know, there is any intention that you join a gang. Because the way it came over it would appear that that would have been an alternative rather than joining a training course, or some training institution, that the magnetism now is to join a gang. You have to change the mind set so that it gets more productive and more positive and not in the negative sense.

Article 17 speaks to the access to information and the mass media and has come out within the theme of what a lot of the Members have said. Children have the right to get information that is important to their health and well-being. Governments should encourage mass media, radio, television, newspapers and Internet content sources to provide information that children can understand and to not promote materials that could harm children. Mass media should particularly be encouraged to supply information in language, that minority and indigenous children can understand, and children should also have access to children's books.

Now, Mr. Speaker, it is very important, because as I say, it has run through the theme of what has been said by a number of Members. The kind of music, you know, and all these kinds of things that permeate the society today have been the hype of the day, are things that we need to...we need to draw a line against some of these things, because all of this goes right back into the home, into the family, all of this. So you have a family at the level of the home, you have a family in respect of the community. The whole community is a family as well. So you know, the family is really a very...You have the school community, you have the church family. So the family is really everybody, you know, and the children at the centre of that equation. And of course, parents need to ensure that they take up their responsibilities seriously.

It speaks in Article 18, to parental responsibilities. And Article 19 speaks to the protection from all forms of violence. Children have the right to be protected from being hurt and mistreated, physically or mentally. And government should ensure that children are properly cared for, and protect them from violence, abuse, neglect, and neglect by their parents or anyone else for that matter. Again, the society in which we live, Mr. Speaker, a lot of things need to be corrected. I mean, children getting shot, babies getting shot in parent's arm. Shot in bed! Shot in bed! Children being left alone and burnt up in fire. You know. So it's a whole reconstruction, a complete revolution has to take place in how we go about reordering these things. And I look forward to the Committee debate on these issues, because they are very wide. And we will have to invite persons from all different

organizations to come and testify at the Committee level on these matters, so we have the widest possible participation in these matters.

Article 27 speaks to adequate standard of living. Children have the right to a standard of living that is good enough to meet their physical and mental needs. Government should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing. See, housing, comes back here in Article 27.

And of course, the Minister is well aware here, Article 29 speaks to the goals of education. And since the Minister of Education is going to speak and the House Leader, Mr. Speaker, I won't go into what Article 29 says, because that is his ball game to speak with us. And the abuses, the business of child labour, drug abuse, sexual exploitation, trafficking in children and those kinds of things, detention and punishment. And again, when you lock up children - and it says here, they should not be put in prison with adults. We have violated that more often than we have observed the rule in this country. Long time now! Not just yesterday. And all sorts of reasons are given why we couldn't take them to a children's home or we couldn't take them to a place of safety because of x, y and z and you have to keep them in the lock-up with the hardened criminals. That is again...And sometimes you don't know, you know. You lock them up, but you don't mean that them guilty, you know, or them not sentenced yet, them just remanded. And you know, these things have an effect on the mental faculties of these children. And we really need to look into how we adhere to the tenets of these Conventions that we sign. We sign them, and all the fanfare, and so on, and so forth, but after that is done we pay scant regard to the Articles that support the Conventions that we signed.

And Article 39 speaks to the rehabilitation of child victims. Children who have been neglected, abused or exploited should receive special help to physically and psychologically recover and reintegrate into society. Particular attention should be paid to restoring the health, self-respect and dignity of the child. And there is a lot more.

But like I said, Mr. Speaker, the nucleus of all of this surrounds the child, because that is the seed that we plant that will grow, mushroom and bloom into the future leaders, managers and workers of this country of ours. And really, that is the family that we are seeking to correct the ills that attend them. So the debate in the Committee, and the debate further on that recommendation is still to come. So we have a long way to go.

Once again, I wish to lend my support and to congratulate the Member again once more for bringing it to the attention of the House. (Applause)

Mr. MONTAGUE: Mr. Speaker, first of all, let me congratulate the mover of the resolution, the very timely resolution.

However, while I support the resolution, Mr. Speaker, I have a little concern with the reasoning or the reason for the resolution:

> WHEREAS the Jamaican family is presently struggling in an unfriendly and aggressive environment, that is consistently weakening its standards and values.

The Jamaican family, Mr. Speaker, has always been struggling in an unfriendly and aggressive environment. Because if we look at our history, it ought not to be so, but it is so, and we need to speak to what is. Our history will show that the genesis of some of these problems are historical. We brought persons from another continent. We enslaved them, Mr. Speaker, because never let it be said that my ancestors were slaves because they were never slaves, they were a people enslaved.

A MEMBER: Tell them, Maroon!

Mr. MONTAGUE: And we were enslaved and also we encouraged, the planter class encouraged certain males to go around and impregnate females in order to produce other persons that could be utilized in the fields or in the homes.

MEMBERS: That's right.

Mr. MONTAGUE: So therefore, some of the problems that are manifested today are deep-seated. And there is historical reasoning for that. So therefore in examining the problem, let us not shy away from the reality of our past. And therefore we need to...Because when slavery was abolished it wasn't those who suffered the injustice that were compensated by that Twenty Million Pounds. It was those who had benefitted from the slave trade that benefitted from the Twenty Million Pounds.

So therefore, Mr. Speaker, in examining the break-down...Because it is not now we have one-room homes in Jamaica where children are sleeping under the bed and mother and father are on the bed. And a lot of up-standing Jamaicans came out of those circumstances. So it is not necessarily the environment alone. Because many of us who are paragons in the society today, came from one-parent family, came from families that nana and granny raised them.

(The Speaker leaves the Chair, the Deputy Speaker presides.)

But what is important, Madam Speaker, are the values that were imparted then. Because today, we do have a break-down in family life, and we have many suggestions as to how to correct the problem, youth camps.

Madam Speaker, I have a difficulty when I hear persons saying, take up children from the inner-city and carry them to a countryside for two weeks and that will solve the problem. Let me tell you what will happen, Madam Speaker. Those mal-adjusted children will come into the rural areas and teach those nice rural children things that they never know.

Mr. BRODERICK: The rural ones them stronger.

Mr. MONTAGUE: I am therefore saying, these band-aid solutions, in my view, are not good enough. We say train the youths in youth camps, give them a skill. But after six months of training and they are done, what next?

When we look at how we arrange our society, Madam Speaker, and you examine those of us, those youngsters in society with criminal records, conviction for ganja is a large part of what is criminalizing our youths. And if we are going to attack and find solutions to some of these problems, we must take a critical look at our laws that deal with and treat with ganja.

We must go back and look at Professor Chevannes' Report. We must not make

criminals out of our youths, because anywhere you have a large gathering in Jamaica, ganja is smoked, openly. So therefore if we are looking at society, let us critically look at it. Let us not blind ourselves, Madam Speaker, and allow others from countries that don't produce ganja to economically benefit from it, yet we criminalize what we should be using to benefit our society. So let us take a critical look and examine the body of evidence that is there.

The whole question of alcohol is another factor that is breaking our family apart. What's the medical evidence that is out there? How do we balance alcohol being legal, ganja being illegal? Both are drugs. Both...

(*Sotto voce* comments by a Member)

Don't go down that road? Both are drugs. It is how we classify them by law.

A MEMBER: Don't go down there!

Mr. MONTAGUE: But medically, but medically, in terms of, in terms of, Madam Speaker, solutions - since my colleagues are getting nervous - in terms of solutions, we are a country that we produce creative musicians. But many times we criticize that creativity. And I hear a lot of persons condemning the dance hall artiste. Don't condemn them!

(*Sotto voce* comments)

Well, bring them into workshops and uplift the quality. And who are we or who are you to determine what is the quality?

A MEMBER: Kartel!

A MEMBER: The Kartel wanted.

A MEMBER: Ban dem music!

Mr. MONTAGUE: In the old days - today many of us in here, including the gentleman from St. Ann, will tell you that he is a lover of Sparrow. When he was my age, Sparrow was the outlandish musician then.

Mr. E. SMITH: He was an outlaw.

A MEMBER: No! Him nuh olda than mi.

Mrs. HAY-WEBSTER: When we see the results for sure.

Mr. MONTAGUE: So many of us, Madam Speaker, who speak about the good old days, well these days might turn out to be my good old days.

A MEMBER: Yeah man, tell them, sparrow mouth.

Mr. MONTAGUE: So therefore, Madam Speaker, music is a tool that we ought to utilize to help to lift our youths. Music should be taught in school so that our people can get an appreciation for good music.

Mr. MONTAGUE: Athletics, we are a nation known worldwide for producing good athletes. What we should be having, Madam Speaker, is in every community a good playingfield.

A MEMBER: Thank you. (Applause)

Mr. MONTAGUE: So that we can utilize the energies of our young people.

We are confronted with a high crime rate. What we ought to be doing as a people, is to be seriously looking at some of these issues and trying to find creative ways of utilizing what is a problem and trying to turn it around.

We are faced with a lot of deportees coming on to our shores. Why don't we, Madam Speaker, sit down and train them with the JDF and send them as peacekeepers elsewhere?

Mr. BRODERICK: Dem too dangerous.

Mr. MONTAGUE: They like to use guns. (Laughter)

Why don't we - I am just making some suggestions that we need to begin to think outside the box.

Why don't we, Madam Speaker, look at training more of our young ladies and young men into the profession of nursing?

A **MEMBER:** Hear, hear!

Mr. MONTAGUE: And export, so that we can earn. We need to look at the greatest asset that Jamaica has, its human resources and begin to work around what we have a comparative advantage in. We are good in music, athletics and providing nursing care, we need to concentrate on some of that.

But, Madam Speaker, maybe immediately we ought to be looking at more parenting workshops, because many of our so-called parents have no skill to impart to the child, so we ought to be looking at parenting workshops. We ought to be looking at registering all our children. We ought to be insisting that the fathers' name be placed on the Birth Certificate.

(Applause)

Mr. MONTAGUE: We ought to insist that every Jamaican has a unique identification number. And as the member from North East Manchester spoke to compulsory civics in schools, so that our people become gentler and kinder and get to understand who we are as a people, where we are coming from, where we are and where we are going. Because, many times we forget to teach our people modern history and a lot of our children know nothing about modern Jamaica and some of the great persons who have contributed and, therefore, they do not have that fire and sense of identity as a Jamaican.

We need to teach entrepreneurship in our schools, because our people are natural entrepreneurs, natural entrepreneurs. We see them every day opening a little vending stall. We see then trying unique things. And we need to harness and encourage, fertilize and water that. Ought to enforce compulsory education so we can eliminate illiteracy. We need to look at civic pride. So, Madam, while I support the resolution for where it wants to go, I said before, I had a little problem with its reasoning, but in my few remarks I am hopeful that I place some issues for consideration, and I would also like to commend the Member from North East St. Catherine, who was bold enough to craft this resolution and to allow us time to speak on it.

Thank you very much.

(Applause)

(*Sotto voce* comments)

Mr. HOLNESS: You notice I rarely speak. I rarely speak these days so, Madam Speaker, I will have pity on the House. I will have an abbreviated presentation. And I want to take the limited time that I am going to use to first of all...

(*Sotto voce* comment by Opposition)

Mr. E. SMITH: Be quiet!

(Laughter)

Mr. HOLNESS: .....to first of all thank the Member for coming to the House with this very useful, timely Private Member's Motion. It is long in coming, almost two years. I recall when the Member came to brief me on his plans and I went back in time to 2006 I believe it was, and I gave him a copy of my presentation to the House that also dealt with a similar subject.

Madam Speaker, for almost 50 years of independence, Jamaica does not have a policy on the family. We have several pieces of legislation and several policy documents on aspects of family life, but no comprehensive policy on the family. This resolution, Madam Speaker, gives us the opportunity to, for the first time, start the debate towards developing a policy on the family.

(Applause by Mr. Mair)

Mr. HOLNESS: So, before I close, I am going to signal the intent that this debate be referred to a Joint Select Committee of the House, of both Houses, which would mean that after their deliberations they would make a recommendation or a Report to Cabinet, and then that would start seriously now the process towards developing a policy on the family. Out of that policy would very well come other pieces of legislation that would reinforce and support the Jamaican family.

(Applause by Government Members)

Mr. HOLNESS: I want to say to the Member, however, and to colleagues generally, that developing a policy around the family is a very complicated issue. And looking forward to what will come, it will be a long process, because there are many complicated issues, there are many deeply held positions, there are many cultural positions, many entrenched social positions that will come into conflict with any form of cohesive movement towards a unified vision as to what the Jamaican family ought to be.

But we have started, we have started, we have done so, not quietly, we have done so in the public's eye and with the public's criticism. We have made various statements regarding our position on the accountability of parents and that has sparked several debates. And of course, Madam Speaker, I have come to almost embody this call for the accountability of parents, where the praise and of course, the blame is ascribed to me sometimes personally. (Laughter)

Madam Speaker, in moving towards a policy for the family, we have started with a policy on parenting. We couldn't take on the entire thing right away. So we have started with one aspect of the family, a very important aspect. The Member from Trelawny who isn't here, delineated some of the important roles of the family. He delineated the economic role, and of course, the role of passing on cultural values, but then there is the role of parenting. And parenting, Madam Speaker, is a public good, everyone agrees with that, that social function is a public good, and if it is not carried out properly, it becomes a public bad.

In other words, if we parent our children well, we all benefit. But if there is any parental failure, we all suffer for it. So that gives the opportunity for the government to enter the debate to regulate; and it is through that door that I enter this inherently private domain of family life and social values. Because any failure in parenting, any failure in the family has a social cost which we all bear.

The parenting policy which has gone through the Human Resource Committee of the Cabinet, has gone through Cabinet, it is approved, it will come here shortly. We are having final discussions with the relevant Ministers to see how we will have the policy

implemented. So by early next month the policy should be before the House, but I will give a preview, Madam Speaker.

The vision of the parenting policy is that all parents in Jamaica, whether by virtue of having given birth, adopting or serving as guardians, all parents in Jamaica, recognize and accept their duty to ensure that the rights of children are always upheld, the best interest of children are always promoted and their children are always loved and provided with opportunities and resources to achieve their full potential and ultimate fulfilment within a safe, caring and nurturing environment. That's the Vision Statement of the parenting policy.

We have set five (5) goals, Madam Speaker, which will guide the parenting policy. Goal number one, is that all Jamaicans made wise choices about becoming parents and making parenting a priority. This is goal number one.

Madam Speaker, when China considered its development path, one of the first things it had to do was to consider the size of its population relative to its resources. It also had to make another consideration and that is, the population is a significant part of its resource. But just having a large population doesn't necessarily mean that ou have a large resource. Because to make your population a resource, you have to educate them, you have to protect them, you have to provide them with opportunities and access. And where there are persons within our population that fall outside the ability of the government to provide education, welfare, support, we actually create....

(*Sotto voce* comments by some Members)

Mr. HOLNESS: Well, well, first of all, what we do is we create an underclass and then we pay for police and prisons and then, Madam Speaker, we create this conflict in the society because the underclass has to live and the underclass creates their own subculture, with their own music, with their own values and then you have two societies existing in parallel; and then one society that controls the power comes and says, look at you, with your music destroying my society.

We inside this House, Madam Speaker, we are elected by the people to provide solutions.

(*Sotto voce* comment by Mrs. Hay-Webster)

Mr. HOLNESS: Yes - by them, exactly.

Part of the solution, Madam Speaker, is to say to our population....

Mr. BRODERICK: Have less children.

Mr. HOLNESS: Well, it's not so much have less children, it is have children that you can support! That your fertility, you should ensure that you govern your fertility by your earning ability.

Rev. THWAITES: Then people in Jamaica wouldn't have no children.

(Laughter by Members on both sides)

Mr. HOLNESS: It is time, Madam Speaker, that that be said openly and publicly, because any failure in parenting becomes everybody's problem.

I came to that conclusion, Madam Speaker, not because I want to take away anyone's right to having a child, but any right to have a child comes with a responsibility for taking care of that child.

Madam Speaker, one of the most successful public education campaigns that we have had in this country is the **Two Is Better Than Too Many** campaign. And it was very successful. In fact, we are still seeing the results of that because women have taken a more enlightened position as a result of understanding contraception and protecting themselves. And we have seen where the birth rate is declining.

But, if you examine closely, Madam Speaker, you will find that the birth rate is declining amongst some groups, particularly those groups who spend a longer time in the education system. It is almost a one-to-one correlation. The longer you spend in the education system, the more you are able to plan when you will have your children. Once you drop out of the system, it is almost as if the decision to having a child is not yours anymore.

And what we find happening is that whilst there are more boys dropping out of the system, the girls who are dropping out become pregnant at an early age. And we have to be careful now, Madam Speaker. So, it is not just looking at ensuring girls remain in schools - because the girls don't get themselves pregnant - we have to ensure that the boys as well, remain in school and take responsibility for their own fertility as well.

Madam Speaker, all Jamaicans must make wise choices about becoming parents and when they become parents, that they take that responsibility seriously.

The Jamaican State, Madam Speaker, does not have a comprehensive and broad Social Safety Net. In fact, our Social Safety Net is limited to children at the primary age. We give some amount of support to children at the secondary age. We give some support by virtue of the NIS and PATH to old age persons. But there is a large group in the society, Madam Speaker, those who have just left school, not in a job, no prospects of a job, and will probably be that way for another 20 years. They are able-bodied, but they cannot earn any income, and there is no social safety net for them. But yet, that is your age where you have the highest birthrate, between sixteen and twenty-four. But there is no support, especially for the males in that.

We have to look very carefully, Madam Speaker, on how we give welfare. Welfare must be tied to achieving certain important social goals. Indeed, Madam Speaker, the new thought of giving welfare now, the new economic philosophy behind welfare is what is called a cash transfer. So, you give the transfer for people to come to school. But I feel that it is more efficient, Madam Speaker. So, instead of me paying to build a prison, I pay the person to come to school - conditional cash transfers. And I think we need to do far more of that in terms of how we organize the budget.

Goal Number 2, Madam Speaker, is that all the Jamaican children are loved, nurtured and protected instinctively and unconditionally by their parents. I want to say briefly on this, Madam Speaker, that...

Mrs. HAY-WEBSTER: Briefly?

Mr. HOLNESS: Briefly... I can't say if my love is different from the Leader of Opposition Business love. But, Madam Speaker, during the debate, the notion of force was brought up, that we beat them because we love them. Madam Speaker, I

don't subscribe to that. I don't subscribe to that. I don't subscribe to the consistent, persistent use of violence to change behaviour. I don't think it works, and I certainly don't look at it as the good old days, because were it the good old days, we wouldn't have been here today.

You know, Madam Speaker, there are many persons who tell me that they benefitted from some good licks. But, you know, there is a silent majority who hurts quietly, and transfers the same...

Mrs. HAY-WEBSTER: Into adult behaviour.

Mr. HOLNESS: …hurt to their children.

(*Sotto voce* comments)

There is no catharsis happening for them to understand that they don't need to do this in order to show love. And so, what we have done is reinforce within the psyche of the Jamaican people, violence. That's all we have done - reinforce violence as a form of love in the Jamaican people. And I stand against that, Madam Speaker. I stand against that, totally.

Madam Speaker, that each parent understands and utilizes, applies positive practices in effective parenting. And this is where the State has a role to provide information. One of the greatest problems for parenting is that parents reach a point of frustration. And when you reach a parent in crisis, when you talk to them - and I have talked to many - the first thing they will tell you, I give up. I don't know what else to do. I give up - I give up on him. That is the point where they either go to seek intervention, or they turn their faces away from their children totally.

Luckily, some parents do seek intervention. But, Government has to be more strategic in giving parents the information before they reach the point of crisis. And that's why we are now establishing the National Parenting Support Commission which will oversee and implement the policy. And one of the critical things in that is to provide information to parents before they reach this point of crisis.

Goal Number 4 is to create an enabling institutional framework to support parenting. And I just spoke about that with the parenting policy. Madam Speaker…

(Dr. Bartlett now deputizes for the Acting Speaker and Speaker)

Mr. Speaker, I don't want to go too much in the parenting policy, and I think I have stretched the attention of the Members of the House.

(*Sotto voce* comments by some Members)

Mr. HOLNESS: It is indeed, for me, Mr. Speaker, a productive day, and I think the Members who are absent missed a very important session of Parliament.

(Applause)

MEMBERS: Hear, hear!

Mr. HOLNESS: I consider this, Mr. Speaker, to be the start of an instrumental approach towards a parenting policy and I close by once again, commending the Member, and commending all the other Members who have participated and I await the closing statement of the Member who brought the Resolution.

Thank you, Mr. Speaker.

(Applause)

The ACTING SPEAKER: Mr. Mair.

Mr. MAIR: Thank you, Mr. Speaker.

Mr. Speaker, I would like to wholeheartedly thank the 16 Members who participated in this debate.

(Applause)

A MEMBER: Hear, hear!

Mr. MAIR: This motion before the House is one that I am - reflects an issue which I have deep concerns about - express a concern I have of what's happening in our society. And my concern was eloquently reflected in everybody's participation with the passion with which they made their contribution. And it was from both sides. And it is clear to me that we all want to deal with this issue, and the quicker the better. And therefore, Mr. Speaker, I would like to put before the House, the following Resolution:

> BE IT RESOLVED that this Honourable House urgently debate and agree on the reasons for the decay of our morals, values and family life, and further propose remedial action through legislation and/or institutional action so as to reaffirm and consolidate the Jamaican family as a critical institution, and strengthen the same so as to ensure that our children live in an environment that is conducive to forming citizens of good character, empowered with knowledge, and who are consequently able to play a critical role in nation building.

And that this matter be referred to a Joint Select Committee of both Houses.

(The Speaker returned to the Chair at 5:53 p.m.)

MEMBERS: Hear, hear!

(Applause)

The SPEAKER: Thank you, Mr. Mair.

We now - we have to put the amendment which is the latter part of the Resolution. So, I now put the amendment as stated where it is being referred to a Joint Select Committee.

Put to the House and agreed to.

The SPEAKER: I now put the motion as amended.

Put to the House and agreed to.

The SPEAKER: House Leader.

Mr. HOLNESS: There is a housekeeping matter, Mr. Speaker. I move for suspension of Standing Orders to recommit the item, Presentation of Bills Without Leave of the House First Obtained.

The SPEAKER: The motion before the House is for the suspension of Standing Order to permit the re-committal of the item, Presentation of Bills without leave of the House first obtained.

Put to the House and agreed to.

PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED
(Recommitted)

The SPEAKER: Yes, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, I now move to introduce and have read a first time, a Bill shortly entitled: The Health and Allied Professions and Services (Miscellaneous Penalty Provisions) Act, 2011.

Bill shortly entitled:

The Health and Allied Professions and Services (Miscellaneous Penalty Provisions) Act, 2011,

read a first time.

Mr. SPENCER: Mr. Speaker, I beg to give notice of second reading of the Bill.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not and could not be contemplated to do any further business today. I therefore move that the House do adjourn until 1st February, that would be next Tuesday, when we will resume our business.

The SPEAKER: The motion before the House is that this Honourable House do adjourn until Tuesday 1st February at 2:00 p.m.

Put to the House and agreed to.

The SPEAKER: (Gavels) This Honourable House stands adjourned.

The House accordingly adjourned at 5:58 p.m. to Tuesday 1st February, 2011 at 2:00 p.m.

THE HONOURABLE HOUSE OF REPRESENTATIVES

SESSION 2010 – 2011

TUESDAY, February 1, 2011

PURSUANT to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2.10 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Planning and Development and Defence.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

RUDYARD CONRAD SPENCER, (JLP), Clarendon, South Eastern, Minister of Health and the Environment.

MINISTERS OF STATE

THE HONOURABLES:

DARYL WESLEY PHILLIP VAZ, (JLP), Portland, Western, Minister without Portfolio in the Office of the Prime Minister, Minister of Information and Telecommunication.

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

MICHAEL ANTHONY STERN, (JLP), Clarendon, North Western, Minister of State in the Ministry of Industry, Commerce and Investment.

OTHER MEMBERS

MR. GEORGE DELANO ARSCOTT, (PNP), Clarendon, South Western.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MRS. MAXINE ANTOINETTE HENRY-WILSON, (PNP), St. Andrew, South Eastern.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. CLIVE ARTHUR MULLINGS, (JLP), St. James, West Central.

MRS. NATALIE NEITA HEADLEY, (PNP), St. Catherine, East Central.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. DEAN ALEXANDER PEART, (PNP), Manchester North Western.

DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern.

MR. DERRICK CHARLES SMITH, (JLP), St. Andrew, North Western.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

PRAYERS

Prayers were offered by Reverend Ronald Thwaites.

The House resumed its sitting at 2:10 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this afternoon we would like to welcome in the Gallery a number of students and teacher from the St. Mary Technical High School. Welcome to the sitting of Parliament. (Applause)

Please, I know some of us have cell phones, just check and make sure they are off or on vibrate so you do not disturb the sitting of Parliament.

(MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker, entered and took her seat.)

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 7**
  The Caymanas Track Limited Annual Report and audited Financial Statements for the year ending March 31, 2010
- The Factories Corporation of Jamaica Limited Annual Report and audited Financial Statements for the financial year ended March 31, 2009

(HON. NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader, entered and took his seat.)

REPORTS FROM COMMITTEES

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, on behalf of the chairman of the Regulations Committee, Mr. Speaker, I beg to lay on the Table of the House a copy of the Report of the Regulations Committee of the House of Representatives on our deliberations on the Education (Amendment) Regulations, 2011.

The SPEAKER: Thank you, House Leader.

QUESTIONS AND ANSWERS TO QUESTIONS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, the Prime Minister has answers ready for two questions.

(MR. LUTHER BARTLEY MONTEITH BUCHANAN, (PNP), Westmoreland, South Eastern, entered and took his seat.)

Dr. DAVIES: Two sets of questions.

Mr. HOLNESS: Two questions, yes, two sets of questions - Question No. 33 by the Member from East Kingston and Port Royal and Question No. 35 from the Member from Western Westmoreland, who is not in the House today.

Dr. DAVIES: He will be here.

The SPEAKER: It's okay?

Mr. HOLNESS: He will be coming. Okay. So we will start with the question from the Member from East Kingston and Port Royal.

The SPEAKER: Mr. Paulwell.

Mr. PAULWELL: Thank you very much, Mr. Speaker.

Will the Prime Minister answer Question 33 listed in my name.

The SPEAKER: Question 33, Prime Minister.

Mr. HOLNESS: Before the Prime Minister answers, Mr. Speaker, the questions are not due for answer as yet. The Prime Minister is prepared to answer them so he would be asking for the permission...

The SPEAKER: If that is agreeable to Mr. Paulwell.

Mr. HOLNESS: ...for leave of the House and permission. Is that your wish, Mr. Speaker?

The SPEAKER: Permission is granted.

The PRIME MINISTER: Mr. Speaker –

Question 1: With reference to Ministry Paper No. 2/2011 at Item 7, will the Prime Minister indicate all the functions of the Steering Committee for the Liquefied Natural Gas (LNG) project.

Answer: The functions of the Steering Committee are to coordinate and conduct oversight of the development and implementation of the project and advise the Cabinet, through a special Cabinet subcommittee, on the appropriate policy decisions and actions to ensure its successful implementation.

Question 2: Will the Prime Minister indicate what the project milestones are that were referred to in the said Ministry Paper.

Answer: These are as follows, Mr. Speaker:

1. Establishing the LNG value chain

2. Determining the commercial structure for the project
3. Determining the project's risk profile
4. Developing the legal and regulatory framework
5. Procuring the components of the commercial structure namely the FSRU provider and operator, the pipeline provider, the source of gas supply and the commitment of the off-takers
6. Establishing the necessary licensing regime
7. Executing the relevant contracts
8. Securing the required financial investment decisions
9. Commencing the build-out of the project; and
10. Commissioning the facilities.

Question 3: Will the Prime Minister table a copy of the Report submitted to the Government by consultants who recently reviewed the LNG project.

Answer: The Report contains sensitive information which, in the context of the several negotiations that must be undertaken, it would not be appropriate to make public. I have, however, furnished a copy of the Report to the Leader of the Opposition so that she can be aware of the findings and recommendations of the Report.

Question 4: Will the Prime Minister indicate if the country received a commitment for the supply of natural gas from any source.

Answer: There have been preliminary discussions with established gas suppliers including several major oil and gas companies whose representatives have visited Jamaica recently and expressed interest in supplying gas for the project.

Question 5: If the answer to Part 4 is in the affirmative, will the Prime Minister provide details.

Answer: Please see answer to Part 4.

Question 6: If the answer to Part 4 is in the negative, will the Prime Minister provide an update on the process to secure a reliable supply of natural gas.

Answer: A formal request for proposals is being developed and will be issued shortly.

(Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern, entered and took his seat.)

The SPEAKER: Mr. Paulwell.

Mr. PAULWELL: Thank you very much, Mr. Speaker. There are some questions I would like to raise as follow-up to those that

the Prime Minister has answered.

The Prime Minister has indicated the milestones that were referred to in the Ministry Paper and I am very keen on trying to understand what are the timelines. Because we were told that the project is operating on a certain time line to enable us to benefit from lower prices within a certain time frame. On that trajectory have those timelines been changed with this new committee in relation to items 1 to 10 under question 2, I am very keen on what are the timelines for the project.

The PRIME MINISTER: Mr. Speaker, it wouldn't be possible to give that information now. If it had been contained in the question I would certainly have ensured that those answers were given. What I will say, however, is that based on the report of the consultant, the Report indicated that there were a number of - while endorsing the approach that was taken in relation to the selection of gas, the selection of the floating storage and regasification unit has appropriate technology, the consultants pointed to some significant gaps that needed to be filled to ensure the successful implementation of the project. One of which, for example, relates to the need for a regulatory framework to be in place.

The advice I have from the Steering Committee is that because of the need to fill those deficiencies, there is likely to be a slippage in the timeline of possibly three to four months, but that it would not affect the delivery end because the projected delivery end in terms of the pipeline and the provision of gas at the end of that pipeline has sufficient room in it to allow for them to make up that time to coincide with that. So there is some slippage but at the back end we believe we will be able to recover that time.

The projection is still with a view to ensuring gas is available to the off-takers in late 2013.

Mr. PAULWELL: And, of course, we will challenge that timeline as being very unrealistic in the scheme of things.

The Ministry Paper that I referred to, Prime Minister, speaks to the steering committee being authorised to utilise the funding for the project. Could you just indicate what funding, is there a budget for the steering committee and could you confirm that the funding is indeed from the PCJ?

The PRIME MINISTER: The fund is provided out of the PetroCaribe fund through the PCJ, yes. There is not a specific budget for the steering committee. The steering committee has simply assumed responsibility to oversee a project for which there is a budget and which there was a budget and which has expended a considerable sum dated back, of course, to when that project started under the watch of the Member for Eastern Kingston himself.

Mr. PAULWELL: Prime Minister, I am very keen on this matter of the funding for the project, especially as you are aware we had raised some issues in the Finance Committee earlier this year when he got the publication from the Jamaica Public Bodies in relation to expenditure of over $250 Million towards the LNG project and I had raised a concern about it. So this issue as to the budget for the LNG project is very critical, especially as I am

aware that this project now does not entail the Government as a participant, that is as a stakeholder, as a shareholder in it. Of that $250 Million that was indicated earlier in the year, can you say how much is being earmarked for the work of the steering committee?

The PRIME MINISTER: No, I wouldn't be able to give you that information from the top of my head. But from this little instrument here, I can confirm that up to when we assumed office in September of 2007 under the watch of that Member, we had already spent $162 million on the project. The source of the funding is the same today as it was prior to September of 2007.

Mr. PAULWELL: Well perhaps, Prime Minister, you could provide us with the budget for the remainder of the work that has to be done and also to indicate whether or not the Jamaican Government, and hence its people, will have a vested stake in terms of shareholding in this project.

The PRIME MINISTER: I'll supply information in relation to the first part. In relation to the second part I can answer right now. It is not the view of the Government that this is within the core functions of the government. We are seeking to develop a structure in which the project would be essentially private sector funded and private sector managed with a strong regulatory framework. We have not ruled out the possibility of a State vehicle being used to interface between the suppliers of gas, the processors of that gas and the off-takers of the gas. But I would say that from the position of Government's policy on these matters, a very strong and compelling case would have to be made for government's involvement rather than private sector regulation rather than private sector ownership. We are going to ensure that a strong regulatory framework is in place to protect the consumers, because the whole purpose of this exercise is to ensure that we can deliver energy to the consumers at a far more competitive price.

(DR. THE HON. HORACE CHANG, JLP, St. James, North Western, Minister of Water and Housing entered and took his seat.)

(DR. WYKEHAM MCNEILL, PNP, Westmoreland Western, entered and took his seat.)

(HON. AUDLEY SHAW, JLP, Manchester North-Eastern, Minister of Finance and the Public Service, entered and took his seat.)

Mr. PAULWELL: Mr. Speaker, I just need to get your permission, because the Prime Minister has not tabled the Report because he has explained that there are some confidential information in it. He would be aware that as the spokesperson on energy, I would be privy to the copy that was shared with the Leader of the Opposition. And I would like to enquire generally on some aspects of the Report.

(MR. FITZ JACKSON, PNP, St. Catherine Southern, entered and took his seat.)

The SPEAKER: But, ehm...

Mr. PAULWELL: Yes...

(Inaudible comments)

The SPEAKER: Well, I guess you have not seen it as yet, Mr. Paulwell.

Mr. PAULWELL: Pardon?

The SPEAKER: You have not seen it as yet.

Mr. PAULWELL: Yes, yes, I have.

The SPEAKER: Oh.

Mr. PAULWELL: And you would be aware that it is already in the public domain by other means. But I did see a copy of the Report that the Prime Minister had shared with the Leader of the Opposition. So...

(HON. KARL SAMUDA, JLP, St. Andrew North-Central, entered and took his seat.)

(MR. TARN PERALTO, JLP, St. Mary South-Eastern, entered and took his seat.)

(HON. JAMES ROBERTSON, JLP, St. Thomas, Western, Minister of Mining and Energy, entered and took his seat.)

The **SPEAKER:** You have a final question?

Mr. PAULWELL: No, it's not a final question. Just a couple more questions. The first thing, Prime Minister, is that I found it curious that a Report of this nature has a listing of the persons who were consulted with whom the team met with, and it did not include your Minister of Energy.

(Inaudible comments by the Prime Minister)

Well, I... if I could just refer to the document.

(Inaudible comments by the Prime Minister)

No, because this matter has been...

(Inaudible comments by both sides)

The PRIME MINISTER: Can I...?

(Inaudible comments)

Mr. Speaker, let me just try and... It may be useful for me to just provide some context to the Report.

The question of the choice of LNG and the appropriate technology within that broad area of natural gas, has been the subject of intense controversy even among the technical people. And I think the Member will confirm that, that there were people who had strongly differing views as to what is the appropriate technology. And for that reason, the Government felt that we want to be - we wanted to seek another opinion, even though the project was designed and structured based on the recommendations of CH4, which is the firm of consultants which was engaged by the previous Administration and which is still engaged on the project. We felt we wanted a separate opinion.

(DR. PATRICK HARRIS, PNP, Trelawny North, entered and took his seat.)

I sought the assistance of the World Bank to provide a consultant to do that, and they did so. That consultant met with me, met with persons at the Ministry of Energy and Mining, including the Minister. At the conclusion, after they had finalized their Report, they met with me and the Minister again. So I don't know what omission or typographical error may have caused the Member to ask that question. What I'm saying is that the suggestion he is making is not accurate at all.

Mr. PAULWELL: Prime Minister, I'm not trying to create mischief. I just thought it strange that your Minister who is the Minister at the time who was responsible would not have been listed in the Report as being one of those who would have met with the consultants. And I really would see this as

undermining the Minister if he is not involved in this process.

(Inaudible comments and laughter)

Opposition MEMBER: Ah him finish it, man!

Mr. PAULWELL: It's just that at Page 65, Prime Minister, the consultants have listed all the people they met with...

Mr. M. PEART: They know why they...(Inaudible)

Mr. PAULWELL: ...while in Jamaica and it wasn't stated. I was just concerned about that.

(Inaudible comments)

Yes, well, the Minister is here. The consultants had some major overall concerns in relation to the project. They mentioned about the competitiveness of the bidding process...

The PRIME MINISTER: The what?

Mr. PAULWELL: ...the bidding process for the establishment of the facility for the re-gasification of the gas. In light of that concern and other concerns, would the Prime Minister contemplate now, a re-doing, a halting of the process to date, and a re-start of this LNG project to enable those deficiencies that have been pointed out to be corrected?

The PRIME MINISTER: Since the Member, Mr. Speaker, is familiar with the contents of the Report he will confirm that the consultants canvassed in their Report two options. One was to abort the process and start all over again. The other was to correct what they identified as deficiencies in the approach. And their final recommendation was that the better option would be to correct those deficiencies, that the time that it would take to go and start all over again was not justified.

In addition to that, they endorsed the selection of gas. They endorsed the selection of the FSRU technology. And they also endorsed or recognized that the firm that was selected through the competitive process to provide that FSRU facility, EXMAR consortium, was perhaps the most eminent entity in the world providing that facility. Indeed, of the nine FSRU installations that exist in the world, they built and operate five of them. So they checked off all of those. While the consultants identified deficiencies or gaps that need to be closed, it must be said, and it's recognized in the consultants' Report, that considerable work had been done on the project up to now and that what needed to be done was to correct those deficiencies so that the project can move forward.

Mr. PAULWELL: Will the Prime Minister confirm whether or not the PCJ has done a written commentary on this Report and if that is available for public scrutiny as well?

The PRIME MINISTER: The LNG team - that is not exclusively a PCJ team - but it was a team involving officials from the Ministry of Mining and Energy as well. They did provide a response to the comments that were made by the consultants. I'd be quite happy to provide the Leader of the Opposition again, under the caveat of confidentiality that I've done with the consultants' Report. I'm quite happy to make her have a copy.

Mr. PAULWELL: Prime Minister, I just wanted to, just to press a little bit, in relation to the project. Because one of the

findings is that there are too many uncertainties in relation to this project. That there really has not yet been done a detailed financial and economic feasibility of the project, and in particular that the estimates for the cost of this project are really unrealistic because they are based on assumptions that have not been tested. For example, there has not been a FEED study done in relation to the gasification unit, that is, no front-end engineering design.

The PRIME MINISTER: No what?

Mr. PAULWELL: No FEED, front-end engineering design has been done on this project, so that there is no basis for determining the costs that have been indicated already in relation to the project. This is what the consultants have said. Now, I just need to know, has that been done? Has there been a fully detailed engineering study done with costings to match? Because the consultants are saying that that has not happened

The PRIME MINISTER: I wouldn't want the Member, Mr. Speaker, to misrepresent what the consultants have reported.

The essential point made by the consultants in the Report was that there was uncertainty regarding the desired capacity of the facility, and they suggested that that needed to be determined in order to properly estimate both the cost as well as the operational savings that it would realize. They pointed out as well that no market survey or feasibility study on demand had been done, and that that would impact on the design. They pointed out that the natural gas calorific value and the LNG density had not been specified, and that this would have an impact on the conversion figures and the LNG supply sources.

They pointed out that no stipulation for the degree of engineering detail or cost estimate accuracy had been provided. No minimum availability rate was specified and the choice of vapourization technology was not specified.

In relation to that latter point, that was not specified because we were contemplating utilizing... I'm not a technical person and therefore bear with me. In the processing of natural gas there is a by-product which would go to waste, which accounts for about 15% of the output, but which could be used to drive refrigeration facilities. And that is why consideration was being given to resiting the project from Port Esquivel which was originally intended, and siting it in the Kingston Harbour where it would be close to refrigeration facilities and therefore cold storage. And therefore we could benefit from that addition.

(Inaudible comments by an Opposition Member)

The PRIME MINISTER: What's that?

Now that decision has not yet been made. It's part of the technical review that is being done. These are essentially the areas that they said look, if you are to achieve maximum benefit from this effort, these are the things that need to be very clearly determined before you go ahead to tie up contracts and negotiate for supplies, and that is what is now being done.

Now the Minister has in the response that was provided by the LNG team, has indicated

that their assessment while partially correct, overlook certain things that had been done. I will make a copy of that response available to the Leader of the Opposition, and I am sure that you will sustain the confidence that I know she has always shown whenever I have made available to her matters that are of a sensitive nature.

Mr. PAULWELL: And I so undertake....

The SPEAKER: Could you...now please, Mr. Paulwell, final set of questions.

Mr. PAULWELL: Prime Minister, I want to understand as the spokesperson. There is a Steering Committee, but normally I relate to the Minister on these matters, is that still the case?

The PRIME MINISTER: Yes, the answer to that is yes. The Minister still has responsibility for the project. I have assumed overall direction of the project for the important reason, that it involve several agencies that have to be brought together. And it was very clear to me, that all of the agencies were not synchronized, both in terms of what needed to be done, in terms of the time lines and the urgency.

The Minister, for example, cannot give direction to the OUR, I can. The Minister cannot give directions to NEPA, I can, and therefore, I assume that responsibility. But the Minister is still responsible for the project and he reports to me on the project within the framework of the overall guidance that I have to give.

The SPEAKER: Mr., what is this, an inquisition?

Mr. PAULWELL: Mr. Speaker, the Government has signalled that energy, and we agree with it, energy is probably the most critical issue we face today and this project is pivotal to achieving success in this area. So, I think

(*Sotto voce* comments by Government Members)

I think the Prime Minister, I think the Prime Minister doesn't mind providing us with some clarity in relation to these questions. And if you will allow me....

The SPEAKER: You may have to lay another set of questions, Mr. Paulwell.

Mr. PAULWELL: No, it is an urgent matter, Mr. Speaker, and I insist that I be allowed to ask a few more questions.

The Prime Minister speaks about advising and instructing the OUR. My advice to the Prime Minister is, just be careful because the OUR doesn't like to be instructed in certain ways. But I just want to go back to the issue of the uncertainties and especially, those that the consultants have highlighted in relation to the cost to the project. It says given that the level of engineering design is below the normal standard of a FEED that there are significant risks of us pursuing the project as we are now doing, and they have urged that those things be dealt with as a way of correcting some of the flaws going forward.

They have also mentioned, Prime Minister, that .... So again I want to pose the question....

The SPEAKER: No, but, you see, Mr. Paulwell, you are going into a - it's almost like a debate now. It's almost like a debate now, maybe you should file a motion.

Mr. PAULWELL: It's not a debate. It's not a debate. And in time to come I would

welcome for us to have this debate, because I think the matter is tremendously important.

The Prime Minister - in relation to the question I asked about restarting the project, I am not clear Prime Minister on the issue of the uncertainties that the consultants have highlighted in relation to the lack of engineering design, the fact that there are no regulatory systems in place for licensing. And very importantly, that gas has not yet been identified, nor commitments given for the uptake of the gas…

The SPEAKER: So what's the question?

(*Sotto voce* comments by Government Members)

Mr. PAULWELL: ....that the issue of restarting not abandoning, not abandon, to restart the project dealing with the financial feasibility, why would not the Government contemplate that?

The PRIME MINISTER: Mr. Speaker, the provision under the Standing Orders really is for people to ask questions not for people to make speeches or to offer advice.

(Laughter)

Let us be quite frank. We have considered the matter, we are committed to the project. I have already said in answers to the question that based on the consultants' advice where the consultants explored both the option of abandoning and rectifying, and suggested that we should rectify and that's the approach that we are taking.

It's no point the Minister sort of - because he has a copy of the document, there is no point in him just reciting out these observations that the consultant has made. I acknowledge those, I said so.

We are going to get this project delivered successfully. It is perhaps the largest most significant undertaking of its kind that Jamaica has seen for as long as I can remember. And we have to be absolutely sure that we get it right. And whatever care we have to take, whatever powers we have to make, whatever engagements we have to do....

There is talk, for example, Mr. Speaker, about engagement of a consultant who is being paid US$105,000 for three months assignment. Well, truth of the matter is that we wanted the best that we could find. And if you want the best that you could find then you are gong to have to pay what the best commands.

But can I point out, Mr. Speaker, that when the Member for East Kingston was in charge of the project, he employed a particular consultant, whose name I won't bother call, from the 1st of April 2006 to the 30th of September 2007, they were paid US$963,000...

Government MEMBERS: What!

The PRIME MINISTER: .....or $45,000 per month.

(*Sotto voce* comments by Government Members)

….and I am not questioning it, because if you want expertise you have to pay for expertise. But, at the same time, it is improper....

Mr. SHAW: Hypocrite!

The PRIME MINISTER: .....it is improper to sort of make a big issue of it.

Mr. SHAW: Hypocrite!

(*Sotto voce* comments by Government Members)

The PRIME MINISTER: As a matter of fact, as a matter of fact, US$105,000 for three months of work is below what I know some senior executives are being paid in this country.

The SPEAKER: Mr. Arscott. Mr. Arscott.

Mr. PAULWELL: No, no, I have two more questions. No, no, no, no, I have two more questions.

(Heckling by Government members)

The SPEAKER: Mr. Arscott.

Mr. PAULWELL: No, I have two more questions.

Mr. ARSCOTT: He's not finished. He's not finished.

The SPEAKER: Mr. Arscott.

Mr. PAULWELL: I have two more questions.

(Disturbance)

Mr. PAULWELL: I have two more questions.**:** Sit down!

The SPEAKER: Mr. Arscott. Mr. Arscott.

Mr. KELLIER: Mr. Speaker.....

The SPEAKER: I have given enough leeway to Mr. Paulwell. Mr. Paulwell has asked about a dozen questions.

(Heckling by Government Members)

Mr. KELLIER: Mr. Speaker, the Member, the Member is not repeating any question that he asked.

The SPEAKER: He's not repeating, he's giving statements.

Mr. KELLIER: No, no, he's not repeating any question.

The SPEAKER: Let me hear Mr. Arscott first. Mr. Arscott first.

Mr. ARSCOTT: I'll go after Mr. Paulwell, Mr. Speaker.

Mr. KELLIER: No, Speaker, please, please, you will allow Mr. Paulwell to come back?

The SPEAKER: I will hear Mr. Arscott first.

Mr. KELLIER: All right.

The SPEAKER: I want something new. Mr. Arscott, I will consider Mr. Paulwell after.

Mrs. NEITA-HEADLEY: He's yielding.

The SPEAKER: What's that? You are giving up your... Very well, let me hear the question, Mr. Paulwell.

(Applause by Opposition Members)

Mr. PAULWELL: Thank you very much, Mr. Speaker. Just two more questions. And the Prime Minister is aware that I really wasn't questioning really the consultant's argument, but I wanted to understand, I wanted the Terms of Reference. And that information is what is required and we were in no way, we were in no way trying to question the amount of money, just that we want to get the information on the TOR.

Mr. Speaker, the consultants have referred to the Special Purpose Vehicle that has been established for this project, including the role of a third group, Caribbean LNG, as something that is shrouded in mystery and they do not understand what is the purpose of this group in assisting the project, and that it might very well lead to additional cost to the Jamaican public.

I would like to understand, Prime Minister, what is the role of CLNG? And

also the consultants have pointed out that the Government of Jamaica in the agreement has taken onto themselves certain exposure in guaranteeing the source of gas and that the contract now will expose the country to some financial requirements, financial commitments and I want to understand whether or not the Government is going to discharge that responsibility? Whether or not the Government accepts that the sourcing of gas is its responsibility under the agreement, and then for us to understand what is the role of this Special Purpose Vehicle including CLNG?

The PRIME MINISTER: Mr. Speaker, CLNG is part of a consortium, headed by EXMAR, including as well Promigas out of Colombia, who successfully tendered on the project, they tendered as a consortium.

That is the structure as indicated in the answer I gave to the question. The commercial structure for the project is one of the critical milestones that the Steering Committee has to ensure is properly established. And in that regard - and I am going to crave your indulgence because we are getting into a level of discussion that could prejudice negotiations. But I will say this, that, the directions that I had given to the Steering Committee have been very clear, that if a consortium jointly seeks and is selected for a project, that joint responsibility must remain. There can be no collective tendering and then individual responsibility after that, I made that very clear.

In relation to the second point, having to do with the question of a guarantee. In the discussions, when it was recognized that there were certain issues that had to be properly dealt with, the question was raised as to whether or not in order not to delay the securing of the gas supply, and since we had not got to the stage yet where we could present commitments from off-takers, whether the Government would give a guarantee so that the negotiation for the gas supply could proceed, while the other aspects are being dealt with. And, in consultation with the Minister of Finance, it was made clear that the Government would not be prepared to provide any such guarantee, so that is not on.

One other thing, can I just say finally. I don't know what is the Member's understanding of the position and the role of the OUR, but it is very clear in my mind that the OUR is subject to policy direction, policy direction. The OUR is a critical entity in the management of the affairs of the country and the responsibility for the management of those affairs resides here, not in the OUR.

The SPEAKER: Dr. McNeill, Dr. McNeill, question 35.

Mr. PAULWELL: Just one more question. There is just one final question. One final question.

The SPEAKER: Okay, final question.

Mr. PAULWELL: And perhaps this is the most important question.

Is the Prime Minister aware...

(*Sotto voce* comments by Government Members)

Mr. PAULWELL: .....is the Prime Minister aware that Trinidad and Tobago and Venezuela are now concluding their arrangements for the sharing of gas

exploration efforts and that that could very well give Jamaica an opportunity to procure gas from within this region?

The PRIME MINISTER: It is part of a discussion that has been going on for sometime. I can't confirm how advance it is. It has been established that there are huge gas reserves that straddle the borders of both countries, that there is an understanding between them for the joint exploration of it. As to how far that has progressed, I don't know. As the Member knows, Venezuela has - don't hold me to - I believe it's the seventh largest supply of natural gas in the world, and yet they have not yet been able to retrieve even one cubic foot of it. So that, as to whether or not that is something that is on the immediate horizon or that is in the longer term arrangements we don't know. But we don't rule out any source, we don't'..... We know that perhaps the most significant element in the entire process in terms of delivering cheaper energy, is not even so much in the regasification because that is straight technology and we know what that is.

It is not even in the pipeline, because we know what that cost. And once you lay down in the pipeline that pipeline is there forever. It is in the price you pay for the gas that you bring in. We know that that is the critical element. And therefore, every care is being taken to explore that possibility.

It is not without – it is not incidental, Mr. Speaker, that the Government directed the establishment of an embassy in the Gulf State, and we chose to relocate one of our most seasoned experienced Foreign Service officers, MR. AUDLEY RODRIQUEZ, from South Africa to Kuwait to go and establish that Embassy because we have economic interest that we want to pursue. And the report that I have is that that Embassy is up and running, and that he has laid a critical platform of contact that will enable us to benefit, not only in terms of energy, but in several other areas in the immediate future.

The SPEAKER: Mr. Arscott, one last, short question.

Mr. ARSCOTT: Yes, one question. Thank you very much, Mr. Speaker.

The question of the relocation of the regasification Plant, what I would like to ask is, what is the implication for JAMALCo, because earlier we were told that JAMALCo and JPS were the two critical component of this agreement. And therefore, we were also told that the re-classification plant would spawn quite a number of industries in central Jamaica. The question I would like to ask the Prime Minister, therefore, what is the implication of relocating now to Kingston, for the JAMALCo expansion?

The PRIME MINISTER: What I said was no definitive position. The original location - and that still remains what is on the diagrams and so on, of Port Esquivel. I was only saying that it was pointed out that if we could get closer to major refrigeration facilities, then we could extract more benefits from the project.

I note from the brief that I have, that the preliminary cost of locating the facility in Newport West is - it is somewhat greater than the cost of locating it in Port Esquivel. So, that too, would have to be a factor. A decision hasn't been taken on that yet. That is something that we will have to decide, based on technical and financial advice.

The SPEAKER: Dr. McNeill, Question 35.

Dr. McNEILL: Would the Prime Minister, please answer the question standing in my name on the Question Paper?

The PRIME MINISTER: Mr. Speaker, Question 1.

The SPEAKER: Just give him 10 seconds. Could you get one to Dr. McNeill quickly for me, please. Okay, Prime Minister.

SANDALS WHITEHOUSE

The PRIME MINISTER:

Question 1:

Could the Prime Minister indicate the Terms of Reference given to the negotiating team for this sale of the Sandals Whitehouse Hotel?

Answer:

The negotiations for the sale of the hotel were conducted by a Facilitator, the Honourable R. Danny Williams, O.J. His Terms of Reference are attached hereto.

Question 2:

Could the Prime Minister give an accounting of the financial contribution in cash or kind, or other assets, by specific shareholders in ANDCo to the development and construction of the Sandals Whitehouse Project?

Answer:

- The project cost of US$73.7 Million as approved in February 2003 was to be financed by US$38.7 Million in equity, and US$35 Million in debt.
- Of the US$38.7 equity financing, UDC provided US$10 Million in ordinary shares, and US$2½ Million in preference shares. NIBJ provided US$8 Million in ordinary shares and US$7 Million in preference shares with Gorstew providing US$8.7 Million in ordinary shares, inclusive of 40 acres of land transferred by Gorstew to ANDCo at a value of US$250,000, and development works previously carried out on the site, valued at US$3,446,665.
- Of the approved debt financing of US$35 Million, US$15 Million was raised from the Caribbean Development Bank through the DBJ/NIBJ, US$10 Million from the OPEC Fund, guaranteed by the UDC and NIBJ. DBJ and NIBJ or DBJ/NIBJ provided a further US$5.9 Million and UDC US$4.1 in shareholders loans.
- The final project cost is estimated at US$117 Million. The additional US$43 was financed by unsecured loans of US$32.8 Million, raised by the UDC from the Caracas Energy Fund, US$4.3 Million from the DBJ and US$5.4 from UDC as approved by Cabinet Decision Number 17 of 2006.

Question 3:

If any contribution in kind or asset was provided, what was the value placed on this input?

Answer:

Please see the answer to Question 2.

Question 4:

What matters were referred to the

arbitrator, and what were his rulings?

Answer:

In 2005, Sandals filed lawsuits for damages against ANDCo and UDC, and joined NIBJ in the suit which sought *inter alia*:

a. A declaration that the cost overrun should be borne by the UDC and NIBJ, and not by ANDCo
b. special damages in the sum of US$28.9 Million for late delivery of the Hotel;
c. general damages, including alleged damage to the Sandals brand, and;
d. interest and cost. ANDCo, UDC and NIBJ, in turn filed defences and counter suits against Gorstew. The parties eventually agreed to a stay of the claims and referred the matters to arbitration by Mr. Justice Hugh Small in June of 2008. The Arbitrator has not yet issued a ruling, as in March of 2009 the parties executed a Standstill Agreement and agreed with the Arbitrator to suspend the proceedings to allow them to pursue a negotiated settlement. This effort, however, had so far proved to be unsuccessful.

Question 5:

Does the Government intend to settle all outstanding disputes and claims prior to completion of the proposed sale?

Answer:

The settlement of the outstanding disputes and the sale of the hotel are two distinctly separate issues.

Whether the Government sells or retains ownership of the property, the issue of the cost overruns and Gorstew's claims for losses and brand damage will have to be determined.

On the other hand, even if these issues are determined, the burden of ownership of the hotel on terms of the lease terms entered into in 2004, will result in recurring losses for the government at least for the next 14½ years. The Government took the decision to cauterize these losses now and seek to have the disputed issues separately resolved.

The House should note, Mr. Speaker, that under the Heads of Agreement, signed on July 2, 2001, Gorstew is indemnified from any cost overruns except those attributable to design changes it might have requested. Other than those cost overruns attributable to such changes, therefore, Gorstew has nothing to lose in the outcome of the Arbitrator's findings, regarding the responsibility for the cost overruns. It is the Government agencies that are more at risk.

Litigation or arbitration is seen as a last resort because not only is the outcome impossible to predict but the legal costs involved are very expensive, and the chances of recovering these costs depend on that unpredictable outcome.

We know from experience, Mr. Speaker, with the Ezroy Millwood; we know, for example, from the construction of the May Pen

Hospital, and the kinds of awards that were handed down against the Government. It is for these reasons that the Government has remained open to negotiating a settlement to the disputes if a satisfactory settlement could be achieved.

The Chairman of Gorstew, the Honourable Gordon Butch Stewart, has confirmed to me that it will discontinue all claims against the Government agencies, ANDCo, UDC and DBJ/NIBJ.

Further, Sandals will be expanding the existing facilities by the construction of additional rooms, the development of a heritage theme park and the establishment of a championship golf course on adjoining lands owned by Gorstew. The golf course is to be designed by the internationally renowned champion Greg Norman, who was responsible for designing a similar golf course at the Sandals Emerald Bay resort in the Bahamas. He was due to arrive in the island today for a site visit and to begin work on this phase of the project.

The Government, Mr. Speaker, has a clear interest in the success of the hotel because of the employment it provides and the economic benefits it offers, especially to the people of Westmoreland and St. Elizabeth.

A major complaint of the operators which has nothing to do with the issue at dispute, relates to the deplorable conditions of sections of the road between Sandals Whitehouse and Montego Bay, the port of entry and departure for guest staying at the hotel. The section between White House and Mackfield which was badly in need of rehabilitation due largely to shoddy workmanship by pipe-laying contractors – well known firm - some years ago, was further severely damaged during last year's flood rains. The Government had already programmed major repairs to the South Coast section of this road under the IDB...

Mr. BUCHANAN: Mr. Speaker, on a point of order.

The SPEAKER: No, no.

MEMBERS: Sit down! Shut up, man.

The SPEAKER: At the end of the presentation, you can ask questions.

(Cross talk)

Mr. BUCHANAN: Mr. Speaker, point of order.

The SPEAKER: Mr. Buchanan, you can ask the first question at the end of the presentation. (Cross talk)

MEMBERS: Sit down!

Mr. BUNTING: You must hear what the point of order is.

A MEMBER: Bunting, shut up! Go to your seat.

The PRIME MINISTER: The Government, Mr. Speaker… the Government

had already programmed major repairs to the South Coast section of this road under the IDB Transportation Infrastructure Rehabilitation Programme. Tenders were invited and these are now before the National Contracts Commission awaiting its endorsement. Repairs to other sections are scheduled to be carried out under the Kuwaiti Road Rehabilitation Programme, Phase II.

Question 6: Has an assessment of the replacement value of the Hotel been done?

Answer: The most recent appraisal conducted by Property Consultants Limited in July of 2009, estimated the replacement value of the hotel at US$105 Million. However, it is simply impossible for the hotel to fetch that price, since, under the terms of the lease entered into on July 7, 2004, the net income to the owners is US$2.3 Million per year. That is rental income of US$3.9 Million, less the cost of insurance and equipment replacement of US$1.6 Million *per annum*. This would provide a return on investment over the next 14½ years of 2.2 per cent.

At a sale price, Mr. Speaker, of US$40 Million, the return on investment to a third party investor would be 5-3/4 per cent, hardly an attractive investment prospect, even at the most optimistic year round average occupancy level of 85 per cent.

(*Sotto voce* comments by Mr. D. Peart)

The SPEAKER: Mr. Dean Peart, please, just keep your sotto voce comments a little softer. Talk to your neighbour, not across the floor.

(Cross talk)

The PRIME MINISTER: Even at the most optimistic year-round average occupancy level of 85 per cent, it is estimated that annual rental income would be no more than four and a half million US dollars, (US$4.5M), with a net income after insurance and equipment replacement of two point nine million dollars, ($2.9M), in that case, Mr. Speaker, yielding a best-case return on investment of 7¼ per cent.

The claim being propagated that the hotel is being given away, is not supported by rigorous financial analysis. I reiterate that the Government is determined to extricate itself from an arrangement that went terribly wrong, and has cost the Jamaican taxpayers huge, inexplicable, and unforgivable sums of money.

Mr. SHAW: That's right! Money tief out! Tief out!

(Cross talk)

The PRIME MINISTER: And part of the problem, Mr. Speaker, is that where much of the money went is not at the table for it to be recovered.

Question 7: If the answer to Question 6 is in the affirmative, what is this valuation?

Answer: Please see answer to Question 6.

Question 8: If the proposed sale is completed, what will be the remaining debt to be carried by the Government and its entities?

Answer: The proposed sale requires a deposit of Seven and a half Million US dollars, (US$7.5M) and a vendors mortgage for the remaining Thirty-two point Five Million US Dollars, ($32.5M) repayable in quarterly payments over 71/2 years at an interest rate of 6 per cent *per annum.*

The deposit of seven and a half Million U.S. dollars, (US$7.5M) would liquidate the present OPEC loan of Six point Three Million US, (US$6.3M), and US One point Two Million, (US$1.2M), less transaction cost, will be applied to the DBJ loan from CDB. The balance of Thirty-two point Five Million US, (US$32.5M) will be applied to the remaining debt in the order of their legal ranking as follows:

As at the end of October, 2010, the DBJ loan from CDB had an outstanding balance of Eleven point One Million US Dollars, (US$11.1M).

The subordinated loan made by DBJ had an out-standing balance of Eight point Three Million US Dollars, (US$8.3M).

Unsecured loans. The UDC loan from the Caracas Energy Fund, Thirty Eight point Six Million US Dollars, (US$38.6M).

Shareholders loan made by the UDC, Seventeen point Eight Million US Dollars, (US$17.8M). Shareholders loan from NIBJ, Seven point Four Million US Dollars, (US$7.4M), making a total indebtedness, Mr. Speaker, after the sale transaction, of Eighty-three - well, prior to the sale transaction - of Eighty-three point Three Million US Dollars, (US$83.3M).

Question 9: What will be the interest rate payable on this debt?

Answer: On the out-standing balance of the CDB loan to DBJ of Eleven point One Million (US$11.1M), the interest rate is 9.5 per cent.

The subordinated loan from the DBJ of Eight point Three Million US Dollars, (US$8.3M), the interest rate is 10.43 per cent.

The UDC Caracas Energy Fund loan of Thirty-eight point Six Million, (US$38.6M) is at 4 per cent.

The Shareholders Loan from the UDC of Seventeen point Eight Million US Dollars, (US$17.8M), 4 per cent.

And the NIBJ Shareholders Loan of Seven point Four Million US Dollars, (US$7.4M), is at a rate of 4 per cent. Giving, Mr. Speaker, a weighted average interest rate of 5.4 per cent; 5.4 if you apply it to the outstanding balance.

Question 10: What is the rationale for providing the purposed purchaser with a vendor's mortgage, given the ample availability of funds in the banking system?

Answer: The provision of a vendors mortgage is not unusual in transactions such as this. For example...

And the Member certainly should recall

"A similar arrangement was made for the sale of the National Commercial Bank in 2002, when the purchaser was granted an eight-year mortgage for a balance to be paid of Three point Four Billion Jamaican Dollars, (J$3.4B). Gorstew had originally proposed that as part of the sale transaction, it assume the loan of Thirty-two point Eight Million US Dollars, (US$32.8M) from the Caracas Energy Fund, which carries an interest rate of 4 per cent *per annum*.

This, however, could not be entertained, as the loan is based on a government-to-government agreement, and it is not the transferable. In the negotiations conducted by the Facilitator, a vendors mortgage in the amount of Thirty-two point Five Million US, (US$32.5M), repayable over seven-and-a-half years at an interest rate of 6 per cent was agreed to. This rate, as will be noted from the answer to Question 9, is greater than the weighted average cost of the loans that will remain to be serviced. It is also consistent with current rates charged for local U.S. dollar loans to preferred clients.

The SPEAKER: I give first choice to Mr. Buchanan, you had a question.

Mr. BUCHANAN: No, Mr. Speaker, I had no question. It was abundantly clear that I rose then on a point of order when the Prime Min...

The SPEAKER: What is the point of order?

Mrs. HAY-WEBSTER: A now you a ask?

Mr. BUCHANAN: You can't ask me now.

The SPEAKER: Well, let's have the point of order now.

(Cross talk)

No, you can raise the point of order now.

Mr. BUCHANAN: When the Prime Minister said the road was in a state of disrepair, as a result of shoddy pipe work done, Mr. Speaker, I think it is misleading, very misleading, that the road is in a state of disrepair in that area, Mr. Speaker. Because it must be said that the road is in a state of disrepair, based on erosion of the shoreline, Mr. Speaker, which I have often spoke about in this House, and in relation to fatigue of the vehicular traffic, in relation to the age of the road. To say that the road is in a state of disrepair is misleading the House, because of shoddy pipe work.

Mr. HENRY: Mr. Speaker, on a point of real order...(Laughter) I am not sure what road he is referring to, but the Prime Minister was referring...

Mr. BUCHANAN: But, Mr. Speaker, if he is not sure how he can raise a point of order.

Mr. HENRY: The Prime Minister was referring to Scots Cove to Belmont, which was badly laid with pipes, which is preventing the repairs to move as speedily as they should.

(Applause)

Mr. BUCHANAN: Mr. Speaker, while it is so, that at this point in time the road to be repaired is being hindered because NWC has not entered upon the reference yet of correcting leaking pipes, the reason the road is in the state it is in, is as a result of erosion to the shoreline and fatigue from vehicular traffic.

The SPEAKER: So it is the pipes that are causing the problems then, Mr. Buchanan.

Mr. FAGAN: Mr. Speaker, can I speak on a point of information, sir?

The SPEAKER: Let's not get into a debate on this.

Mr. FAGAN: No, not a debate, information.

The SPEAKER: Let’s not get into a debate. Dr. McNeill, you have any further...

Dr. McNEILL: Thank you, Mr. Speaker.

Mr. Prime Minister, it's a very comprehensive set of answers, and certainly...

The SPEAKER: Can you put on your mike.

Dr. McNEILL: I said it is a very comprehensive set of answers, and will take a little time to digest. But just a few follow-up questions.

Number 1. Some concerns were raised by the Contractor General, and he had made a recommendation that the process be halted and restarted. What is the Government going to do, with regard to that? Is it the intention of the Government to move ahead with the agreement as made?

A MEMBER: They are Government!

The PRIME MINISTER: The answer to that is, yes. The Contractor General has the authority to investigate any matter that he considers worthy of investigation, and he is at liberty to make such recommendations as he chooses. The Contractor General in this

instance is making a recommendation prior to the conduct of those investigations.

The business of the Government, Mr. Speaker, can't be punctuated in that kind of way. (Applause)

We have absolute respect for the Contractor General's Office and his responsibilities. We are so confident in the correctness of the decision that we have made, that we are prepared to accept full responsibility for it, and we await the outcome of his investigation. (Applause)

Dr. McNEILL: Mr. Prime Minister, just for clarification, just to be certain. What number 5 is saying here is that if you move ahead with this transaction, that Gorstew and the Government are going to drop all lawsuits, and that at the end of the sale it will be a final sale with no outstanding issues?

The SPEAKER: That's correct.

The PRIME MINISTER: The answer to that is, yes. And I want to express my own satisfaction that we can finally get this elephant out of the room. (Applause)

(*Sotto voce* comments)

Dr. McNEILL: Mr. Prime Minister, there is an issue that I have been trying to understand and just getting some clarity.

One of the things that I did was to go into the records to see if we could find the audited accounts of the Ackendown New Town - ANDCo, to see what the performance had been over the years. There were no recent results, but one was tabled in 2008. It was an unqualified report from the auditors, Deloitte & Touche, and it had the periods 2004 to 2005, and 2005 to 2006; it was tabled by the Honourable Minister of Finance. When I went through the audited accounts here, they made the point that in 2005 the property had been turned over to Gorstew in July, so that they were only able to do the audit over a nine-month period. And they said that during that nine-month period the earnings, the income was Three point Eight-eight Million, ($3.88M) for the period of time.

What we have gotten otherwise from your paper - you had said that the average earnings

were Three point Nine, ($3.9M) each year, and it was just a question - this would have been the first year of operation of the hotel, you know, rates might have been introductory rates. They went as far as to say that the occupancy levels were in the eighties, which also affected it.

How is it then that we had a three point eight-eight (3.88) earning in the nine-month period and we are earning three point nine (3.9) after? Was that something of concern that was looked at?

The PRIME MINISTER: The figure of Three point Nine Million Dollars ($3.9M) a year is the average for the last two years. That's the figure that we have used, that's the reality that we have to base our projections off.

There is one other issue that arises out of the last audited statements that the Member quoted from. Up to the time when those statements were presented, the property was being valued as a construction project in process. Subsequent to that, that value has changed, and essentially, ANDCo is now, for all practical purposes, insolvent.

It is the intention of the Government as soon as we can bring all the accounts together, to liquidate that company as the final requiem for this regrettable experience.

Dr. McNEILL: Mr. Prime Minister, the reason I raise this point is that, if in that nine-month period the earnings were Three point Eight-eight Million, ($3.88M), and the occupancy was in the 80 per cent, it would beg the question why over the last two years has this have we only been earning Three point Nine Million, ($3.9M) a year. And the question that would beg to be asked is, could this be because the last two years were difficult years, years of recession? And if that is the case, has any accommodation been given to the fact that as that comes out, that the value of the hotel will be far more than it really is, because it actually has a track record, based on its initial year?

The PRIME MINISTER: I believe that the earnings for the last two years would have been affected, as well, by the level of discounting that hotels have had to do during these challenging periods.

But the fact of the matter is, even if we were to take the figure quoted by the Member, round it off at Three point Nine Million ($3.9M) for nine months, or at One point Three Million ($1.3M) per quarter, that would be Five point Two Million Dollars ($5.2M) per year. The question is, how many purchasers are you likely to attract to spend Forty Million Dollars, ($40M) and recover, in terms of your returns, Five point Two Million Dollars ($5.2M) a year minus One Million Dollars ($1M) a year for insurance, so you are down to Four point Two, ($4.2M), minus Six Hundred Thousand US Dollars, (US$600,000) a year for replacement of equipment, so you are down now to Three point Six, ($3.6M).

Quite frankly, if the Member who is familiar with the sector can find a purchaser who is prepared to pay more than $40 Million and be satisfied even with the best, most optimistic projection is satisfied with a return like that, please I beg of you, ask him to get in touch with me quickly, quickly, quickly.

The SPEAKER: Dr. Davies.

Dr. DAVIES: Thank you very much, Mr. Speaker.

Mr. Speaker, through you. Prime Minister, I return to the question of the disputes. Your statement on January 11, paragraph 5 says disputes remain unsettled, *et cetera, et cetera.* Your answer to Question 4 speaks about the work of the arbitrator, Justice Hugh Small, and since all Members don't have it let me just quote.

It says:

> "The arbitrator has not yet issued a ruling as in March 2009 the parties executed a standstill agreement and agreed with the arbitrator to suspend the proceedings to allow them to pursue a negotiated settlement. This effort, however, has so far proved to be unsuccessful".

Now is it that all of that is overridden by the statement in your answer to Question 5, that the Chairman of Gorstew, the Honourable Gordon "Butch" Stewart has confirmed to me that it will discontinue all claims against the government agency? All that preamble in the other question, is that overridden by this sentence?

The PRIME MINISTER: The answers to the questions were actually prepared for delivery last week. It is subsequent to that preparation that further discussions with Mr.

Stewart and with Gorstew yielded an undertaking from Gorstew that they will discontinue all proceedings whether at arbitration or through court litigation.

Dr. DAVIES: With the advent of the computer even I can make big adjustments by deleting. But does the Prime Minister have in writing, subject to his lawyers affirming, that this is a definitive statement in terms of this commitment from the Honourable "Butch" Stewart?

The PRIME MINISTER: No, it's not in writing but it will be committed to writing. Remember, as I indicated, they are two separate issues, the sale is not contingent on the dropping of the suit. We were treating them as two separate issues. We took a decision to sell the hotel at a particular price. Why? Because it's costing us money and we need to cut that loss.

Mr. SHAW: They don't understand that!

The PRIME MINISTER: I imagine the Member would insist that we should stillbe holding on to Air Jamaica as well. And I imagine the Member would insist that we should be holding on to CAP as well.

Mr. KELLIER: Nonsense!

The PRIME MINISTER: It is a matter of policy. It's a matter of government policy, of this Government, that we are going to divest ourselves of any entity that is outside of the core responsibilities of government like providing public transportation. We are going to dispose of any entity that is draining the taxpayers. That's a decision we have made. (Applause)

(*Sotto voce* remarks by Members)

The PRIME MINISTER: Now subsequent to that decision, which was announced in this House by me, the Member for Western Westmoreland raised some questions. I had the staff of ANDCo, DBJ, UDC, prepare answers to those questions. While those answers were being prepared discussions were held with Gorstew. I was given that undertaking and I am prepared to say that I believe that Mr. 'Butch' Stewart's word is his bond sufficient to allow me to make that announcement in Parliament today. The lawyers will deal with whatever documentation is required to bring this matter to a final conclusion.

Dr. DAVIES: Mr. Speaker, I won't be baited into all this 'red herring'. The fundamental question which we on this side wish to know and the people of Jamaica wish to know is whether the sale will be proceeding with the disputes hanging over our heads? If the answer is that Mr. Stewart has withdrawn his claims in writing, then that makes a big difference to us here. This has nothing to do Air Jamaica. This has nothing to do with CAP. (Applause) We are not here disputing what is government policy. The fundamental question is, does the Prime Minister have in writing that these claims and lawsuits have been withdrawn?

The SPEAKER: No, but, Dr. Davies, the Prime Minister said he doesn't have it in writing but he has his word. What more?

The PRIME MINISTER: Mr. Speaker, I am quite prepared to answer the question. And at the risk of repeating what I said, which I think is so straightforward, we took a decision to sell the hotel. We took a decision that we would continue to fight the matter of the claims against us through arbitration. That is what I announced in this Parliament

10 days ago. We took a position. Subsequent to that in discussions with Mr. Stewart, he has agreed to discontinue the claims against the Government, the $28.9 Million claims for losses and the unspecified claim for brand damage.

Dr. DAVIES: Frivolous!

The PRIME MINISTER: I have every assurance that I will have on my desk before this week is out written confirmation from Mr. Gordon "Butch" Stewart of the undertaking that he has verbally given to me.

I have every confidence that I will have that. It is on that basis that I instructed Andco this morning, not in writing, verbally, I instructed ANDCo to proceed now to instruct their lawyers to prepare the necessary paper work to bring this matter to an end. Just to satisfy any lingering doubt, I will return to the House next week Tuesday to confirm what arrangements have been made.

Let me just make one final comment, Mr. Speaker. Let nobody, let nobody in this House or outside of this House believe that any defensiveness in relation to this matter resides on this side.

(*Sotto voce* remarks by Members)

The PRIME MINISTER: The management of this project . . .

The SPEAKER: (Gavels).

Mr. BUNTING: Clean up your mess again. Don't make that mistake again.

The PRIME MINISTER: The management of this project on the losses sustained in relation to any construction project, any joint venture involving the government, is unprecedented. I don't know of any other situation where you start out with a project that is to cost you $60, you revise it to $70, and when you finish you have spent US$117 Million, money that we will never be able to recover.

Mr. SHAW: There is another one. Hedonism III. You don't hear about that one yet.

The SPEAKER: Is another question, Dr. Davies?

Mr. SHAW: You don't hear about that one yet. There is another one.

The SPEAKER: Can we wrap up now?

Mr. SHAW: You soon hear about that one.

The SPEAKER: Okay. Allow the Member to ask the question. Yes, Dr. Davies.

Dr. DAVIES: Mr. Speaker . . .

(*Sotto voce* remarks by Government Members)

The SPEAKER: (Gavels) Allow the Member to ask the question please.

Dr. Davies.

Mr. SAMUDA: But, Omar, P.J. had fired you on this deal already.

Dr. DAVIES: No, it went the other way around. No, it went the other way around.

The SPEAKER: (Gavels) Please! Dr. Davies, ask the question.

Dr. DAVIES: That's when you were with us or when you retreated?

Mr. SAMUDA: I am not one who fought . . . against rascality.

Dr. DAVIES: It's established that you are always on the side of rascality.

Mr. Speaker, through you again, Question 10, the vendor’s mortgage. Mr. Prime Minister, we had a very, very substantial change in a particular issue which has aroused concern in the public, a positive change. The issue of the vendor’s mortgage, was this a

proposal from the potential purchaser or was - how did this come about? Why not a straightforward go to the bank and bring your cash?

The PRIME MINISTER: Well in the answers which I gave, you might have overlooked it, I said that the proposals from the vendor was that he would wish - because he knows, as a shareholder in Ackendow he knows the structure of the financing, and Gorstew, I am using the third person, Gorstew, proposed that in concluding the deal they would wish to assume the Caracas Energy Fund debt, which is $32.8 Million. We pointed out in the course of those discussions, when the facilitator brought that to us we indicated on the basis of the advice we got from the Ministry of Finance that that is a government-to-government arrangement, we can't transfer it to anyone. So the discussions after that, in essence, involves providing the loan almost identical amount $32.5 *versus* $32.8, but that is a vendor's mortgage. And we will align those repayments over the 7½ years to match as much as possible of the outstanding loans. I don't know what is so sort of puzzling about it. When NCB was sold in 2002 we could have demand the cash too, but you didn't. You were prepared to give a mortgage of $3.4 Billion for eight years….

Government MEMBER: Three point Four Billion for eight years which . . .

(*Sotto voce* remarks by Government Member)

The PRIME MINISTER: Three point Four Billion which just ended this year.

Mr. SHAW: No, we still owe money.

Dr. DAVIES: It's your job to collect.

(*Sotto voce* remarks by Government Member)

Dr. DAVIES: You know your behaviour in PAC is much more intelligent.

Mr, Speaker, if I may ask, Prime Minister, so I had wondered at the closeness of the $32.8 and the $32.5. That's the origin. The proposal was we will take over the loan and when the response was in the negative you offered a - they requested or you offered a vendor's mortgage?

The PRIME MINISTER: It was part of the negotiation.

Dr. DAVIES: Is that matter closed or is it still possible for the cash to be found by the purchaser and paid?

The PRIME MINISTER: No. I would consider that matter to be closed based on the instructions which were given to the facilitator and the conclusion that the facilitator was able to arrive at.

Dr. DAVIES: Nothing signed yet for these contracts.

The SPEAKER: Mr. Fitz Jackson.

Mr. JACKSON: Mr. Speaker, on behalf of the Member for East Central St. Andrew, I will….

The SPEAKER: Rev. Thwaites.

Rev. THWAITES: Mr. Speaker, after the expiry of 21 days, I beg to ask the following questions of the Prime Minister.

Question 1. Will the Prime Minister state which public bodies' annual reports are outstanding beyond four months of the end of their financial year?

Question 2. What is the sanction for

Boards of Directors, Chief Executive Officers and Financial Officers who are responsible for timely reporting?

Question 3. On what basis will any further public resources be made available to any public body which is in breach of the Public Bodies Management Accountability Act?

Dr. DAVIES: Very well. Thanks, sir.

Mr. KELLIER: Member, on behalf of the….

The SPEAKER: No, Mr. Fitz Jackson did it for you, for Dr. Phillips. Dr. Davies.

Dr. DAVIES: Mr. Speaker, at the expiration of 21 days, I will ask the Minister of Finance and the Public Service to answer these questions standing in my name.

Question 1. Does the Minister recall a refinancing proposal and a loan guarantee piloted through Parliament, on his behalf, on July 27, 2010 by the Prime Minister?

Question 2. Does the Minister recall that the House was asked to approve the refinancing of a euro204.386 Million note, through the issuance of a new bond by NROCC?

Question 3. Does the Minister recall that this refinancing was to have been funded by an NROCC interim note, which would then be liquidated by a long-term bond issues?

Question 4. Will the Minister indicate whether the refinancing has taken place?

Question 5. If the answer to Question #4 is in the affirmative, will the Minister provide details on both the interim and long-term bonds?

Question 6. If the answer to Question #4 is in the negative, will the Minister provide reasons why this has not occurred?

Question 7. If the answer to Question #4 is in the negative, will the Minister indicate whether the overall plan has been abandoned?

Question 8. Will the Minister indicate whether the cross currency derivative held with CitiBank remains in place?

Question 9. If the answer to Question #8 is in the affirmative, will the Minister indicate the additional cost, to date, of servicing the cross currency derivative, as compared to the original BANDES loan to the DBJ?

PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED

The SPEAKER: Mr. Shaw.

Mr. SHAW: Thank you, Mr. Speaker. Mr. Speaker, I now move to introduce and have read a first time a Bill shortly entitled:

"**The Jamaica International Financial Services Authority Act, 2011**".

Bill shortly entitled:

"The Jamaica International Financial Services Authority Act, 2011",

read a first time.

Mr. SHAW: Mr. Speaker, I beg to give notice of second reading of the Bill.

PUBLIC BUSINESS

Mr. HOLNESS: Mr. Speaker, before we go to Public Business, I'd like to recommit the items: Announcements, Notices of Motions Given Orally, and Reports from Committees.

The SPEAKER: Members, the Motion before the House is for the suspension of Standing Order to allow the items: Announcements, Reports from Committees and Notices of Motions Given Orally to be recommitted.

Put to the House and agreed to.

ANNOUNCEMENTS
(Recommitted)

The Clerk by leave laid on the Table of the House today the following:

- Report of the Regulations Committee of the House of Representatives on its deliberations on the Education (Amendment) Regulations 2010.
- The National Minimum Wage (Amendment) Order 2011 and
- The Minimum Wage (Industrial Security Guards) (Amendment) Act 2011 under the Minimum Wage Act.

NOTICES OF MOTIONS GIVEN ORALLY
(Recommitted)

Mrs. DALRYMPLE PHILIBERT: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

BE IT RESOLVED that the Report of the Regulations Committee of the House of Representatives on deliberations on the Education (Amendment) Regulations 2011 under the Education Act which was laid on the Table of the House on the 1st of February, 2011 be approved.

And Mr. Speaker, I further beg to forgive notice that at a later stage today, I will move for the suspension of the Standing Orders to enable me to take this motion.

The SPEAKER: Thank you, Deputy Speaker. Minister Charles Notices of Motions given Orally.

Mr. CHARLES: Mr. Speaker, I beg to give notice that at the next meeting of this House, I will move the Minimum Wage Act. The Minimum Wage (Amendment) Order 2011 Resolution

WHEREAS by virtue of Section 3 of the Minimum Wage Act (hereinafter referred to as the Act) the Minister may by order publish in the Gazette fixed minimum rate of wages for any occupation in the island either generally or in any specified area, place, or district in any case in which he is satisfied that the wages being paid to any persons employed in any such occupations are unreasonably low and may, if he is satisfied that it is desirable to do so, fix a

national minimum wage applicable subject to the provisions of this resolution to occupations generally;

AND WHEREAS pursuant to subsection (3) of Section 3, the Minister may by Order vary or cancel a minimum wage;

AND WHEREAS on the 1st day of February 2011, the Minister made the National Minimum Wage (Amendment) Order 2011;

AND WHEREAS it is provided by subsection (5) of the said Section 3 that an Order made under Section 3 in relation to National Minimum Wage shall be subject to affirmative resolution of the House of Representatives;

AND WHEREAS it is desirable that the National Minimum Wage (Amendment) Order 2011 should be affirmed by Resolution:

NOW THEREFORE BE IT RESOLVED by this Honourable House as follows:

This Resolution may be cited as the National Minimum Wage Order (Amendment) 2011.

The National Minimum Wage (Amendment) Order 2011 which was laid on the Table of the House on the 1st of February 2011 is hereby affirmed.

Mr. Speaker, the Minimum Wage Act, the Minimum Wage (Industrial Security Guards) (Amendment) Order, 2011 Resolution:

WHEREAS by virtue of Section 3 of the Minimum Wage Act (hereinafter referred to as the Act) the Minister may be order publish in *the Gazette* fixed minimum rates of wages for any occupation in the island either generally or in any specified area, place or district in any case in which he is satisfied that the wages being paid to any persons employed in any such occupation are unreasonably low;

AND WHEREAS the Minister is satisfied that the wages being paid to the industrial security guards in the island are unreasonably low;

AND WHEREAS pursuant to subsection (3) of Section 3 the Minister may by order vary or cancel a minimum wage;

AND WHEREAS on the 1st of February 2011, the Minister made the Minimum Wage (Industrial Security Guards) (Amendment) Order, 2011;

AND WHEREAS it is provided by subsection (5) of the said Section 3 that an order made under that section in relation to national minimum wage shall be subject to affirmative resolution of the House of Representatives;

AND WHEREAS it is desirable that the National Minimum Wage (Industrial Security Guards) (Amendment) Order, 2011 should be affirmed by resolution.

NOW THEREFORE BE IT RESOLVED by this Honourable House as follows:

The Resolution may be cited as the Minimum Wage (Industrial

Security Guards) (Amendment) Order, 2011 Resolution,

The Minimum (Industrial Security Guards (Amendment) 2011 which was laid on the Table of this House on the 1st day of February 2011 is hereby affirmed.

Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of Standing Orders to enable me to take these resolutions.

The SPEAKER: Public - Sorry. Yes, Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, at the next sitting of the House, I beg to move the following motion:

BE IT RESOLVED that the Government of Jamaica utilize the dividends from its holding of shares in the Jamaica Public Service Company Limited to reduce the rates charged to the Small Business sector and the lowest income band of residential customers.

PUBLIC BUSINESS

The SPEAKER: Yes.

Mrs. DALRYMPLE PHILIBERT: Mr. Speaker, I now move for the suspension of the Standing Order to enable me to take the motion, notice of which I gave earlier.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Order to allow the Deputy Speaker to take the motion, notice of which she was gave earlier.

Put to the House and agreed to.

The SPEAKER: Mrs. Dalrymple Philibert.

Mrs. DALRYMPLE- PHILIBERT: Mr. Speaker, I ask that the motion, notice of which I gave earlier, be approved. That is the amendment to the Education Regulations 2011 under the Education Act which was considered by the Regulations Committee and so approved

The SPEAKER: Members, the motion before you is as indicated by the Deputy Speaker.

Put to the House and agreed to. House Leader.

PUBLIC BUSINESS

Mr. HOLNESS: Mr. Speaker, at Public Business today…

Dr. DAVIES: Start with Pearnel.

Mr. HOLNESS: …we have the Minister of Health, Mr. Speaker, who will be taking an Act to amend the provisions relating to penalties and monetary obligations in legislation relating to certain health and allied professions and services and connected matters. We'll also be taking the resolution brought by the Minister of Labour, the affirmative resolution on the Minimum Wage.

We would continue, Mr. Speaker, the—well, we concluded the debate on the Protected Disclosure Legislation and now we will continue with the Committee stages. We'll move in this order, Mr. Speaker, we will take Minister of Health with his amendments then we would move to the Minister of Labour and Social Security and then we complete the Committee Stages for the Prime Minister with the Protected Disclosures.

The SPEAKER: Very well, thank you, House Leader.

Mr. Spencer.

Mr. SPENCER: Thank you, Mr. Speaker The Health and Allied Professions and Services Miscellaneous Penalties Provisions Bill, 2010.This is not a very controversial Bill, Mr. Speaker. The penalties for breaching the provisions of legislation relating to certain health and allied professions and services have remained on the books unchanged for decades and are no longer a serious deterrent to non-compliance with these provisions. The purpose of the Health and Allied Professionals Services Miscellaneous Penalties Provisions Bill, 2010, is to amend the several pieces of legislation administered by the Ministry of Health in order to increase the penalties under the legislation to a more realistic level so

a) as to deter persons from purporting to offer medical and support services without being properly registered or supervised by the relevant authorities;
b) to encourage conformity with the statutory provisions;
c) to allow the Minister from time to time to increase these penalties by order, subject to affirmative resolution.

You will note that the Bill makes a provision for the amendment of certain archaic and inhumane provisions under the Leprosy Act. The Ministry on further review of the legislation involving technical team wishes to inform that although there are persons with leprosy, otherwise known as Hansen's disease in Jamaica, the Government/Ministry no longer operates a leprous area.

The main leprous area which was sited in St. Catherine was closed in the 1980s. The commencement of modern multi-drug treatment renders the victims non-infectious and produces a cure, if taken as prescribed for the period required. As such there is no need to isolate persons suffering from this disease. The prevalence of Hansen's disease is very low in Jamaica. At less than one case per ten thousand for the population, it is therefore regarded as having achieved elimination status and is no longer a public health concern.

Review of the legislation indicates that its provisions were mainly centered on the institutionalization and the treatment of persons with Hansen's disease in a leprous area. As such, the initial view treating with this matter is to instead of the amendments being proposed, seek approval for the repeal of the legislation. The Health and Allied Profession and Services Miscellaneous Penalties Provisions Bill 2010 therefore seeks to facilitate timely and current legislative provisions to effectively regulate the health system.

The SPEAKER: Dr. Ferguson.

Dr. FERGUSON: Mr. Speaker, the Bill before us I would regard as non-contentious. I believe that the reasons put forward by the Minister are taken by the Opposition and we support those reasons. And in relation to the Leprosy Act taking into account the present elimination status, we have no problems in looking at a repeal of that Act. And so we support what is before this Honourable House, Mr. Speaker.

The SPEAKER: Mr. Spencer, you - ask for second.

Mr. SPENCER: Mr. Speaker, I ask that the Bill be read a second time.

The SPEAKER: Yes, yes. The question before you, Members, is for the Bill to be read a second time.

Put to the House and agreed to.

Bill entitled:

"AN ACT to Amend provisions relating to penalties and monetary obligations in legislation relating to certain health and allied professions and services and for connected matters",

read a second time.

The SPEAKER: The House will now resolve itself into a Committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

The CHAIRMAN: Members, this is a very short Bill.

Clauses 1 and 2 put and agreed to.

The Schedule put and agreed to.

Title and Enacting Clause put and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed Committee Stage without amendment.

Put to the Committee and agreed to.

RESUMPTION

The SPEAKER: I do report the Bill as having passed Committee Stage without amendment.

Mr. SPENCER: Mr. Speaker, I now ask that the Bill be read a third time.

The SPEAKER: The question is that the Bill be read a third time.

Put to the Committee and agreed to.

Bill entitled:

"AN ACT to Amend provisions relating to penalties and monetary obligations in legislation relating to certain health and allied professions and services and for connected matters",

read a third time and passed.

The SPEAKER: Amendments read and passed.

House Leader.

Mr. HOLNESS: Mr. Speaker, I move for the suspension of Standing Orders to enable the Minister of Labour and Social Security to take the motion, notice of which he gave earlier.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the Minister of Labour and Social Security to take the motion, notice of which he gave earlier.

Put to the House and agreed to.

MINIMUM WAGE – INDUSTRIAL SECURITY GUARDS ACT - RESOLUTION

The SPEAKER: Minister Charles.

Mr. CHARLES: Thank you, Mr. Speaker.

Mr. Speaker, on the 25th of January this year, I announced in this House that Cabinet had approved the increase of the minimum wage. I had also promised that the requisite orders would be introduced in this House for an affirmative resolution. I now fulfill that promise and I'm pleased to introduce the National Minimum Wage Order, 2011 and the Minimum Wage (Industrial Security Guards) Order, 2011. I'm doing so for the consideration by this House.

The fact that this Government is introducing an increase in the minimum wage during this time of economic recession, is evidence of our commitment to ensuring that the most vulnerable workers in the society are given some kind of buttress in this time of financial hardship.

The Minimum Wage Act is one of the fundamental pieces of labour legislation. In enacting this Act in 1938, Parliament recognised that specific categories of workers are vulnerable and in need of protection from abuse in relation to wages paid to them. Additionally, it was recognised that some of these workers may not have the bargaining power to negotiate for suitable wages to be paid to them.

According to the Webster's dictionary, Mr. Speaker, the term **Minimum Wage** is defined as a wage fixed by legal authorities by order or by contract to the least that may be paid to either employed, or persons generally, or to a particular category of employed persons.

I make this point, Mr. Speaker, because I want to strongly present that the minimum wage is not a wage negotiated for workers to be paid. It is not an instruction to employers to pay workers, it is a legal bind put on you to state that you should not negotiate for any wage below that, or you should not negotiate to pay a worker below that. A minimum wage must be contrasted with a living wage. A living wage is defined as a wage sufficient to provide the necessities and comfort essential to an acceptable standard of living.

This Government has commissioned a study as to what that wage should be in Jamaica. And I promise this House when it is complete - when that study is complete it will be presented to Members for us all to study it and to take a decision in this House, as to where the minimum wage should be and how we should get there. It is obvious to all of us that the minimum wage at this time being set out here, is far below what one would accept as a living wage. But we don't know what it is and that's where we are making this study to work towards it.

With an ideal living wage, an individual working 40 hours per week would be able to afford food, child care, medical, housing, transportation and other expenses for his or her family, if he or she is the sole provider.

In line with this definition of minimum wage, one of the essential purpose of the minimum wage legislation is to set a minimum standard for the payment of wages and allowances to specific categories of workers.

Mr. Speaker, let me state clearly, there was a time when we had several minimum wages in Jamaica. Time has overcome some, workers have been organised into groups and they are negotiating their own wages. The legislation was intended to protect workers who were not protected by unions or organisations negotiating their terms and conditions of employment.

We are still fortunate in this country that the worker and the management is able to examine performance, productivity, relationship at the workplace and set a payment for their performance.

In setting a minimum wage, Parliament is simply ensuring that these workers cannot be paid below the sum. They cannot negotiate to be paid and they cannot accept the payment

from an employer, it's against the law. This does not preclude employers from paying a sum which is in excess of this minimum standard for wages. It must also be pointed out, that living wage, living wage law differs fundamentally from minimum wage laws, in that the former covers only a small subset of workers in the local jurisdiction, whereas the latter normally encompass all workers.

The Minimum Wage states that no worker in any category in any part of Jamaica, should be paid below that. Additionally, the living wage is usually linked to the country's poverty level, whereas minimum wage is not. Further, living wage laws can increase the wages of low income workers and reduce poverty, but have a negative impact on the employment of low wage workers.

That means, Mr. Speaker, sometimes when you set the wages too high some of our workers ...

(Inaudible comment by Mr. Peart)

Mr. CHARLES: Yu crying?

Mr. D. PEART: Of course. I'm holding you.

Mr. CHARLES: I see.

... when you set the wage too high, some of our workers lose the work they are doing - move from weekly paid to daily paid because as I will say it later, it is when you're going to set a minimum wage it is not only in the interest of the worker who receives the pay but in the employer who does the paying. You have to balance the scale in a way where both can survive.

The power of the Minister of Labour to fix a minimum wage is established in section 3 of the Minimum Wage Act. This section gives the Minister the authority by orders, to set a minimum wage for any occupation in the island, either generally or in any specified areas for persons employed in certain occupations where the wages paid are considered to be unreasonably low.

Mr. Speaker, over the years several orders have been introduced using the powers of section 3 of the Act. These orders regulate wages for workers in specified occupations. Currently the practice is to utilise the National Minimum Wage Order, 1975, to set a wage for all sectors including household workers.

And the Minimum Wage (Industrial Security Guards) Order, 1982, to fix a minimum wage for persons employed as security guards to companies who provide security services for the country.

Mr. Speaker, in fixing a minimum wage, the Minister does not act in an arbitrary manner. He is guided by the Minimum Wage Advisory Commission, a tripartite body established by section 4 of the Act. This Commission consults with key stakeholders and considers and advises the Minister on all matters relating to minimum wage.

In 2010 the Commission held regional consultations and various interest groups representing 14 parishes in Jamaica, in Manchester, St. Ann, St. James, Portland and Kingston they were assembled. The Commission also heard oral presentations and received written submissions from key stakeholders which include the following:

- The Planning Institute of Jamaica
- the Jamaica Employers Federation
- the Jamaica Household Workers Association

- the Bureau of Women's Affairs Security Guards Association of Jamaica; and
- the Jamaica Security Guards Association.

In recommending a minimum wage the Commission took into consideration factors such as the current state of the economy, increase in international oil price and the consequent increase in utility rates, general cost of living and the global economic recession and its implications of the Jamaican economy.

Mr. Speaker, successive governments and Ministers of Labour have battled with the extent to which the minimum wage should be increased in a particular year: whether it should be done every year, every two years or ever so often.

Dr. DAVIES: When was the last one?

Mr. CHARLES: When you speak if you ask the question I'll answer when I'm closing.

Mr. PICKERSGILL: Aye.

Mr. CHARLES: In fact, the extent to which the wage has been increased is always a matter to which obviously leads to public debate and dissension in this very House. There'll always be those who argue that the increase granted is too small and those who argue that the increase granted is too high. It depends on who is paying and who is receiving.

(Inaudible comments by Members)

Mr. CHARLES: If you require I can bring to this House, if they so approve, the number of people who have advised me. And the former Minister will tell you, I'm sure he has the experience.

Mr. Speaker, the presentation of the Opposition last week, in which they appeared to be bawling for poor people, is almost hypocritical.

Let us look at the negotiated lowest rate of pay for workers in several sectors. Let us examine where workers are being negotiated for by the most powerful unions in the country when we had minimum wage but we removed it in order to give the unions and the workers and the employers a chance to settle their own wage based on their production – productivity – their association and relation at the workplace.

In the agricultural sector, the lowest negotiated rate of pay for a 40-hour work week is $4,529.91 a week. Eight Thousand sugar workers a week, cutting cane, loading cane, when they load it by the day. In the construction sector, carrying cement, carrying blocks, carrying lumber, it's $7,500 for a 40-hour work week. And you are bawling that I must come here and run the helper outa their room by giving them $10,000 a week.

(Cross talk)

One from over that side bawl out last week… I'm not calling no name. I did not call her name….

I said the construction industry, it's a 40-hour work week. It's lowest negotiated minimum rate is for the flag men, standing out there before the heavy-duty – construction people.

In the tourist sector that the Member from Westmoreland was whispering how hard and wicked we are…..

Mr. M. PEART: You can hear whisper?

Mr. BUCHANAN: It depends on which side.

Mr. CHARLES: The lowest negotiated minimum rate of pay is $2,500.00 per week, 40-hour work week, landscapers out there. They don't get no tip.

The Member from Clarendon I remember South-East was negotiating that the tips should be shared for all hotel workers because they are not seen, but they keep the place beautiful. One has to concede that these figures are not so out of line with the increase – that the minimum wage that we are tabling here to day is at. Member from South St. Andrew, I understand your passion. But you are not more passionate than me. I've spent 46 years at the bargaining table for them.

(Inaudible comments by Opposition Members)

Mr. Speaker, I recall the days when the Minister of Labour used to set the minimum wage for different occupations, at a time when these persons were not represented by the unions, as I said earlier. Many of the workers' occupations such as gas station pump attendants, hotel workers now have the benefit of union representation. So we don't have to set minimum wage for them any more.

The minimum wage we are prescribing today is not for these persons. Rather, it is for those who lack the representation at all, to protect them from being paid unreasonably low rates.

As the Minister of Labour, I have to stand in the middle and seek to balance the interest of the employers and the minimum wage earners because if I tilt the scale one way, one side will be destroyed. I have to grapple with the needs of the worker and the ability of the employer to pay. Additionally, as Minister of Labour, I am mandated to make every effort to protect employment opportunities for low earners, low-income earners.

Mr. Speaker, every Member over that side should by this know me. I battled hard for this. And it is easy to write any figure you want if you are irresponsible. It is easy to get up and amend the motion and ask that it be any amount you want. Because it is not your responsibility to look at what is happening underneath and to say, do I lay off some and raise some or do I keep it at a level and say to the employer... And let me say it now. If next week or next month this Minister is convinced that employers can pay more in a particular sector and they are deliberately not doing so, although production from the worker is higher than the pay they getting, this Minister will come back to this House with a minimum wage for that particular sector.

Mr. M. PEART: What happen to the union?

Mr. CHARLES: This Minister will do that. That Prime Minister will be advised. And I have no doubt right now in saying he will give me the go-ahead. And I want to say further, want to say further...

Mr. BUCHANAN: The Governor-General, tuh!

An Opposition MEMBER: And the union.

Mr. CHARLES: And you know, I'll embarrass you by telling you, you too. I'll embarrass you by telling you, if I can prove to you that a particular sector should pay more

and they are sticking to the legal and we are going to have to take that sector out and create a higher minimum for it, you would say yes.

(Cross talk)

Mr. Speaker, in relation to minimum wage earners, it must be recalled that their employers are not just large corporations. There are several household helpers working for maybe some of these men in this House and women who have to employ workers to stay with their children while they are gone to work.

(Inaudible comments by an Opposition Member)

And if they are...You know, you're not listening! Either you not listening or you don't understand. And I refuse to believe that you don't understand.

The point I'm making is that we are not restricting the helper from Jones Town who works with the Member from Kingston Central to get a higher salary that when she's gone to work she can pay minimum wage to somebody who is staying with her children. Or for me, for that matter.

(Inaudible comments by Mr. M. Peart)

(Laughter)

The employer of a minimum wage earner, can be a government worker who is facing wage freeze, a single mother struggling to make ends meet, or a couple who is struggling financially because of the economic downturn.

Mr. Speaker, what do I use to create an environment in which I can make the appeal? It is not possible to create one minimum wage for all sectors, unless you say to the people in every sector you are free to negotiate above that. And let me say it clear.

In the past, as I said before, several minimum wages were created for the various sectors. We're setting one national minimum wage now and saying to you and all of us in here, encourage the employer to use that only as a base, but value their workers employment and make a payment to them. All these factors ensure a balancing act which I have to perform, it's not an easy task.

In recognition of the long hours worked by industrial security guards, Mr. Speaker, a decision was taken to offer them additional protection by removing the current cap of 40 hours for the payment of allowances. And I think it was very unfair. And the Member from Kingston Central, I listen to him every morning on my way to a little place. I understand by now his passion for these people. When you are in your bed sleeping they are at your gate. And some people say, boy, them not doing anything more than sit down. You think so? When the thief arrives, the first person they are looking to get rid of is the guard who is a police who gwine tell who is coming in. And we have to do some...You cannot tell me that you allow him to carry a gun for 60 hours on the job but you are only paying for 40 hours allowance to carry the gun. The other 20 hours the gun carry him. Or is the man who carrying a dog, in the 60 hours for the week he only gets 40 hours payment for the allowance. No more!

Under the current provision, allowances payable to security guards were not paid for more than 40 hours. This amendment is to be welcomed, as it will ensure that a security

guard will now be able to obtain allowance for each hour actually worked.

Mr. M. PEART: Hear, hear!

(Applause)

Mr. CHARLES: Additionally, in recognition of the danger that these security guards have hanging over them in their performance, it has been decided that life insurance coverage for security guards be increased from $1.5 Million, double indemnity, to $2 Million, double indemnity. Mr. Speaker, the security guard is a police man is a security man, similar to what people think about others in the uniform otherwise….

Mr. Speaker, having weighed all these factors and reviewed the Report of the Minimum Wage Advisory Commission, I hereby ask this Honourable House to affirm the following increases:

1. With effect from the 28th of February, 2011, the national minimum wage will be increased from $4,070 for a 40-hour workweek, or $101.75 per hour to $4,500 per work week for 40-hour work week or $112.50 per hour.
2. With effect from the 28th of February, 2011, the minimum wage and fringe benefits for industrial security guards, be increased from $6,050 per 40-hour work week or $151.25 per hour to $6,655 per 40-hour work week or $166.38 per hour. Specifically stated here, because the workers in certain categories work more than 40 hours, agreed between themselves and their management, so the hourly rate is set out.
3. With effect from the 28th of February, 2011, laundry allowance for industrial security guards be increased from $27.50 per hour to $30.25 per hour.
4. With effect from the 28th of February, 2011, firearm premium allowance payable to industrial security guards be increased from $30.25 per hour to $33.28 per hour.
5. With effect from the 28th of February, 2011, dog handlers premium allowance payable to industrial security guards be increased from $20.35 per hour to $22.39 per hour.
6. With effect from the 28th of February, 2011, the cap of 40 hours is to be removed so that these allowances payable to industrial security guards will apply for every hour worked by the security guards.
7. With effect from the 28th of February, 2011, life insurance coverage for security guards be increased from $1.5 Million, double indemnity, to $2 Million, double indemnity

Mr. Speaker, I recognize that this level of increase will not be ideal for all workers and other parties. However, I maintain that this is the best increase which could be given at this time having weighed all the factors.

As I have stated before, a study has been commissioned to ascertain what is to be considered a livable wage in light of all circumstances prevailing in Jamaica and the Jamaican economy. However, this administration strongly believes that the minimum wage had to be increased now

before the completion of the study because of the financial difficulties being faced by our brothers and sisters, especially the minimum wage earners.

I close, Mr. Speaker, with a special plea to employers. I say to employers that they must remember that the minimum wage is just a guide which sets out a minimum standard at the work place. I therefore implore all employers with the financial means to do so to pay their employees wages in excess of the minimum wage. This is still a free country. I don't want to be told that I must go to the Cabinet and ask for permission to set rates of pay in a particular sector of the economy. That would be taking from the employer and the employee a balancing act that they should do together at the workplace. I urge these employers to bear in mind the suffering of their employees who are also faced with high cost of living.

Mr. Speaker, I now seek the affirmative resolution of this Honourable House in relation to the National Minimum Wage Order, 2011 and the Minimum Wage (Industrial Security Guards) Order, 2011.

(Applause)

The SPEAKER: Dr. Davies.

Dr. DAVIES: Mr. Speaker, the essence of this - I was about to say annual debate - is like a recurring decimal. The format is familiar, the Minister speaking on behalf of the administration indicates that the proposals are presented after great thought and analysis, weighing things in the balance, implications for all stakeholders. It is also stated that a major cause of concern, and the Minister went to town on this one, (Laughter) is that there are low-income persons on households who would be adversely affected by two large an increase in the minimum wage.

The Minister has added a further twist by indicating that the fact that the administration is seeking to increase the minimum age during this period of economic crisis, demonstrates the administration's concern for the lowest paid workers.

Mr. Speaker, the truth is, this debate has now turned out to be - whenever the discussion comes up - a point scoring exercise. A similar situation used to exist whenever we spoke about new taxes on gasolene. I sincerely hope that that cycle has been broken whereby what is a clearly rational situation that a country which imports all of its petroleum was having one of the cheaper prices. I sincerely hope that cycle has been broken that you don't have the destructive behaviour.

It's now time, Mr. Speaker, for us to break this cycle in terms of the debate about the national minimum wage.

(Applause by Opposition Members)

Dr. DAVIES: Mr. Speaker, it's our natural tendency to underrate our capability in all areas. But one area in which Jamaica stands out internationally is the manner in which we measure poverty and the development of programmes to address the attendant problems. It has been taken out of the hand waving and we have developed a scientific methodology

Speaking personally, one of my proudest achievements was to have been the Director General of the PIOJ when we finalized the development of the poverty index, which

allows this country through the *Annual Survey of Living Conditions* to monitor and track changes in the incidence of poverty.

The SLC allowed us to develop, based on scientific methodology programmes aimed directly at alleviating poverty, as well as to identify by regions, those areas which demonstrated special characteristics. We looked at things like St. Mary. We looked at things in terms of particular areas in Manchester. And we were able to look at differences in the incidences of poverty in rural as opposed to urban areas.

The PATH Programme have been developed utilizing th analysis carried through by the SLC. So, essentially, (Applause) we have moved the discussion from one of sympathy and just benevolence to one based on clear analysis, what areas, which sectors, which groups are deserving of special attention.

Mr. Speaker, the scientific methodology was not developed simply to provide responses for the moment, but more importantly, to address the fundamental characteristics observed worldwide. The overriding objective, Mr. Speaker, is to limit and hopefully, prevent transmission of poverty from one generation to another. It's not just about a money this week, it's about the implications for that household to allow the next generation to be better off in a whole range of socio-economic indicators.

(Applause)

The features of poverty transmitted across generations should be known to all of us as representatives: malnutrition, susceptibility to diseases, low levels of attendance in school, sub-par academic results, high levels of teenage pregnancy, high levels of unemployment, dysfunctional communities, we all know and see that.

Simply put, Mr. Speaker, the fight against poverty is not simply a fight based on the situation today, but as I said before, we are seeking to prevent future generations having to fight the same battle again and again.

(Applause by Opposition Members)

Mr. Speaker, the Minister has given a great deal of details and so he must, but the debate I would wish us to move it beyond the adequacy of the proposed increases. The challenge has far greater dimensions.

Mr. Speaker, let's look at the SLC data, the latest SLC data, focusing on the increases in poverty levels since 2007. In 2007 the national poverty level was 9.5%, moving to over 12% in 2008 and 16.5% in 2009. These are not things we debate about. We have

come to accept the legitimacy of the methodology pursued in carrying out the SLC.

If you translate this into ballpark figures, Mr. Speaker, in that two year span, an additional 180,000 Jamaicans fell below the poverty line.

Dr. BARTLETT: Clearly your data was not sound.

Dr. DAVIES: Creng, creng! (Laughter) Listen, you may hear something.

The SLC data for 2010 are not yet available, but Mr. Speaker, there is very little reason to believe that things have improved from the 16.5, one in six.

Mr. Speaker, you may ask, what is the connection between the situation as revealed

by the SLC data, and our discussion today on the new level, the proposed new level of the minimum wage.

The answer is that many of those who fall below the poverty line are not unemployed idlers, but they fall into the group we are seeking to protect, the working poor.

Mrs. NEITA-HEADLEY: Hear, hear!

Dr. DAVIES: Many of them are not - people who are unemployed, they are working poor. Two employed adults in a household paid at the minimum wage with three dependents - and, that's below the national average, would fall into that category of the working poor.

Mr. Speaker, in too many of our debates in Parliament we proceed with almost a deliberate attempt to ignore the realities, which all of us, all of us as MPs see daily. (Applause)

Mrs. NEITA-HEADLEY: Everyday.

Dr. DAVIES: We proceed as if we are operating in a different dimension. (Applause)

What are some of these realities? One, inability to send children to school daily, on a regular basis; inability to provide text books, even for those who have demonstrated the ability to do well academically; inability to finance basic food, either at hole, work or school.

How many times, Mr. Speaker, how many times - and the Minister is making special provision for those carrying guns or with guards. How may times you go into a bank, and when I go into the bank dem sey, see the real big man come? Yes. And then, when you are leaving, he says to you, 'the lunch situation look stiff you know, whe yu sey'? A man with a gun, a man with a gun is hustling lunch money. You figure if somebody gives him a little bit more than a lunch money what are the possibilities. I am not making these as political points, every single one of us would be facing that on an ongoing basis.

Mr. Speaker, the present proposals. After one has examined the plethora of numbers, it's a lot of numbers which the Minister has given, confused, hear this. What is being put before us? I am confused. (Laughter) Essentially, essentially, essentially, it's a 10% increase compared to the levels set the last time.

You know, I was under the impression that the last time was last year, but.....

Mr. M. PEART: No, no, June 2009.

Dr. DAVIES: So we are dealing with nearly two years ago. I was under the impression, but I am now corrected. But let us assume - and it shows the gravity of the situation that we are talking about a year ago.

Mr. Speaker, in that year - this is STATIN's figures, during the last year, January to December, the overall CPI increased by 11.7%. Mr. Speaker, what this says, wherever they were a year ago, those individuals who are supposedly the object of our concern, have had no option but to reduce their consumption of the most basic goods because in purchasing power, what we are saying that their income has been slashed in real terms by just about 12%. Both commonsense and the statistical evidence tell us that anyone with income at that level literally consume every single cent. If you look at the numbers we are talking about and you go to the supermarket, there is no choice.

We are offering them a 10% increase in nominal terms while the official government data indicate that prices have increased by just under 12% over the past year.

And the last increase wasn't last year, it was two years ago. So, if we get those numbers, and your technical people can provide you, you are seeing that perhaps, in that two-year span, their purchasing power has been reduced by probably 20 per cent.

What we in this august body are saying is that them that already have too little deserve even less. Translation, however you cut it, that's what we are saying, that they who are at the bottom, the minimum wage, we are saying that we are legislating an increase which puts them behind where they were a year ago, not much two years ago.

Mrs. NEITA-HEADLEY: Not good enough.

Mr. M. PEART: The poor getting poorer.

Dr. DAVIES: But let's go beyond this CPI Index. Let us secure two areas of inescapable expenditure for low income workers: a helper and security guard; food and transportation. There has to be some the fuel to allow you to keep going and then you need to go to work.

(*Sotto voce* comments)

Dr. DAVIES: The official statistics show that food prices increased in 2010, January to December by 12.8 per cent. And when I see those numbers I was about to do my Christiana index because I really wonder where they did that survey to get prices moving by only 12.8 per cent. I don't know whether the Minister has done his Christiana index which he used to publish quite often.

(Laughter/Applause)

It has been a long time we haven't heard of the Christiana index since then.

(Cross talk)

You know, I am glad you - I want to ask you what happen to the market - the farmer's market. They say there were no farmers and there was no market.

Dr. TUFTON: Very successful.

Dr. DAVIES: Anyhow, the figures say and it's quite fancy, the figures say that food prices moved over the year by 12.8 per cent. So, even in terms of where they were a year ago… we are offering them 10 per cent and a year ago, between January last year -

A MEMBER: And you nah talk bout the spikes?

Dr. DAVIES: The minimum wage - I am looking at the numbers here.

(*Sotto voce* comments by Mr. Henry)

Dr. DAVIES: Mr. Speaker, the official statistics also show that transportation prices increased by 26 per cent again. I am wondering about that. I think the announcement for JUTC was close to 40 per cent.

Mrs. NEITA-HEADLEY: Shame! Shame!

(*Sotto voce* comments by Mr. Henry

Dr. DAVIES: So again, Mr. Speaker...

Dr. DUNCAN: I thought it was a point of order.

Dr. DAVIES: No, no, he is agreeing with me. Humble Lion isn't doing well, but he is okay. The increase for the KMA was 40 per cent.

(*Sotto voce* comments/Laughter)

Dr. DAVIES: Mr. Speaker, I have used these statistics from the official government publications to indicate that we who sit here in judgement cannot say that we have made our rulings because the facts - we don't have facts available. Every statistic, as I said...

Mr. KELLIER: Hear, hear!

Dr. DAVIES: …every statistic that I have quoted has come from an official government publication.

A MEMBER: Hear, hear!

Mrs. NEITA-HEADLEY: Facts, facts!

Dr. DAVIES: Mr. Speaker, let me go to the issue of the livable wage. The Minister has given us the assurance that the increases for which he is seeking approval - I am phrasing this very carefully, Mr. Speaker, because I hope that you have given us that assurance - that the increases for which you are seeking approval will be temporary, and

can be changed once the deliberations of the Committee or the Commission - I am not clear what it is - on a livable wage, has completed its work.

Mr. KELLIER: That's his assurance.

Dr. DAVIES: The Commissions are en vogue, so I am just wondering whether it is a Commission.

(Laughter/Cross talk)

Dr. DAVIES: So, it is a committee?

Mr. KELLIER: It is a committee - a sub-committee.

Dr. DAVIES: Whilst we wish them to be thorough...

Mr. KELLIER: It is commission?

Dr. DAVIES: It's a Commission of Enquiry into the livable wage. Once we have - we wish them to be thorough, but time is of the essence. For the reasons I have stated before, we cannot continue to add legislative support to increase poverty. Mr. Speaker, there is enough information and data available to allow the Committee - the Commission...

A MEMBER: Sub committee.

Dr. DAVIES: …to act quickly and decisively. Furthermore, it is incumbent on us to ensure that there are general principles established which will preclude the necessity of our annual point-scoring debate. One immutable guideline which I proposed, is that the lower - the lower limit of any annual increase - and I say annual increase deliberately - of any annual increase, must be the year to year change in the CPI.

(Applause)

Mrs. NEITA-HEADLEY: Hear, hear!

Dr. DAVIES: That must can be non-negotiable because they are already at the bottom of the ladder. They are already at the bottom of the ladder. And if we get the Christiana index to show how far behind, then we can move for that.

(*Sotto voce* comments)

Dr. DAVIES: She tells me that your numbers don't have nutten to do with reality. Put another way, Mr. Speaker, we cannot - we in this House cannot continue to be party to legislating through the Minimum Wage increased poverty.

Mrs. NEITA-HEADLEY: Yes.

Mr. KELLIER: Hear, hear!

Dr. DAVIES: My first concrete proposal is that the interim increase be such that the affected workers maintain their purchasing power which they enjoyed a year ago. This is

my minimum requirement, that these workers maintain the purchasing power which they had a year ago. Based on the CPI data, we are proposing that the increase be one of 12.5 per cent. This is a temporary increase, rather than the 10 per cent, as suggested by the Minister.

(Applause)

This is a minimum requirement. And, Mr. Speaker, it seems to me, almost impossible for anybody to say that the people should be worse off than they were, those at the bottom of the ladder. And I see the Member from South East Clarendon, nodding.

Mr. PICKERSGILL: Pearnel, you heard the figures?

Dr. DAVIES: That it cannot be that we here sit in judgment to ensure that people are worse off than they were a year ago.

In addition to being guided by the overall CPI, in the future, special attention must be paid to areas of expenditure, such as food and transportation.

Mrs. NEITA-HEADLEY: That's correct.

Dr. DAVIES: So, here, Mr. Speaker, we are saying that at the minimum, you start with the assumption that they must at least preserve the purchasing power, but we need also to look at the movement with food and with transportation, because such persons need to get to work, and they need to eat in order to work.

Mr. Speaker, I am sorry that the Minister of – I always get confused about all the titles of his ministry, but the Member from North Central St. Andrew...

Mr. KELLIER: Commerce and Investment.

Dr. DAVIES: …Commerce, Investment, Industry, Trade...

Mr. KELLIER: Whole heap a supp'n.

Dr. DAVIES: All the talk about increased productivity will simply be that, if a significant percentage of the working population, people who you say, let them be more productive, are hungry, worrying about the bus fare, do not know how they will get back to work, do not know if their children can get to school, are just simply having difficulty putting the most basic meal on the table.

MEMBERS: Hear, hear!

Dr. DAVIES: Mr. Speaker, I have spent some time examining the data and looking at the - in terms of what I would say in this intervention. Let's get beyond remember when you people was there this is what you said, and all that; let us grow. Let us grow.

(Applause)

Let us...

Mr. SHAW: You don't do a good job of it, you know.

Dr. DAVIES: I am an original. I am an original. I let others imitate me. I am an original.

Let us, Mr. Speaker, let us lift this most important issue out of the realm of point-scoring politics. Most of us in this House have watched each year, or each time, successive Ministers of Labour seeking to - some more briefly than others - justify what all of us in our hearts know, cannot be justified. You have tried, Minister, but even as you spoke, we know you were very defensive about what you were saying, and you didn't believe what you were saying.

(*Sotto voce* comments)

You did not believe what you were saying and you had difficulty in convincing us.

Mr. Speaker, let us today, make the commitment to do the right thing, not just for the moment, but for the long term and for the future of those who have the least in this country.

Thank you very much.

(Applause)

The SPEAKER: Yes, Mr. Mullings.

Mr. MULLINGS: Thank you, Mr. Speaker.

Mr. Speaker, for years this Parliament has wrestled with the issue of the minimum wage. And I have noted the comments from the Opposition Spokesman on Finance, and indeed, the activities of the Minister himself. In fact, I want to draw attention to the fact that the Minister, and I want to commend him, has seen it fit to remove this barrier of the payment of allowances to security guards who either use a gun or have custody of a dog. Indeed, to limit them to 40 hours was patently unfair. And I want to commend the Minister for that.

But, in fact, Mr. Speaker, the life of a security guard is indeed a dog's life, because for far too long, the designation of security guards as independent contractors is, to my humble view, inherently unjust.

Mr. Speaker...

(The Speaker vacated the Chair and the Deputy Speaker took over)

Madam Speaker, I am sorry, large numbers of persons are employed to large companies - and these security guards work for many hours, no vacation leave, and if they fall sick, they have nothing to look forward to during that time. That is unjust, Madam Speaker. And we must deal with that.

Indeed, what we find - and in fact, I will tell you a tale. Recently, I was giving a security guard a lift from my daughter's school - she was going to the hospital to look for her colleague, another security guard, who had fallen gravely ill. In fact, as it turned out, he was diagnosed with a terminal illness - sole bread winner. That man worked seven days per week. He had nothing to look forward to; no health benefits; there is no vacation leave he ever got, and when he fell ill, of course, there is nothing for the household to look to.

And I think it is time for us to look carefully at this designation, be it Court pronounced or elsewhere, to revisit that, because, if you are employed by a company, by any stretch of the imagination, they must be an employee of that company. When you see an individual who brings to the company, their presence, as security guards, their training as security guards, and nothing else. They bring no employees themselves. They bring no tools of trade. They maybe, walk through the door, given their uniforms and designated to areas where they must work, and for them to be deemed independent contractors, I say is unjust and must be changed.

(Applause)

And so, I urge the Minister, and I urge the Government, to look very carefully at this sector of the industrial security guards to see that the benefits that would accrue to them as the employees, accrue to them by removing

this designation of independent contractors.

And I think the time has far gone for that to happen, and Minister, I urge you and the Government to look at that.

Thank you, Madam Speaker.

(Applause)

The DEPUTY SPEAKER: Mr. Kellier.

Mr. KELLIER: Thank you very much, Madam Speaker.

I think that the Opposition Spokesman on Finance has set out a - what I would call a roadmap in respect of how we can approach this matter of determining the minimum wage, going into the future, so as to avoid the need to have this long, drawn out, debate whenever the issue comes up for adjustment on a yearly basis.

Madam Speaker, I am going to quote a few words here, that were said by an honourable gentleman in this House, as part of a speech he was making when he was speaking about unavoidable hardships. This paragraph says:

> "It is hard on the poor who have to scrape, and scrounge and hustle, not knowing where the next meal is coming from, or how the hungry bellies of their children will be filled".

The categories of persons whom we are focused on today are persons that fall into the category of those who have to scrape, and scrounge and hustle.

Mr. CHARLES: Those are unemployed.

Mr. KELLIER: Those words were said by the Member from West Kingston, who is an honourable gentleman.

(*Sotto voce* comments)

I am stating that, for your information.

The last time we had this debate, Madam Speaker - I am just going to repeat what I said, because it is the same thing I have to say with a few additions this time around. We can't pay a wage that can't buy the basket, that is, this basket that the Consumer Affairs Commission says is the basket of critical items; this is coming from them. And they note what those items are.

A Government MEMBER: A old basket that.

Mr. KELLIER: Hard dough bread, chicken, cooking oil, corn beef, cornmeal, rice, sugar, counter flour, dried salted fish, condensed milk, sardines, milk powder and mackerel. This does not include all the other things that are necessary to be a part of the regular things that the household wants.

When you add up those things, Madam Speaker, it comes to Two Thousand Two Hundred and Four Dollars and Sixty-five Cents, ($2,204.65).

Mr. M. PEART: And you don't pay light bill yet.

Mr. KELLIER: That is just minimum we talking about. This is what the CAC says, not me. The document is there and we can refer Members who wish to check its veracity to do so. I believe the one from elsewhere may be higher, in respect of the prices, because the further you go away from town, Kingston that is, is the higher the prices get because of transportation and all those other problems that we have to face. I said that in 2009.

The Ministry of Labour and Social Security, Madam Speaker – I said it then and I ask the Minister to get the dialogue going,

so that we can decide on the livable wage, because we had moved past the contention about the minimum wage. And the Minister agreed, because I asked him then to give a commitment as to what sort of timeline he would set for the debate to begin, and he has reported to the House that he has started, and to expect to get a response by the end of March. And I think he is working towards that deadline, and we look forward to that.

The truth is, Madam Speaker, the 10 per cent which is offered as a stop-gap token right now, really, it is not going to bring much comfort to those who are waiting, because they still don't know what is really going to happen, they are just holding on to straw right now. And I think that because we know the facts about these matters, and we have done so many investigations, we should know by now that the 10 per cent really after two years, is really not keeping up with the inflation, and it really can't do anything much.

And you know, Madam Speaker, it is very funny, you know, because some of the very people who make the most noise about this minimum wage thing, that they can't afford to pay, it is very ironic. And I really have to say it, because, you know, I feel very passionate about it. Some of these people, when they go to the supermarkets or to the wholesales - wherever they shop - to purchase the big bags of dog food for their pitbulls and those other high-bred dogs…

Mr. SHAW: Aren't those illegal in Jamaica?

Mr. KELLIER: …the one that your friend round the back talk 'bout all the while, 'Kreng-Kreng' – that those dog food cost more than this minimum wage, right. So, you know, the people who make the most noise about it not paying because this and that, they have resources and they have no conscience, they have no conscience, for the most part.

And you know, we have to call a spade a spade. When a certain Member that sits on that side now was over here – and we not going back too far, but I just want to remind us of what he said, and if I say it now you would believe it is my words.

> "I am not excited about the increases, and this notion that you can't bring the minimum wage up to a certain level because it will put people out of work, is errant nonsense. I will tell you why, because today almost 90 per cent of the people who are paying minimum wage earners are paying significantly more than what they are getting now. And, therefore, even if you bring it up somewhere higher, it wouldn't be putting anybody out of work."

Mr. CHARLES: So what you quarrelling about, then? What you want to bring it up for if it don't trouble nobody? I don't understand you!

Mr. M. PEART: Who say so?

Mr. KELLIER: So that is the reason why – you know who say so.

(*Sotto voce* comments)

So, Madam Speaker, raising the minimum wage to what is a level that is acceptable will not put anybody out of work. It will not put anybody out of work. The barrier that has been lifted in this place, this House here, year after year, has to do with the argument that you are going to put people out

of work. Nonsense! Nobody going put out of work. You think the people them who go to hairdresser and spend Four Thousand Dollars ($4,000.00) to fix up them hair and Three Thousand Dollars ($3,000.000) to fix up them fingernails gwine get rid of the helper, because they have to raise the money? You tink so? Don't fool yuhself! That is an argument that is not worthy to be spoken anywhere. We fooling weself!

Mr. SHAW: How you never talk like that when you over here?

(*Sotto voce* comments)

Mr. GALLIMORE: For eighteen-and-a-half years, why you never raise it!?

Mr. KELLIER: We are fooling ourselves! We are fooling ourselves! We are fooling ourselves!

(*Sotto voce* comments)

So, Madam Speaker, the Member who say so, you know, is a very distinguished trade unionist, you know. It's not just one of the lighter ones that sit round de back, who don't know anything about trade unionism, and worker participation and worker involvement. It is a man who is a serious trade unionist that made that statement, so him know what him talking about.

Mr. M. PEART: Who? Ruddy?

Mr. KELLIER: I not calling any name, you know is who. Is not the Minister, though.

A MEMBER: Not this Minister?

Mr. KELLIER: No. So I tek you off de hook.

(*Sotto voce* comments)

What I would like, Minister, for you to do in this – because we know is a difficult situation and you have to do something to appease them. What I would like you to do, Minister – because we have sort of overlooked that area, as it relates to the persons in this minimum wage category – and it has to do with the whole business of the occupational safety and health, as it relates to some of these work places. Because although they earn minimum wage, it doesn't mean that the establishments in which they work, you know, the working conditions, the decent work agenda, all of that come into play. I think you need to ensure, so as to make life a little more comfortable for them, they are already at the bottom working low wages, but the conditions under which they work, I don't know what you are going to implement or how you are going to arrange it, but to try and see if within the confines of the Occupational Safety and Health Bill – and incidentally, we look forward to the new Bill coming as soon as possible during the course of this year – to see if we can make sure that the conditions under which people work are improved and are up to the standards that are required.

As you know as well, Minister, the first goal in the Millennium Development Goals, speaks about the business of poverty and the eradication of poverty. And if we continue to pay thousands of people at these low rates that really can't allow them to live and to lift their standard of living and take care of their families, what we are doing is institutionalizing poverty in the country. And we really want to get away from that. Poverty is fast becoming an institution in this country, and we would like to see we lift our people out of it. So whatever you can do, we are asking you to look into it and to the proposal that the Member has made, to see whether or not you could possibly adjust the percentage

to 12½ per cent you said, Omar. If we could go there – because is only a short term, you know, remember it is only between now and – you giving the thing February the 28th and the result is coming in the end of March, so it is a short term. So you could give them a little more than the 10 per cent that you are giving now, and I am sure it will make a difference to the thousands of people who fall within this category.

Mr. HOLNESS: It is welfare you are asking for!

Mr. KELLIER: It is not welfare, it is not welfare. It is not welfare.

Mr. HOLNESS: From the moment you start to say…

Mr. KELLIER: We are setting a level – remember the level is a floor not a ceiling, the level is a floor, it is not a ceiling. But if you set it too low you will find that people try to stay low with it. It is just a reality. People try to stay close to the floor and they don't go to what the ceiling is. The minimum wage is the floor, not the ceiling. So what we want to make sure of is that we have more people that are prepared to pay more, by lifting the floor a little higher, and the 10 per cent right now is keeping the floor too low. Anything below five thousand dollars ($5,000.00) right now, as a minimum wage, really is a joke. Anything below five thousand ($5,000.00), Minister, is a joke. And everyone in this House here, I don't think nobody in here pays anything less than that to the helper, anybody in here. Any person in here that pays less than that to their helper should not be in here, because it means they don't have no conscience.

(*Sotto voce* comments)

Mr. SHAW: Buchanan pays less than that.

Mr. KELLIER: So, therefore, it would do no harm if you were to consider the 12½ per cent, and to see where that would take us. But I can assure you, if I join the Member sitting further down there, that said that nobody would lose them job if you raise it a little higher, I believe we would be on the right track, because we want to deinstitutionalize poverty in this country.

But in respect of what you have done for the Guards, I support the action, because the forty hour was a restriction. And I want to commend you in that regard for that very forward thinking act that you have done in this regard.

Thank you very much.

Dr. FERGUSON: Madam Speaker, I want to strongly support the position put forward by the Member from South St. Andrew, as it relates to the CPI and how it relates to the present increase.

I also in particular, Madam Speaker, want to congratulate the Member from West Central St. James, because he spoke on an area that I have very strong views about.

I believe, Madam Speaker, that governments past, present, have done an injustice to the Security Guards of this country, in relation to this whole idea of contract workers.

It is my own view, Madam Speaker, that there is a strong security lobby that over the years have put forward an argument that governments past and present continue to accept. I believe it is one of the great injustices rendered to workers in this country. And I support strongly, Madam Speaker, the

views put forward by the Member from West Central, to seriously look at this arrangement that has been going on for many years.

When I go in the plaza, in the supermarkets in my own constituency, Madam Speaker, everywhere you go and a Security Guard recognizes you – or recognizes me – the first thing they come to – they walk to you, they ask you what are you legislators doing to change this injustice right across the country

And I am saying, Madam Speaker, that we need to do something at this time. We recognize the increase in insurance, Madam Speaker, for security guard. I think it is a step in the right direction, the increase in insurance. But I am saying, Mr. Minister and Cabinet, you need to look at this contract worker arrangement because it has created great hardships and problems for a significant sector of the work force.

May I thank you, Madam Speaker. (Applause)

The DEPUTY SPEAKER: Last contribution, Dr. Broderick and then the Minister can wrap it up.

Mr. BRODERICK: Madam Speaker, I could not leave here without adding my few remarks to this subject. I have had a difficulty all my life trying to understand two phrases, poverty alleviation and minimum wage. My colleagues here perhaps have some idea where I am intended to go. But before we start analyzing what is in that basket that we tend to look at to define whether we are protecting our poor, let us understand that we don't alleviate poverty with minimum wages. What we are seeking to do over the years is to manage poverty and the management of poverty seldom comes up to the mark of what would be a respectable sum for any average being to survive on.

I empathize with the Member from Central Clarendon who holds the portfolio. I know the difficulty that he faces. If my numbers are correct, to move from $4,100 to $4,500 is a paltry sum. Perhaps the times are so hard that he cannot do better. But what I would hope we could move in a new direction, a direction where we can weigh the difference between creating a society that produces enough, a society that the emphasis is on wealth creation, a society that is not forever scraping the bottom of the barrel to see if it can find out paltry sums to waive at the suffering poor. We cannot continue to come here with unrealistic numbers, numbers that just don't spin, because we feel that we are giving just enough to keep the person alive. That's poverty management. And if we don't get out of that syndrome we will forever be catering to creating a mass of poor people in this country. It has to be a psychological shift, a shift to create a new day, a determination to create a society in which people are given respectable minimums.

And so I am going to challenge my colleagues that we don't continue in this vein year in year out and think we are doing something for poor people. We got to look at all the components, we got to look at all the components from housing right through education, not just look at the basket of food, I man affi eat a food. So much of Jamaica is about I affi nyam a food. Oh my God, can't we get pass nyamming a food? Can't we reach a stage where we are going to

dine in comfort and we are going to realize a standard of living that goes beyond what the Member from St. James was suggesting, comparing my wonderful Jamaican people and saying that he is going to compare them diet to dog food?

Mr. MONTAGUE: Out of order!

Mr. BRODERICK: Out of order! We must do better than that!

Mr. KELLIER: On a point of order, point of order, Madam Speaker.

Mr. SHAW: Out of order!

Mr. KELLIER: Point of order, Madam Speaker.

Mr. BRODERICK: We must do better than that!

(Heckling)

Mr. KELLIER: Point of order.

The DEPUTY SPEAKER: (Gavels).

Mr. KELLIER: Point of order.

Mr. BRODERICK: We cannot take our wonderful Jamaican people and measure them like a basket.

Mr. KELLIER: Point of order, Madam Speaker.

Mr. BRODERICK: Point of order. Okay.

Mr. KELLIER: Madam Speaker, the Member deliberately misled the House in how he made that statement a while ago. He deliberately misled the House. I did not compare the feeding of people's food with dog food. I did not compare that. I did not do that.

Mr. SHAW: Pitbull!

Mr. KELLIER: And he must withdraw it. He must withdraw it. I did not say that.

The DEPUTY SPEAKER: (Gavels)

Mr. KELLIER: I did not say that and he must withdraw it. I did not say that and he must withdraw it.

Mr. BUCHANAN: You! You!

Mr. BRODERICK: May I, Madam Speaker…

(Cross talk)

The DEPUTY SPEAKER: Members, please.

Mr. BRODERICK: May I assist the Member with his memory.

Mr. KELLIER: I know what I . . .

Mr. BRODERICK: I know that I heard someone say there are people who will go in and pick up expensive dog food while….

Government MEMBER: Kellier said that.

Mr. BRODERICK: I heard that. I just did not wish to hear my people put in that context.

(Applause)

Mr. KELLIER: Madam Speaker, on a point of order.

Mr. BRODERICK: I would rather us, all 60 Members of this Honourable House.

Mr. KELLIER: On a point of order, Madam Speaker.

The DEPUTY SPEAKER: (Gavels)

Mr. KELLIER: On a point of order.

The DEPUTY SPEAKER: Dr. Broderick, if it in fact he is making a point you have to sit. The two of you can't stand.

Mr. KELLIER: Madam Speaker, you have the Hansard to rely on. The context in which he made the statement is completely wrong. I made no such comparison. What he said first is completely different from what he said a while ago. I made it very clear, I made

it very clear that some of the persons who are making and railing against the increase, some of those persons purchase dog food.

Government MEMBERS: What!

Mr. KELLIER: Some of those persons who are railing against the increase, some of the people who are railing against the increase purchase dog food, very expensive dog food.

(*Sotto voce* remarks)

Mr. KELLIER: I never said that and we must withdraw it.

The DEPUTY SPEAKER: (Gavels)

Mr. BRODERICK: I do concede, Madam Speaker.

The DEPUTY SPEAKER: I cannot hear at all, you know. Members, please. This is what is being carried live and there is so much work left to be done for the afternoon. Please let us not trivialize certain things. Please can we get on with the nation's business.

Mr. BRODERICK: I do concede, Madam Speaker, that this is a sensitive subject and therefore we should be careful when we are trying to impress our peers that we do not use language that can hold our people . . .

(*Sotto voce* remarks)

Mr. BRODERICK: You know, Madam Speaker, let me get on with the subject. Let me get on with the subject (Applause) because I will come back to say to you we must not classify our people in categories that are uncomfortable.

The DEPUTY SPEAKER: (Gavels) I ask you to get on with the subject and not trivialize the matter because there is a lot of work at hand.

Mr. BRODERICK: I will get on, Madam Speaker, as I come back to the whole question of management of poverty. Because that is what I wish to leave an impression on this Honourable House with. We must not continue to manage our people as if we would put them into little corners and say you are not to have more than this now or more than that. We must look at the subject in a holistic fashion in which we come up with that so-called basket that is an intelligent and humane assessment of what is needed for someone to survive. We must not come here and talk about which investors will run away. Because there is a standard internationally of what it takes any given human being to live with proper shelter, with proper three square meals, if not at least two, with proper hygiene and other things that will give them a life that we would want for each and everyone of our children.

I am saying, Madam Speaker, let us take the debate to another level. Let us take it to a higher level and let us not be caught up in trivial argument. Let us not go there. Let us work together. Let us on two sides of the House apologize to the Jamaican people and say we sorry that what we come with today is not good enough, and we are going to work that the next time we come here (Applause) that we are offering something that the Jamaican people can say, yuh know dem man up ina Gordon House just not nyamming food only, dem doing some work.

Thank you, Madam Speaker.

(Applause)

Mr. CHARLES: You agree with that, Pearnel?

Government MEMBER: Pearnel agrees with every sensible statement.

Mr. CHARLES: Madam Speaker . . .

Dr. BARTLETT: Mine how you talk about my patient.

Mr. CHARLES: Madam Speaker, I will not try to answer all the comments that have been made, particularly for those who clearly indicate that this was not a time for scoring points but went on to try and score points.

Mr. PICKERSGILL: You sure you heard the point?

Mr. CHARLES: The people of Jamaica did not become poor since last year. The 180,000 people that the Prime Minister pointed to the Ministry of Labour to put on the PATH Programme did not come on stream poor in one year. They were there when you were there. We came and found them there.

Mr. BUCHANAN: You create them!

The DEPUTY SPEAKER: (Gavels)

Government MEMBER: 'Congo worm', shut up!

Mr. CHARLES: We are reviewing them and we agree….

(*Sotto voce* remarks by Opposition Members)

The DEPUTY SPEAKER: (Gavels) Can I just say something. If you people don't stop the shouting across we have to . . .

(*Sotto voce* remarks by Mr. Buchanan)

The DEPUTY SPEAKER: Please, I think it is disgraceful.

Mr. CHARLES: Thank you, Madam Speaker.

The DEPUTY SPEAKER: Member Buchanan, I am going to ask you to contain yourself, please. (Applause)

Dr. DAVIES: What about 'creng creng'?

Mr. CHARLES: Madam Speaker…

The DEPUTY SPEAKER: I don't now if the Members of this House recognize that the public is complaining about how much work we have to do, and there is so much left to be done this evening that I am asking you, please, to let us get on with the business of the House.

Mr. CHARLES: Madam Speaker, I just want to bring to the attention of my colleagues that raising the minimum wage by $500 more, as has been suggested by the Opposition, still will not solve the problem. If you say $500 can only take one bus ride, then another $500 can only take another bus ride.

Mr. PICKERSGILL: Logical!

Mr. CHARLES: The real problem we face, and we do face a problem, and we hope that when the study is complete and Parliamentarians look at it, we can look at this thing together in the interest of the country.

Mr. CHARLES: It is not just raising wage. The people are unskilled, they are unemployed, they are underemployed, they are not certified. Hundreds of jobs are available, thousands of people seeking jobs that cannot fill the jobs. We have a serious problem and we to sit down, hold hand and stop shouting at each other, hold hands and ask, how we can solve the problem that is before us. An unskilled man cannot get a job as an engineer tomorrow, an underemployed man cannot buy food and clothes for his family, an uneducated man no longer makes an X. I'm sending fourteen thousand people away this year …

Mr. PICKERSGILL: Which parish they come from?

Mr. CHARLES: …to America and Canada. Not one man who used to make X for money can go. He has to be able to read and write and read do not enter this area you will be killed, or shot, or die. You have to be able to read these things. Our people need more than just minimum wage and all of us inside here better take the responsibility to do what we can do for them. And stop come here going on as if is one side responsible.

Mr. M. PEART: What about the people that -

Mr. CHARLES: Madam Speaker, I have the same passion as many of you for the poor, but the poor is not just five hundred dollars more. The poor is a large sector of the society that for years did not get done for them what should be done or they didn't do themselves. Hundreds and thousands of them are out there with seven and eight subjects in CXC and university degrees who are unemployed. There's much more to be done. Jobs, jobs, you laugh. You can't get jobs unless you have investment, investment, investment or expansion of present business. So we're going to have to just sit down one day and say look, what's the best way forward. I've commissioned the study and when it is finished - I have not announced that this is a temporary minimum wage. I have said that when the study is finished it will be put before us and as a Parliament we will decide the way forward not only as government, but all of us in this Parliament.

(The Speaker returns to the Chair.)

Madam Speaker, I wish to put - Mr. Speaker, I wish to put the Resolution at this time.

The SPEAKER: Members, there are two Resolution and we'll do each of time.

The first Resolution is the National Minimum Wage (Amendment) Order 2011.

The Resolution having been put the House divided as follows:

Ayes

Dr. Bartlett
Mr. Broderick
Dr. Chang
Mr. Charles
Mrs. Dalrymple Philibert
Mr. Gallimore
Mr. Golding
Mr. Henry
Mr. Hibbert
Mr. Holness
Mr. Hutchinson
Mr. Lawrence
Mr. Montague
Mr. Mullings
Mr. Peralto
Mrs. Robinson
Mr. Shaw
Mr. E. Smith
Mr. R. Spencer
Mr. Stern
Dr. Tufton
Mr. Witter

Noes

Mr. Arscott
Mr. Buchanan

Mr. Bunting
Dr. Davies
Dr. Duncan
Mr. Fagan
Dr. Ferguson
Dr. Guy
Ms. Hanna
Dr. Harris
Mr. Hayles
Mrs. Hay-Webster
Mr. Hylton
Mr. Jackson
Mr. Kellier
Mrs. Neita Headley
Mr. Paulwell
Mr. M. Peart
Mr. Pickersgill
Dr. Rhodd
Mr. Thwaites
(Cross talk)

The SPEAKER: Listen, Parliament is still in session, you know.

(Cross talk by Members)

The SPEAKER: Okay, Members. For the - there are sixteen (16) absent, twenty-one (21) noes, twenty-two (22) ayes. It's passed in the affirmative twenty-two (22) to twenty-one (21). The amendment passed.

I now put the National Minimum Wage (Industrial Security Guards) (Amendment) Order, 2011.

Put to the House and agreed to.

The Minimum Wage (Industrial Security Guards) (Amendment) Order passed.

Very well. House Leader.

THE PROTECTED DISCLOSURE ACT

Mr. HOLNESS: Mr. Speaker, you will recall that we closed the debate last week on the Protected Disclosure Bill. The Prime Minister will now take us through the Committee Stage.

The SPEAKER: Prime Minister, could you just ask for second reading please.

The PRIME MINISTER: Mr. Speaker, when I had suggested last week that we could close the debate and reserve the Committee for this week, you wisely advised that I shouldn't do it that way. And I'm very glad you did because I took the time since last week to review the comments that were made and to see what extent we needed to make changes to accommodate any of those points. And I wanted the opportunity not for very long just to address the comments that were made.

The SPEAKER: I think, Prime Minister, though, Prime Minister it may be that we have to do that at Committee stage.

The PRIME MINISTER: Why?

The SPEAKER: Because you had closed the debate.

The PRIME MINISTER: Yes, but in fairness I haven't moved second reading, so I'm still on my feet.

The SPEAKER: Oh, that's a good point.

The PRIME MINISTER: What I think you'll have to determine is how much time I have left.

The SPEAKER: Yes, you did not move second reading.

Mr. JACKSON: It was implicitly understood.

The PRIME MINISTER: An issue that was raised by a number of persons has to do with the continued existence of the Official Secrets Act and how it squares with what we're attempting to do in terms of the whistle blower provision. I indicated last week that I believe it was anachronism that needed to go. It is not so much in conflict because Section 4 does provide that a disclosure is not protected if the making of the disclosure is itself the commission of an offence. But in principle there certainly is an incongruity between what we're seeking to do here and the existence of the Official Secrets Act.

I just wish to advise, Mr. Speaker, that I've appointed a committee, with the approval of Cabinet to examine the Official Secrets Act and to recommend what should be put in place to provide such level of confidentiality as a government would need to operate. So that what I expect is that the Official Secrets Act will go and we will put in its place something that is more appropriate, that is not as restrictive, that allows to government to operate within the level of confidentiality that a government and certain levels of government would have to operate, but still allow for access to information and disclosure of information in those circumstances that do not undermine the essential need for secrecy and confidentiality. It matters, for example, to do with security and there may be matters to do with certain financial considerations and so on that may need to be treated in that way. I have asked the Committee to consider all of these factors and to make a recommendation.

The Committee as I said is going to be chaired by the Cabinet Secretary, AMBASSADOR DOUGLAS SAUNDERS. The other members of the Committee are the HONOURABLE MRS. SHIRLEY MILLER, Senior Legal Adviser and Consultant to the Minister of Justice on constitutional matters, DR. EILEEN BOXILL Q.C., Director of the Legal Reform Division DR. CATHY-ANN BROWN, Director of the International Affairs Division of the Ministry of Justice, MS. LOIS PARKES, the Acting Chief Personnel Officer, in the Services Commission and MR. WAYNE JONES, the President of the Jamaica Civil Service Association.

Questions were raised about the designated authority who that would be. I think the Member from Eastern Kingston indicated that this does not necessarily mean a new authority, and a new bureaucracy. A decision has not yet been made and the Committee did not actually make a specific recommendation. In the discussion I've had with the Minister of Justice, the thinking in terms of who that designated authority ought to be, is tending towards the Public Defender as perhaps the person who would best since, you're talking about the protection of a right. But as I say a firm decision has not been made on that, but of the various— and the good thing about it is that he is already a Commission of Parliament and he is protected by statute.

A point that was made by, again the Member for Eastern Kingston has to do with the ability of the Minister to make orders subject only to negative resolution. We have no objection to amending that and making it affirmative requirement.

The Member from Central Kingston, Mr. Speaker, raised a number of issues I'm going to try to respond to them quickly. He was concerned that this was seeking to make us into a nation of peeping toms, but quite frankly that is what Crime Stop is all about. That is what 1-888-CORRUPT is all about. You see wrongdoing, you see crime, peep; and when you peep and you see it, pass it on.

A MEMBER: Get some reward.

The PRIME MINISTER: I mean that is what the Press is there for. I mean the Press is there as a Peeping Tom to look to see what is going on that we want to be hidden and to determine within the laws that exist. So that it's something that quite frankly, I don't think we need to offer an apology for.

He suggested that the definition of employee is too wide. I think it's covered by section 2, where he said:

> "An employee means any person who in any manner assist or has assisted in the carrying on or conduct of the business of an employer."

And he suggested that that could be mean the postman who drop off letters at your business, or who takes mail from your business. I understand that, but at the same time it has to be wide enough to capture, for example, somebody who is physically in that place of employment but not as an employee, paid, somebody on work experience and they see something that ought to be disclosed and ought to be protected. A representative of NEPA or JAMPRO who is actually working with a particular entity or enterprise and sees wrongdoings - they're not paid, they're not employed to that enterprise, but they see wrongdoing. The intention here is to provide protection from occupational detriment, that's what it's seeking to do. The person may blurt out something, may report something, the investigation leads to nothing. All that we're seeking to do is look, if the person made it genuinely, in a responsible manner do not punish them because they made it. That's all that we're seeking to do, just to protect the person making the disclosure.

He was concerned as well at the failure, the requirement, the definition of improper conduct as one that involves, for example, failure to carry out a legal obligation. He said that that was too wide, and he said what it means is that if you break a traffic light you're failing to carry out a legal obligation. Again, well you know, you are trying to define legislation, you have to assume that there was a certain reasonableness and rationality that will prevail. Because if you don't make that assumption you are going to make it so circumspect and so tight that it excludes things that you would want to capture.

I give you an example. There is a legal obligation under the Child Care and Protection Act that for any person who sees a child being abused, neglected to report it. But that failure to report it is not an offence. It's a legal requirement that says, if you see it, if you know of it you are to report it. There is a legal requirement under the same Act for you to ensure that your children are given a proper education, but that's not an offence if you fail to do it. So if somebody reports on that, they're carrying out a duty, but if they fail to report they're not - well ... So in a situation

like that you are failing to carry out a legal obligation, you are failing to see to it that that child goes to school.

Mr. PERALTO: But no sanction.

The PRIME MINISTER: But no sanction. But what this will mean now is that somebody who discloses that, is going to be protected because it means an investigation may lead to the appropriate intervention to make sure that that child goes to school.

He was also concerned about the definition of criminal conduct - sorry improper conduct.

> "Conduct likely to threaten health or safety of a person"

and he said this was too wide. Again it has to be wide. You employ somebody to build your house, the person decides that he is going to use asbestos pipes in your house, there is nothing in the law to prevent that, you know. There is no regulation that says you can't use asbestos pipes. I mean I grow up next door to the asbestos factory, people used to use the asbestos pipes and make it - use that as columns in the houses. So if your builder is doing that he is not breaking the law, but he is impairing health and therefore the definition has to be sufficient to capture that.

He was concerned about miscarriage of justice, what does that mean how wide that is. Let me give you an example. If you make a disclosure about somebody who was assisting a person to leave the island, which person is supposed to be a witness in a case, I don't believe that you have broken any offence, you know. Here simply the man asked you to help him pay the airfare, but you know in doing it, it was because you wanted - he wants, or you want him - well he wants not to be here when the case is coming up. You are assisting him, that's a miscarriage of justice that you are assisting in. It provides sufficient latitude. Again, it goes only so far as to saying it doesn't determine what the outcome is, it only says when somebody makes a disclosure in that context, do not victimise him. You cannot punish him and if you punish him you are going to be held accountable to the law. That's all it is saying.

Damage to the environment, I spoke about that. No, well using asbestos for example, where the Member for - the whole Member for - the whole of Portland has abandoned us. The recent flooding that took place in Buff Bay and in sections of Portland, you know what caused it? The North Coast Highway. The Minister of Transport and Works will confirm. Bad engineering, bad design as a result of which one house was virtually washed away - when it was a month ago - two months ago.

Mr. SHAW: And with all the overruns and everything?

The PRIME MINISTER: Not talking about overruns now. I am saying in a case like that suppose somebody had made a disclosure? Suppose somebody is employed to the construction company know that what is happening is going to damage the environment, going lead to flooding and the person makes a disclosure, whether it is to the Minister of Works, or whoever, all we want to do is to say that that person must be protected.

A MEMBER: Stop right deh soh.

The PRIME MINISTER: Don't penalise them.

Discrimination based on gender, race, place of origin, I don't know how anybody could quarrel with that one. Because discrimination is not, in many instances, is not a criminal offence even though it is a breach of constitutional rights. And I say to the Member fro Central Kingston, for example, if you have a place of employment and the person - the man who is in charge of recruitment were to give instructions: We are not prepared to employ - please to understand - we are not employing anybody from Allman Town or from McIntyre Villa. The purpose of this is that if somebody is employed there and say, but that not right, I'm going to make a disclosure about it, the person must be protected. That's all that we're seeking to do.

(Applause)

Occupational detriment includes adverse reference and denial of appointment. That was a concern, so that nobody can speak the truth, because if you write that this person is not a particularly efficient worker, you run the risk of being accused of penalising the person because the person might have made a disclosure. I don't know how else to protect the person making the disclosure. If a case can be made that the reason why you wrote that negative reference is because the person has not performed and you show records to show that this man - I've warned this man several times. I mean that is what you do for example, in grievance procedures with the unions in the civil service, that you have to go through - you know, if somebody is denied appointment, somebody is denied a promotion and they raised an issue, there is within the industrial relations framework that you have a chance to have a hearing and so on. It is at that point, it's at the point now of the investigation that all of that is provided.

What constitutes a threat? Again the Member for Central Kingston was concerned about that. You know what constitutes a threat? When somebody makes a disclosure on you and you look on the person and say, 'listen nuh, you gwaan, watch me an yu, because I'm in a position in this company where if I don't approve it you can't get no promotion. As a matter of fact when bonus paid out at Christmas you watch me an yu.' That is what it - what it is saying here is you cant do that anymore. I mean, this is a whole new ball game that we are in.

Definition of making disclosure in a responsible manner. Section 5 says that if you make a disclosure it must be made in good faith, it must be made in the public interest. It's an employer's discretion to ignore any frivolous disclosure that is made. An employer can decide well, you have made the disclosure but I don't consider that what - the matter that you are disclosing is of sufficient importance to warrant an investigation. That's entirely within the remit of the employer. And if the offence is false - if the disclosure is based on some falsehood, misleading or reckless, as set out in section 23, remember that the person making that disclosure now takes a risk because that is a criminal offence. So when a person wants to buss on somebody, in bussing on somebody understand that if what you say is not true, if you know that it is not true but you're just seeking to create mischief you can be arrested and you can be put before the Court and you can be punished if you...

(Inaudible comment by a Member)

The PRIME MINISTER: Yeah, it's an offence in this Act.

Mr. WILLIAMS: That's right.

The PRIME MINISTER: Requirement to commit to writing, I spoke to that already because - so that people don't have to rely on memory.

Establishment of procedures over and above the statutory requirement, I already addressed that.

Disclosure to persons designated by employer deemed for the purpose of this Act, I remember using the Grace Kennedy example. Big companies - what you want to say is that if I say you must report it to Mr. Brown because I don't have the time to deal with it myself, then for the purposes of the law you have reported it to me.

There is one issue that I wrestled with since last week and that is the provision of section 10, which now says that somebody can make a protected disclosure by passing the employer, by passing the prescribed authority like the Contractor General and the Auditor General and the Police, you can go to anybody and disclose it. If you feel that there is no prescribed authority - like Contractor General who has responsibility for that particular conduct, and if you feel that you would be in jeopardy if you are to disclose it your employer, or if you feel that the evidence is likely to be destroyed if you disclose it to your employer, you can go out and you can bust it out. And that means that you can go to anybody, you can go to your church pastor, you can go to your neighbour, you can go to your friendly journalist and then a story can be published and you would be protected if you can demonstrate that in those circumstances you did not feel it was appropriate to go to your employer, or to go to a prescribed authority. Some concern was expressed about that and I thought about it since last week and I think that the concerns are well placed.

I think it's too wide, particularly because the media has a tendency to try to be the first one to publish, because this is a big story. So sometimes you publish first and you investigate afterwards and if a libel action is brought and you find that you are in a culpable position then you do a quick apology and retraction. But by that time the DNA is on you. I don't think that we can give that sort of wide licence and therefore we are proposing an amendment to section 10 which would say: If those circumstances obtain, if you are afraid of going to your employer because you feel you are going to be persecuted, or if you feel the evidence is going to be destroyed, if there is no prescribed authority like the police o the Contractor General who you feel has the authority to deal with this matter, then in those circumstances go to the designated authority, which is the designated authority that has overall oversight of this Act. And remember that we've already given the designated authority power to initiate investigation itself, power to request some other body to carry out investigation.

So if the designated authority in this case, if it is the Public Defender - and I just say that he is one of the authorities being considered - then if you're afraid to go to your employer, your boss man, you don't see no specified authority who has that particular area of responsibility and authority then you go to the

Public Defender. Go make your disclosure there and it would be protected.

So we are pulling back somewhat from what was approved in the other place. We have taken the trouble earlier on to pass to the Leader of Opposition Business, the draft... We have made some further changes based on the CPC. I hope you have the right version. You have this one?

(Mr. Kellier nods)

Just check and make sure it's this one for me. That's the one that we just got done.

Mr. KELLIER: Yes.

The PRIME MINISTER: If you got it within the last 15 minutes, that's the one. Yes.

The Member for Central Kingston had raised an issue which I commented on last week and I said we need to look at it, this business about no requirement for the designated authority to hold hearings. I pondered about it. But then on reflection, it is a standard provision. Because what it says:

> "it is left to the discretion of the designated authority if it feels that it is necessary to hold a hearing."

Suppose it feels that it is not necessary? So standard a provision it is, that it is the same provision in the Contractor General's Act, it is the same provision in the Political Ombudsman's Act, it is the same provision in the Public Defender's Act, that in conducting an investigation you are not obliged to have a hearing, you are not prevented from having a hearing. And it goes on to say that:

> "regulations shall be prescribed to guide how you conduct the hearing, if you decide to do a hearing."

And the Member was concerned as to when those regulations will be promulgated. I'm advised that they are fairly standard. Fairly standard procedures that apply in several other statutes, and therefore there should be no delay in having those regulations put in place.

Power of the designated authority to summon witnesses. Again, standard. The Contractor General has that power. The Public Defender has that power. The Political Ombudsman has that power, as the power of a Judge of the Supreme Court. If the political ombudsman decides to investigate a matter and says that you are to appear before him on Thursday, you fail to go at your own risk and peril because he has the power of the Judge of the Supreme Court. He can then give instructions for you to be arrested and be brought before a Judge.

Mr. SHAW: Misbehaviour in Parliament.

The PRIME MINISTER: Well, the Minister of Finance is suggesting that we need to extend that power for misbehaviour in Parliament. The only problem is I'm not sure if he would not be one of those! (Laughter)

So, Mr. Speaker, I think the discussions last week, perhaps caustic-toned though some of it might have been, I think the discussions have been helpful. I think that what we are proposing out of what we hope the House will accept, is an improvement to what was sent to us. And I hope that when it leaves here and goes to the other place as it will have to, since we are proposing changes to it, I hope that the wisdom of the changes that we are proposing, will find favour there as well.

I move second reading of the Bill, Mr. Speaker.

(Applause)

Mr. SHAW: Hear, hear!

The SPEAKER: Members, the question is that the Bill be read a second time. Put to the House and agreed to.

Bill entitled:

"AN ACT to encourage and facilitate the making by employees of specified disclosures of improper conduct in the public interest; to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct; to protect employees who make specified disclosures from being subjected to occupational detriment; and for related matters" ,

read a second time.

The SPEAKER: The House will now resolve itself into a Committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

The CHAIRMAN: Yes, Mr. Kellier, the copy...Go ahead.

Mr. KELLIER: We are at a slight disadvantage, Mr. Chairman, because the first copy that I got has been superceded by another version. And that version has not...

The CHAIRMAN: You have it now?

Mr. KELLIER: Eh?

The CHAIRMAN: Well, we could take our time if you...

The PRIME MINISTER: Hold it up let me see it. No, no, that's not it.

Mr. KELLIER: It's not it. No. I understand there is some printing problem or something like that. But we don't have a copy of that version that...And it is debilitating, because I was proceeding on the basis that that copy was the copy.

The CHAIRMAN: Is that the section 10 changes, ahm...? May I make a suggestion that we proceed with the other sections and then we come back to number 10. Is that okay?

The PRIME MINISTER: We could do it that way sir, yes.

The CHAIRMAN: And then we return to section 10 and then just finish it up at the end. Okay.

Clause 1 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 2.

The PRIME MINISTER: Now, Clause 2, Mr. Chairman, we are proposing on page 3, the deletion of the words, "performance of services which involve", and to substitute therefor, "carrying out any activity that involves..". So it would read,"Conduct that shows gross mismanagement, impropriety or misconduct in the carrying out of any activity that involves the use of public funds".

The CHAIRMAN: Members, are you *au fait*? You have seen that?

The PRIME MINISTER: These were circulated last week.

The CHAIRMAN: Okay.

Amendment as proposed put to the Committee and agreed to.

The amended Clause 2 put to the Committee and agreed to.

Clauses 3, 4, 5, 6, 7 and 8 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 9.

The PRIME MINISTER: Now, Clause 9, Mr. Chairman, consistent with the proposal made by the Member for East Kingston and Port Royal, we want to propose in subsection (2) to delete the word, *negative* and to substitute, *affirmative*.

The CHAIRMAN: There are some additional, Prime Minister...Clause 9?

The PRIME MINISTER: Pardon me?

The CHAIRMAN: Clause 9?

The PRIME MINISTER: Some what?

The CHAIRMAN: Clause 9. We're at clause 9.

The PRIME MINISTER: Yeah, that's the amendment for clause 9.

The CHAIRMAN: No, there are additional amendments.

The PRIME MINISTER: Clause 9. Oh, yes, I'm sorry. We are proposing...this from last week again...we are proposing the deletion of subsection (1) as it appears and to substitute a new subsection (1) which reads as follows:

> Subject to section 11, a disclosure made by an employee qualifies for protection where the employee
>
> (a) makes the disclosure to a prescribed person, and
>
> (b) reasonably believes that the conduct disclosed falls within the areas of responsibility of the prescribed person.

I'm sorry that I had overlooked that, Mr. Chairman.

The CHAIRMAN: There are two changes then, Members. Subsection (1) has been replaced, and also in subsection (2) we put "*positive"* instead of "*negative resolution"*.

Mr. KELLIER: No, it's not positive, it's affirmative.

The CHAIRMAN: Sorry?

Mr. KELLIER: It's affirmative. It's not positive instead of negative.

The CHAIRMAN: I'm sorry, affirmative resolution.

The amendments and deletions to Clause 9 put to the Committee and agreed to.

The amended Clause 9 put to the Committee and agreed to.

The CHAIRMAN: We now have Clause 10?

The PRIME MINISTER: Now, Clause 10 is the one that was just circulated today and I don't know if the Member is still without a copy?

The CHAIRMAN: I'm going to move to clause 11 and then we return to Clause 10.

The PRIME MINISTER: Okay.

Clauses 11, 12, 13, 14, 15, 16 and 17 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 18.

The PRIME MINISTER: Clause 18 now, Mr. Chairman, we had circulated an amendment for that last week. I don't know if I need to read it. It is pretty long.

The CHAIRMAN: It's a new Clause 18 to replace the present one.

The PRIME MINISTER: Yes, yes, and it...

Amendment to Clause 18 put to the Committee and agreed to.

Clause 18 as amended put to the Committee and agreed to.

The CHAIRMAN: I put Clause 19.

The PRIME MINISTER: Now, Clause 19, again that amendment was circulated - proposed amendment - was circulated last

week. And we had discussed, it.. Amendments to Clause 19 put to the Committee and agreed.

Clause 19 as amended put to the committee and agreed to.

Mr. KELLIER: Mr. Chairman, if we could just return slightly to 19.

The CHAIRMAN: Well, we can recommit Clause 19.

A MEMBER: We passed those already.

Mr. KELLIER: No, no, we nuh pass 19 yet.

The CHAIRMAN: No, we will commit clause 19. Go ahead. Ehm...

Mr. KELLIER: Okay. It says where the disclosure has been made to a prescribed person or a Minister, and (b) it says under the present Act the prescribed person or a Minister is not entitled to investigate the matter.

The PRIME MINISTER: I'm sorry, I'm not following the point.

The CHAIRMAN: No, the amendment, he's looking at the amendment.

Mr. KELLIER: The new amendment in Clause 19 (2)(a), I'm just wondering why, why is it, Prime Minister, that we are choosing to bring the Minister into this arrangement. Why isn't the Minister insulated from this activity, bearing in mind that, you know the Minister is a political figure at a different level? I don't know that we would want to have the Minister being involved at this level. Why should we consider bringing the Minister there? I think it's something we need to think about. I mean, the Minister needs to...

The PRIME MINISTER: What I'm being told that there was a typographical error, not in terms of the word but in terms of the placement. If you look at (b) "*under the provisions of this Act, the prescribed person or Minister is not entitled to investigate the matter disclosed*". The rest of it now should be brought back out to the margin because that governs (a) and (b). I'm not sure that that addresses the concern that you have raised. But remember that a Minister in certain circumstances can be the recipient of a disclosure. And that Minister also would have a responsibility to respond. And that response can either be, I think it is frivolous, and therefore, I don't propose to investigate the matter any further. Or the Minister can request that an investigation be done. Or the Minister can refer it to some authority that he feels would appropriately investigate thematter. I mean...

Mr. KELLIER: No, no, I hear you, but it says further here in (b) in the same Clause 19, subsection (2)(b) on Page 6. It goes on to say that the Minister or to whom the disclosure was made shall forthwith refer the disclosure to such other prescribed person or Minister.

The PRIME MINISTER: Yeah.

Mr. KELLIER: So the Minister is passing the thing to another Minister to, you know...

The CHAIRMAN: To the right Minister.

Mr. KELLIER: I'm just trying to get why we have to involve the Minister.

The PRIME MINISTER: It could very well be that a complaint, for example, has to do with a matter - the power - authority to deal with, investigate, get information, may rest with, for example, the Minister of Finance. And all that this is saying is that in

such a case, the Minister who receives that disclosure has a duty to refer it to the Minister of Finance. I mean, that's all that this is really saying.

The CHAIRMAN: Okay.

Mr. JACKSON: But Prime Minister, in an instant like that - to take your argument a little further - that it is being to the Minister because he has, he or she has investigating function, you wouldn't necessarily specify to the Minister.

The PRIME MINISTER: No, but remember, remember that the way in which the Act framed the process for making the disclosure, it says that that disclosure is protected - if you make it to one of the persons permitted in the Act and you reasonably believe that that person had the power and the authority to deal with, so you may make a mistake.

Mr. JACKSON: Okay. Okay.

The PRIME MINISTER: But you reasonably thought that this Minister could deal with it, but the Minister really has to refer it to somebody else.

The CHAIRMAN: Okay, I think we had passed 19, so we'll move to...

I put Clause 20?

Put to the Committee and agreed to.

Clauses 21, 22, 23, 24, 25, 26, 27, 28 and 29 put to the Committee and agreed to.

First Schedule put to the Committee and agreed to.

Second Schedule put to the Committee and agreed to.

The CHAIRMAN: I put the Third Schedule.....

Rev. THWAITES: Chairman....

The PRIME MINISTER: Sorry, there is an amendment to the Third Schedule.

The CHAIRMAN: Yes, Prime Minister. I'll come to you, Reverend Thwaites. The Third Schedule, there is an amendment.

The PRIME MINISTER: Yes. But this is more a technical amendment because I don't recall it. Delete from subparagraph 1 the words "*officer or member of a public body or any other*". And the words ..... Can I just consult quickly on this?

(Prime Minister seeks advice)

Mr. Chairman, what I am advised is that in the printed draft, and which was approved elsewhere, if you look in paragraph 2 of the Third Schedule, it speaks about ....."*The designated authority may, at any time, require any officer or member of a public body, which restricts the designated authority to public bodies"*, when the Bill in fact applies to public and private bodies. And, therefore.....I think it was just lifted out of some other piece of legislation, so it's really a tidying up process.

It would be, designated authority may, at any time, require any person, whether its an officer of a public body or a private person, a designated authority will have that broad power.

The CHAIRMAN: Yes, Reverend Thwaites.

Rev. THWAITES: Chairman, I am very concerned about paragraph 3 of the Third Schedule.

The PRIME MINISTER: Of the First?

The CHAIRMAN: The Third.

Rev. THWAITES: The Third Schedule.

The CHAIRMAN: Page 21.

Rev. THWAITES: Subsection (2). I pointed it out last week, but it hasn't been referred to.

> "If any report of the designated authority reflects adversely upon any person the designated authority shall, so far as practicable, inform that person of the substance."

The CHAIRMAN: Which section is this?

Rev. THWAITES: It's the Third Schedule, section 3, subsection (2), bottom of page 21.

The CHAIRMAN: Oh, yes, yes.

Rev. THWAITES: My concern is that, on reading this Act and coming to this particular point, a person can be reported upon to a designated authority, who may or may not hold an enquiry, yes, and who may come to certain conclusions regarding adverse conduct, and only after that happens, yes, is he under any obligation so far as practicable, to inform the person who has been reported on of the substance of his report. That cannot be correct, it breaches *audi alteram partem*.

The PRIME MINISTER: Might I suggest though, Mr. Chairman, two things. Firstly, this is a practice very similar to the way in which the Auditor General operates. The Auditor General doesn't conduct a hearing when they are investigating a matter. They investigate, on conclusion of their investigation they prepare a draft Report and they present it to the accounting officer and say now, this is my report which I intend to file, if you have any comments that you would like me to take into consideration before finalizing it.

Plus in addition to that, under this Bill, under this Act, when that designated authority makes his Report to Parliament, he cannot reveal the names of persons. He can speak about cases and what was done, but he cannot publish the names of the person. So that there is added protection there from anybody who may feel that the actions of the designated authority maybe injurious to them.

Rev. THWAITES: Remember, Mr. Chairman, that the designated authority may or may not conduct any enquiry. In the case of the Auditor General, I think that comparison limps, because the Auditor General is in fact carrying out a forensic examination of the accounts of a particular agency, that is his or her remit. This is a far wider situation, and it seems to me that it behooves, in the interest of fairness, that a person who is reported upon at the very earliest stage, in circumstances which will not prejudice the investigation, is nonetheless informed of that which is said about them, before any conclusion or any report is prepared.

The PRIME MINISTER: I invite the Member again. The designated authority may, within that place of employment, say to an authority, a employer there, 'look, I investigated this matter and this is what I found in relation to a member of your management staff, that is directly. But if you look at section 21, subsection (4):

> "The designated authority shall, within six months after the end of each year or within such longer period as the Minister may in special circumstances approve, cause to be

made and transmitted to the Minister a report dealing generally with the activities...”

Subsection (6):

The designated authority shall not disclose in a report under subsection (4) any information that would directly or indirectly identify any person who has made a disclosure under this Act, or a person about whose conduct a disclosure was made”.

I don’t know how much protection we want to give.

Rev. THWAITES: Chairman, I think much more. Because that reporting to the Minister and to Parliament speaks about a formal omnibus reporting. If the Prime Minister will pay attention to subsection (4) of the same Third Schedule on page 22, he will note that the designated authority, if he finds during the course of an investigation or on conclusion thereof - and remember he doesn’t have to have one - that there is evidence of a breach of duty, he goes and reports it to the person who is competent to take such disciplinary action. This having come to an adverse conclusion before he is obliged to tell the person who is reported on. This is unacceptable.

The PRIME MINISTER: I disagree completely with what the Member is asserting. What the Member is seeking to suggest is that in dealing with matters of disclosures we should institute a preliminary enquiry, where you have an opportunity to determine whether or not you should really be sent for trial.

If that report is made to the relevant authority that had disciplinary power over that person, that is where the question of your right to be heard before a decision is made, that is where that comes in. But you can’t demand that the person has a right to be heard before you institute proceedings against them, it is in the proceedings that you have that right.

Rev. THWAITES: Of course, the proceedings as we have been told so amply so far need not necessarily take any formal aspect, yes.

I just see this, you know, as being open to such challenge that it may well erode the important and acceptable principle of the legislation, yes, and I am obliged to point it out as clearly as possible at this stage.

The drafting in this respect with all appreciation for what has been done is inadequate.

The CHAIRMAN: The only thing I would say though, Mr. Thwaites, is that it may well be that the designated authority would have investigated, found nothing and the time would have been wasted. But I don’t think the person to whom the disclosure has been made against would suffer any harm, because until the report is made there is no penalty.

Rev. THWAITES: Really not, no harm, in this society? With the capacity that we have, which has been well acknowledged in this very debate, of carrying suss, of creating impressions about people.

The CHAIRMAN: But it cannot be disclosed.

Rev. THWAITES: Not sustained, even with the right to know that which has been reported on you, sir?

The CHAIRMAN: Okay, anyway. I put the amendment to.....

The PRIME MINISTER: The matter requires a little bit more effort to clarify.
Let's use a practical example.

Remember that this thing applies to public and private sector bodies. Somebody makes a disclosure to the designated authority that I see something going on in my workplace involving Mr. So and So, that is not right. The designated authority investigates the matter. The designated authority then sends a report to the head of that entity, whether it's a private sector or a public sector body, to the Managing Director or to the Permanent Secretary, and said I received this complaint, I conducted this investigation, this is what I found, I am referring it to you now for you to take action, because I, the designated authority don't have any power to discipline the person, you have that power. I am referring it to you now, not telling you what to do, but telling you what I found, you must now exercise your authority.

What the Member for Central Kingston is suggesting is that before you investigate and before you report it to the Permanent Secretary, you must have a discussion with the person that you are investigating, you must give them a chance - you are not punishing them you know, this is no terminal decision you are making - you are to entertain a discussion with them and give them a chance to rebut what you are saying. That chance will come when the matter reaches the Permanent Secretary or the Executive Director or the Managing Director. When he says now, 'look, I got this report from the designated authority, what do you have to say about it? It is at that point now that your natural justice rights must be clearly defined and clearly protected. But I mean, I can't.....otherwise, it's not quite there but it's almost suggesting that look, you can't investigate anybody unless you consult with them. Sometimes the investigation may require that the person don't even know that you are investigating.

Mr. PICKERSGILL: But what harm would be done?

Rev. THWAITES: Even on the Prime Minister's, even on the Member's description of that scenario, yes, where is it in the Act that there has to be this tripping in of natural justice, at what stage, where is that explicit? Adverse conclusions can be come to, can be arrived at long before the person is called in.

Mr. PICKERSGILL: Yes.

Rev. THWAITES: And it is not to say, it is to trivialize the point I am making to say that you can't enquire into a question of conduct before you confront a person with it. One is talking about a statute that goes to the very heart and it's so broad in its application, yes, that it is going to affect the repute and the conduct. It can be used for salutary purposes, it is open to mischief, and where you do not have any opportunity, an early opportunity to be confronted with that which you are accused of, reported of, especially given the breadth for conduct that has been adverted to earlier - I don't need to repeat that from last week - it goes too far in a direction. And I am

really asking for more consideration of this, I think we can be tighter.

Mr. PICKERSGILL: What harm would be done if it is investigated, that first instance?

The PRIME MINISTER: Because you are going to make the thing so cumbersome. What you are asking for is for some sort of hearing to be conducted before you make a complaint because that designated authority, when he files that report, whether it is to the Managing Director of a company or it is to the head of a statutory body, that report that he is filing is nothing more than a complaint to the Permanent Secretary that look, I got this disclosure, I did this investigation, this is what I have found, it's now in your own hands to go and conduct your own investigations and take action.

Mr. HYLTON: Prime Minister, Prime Minister....

The PRIME MINISTER: It's a complaint that is being placed. Because the designated authority has no power to say suspend the man, fire the man, it has no such power. It can only place before the authority of that body its findings based on its investigations done from a disclosure that was made.

Mr. HYLTON: Prime Minister is there any limitation at all, on the timeframe in which this investigation can be carried out?

The PRIME MINISTER: Let me just check. (Prime Minister consults with Member) There is no limitation. I know that a person who makes a disclosure to an employer, for example, if the employer doesn't take any action on it within 30 days he is then entitled to go elsewhere with the disclosure. But there is no time limit on the investigation itself.

Mr. HYLTON: Because the mischief here, Prime Minister… you see, the mischief here is that if… once started and it's being in some sense - in any sense acted upon, then you can have without there being a requirement for this to be brought to an end, a sort of niggling, slow leaking. And these are the risk factors in a work environment.

The PRIME MINISTER: Yes, but with the greatest of respect, if we are going to be so apprehensive about the reckless conduct of a designated authority, how the devil do we clothe any of these people with authority? How do you say to a public defender, "*we are charging you with this power*", or say to the Contractor General, "*we are giving you this authority*", if we feel that that kind of authority is going to be so reckless in their exercise of that authority to be abusive? I don't know how we do it.

Mr. HYLTON: No, Prime Minister. Prime Minister, the issue is, that having invested that authority, what are the reasonable limits that we impose on it? Because these are all human institutions.

The PRIME MINISTER: We are not imposing any limits, because who are we to tell whether an investigation can be completed in two weeks, or it requires two months. But that designated authority is going to be answerable to Parliament. If it is the Public Defender, that designated authority is a Commission of Parliament. Parliament can summon that designated authority any day, and say, sit down there and account to us for what you have been doing and how you have been exercising your power. But we can't - I

don't know how we are going to spell and guess, and cross the 't' here and dot the 'i' here.

Mr. HYLTON: In the one instance, Prime Minister, that you pointed out, we've made the judgment that within 30 days, if it is not acted upon - the person comes to the conclusion that it is not acted upon then he can go elsewhere.

The PRIME MINISTER: Elsewhere means to the designated authority. He can't go beyond the designated authority. The amendment to 10 which we haven't taken up yet, puts the protection on disclosures at the designated authority. If you go beyond that… you have the employer, you have the prescribed authority, you have the designated authority, if you go beyond that you are on your own. Not that you can't disclose but you won't have the protection of this Act, if you go beyond that.

Mr. PICKERSGILL: It sounds like the designated authority... (Inaudible)

The PRIME MINISTER: Is a..?

Mr. PICKERSGILL: Glorified... (Inaudible)

The PRIME MINISTER: But you know, it was not in the original draft Bill, it was the Committee - the Select Committee that considered it. Remember there was a Member who felt that that you can't leave these kinds of statutory activities without some oversight, and somebody to be held accountable to Parliament for how this thing works. And it was at the Joint Select Committee that this designated authority was introduced. I think it is a good idea, because I think that the concerns that are being expressed now would have been far more severe if we didn't have that provision that says, hey, there must be somebody there who can make sure that the thing is not abused.

Mr. HYLTON: It does ameliorate you, Prime Minister, but it doesn't fully address, I think, the concern in the environment and the context in which we operate.

The PRIME MINISTER: I think if you want to make it unworkable it's to say now, look, the designated authority gets a complaint - gets a disclosure, the designated authority decides now, I am going to check out this thing to see whether or not I should file a formal complaint with your boss. But before I can file the formal complaint with your boss, I have to give you a chance to give me your response to the complaint that I am going to file with your boss.

A MEMBER: So, what's wrong with that…?

The PRIME MINISTER: I don't know of any other situation where that operates. That's poppy show. Where else do you know that somebody has to consult with you before they can make a complaint against you? We are not talking about punishment now, you know. We are not talking about any sanctions, we are saying making a complaint. And you are saying you cannot make a complaint against the person unless you consult with the person.

A MEMBER: No, no!

The PRIME MINISTER: That's what you are saying?

Mr. PICKERSGILL: No, no!

The PRIME MINISTER: Of course, that's what you are saying. Because the report

of the designated authority is nothing more than a formal complaint, but coming from a high authority. And when that report goes before the Permanent Secretary or the Managing Director, it can end there. The Managing Director can say, well, I have got this thing from the designated authority, I really am not impressed with all this wonderful investigation he has done, I decide I am not taking the matter any further. That's the decision. Or, he can say now, look, this thing could bring my company into disrepute or this thing smacks of corruption, I don't want to have anything to do with that. I am going to institute my proceeding.

And at that point, if it is a unionized place, he may be told that there are grievance procedures you have to go through. If it is civil service, there are established civil service rules where the person has to be given a chance to defend himself. All of that trips in at that stage. But you don't want to trip that in at the point where the complaint is being made. I don't know of any other situation where you have to get the agreement of the person who you are making the complaint about before you make the complaint.

Mr. HYLTON: Prime Minister, finally, I just ... can I… Prime Minister… Prime Minister…

(*Sotto voce* comment)

Mr. HYLTON: Prime Minister, just asking a question. Does any of this form a part of the personnel file of an individual?

Rev. THWAITES: It must.

The PRIME MINISTER: That would only be dependent on what are the rules in the particular organization. There is no requirement in here that it must be put on your file, but in the civil service, for example, something like that would go on your file. In certain companies, the way they operate their human resource management, it would go on your file. But you don't want to go and impose that because you may be complaining about somebody who is employed in an institution where they don't keep files, but you still want them to - the person who makes the disclosure in that organization to enjoy the protection of the law. That's what you want.

Mr. HYLTON: I am concerned here, Prime Minister, on two fronts. Both the person who makes the complaint and the person complained against. Because if it forms part of the file of the person being complained against, that too, is a problem.

A MEMBER: Of course.

Mr. HYLTON: So, it is not just from the perspective of the person who is...

The PRIME MINISTER: But...I am trying to see if I can understand what it is that right now, without any of this, letters can go into - letters go in to ministries, agencies, departments of government complaining about members of staff. I get a few of them sometimes, how badly treated somebody was when they went to this government department. I send it to the head of that department if it is in my Ministry. I send it to the Permanent Secretary if it is another Ministry. What they do with it, I don't know. They may put it on the file. They may not.

Mr. HYLTON: What they're doing now, Prime Minister… what they doing now is - what we are seeking to do now is to clothe this with statutory protection. That is the further step. We are investing it with statutory protection now.

The PRIME MINISTER: If a complaint is made that somebody employed in this department is involved in corruption, that's the complaint. The complaint is investigated, whether by the employer or by the prescribed Contractor General, or by the designated authority, and the matter is found that the person is involved in corruption, why shouldn't that go on the file? And, if the investigation proves that there is absolutely no truth in it, then why shouldn't they put on the file that I got this complaint, it was thoroughly investigated and it was found to be baseless. Right now, it can go on the file anyhow. There is nothing in this that requires it to go on the file, nothing requires it.

Rev. THWAITES: What it does though, sir, is it adds an entire pedigree to a report. Secondly, if the report is made to the employer, for example, the employer is a sanctioning agent, yes, and he is faced with a complaint, he is faced with something that has gone through a process that is sanctioned by law but which does to have any input, any knowledge of the person who is affected.

The PRIME MINISTER: You know, Mr…

A MEMBER: It's called a whistle blower legislation.

The PRIME MINISTER: Mr. Chairman, I am sure I am not the only one who...

Mr. SHAW: …alert the suspect first?

Mr. M. PEART: What kind of whistle blower legislation?

(Cross talk)

The PRIME MINISTER: I am sure that I am not the only one...

(*Sotto voce* comment)

I am sorry... use the mike nuh man, so that I can hear you.

Mr. PICKERSGILL: The whistle blower, if he or she... they can't say that they have made specific.

The PRIME MINISTER: They can't say what you mean?

A MEMBER: Is any rule required to...

The PRIME MINISTER: No, no, except that if they make it outside of what is provided for in here, they are not protected. And right now, they can make it anywhere. They have no protection now. If you make it outside of what is provided for in here, which is to your employer, the prescribed person, and the designated authority, you are free to do it as you are now, but you won't have the protection of the law. So, if somebody decides to fire you because you run and plaster their name over the newspaper, they won't be able to claim protection from being fired because of that disclosure.

(*Sotto voce* comment by Mr. Pickersgill)

The PRIME MINISTER: But if they do that…but they can do that right now. All I am saying is that if they do that after this is passed, they are no better off then than they are now. They do not have any protection in law from any action that is taken against them. It is when they do it in conformity with what is provided here that they will enjoy the protection.

(*Sotto voce* comment by Mr. Pickersgill)

The PRIME MINISTER: Yes.

(*Sotto voce* comment by Mr. Pickersgill)

The PRIME MINISTER: I think we are down to the point of arithmetic resolution.

A MEMBER: Chairman...

Mr. SHAW: You know what arithmetic resolution means? No wonder you mash up the ministry.

The PRIME MINISTER: Let me just have one last word on this.

(Cross talk/Laughter)

The PRIME MINISTER: Let me just say one last thing. I am not the only one here, who has serious difficulty - serious difficulty with the inconvenience of air travel. I mean, the kind of indignity that passengers have to go through to travel nowadays, but it is argued that it is necessary, in view of the dangers to which air travel has been exposed. There is no discomfortless way to tackle the problem of corruption. There is going to be discomfort.

A MEMBER: Yes.

The PRIME MINISTER: The question is whether or not the goals that we are seeking to achieve are sufficiently compelling to outweigh the discomfort that we have to...

Rev. THWAITES: So the end justifies the means?

The PRIME MINISTER: Which of us... which of us enjoys…

Rev. THWAITES: The end justifies the means?

The PRIME MINISTER: Which of us enjoys the headache? Because it is headache.

Rev. THWAITES: Really!

The PRIME MINISTER: I mean, I know - we are at a time of year now where all of us gwine have to start, if we haven't done it already.

Rev. THWAITES: Oh really?

The PRIME MINISTER: It takes me a lot of time to chase down every insurance policy that I have, and everything to make my integrity declaration. And sometimes, it takes me two weeks, three weeks, and I have to be calling this one, I haven't got the information yet.

(*Sotto voce* comment)

Mr. PICKERSGILL: I am glad you say that because it takes a lifetime. It takes no time to tarnish that integrity.

It takes no time to tarnish the integrity and then go talk that they disclose.

The PRIME MINISTER: Hold on nuh…but that's the price we have committed to pay because it is important to try to strengthen and to preserve the integrity of the office that we hold. You can't get away from these things.

(*Sotto voce* comments)

Mr. HYLTON: Prime Minister… Prime Minister…

The PRIME MINISTER: What's that?

(*Sotto voce* comment)

The PRIME MINISTER: Well, you must at least acknowledge that up until last week now, you would have a right, even at first instance, to bypass the employer, the Contractor General, the designated authority. You would have the right if you felt sufficiently strongly that you would be punished, or that evidence was going to be destroyed, you could go straight to a media house and say, I have a suss to give you.

Mr. HYLTON: Prime Minister…

The PRIME MINISTER: We have sought to restrict that now and say, no, you can't do that, go to the designated authority.

The SPEAKER: Miss Hanna wanted to ask a question.

Mr. HYLTON: Prime Minister. ..

The **CHAIRMAN:** No, hold a second. Miss Hanna.

The CHAIRMAN: Miss Hanna wanted to ask a question.

Mr. HYLTON: Prime Minister...

The CHAIRMAN: No, hold a second. Miss Hanna.

Miss HANNA: Prime Minister, just to be clear. If I am a complainant and I have a problem with my employer, and I go to the designated authority. After making that complaint, does the designated authority notify the employer that this has been made, so that the person can actually have a defence?

The CHAIRMAN: No!

Mr. PERALTO: No!

Miss HANNA: And the reason why I ask is - the reason why I ask is because in the normal procedures of...

Mr. PICKERSGILL: Natural justice.

Miss HANNA: ...natural justice and law, if someone files an affidavit, you are advised and you defend the claim. But in this instance, will that take place?

The PRIME MINISTER: Yes, that's exactly the point I am making. The affidavit is filed when the designated authority makes the report to the place of employment. What the Member for Central Kingston is saying is that before you make that complaint, before you file that affidavit, the person that you are complaining against must get a chance to determine whether or not the complaint should be lodged. I mean, that's the essential...

(*Sotto voce* comments)

The PRIME MINISTER: Can I go further to say that the person who is conducting the investigation, whether it is the employer, or it is the prescribed authority like the Contractor General or the police, or the designated authority, does not have to disclose the source of the complaint, the disclosure. They can come and say, now, look, I have a report that this is the racketeering that is going on here. I have a disclosure. Where you get the disclosure from? That's not your business, that's the disclosure I have - I want to see the following things. I want to get information. I am investigating the matter. This thing is not a business where you want to pit an employee against an employer, then after you finish your investigation and you submit your report, how you think that employer and employee going to live? But you want to make sure that if the employer discovers that it was this little rascal who made the disclosure, and decides now to punish him, that person can claim protection. So if you are fired, you can get compensation. That's what we are intending to do. To make sure that in making a disclosure for right doing, a person is not exposing themselves to what is defined in the law as occupational detriment, meaning, you lose your work, or you don't get the promotion.

Miss HANNA: Prime Minister, just a follow up. How will you therefore guard against - let us say while the procedure is going on and this person who is making the complaint decides that because they are under the coverage of the law, can actually go out

and make overt statements in the media and other places?

The CHAIRMAN: Then they are not protected.

The PRIME MINISTER: Well, look at that happens now...

Miss HANNA: Media, I don't mean television, radio and print, you know. I mean in other circles, media or other circles.

The PRIME MINISTER: Yes, but Miss Hanna, look at what happens now. I have a letter on my desk from the Contractor General, who says I received a complaint from an unnamed source. Now, whether it is unnamed to him or it is being unnamed to whomever he writes to, that so and so and so - and I wish to advise you that I am launching an investigation into the matter. I don't know the source of that disclosure. I don't know it.

Rev. THWAITES: No. That's right.

The PRIME MINISTER: He is not getting in touch with the people who are involved, to say now, look, before I conduct my investigations I am seeking your view on the matter. He is jolly well going to start issuing requisitions left, right and centre.

Rev. THWAITES: He will bring it to you. You are the person.

The CHAIRMAN: You wanted to ask another question, Mr. Hylton?

Mr. HYLTON: The Prime Minister made the point that it is the goal - if the goal justifies the means - and I said there are two parts...

(*Sotto voce* comments)

...there must be two parts to the test. Bobby!

A MEMBER: You can't hear.

The CHAIRMAN: You are still querying the section? Mr. Hylton....

Mr. HYLTON: That's all right.

The CHAIRMAN: Okay. Let me put it. I put the amendments to the Third Schedule. There are four amendments to the Third Schedule.

Put to the House and agreed to.

The CHAIRMAN: I put the Third Schedule as amended.

Put to the House and agreed to.

The CHAIRMAN: I now return to Clause 10.

The PRIME MINISTER: Section 10, Mr. Chairman, was intended to achieve what I just alluded to. Section 10 was the section that allowed you - it's important to look how wide it was, because it was the concern that was expressed by the Member for Central Kingston that caused us to have another look at it. Section 10 says, a disclosure made by an employee to a person other than the employer or the designated or the prescribed authority or the Minister, in those cases where disclosures are to be made to Ministers, will still be protected, if at the time of the disclosure the employee reasonably believed that he would be subject to occupational detriment if he were to make the disclosure to any of those persons. If there is no prescribed person, in relation to the relevant improper conduct, or if the employee making the disclosure has reason to believe that it is likely that the evidence will be destroyed if he makes it to any of those persons, then he can go beyond them to any person, whether a journalist, anybody, and he can disclose it to them and he would have been protected.

We are saying no, we can't - because you see, the Bill imposes certain duties and responsibilities on those - the employer, the

prescribed person/designated authority. But once you go outside of that now, you are going to be disclosing to people that the Bill has no ability to monitor or to regulate. So we are saying if none of those can work if these conditions apply, then, in those circumstances you go to the designated authority.

And if you look at section 21, it says that:

"The designated authority shall..."

Have power -

"...where it considers it appropriate to do so -

(i) initiate an investigation;

(ii) take over an investigation, or

(iii) authorize a body to undertake in whole or in part an investigation."

So it has investigative powers. And in those circumstances it is not obliged to investigate. This is something that I think everybody is ignoring. When you get a disclosure, you may look at it and it may look so frivolous that you have the right to decide that you are not going to investigate this matter. On the other hand, if you feel that it involves some serious matter that could involve corruption, you have the authority to investigate it. And in all of that, the person who makes the disclosure is protected, unless it is proven that the person made that disclosure recklessly, knowing that it was not true, that it was based on falsehood, in which case, they are liable to conviction and to punishment under the law. I mean, I am surprised at the tediousness with which we are seeking to make what I think is an important advancement to deal with corruption.

The CHAIRMAN: Okay. I put the - Mr. Kellier, you wanted to make another comment?

Mr. KELLIER: The amendments are proposed to section...

The CHAIRMAN: Ten.

Mr. KELLIER: Ten. It says here at the bottom of the page "Delete the fourth line of subsection (2) of section 10, and substitute therefor paragraphs (a), (b)

The PRIME MINISTER: Let me help a little bit. In subsection (1) we are saying -and if look at it - all of us don't have a copy of the amendment.

Mr. KELLIER: Yes, I know.

The PRIME MINISTER: So if you look at what is there now in subsection (1), it says, subject to subsection (12) - and we are taking out everything else that appears there up to the word - up to where you get to (c), you are with me? We say subject to section 12, a disclosure may be made by an employee to the designated authority, if it is reasonable in all the circumstances of the case to make the disclosure, and any of the following circumstances applies, namely - and that's when we go down to what is now (c). So we are leaving out (a) and (b). You are following me?

Mr. KELLIER: Yeah, okay.

The PRIME MINISTER: And we say (c), at the time of the disclosure the employee believed - same thing that I read out a while ago - that he would be subject to punishment or victimization, that the evidence might be destroyed, and so on. And since we are doing that - in other words, since it's now the

designated authority, we don't need to ring it with as many conditionalities as were there before. And then when you get to subsection (2), where we were requiring that in making the disclosure to this external party, you needed to have the identity of the person to whom the disclosure is being made, but we are now saying the disclosure must be made to the designated authority, so we don't need to require that to be stated. So we are dropping out (a) of (2), paragraph (a), and we renumber everything else, (b), (c), (d, (e), (f), (g), (h). And then the references in subsection (3) are changed. Since we are changing the lettering, we are changing those references accordingly. That is the purpose of - yeah.

Mr. KELLIER: Well, you see, it was just a bit confusing, Prime Minister, when you said, delete the fourth line and substitute paragraphs (a),(b), (c) and (d, and then you put...

The PRIME MINISTER: That's on page 8.

Mr. KELLIER: And then we go around and say delete paragraph...

The CHAIRMAN: No, it's a consequential thing, you know.

Mr. KELLIER: Eh?

The CHAIRMAN: It's a consequential thing of having done so.

The PRIME MINISTER: It's consequential. In other words, you are deleting the paragraph - the line that has paragraph (a), (b), (c), (d), (e), (f), (g), (h)...

Mr. KELLIER: Yes.

The PRIME MINISTER: …because you are going to be changing those letterings. So you are deleting that and you are replacing that.

Mr. SHAW: Deacon, you gone? (Referring to Mr. Thwaites)

The PRIME MINISTER: And then paragraph (a), now, which you are deleting, which is why you had to change that fourth line...

Mr. KELLIER: Okay.

The PRIME MINISTER: Okay? So it's really a renumbering exercise.

The CHAIRMAN: Okay. Now, I put the amendments to Clause 10, it's a deletion of subsection (1) and also a further amendment in Clause 2. So there are three (3) amendments to Clause 10.

I put the amendments to Clause 10.

Put to the Committee and agreed to.

Clause 10 as amended put to the Committee and agreed to.

The Title and Enacting Clause put to the Committee and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed Committee Stage with twelve (12) amendments.

Put to the Committee and agreed to.

RESUMPTION

The SPEAKER: I do report the Bill as having passed Committee Stage with twelve (12) amendments.

Prime Minister.

The PRIME MINISTER: Mr. Speaker, I beg to move third reading of the Bill.

The SPEAKER: The question is that the Bill be read a third time.

Put to the House and agreed to.

Bill entitled:

AN ACT to Encourage and Facilitate the Making by employees of specified disclosures of improper conduct in the

public interest; to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct; to protect employees who make specified disclosures from being subjected to occupational detriment; and for related matters,

read a third time and passed.

The SPEAKER: Bill passed.

House Leader.

Mr. HOLNESS: Mr. Speaker, one housekeeping matter, which is the recommittal of the item, Bills Brought from the Senate.

The SPEAKER: The motion before the House is for the suspension of Standing Orders to allow for the recommittal of the item, Bills Brought from the Senate.

Put to the House and agreed to.

RECOMMITTAL OF BILLS BROUGHT FROM THE SENATE

The following is a message from the President of the Senate:

To the Honourable House of Representatives:

I have the honour to advise the Honourable House of Representatives that on the 28th day of January, 2011, a Bill entitled An Act to Amend the Minimum Wage Act, was passed in the Senate without amendment.

And a Bill entitled An Act to Amend the Deposit Insurance Act, was passed in the Senate with five amendments, for which the Honourable Senate desires the concurrence of this Honourable House.

Amendments -

In Clause 6, delete subsection (a) in its entirety.

Clause 7 in the new 18A(2), insert next after the words:

"weighted average" the word "selling".

In the new 18C(1)(a), insert the words "*trust or nominee relating to the*" before the words "*deposit account*".

Delete the new 18C(3) and substitute therefor the following:

The trustees or the nominee, as the case may be, shall indemnify the policyholder in the event of any illegal proceedings relating to such records which do not comply with subsection (2)(c).

And in Clause 8, delete the new 19A(2) and substitute therefor the following:

A depositor who is paid in accordance with subsection (1) may access his insured deposit payment from a branch location of the other policyholder who holds the transfer deposit or in accordance with terms of the deposit account agreement entered into between the other policyholder and the Corporation.

The SPEAKER: Mr. Shaw.

Mr. SHAW: Mr. Speaker, could I ask for the approval of these amendments.

The SPEAKER: Members, you have heard the amendments as proposed from the Senate.

Put to the House and agreed to.

The SPEAKER: The Amendments are approved.

House Leader.

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business today.

But before I move for the suspension, I want to remind Members that we sit tomorrow. Last week Wednesday we had a very interesting debate, where we had a high level of participation of the Members who attended. Tomorrow, we will be debating Private Member's Motion Number 15, standing in the name of the Member from Central Kingston. We will also have other matters, but that will be...

The SPEAKER: Standing Orders.

Mr. HOLNESS: And the Standing Orders, if the Member from North East St. Catherine is here. So I am encouraging Members, reminding Members to be here for tomorrow.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, with that said, I now move that the House do adjourn until the 2nd of February.

The SPEAKER: The motion before the House is that this Honourable House do adjourn until Wednesday, the 2nd of February, at 2:00 p.m.

Put to the House and agreed to.

The SPEAKER: This Honourable House stands adjourned.

The Honourable House of Representatives was adjourned at 6:56 p.m. to reconvene on Wednesday, February 2, 2011, at 2:00 p.m.

WEDNESDAY, February 2, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:30 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Planning and Development and Defence.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

OLIVIA ATAVIA GRANGE, (JLP), St. Catherine, Central, Minister of Youth, Culture, Sports and Culture.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

OTHER MEMBERS

MR. LUTHER BARTLEY MONTEITH BUCHANAN, (PNP), Westmoreland, South Eastern.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. ANTHONY GEORGE HYLTON, (PNP), St. Andrew, Western.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MRS. NATALIE NEITA-HEADLEY, (PNP), St. Catherine, East Central.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

MR. DERRICK CHARLES SMITH, (JLP), St. Andrew, North Western.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern

PRAYERS

Prayers were offered by Mrs. Sharon Hay-Webster.

The House resumed its sitting at 2:10 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this afternoon we would like to welcome all the persons sitting in the Gallery. Please enjoy the sitting of Parliament this afternoon. But, kindly check on your cellphones to make sure that they are on vibrate or off so that you do not disturb the sitting of Parliament.

I would just like to emphasise to parliamentarians too, that you are not to be speaking on your phone during the sitting of Parliament. Yesterday when I took a break Dr. Ferguson was speaking and the Member sitting beside Dr. Ferguson - I am watching the TV while I am taking the break, and saw the Member from Western St. Andrew on his phone for the better part of 10 minutes.

(Mr. Hylton questions the Speaker.)

The SPEAKER: Yes.

(Laughter)

And it is on TV. I am watching PBCJ and saw you, the Member from Western St. Andrew, talking on the phone. And I am not saying you are the only culprit. I have tried to point out to a number of other Members. TV is watching you and you can see it when you are on the phone. For one reason or another, the cameras pick you up.

Mrs. NEITA-HEADLEY: The Prime Minister was texting on his phone.

The SPEAKER: Well, anyone. Please, when the phone rings take a short break and leave the Chamber so you can answer the phone.

The PRIME MINISTER: You can multitask.

(HON. KARL GEORGE SAMUDA, CD, (JLP), St. Andrew, North Central, Minister of Industry, Commerce and Investment, entered and took his seat.)

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Reverend Thwaites.

Mr. THWAITES: Mr. Speaker, at the next meeting of the House I beg to move the following motion:

BE IT RESOLVED that monosodium glutamate, MSG, be banned from Jamaican food.

Mr. M. PEART: Support that.

(HON. JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy, entered and took his seat.)
(HON. ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister, entered and took his seat.)

QUESTIONS AND ANSWERS TO QUESTIONS

Rev. THWAITES: Mr. Speaker at the expiry of 21 days I beg to ask the following questions of the Minister of Education:

Question 1: What proportions of Jamaican products are used in the School Feeding programme?

Question 2: What is preventing the inclusion of Jamaican eggs and juices into the School Feeding programme?

Question 3: What is the timeframe for more extensive use of local agricultural output in the school feeding programme?

(MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern, entered and took his seat.)

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business today the Prime Minister will open the debate - and his presentation I am hoping, Mr. Speaker, by agreement, will be the only presentation today - on the Special Prosecutor for Corruption Bill. We will continue the debate next week, but the Prime Minister will open this week. Then Minister Grange will be the final presenter in the Sectoral Debate. We are expecting Minister Samuda to close the debate today and then we will move into the Private Members' Motion where the only motion to be taken today would be motion No. 15, standing in the name of the Member of Central Kingston.

(DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern, entered and took his seat.)

The SPEAKER: Prime Minister.

THE CORRUPTION PREVENTION (SPECIAL PROSECUTOR) ACT

The PRIME MINISTER: Mr. Speaker, in moving second reading of the Corruption Prevention (Special Prosecutor) Act, I want to say first of all how - that I have particular satisfaction in doing so. It represents a significant commitment that was made even before we took office, that it is something that we wanted to implement. It has taken us some time because it is new legislation, even though it's legislation that is seeking to replace some existing statutes, but it is new legislation, a new type of legislation because of the kind of powers and functions that it seeks to vest. And I will make certain comments about that in the course of my presentation, which is not going to be long.

We have always felt, Mr. Speaker, that there is need for a more focused, a more effective, a more targeted mechanism to tackle the issue of corruption in public administration. It is something that affects all

of us. It is something that taints not just the membership of this House, it is something that undermines the institutions of authority in the country.

(DR. FENTON RUDYARD FERGUSON, (PNP), St. Thomas, Eastern, entered and took his seat.)

Corruption not only deprives the country of much needed revenue. And I don't think anybody would be able to calculate exactly how much revenue that is. But a country that is so bereft of revenue or certainly lacking revenue in the adequacy that can help us to address critical problems out there, it is a major problem. It is something that undermines the rule of law. Because, if people can get by through clever methods, then why should anybody be expected to subscribe to the rule of law. And, therefore, we have always felt, Mr. Speaker, that we needed to tackle the problem of corruption more aggressively.

We have various measures in place. We have the Corruption Prevention Act. It was an archaic piece of legislation until it was updated, expanded, I think it was back in 1994. And it did a number of significant things because it now broadened - firstly it sought to define what represents corrupt activities and to define that in a far more comprehensive way than existed before.

It established the Corruption Prevention Commission, around which I believe some people had great hopes. I remember as a member of Select Committee that deliberated on that Act, I argued at that time that the way in which the Corruption Prevention Commission was set up and structured - these were not full-time people, these were commissioners who would sort of meet occasionally to review what is happening. They had a staff of, I believe of at peak, no more than 10 persons. They ended up to a large extent - and I don't want to make any unfortunate remarks about their efforts because I think that they have tried. It is just that the way in which the mechanism and structure was set up, there is not much more that we could have expected of them. They ended up, Mr. Speaker, doing not much more than simply recording declarations that were now required to be submitted by a fairly wide range of public officers. Don't hold me though to the exact number but I believe it is somewhere in the region of about 20,000. I know I saw recently the most recent Report from the Corruption Prevention Commission where the Report indicated that at the deadline for the submission of these declarations they had received a - they had reached a compliance rate of about 58%. I have asked for some further information because some submissions may have come in late. So if it's 58% at the 31st of March, I wanted to see what it was like at the end of June as the case may be, to see what the level of compliance is.

But very little investigation had been done. Very little prosecution has taken place. I think for the last year that they reported some 50 persons were prosecuted, some 28 were fined and I think the other cases were dismissed. But I don't think we can blame the commissioners, nor do I think we can blame the staff of the Commission, because they

don't have the capacity and I don't believe that they have the kind of authority that they needed to have.

We felt that this was so important a matter in public administration in the public interest, that we needed to ensure that we had an officer, ideally a constitutional officer but for the time being a statutory officer who (a), would be dedicated full time to the matter of monitoring, investigating and prosecuting instances of corruption. And I will have something more to say about that prosecutorial function that we are now vesting in that Special Prosecutor. And that that Special Prosecutor would need to have an adequate staff and machinery to be able to discharge these particular obligations.

I remember I sat on that side and I pursued the matter, as I so often did in this Chamber, there was a view expressed in this House, and even outside of the House that (a) this was not necessary because you have the Director of Public Prosecutions and that that is a function of the Director of Public Prosecutions, and that to go and establish now a Special Prosecutor would run into conflict with the constitutional role of the Director of Public Prosecutions, who is the person established in the Constitution with that particular function.

I chose at that time to disagree, I still disagree. I disagree on the following grounds. Firstly, the Director of Public Prosecutions is responsible for all criminal prosecutions and responsible as well for a substantial volume of civil litigation.

If the government is pursuing a matter very often, you know, which may be a civil matter the Director of Public Prosecutions very often is informed. And in the workload of the Director of Public Prosecutions it is just not possible for any Director - and DPP – to be able to focus the level of attention, the sharp spotlight that is required on cases that involve corruption. And therefore we felt we needed somebody who was dedicated to that alone.

A suggestion was made well, what you could have is a Deputy DPP who is so assigned. I don't think that this is a matter that ought to be treated in this sort of administrative way. So you assigned a Deputy today and then the workload comes down on you and you have to take that Deputy off and you assign that Deputy to somebody else. I felt that you wanted somebody who has the confidence of knowing that this is a matter in which the legislature puts so much stress and emphasis, that they were prepared to vest in a particular officer, all of these responsibilities and the authority to go with it.

The concern that the Special Prosecutor would run into conflict with the DPP could easily be addressed, Madam Speaker, and was addressed. **Firstly**, the DPP is not the only person who can prosecute. Section 94 subsection (5) of the Constitution says that any other person or authority may institute criminal proceedings, but the DPP has the power to discontinue those proceedings, or to take over those proceedings. But the Constitution recognises that the DPP is not the only source of prosecution.

Secondly, in drafting the Bill we recognised that it would have to recognise the supremacy of the DPP in prosecutorial matters and therefore the Special Prosecutor

is made in this Act, subject to the direction of the DPP. So that the DPP can instruct, the DPP can say, well don't go there, the DPP can say, look I think I better handle this one myself. But it still leaves the Special Prosecutor with the authority to pursue prosecutions subject interrupted only by the direction of the DPP.

It represents, Madam Speaker, a new departure. And this is where I think perhaps, certainly in my own consideration of the matter, the greater part of the concern arose. And that is, we were now seeking to vest in this officer not only prosecutorial authority, but investigative authority. And the issue was raised that this was going counter to our normal practice because the person who investigates is normally completely different from the person who prosecutes. And the thinking was that we were treading on questionable grounds. Well it depends on the kind of view you take of legal systems.

There are other jurisdictions in the world. Certainly in Europe, prosecution and investigation are regarded as almost inseparable elements of a case. Even in the United States, even in the United States, which is not - which is perhaps a - somewhere between the European system, inquisitorial system and the common-law system that we have inherited from Britain. If you will notice that whenever there is a crime committed in the United States, the police may get there first, but once the District Attorney arrives on the scene he takes charge. He is in charge of that crime scene.

A MEMBER: Yeah.

The PRIME MINISTER: He is the man who is going to make that case before the Court and therefore he says now, this is what you are to do, don't go there, I want this done and I want that done. So that what we are seeking to do is not completely unknown to the common law jurisdiction that we've been accustomed to, it is a departure from what has been our practice. Because in this case this person will have powers to investigate and the person will also be able to prosecute.

Now the investigative powers that the Special Prosecutor has here are not different from the investigative powers that are given to the Contractor General, or to the Public Defender, or to the Political Ombudsman. But in the case of those officers, they can't prosecute, they have to send it to the relevant authority, meaning the DPP, for prosecution to be carried out.

There is one amendment that I'd asked the Chief Parliamentary Counsel to prepare, because I did not - I went through the Bill carefully and I didn't see. If you look in the Constitution, Madam Speaker, as you would know, there is a provision that says that the Director of Public Prosecutions shall be subject to the direction and control of no person or authority. We can't say that of the Special Prosecutor because he or she will be subject to the direction of the DPP. But I've asked the Chief Parliamentary Counsel to prepare an amendment that would in effect say, that the Special Prosecutor shall be subject to the direction and control of no person or authority other than the DPP, to make sure that we give the Special Prosecutor as much independence and autonomy as the Constitution allows us to provide.

What I would like to hope for - and I say this quite unhesitatingly, I don't know who

will ever emerge as the Special Prosecutor, there's a process for the appointment there. It's going to be a public officer so it would be appointment - I hope I'm right - it's gonna be made by the Services Commission. But I would like to see somebody emerge in this job who approaches this job with the ferocity and the seriousness of the current Contractor General. That's what I'm looking for.

And I say that as someone who has not always agreed with the Contractor General's position, as I've disagreed with the advice he has given in relation to Sandals Whitehouse. But I respect (a), his authority, I insist of course that in the same way that I have to know the limits of my authority, he must also understand the limits of his. But moreso, I respect the seriousness with which he tackles the job. He is a no-nonsense person. Annoys many people, gets on many people's nerves, but one thing you cannot say about Mr. Christie, is that he is a man who is sleeping on the job. No one can say that. And if in the course of the work that he does he makes errors, he's human like anybody else. But I don't think anybody can question the sincerity and the determination with which he approaches his job.

I want to see somebody like that emerge as Special Prosecutor, because I believe the business of corruption requires that kind of aggressive no-nonsense, fearless approach. And we have created the framework for it ...

Mr. KELLIER: Is the Governor-General must appoint him?

The PRIME MINISTER: Pardon me?

Mr. KELLIER: The Governor-General must appoint him?

The PRIME MINISTER: Well the Governor-General appoints most of the people that the Services Commission recommend. I mean, many of the appointments he makes has to be on the recommend - I'm not quite sure. I know that there was a big discussion over it in the Select Committee. I can refresh my mind as to what was eventually agreed upon.

Just one or two final points I want to make before I close, Madam Speaker.

An important provision in this Bill is that it unifies within this new investigative/prosecutorial framework, the existing provisions relating to the Corruption Prevention Commission. And all of its application to public employees as well as the Parliament (Integrity of Members) Act, as it relates to Parliamentarians. There was a feeling - and it was my feeling at the time - that we ought not to have two separate bodies, one dealing for - dealing with public employees and a separate one dealing for Parliamentarians. I felt that it was suggesting that we must have our own regime that is different from that of other public employees when we're dealing with something that is a common concern to both, whether you're a Parliamentarian, or you're a public employee.

The view was expressed at that time by some persons that you wanted to ensure that Parliamentarians were subjected to that much additional scrutiny. So it's better you have a separate Commission that only has to deal with 60 plus 21, 81members, rather than them being part of this larger group. The decision was taken in the preparation of this Bill so as to avoid yet more duplication, so as to avoid

impeding the Special Prosecutor because he would have to be dealing with persons who may be involved in corruption, but who are already monitored and held accountable under different pieces of legislation. We wanted to bring it all in one. And therefore this Act seeks to repeal the Corruption Prevention Act, repeal the Parliament (Integrity of Members) Act to bring all of those provisions within this single omnibus statute and to subject - include all of what the requirements are now, in respect of public servants and legislators, but to subject them to these special effective powers that have been vested in the Special Prosecutor. And I think that that makes sense.

I said I had two points before I close. The second one is this. There was a suggestion made by the Contractor General that - he felt that we were moving in the right direction, but he felt that we should go even further. And he felt that what we needed to do was to set up one national anti-corruption agency or commission, which would not only include the existing provisions under the Corruption Prevention Act, the Parliament (Integrity of Members) Act, but include the Contractor General's Act and bring all of this within one body and have that body with the prosecutorial authority as well, dealing with corruption.

It was a suggestion that I reserved my position on. It was a suggestion that I remember at the time when it was made, the Member for East Central St. Andrew expressed opposition to it. Subsequently he has expressed support for it.

(Inaudible comment by a Member)

The PRIME MINISTER: No he has subsequently expressed support, at that time he did. I reserved my position on it and I still have not taken a position against it. Let me tell you my own thinking.

I think for purposes of efficiency, for purposes of effectively utilising the limited resources in terms of investigators and administrative staff, it makes a lot of sense. I think it also makes sense if you have one agency that would have access to information from a wide crosssection of sources of information that would help in monitoring and pursuing cases of alleged corruption.

The danger that you find - and this is what I've wrestled with - we have to be careful that we don't design institutions to fit personalities. Because if you do that, what you'd now end up with is one agency where if you have the right personality you're okay. If you don't have the right personality then it means that these three or four or five agencies that you've now brought together, are going to be subject to the same failure if the right person is not there.

It is something that in time, maybe we will go there. We are not ruling it out. But what I wouldn't want to do is to delay passage of this, to spend several more months and maybe more months than a year, contemplating whether we should go in that direction, and if we should, how we should structure that office. Because I think it's important for us to strike a blow now against the corruption that is still taking place, notwithstanding the provisions that we have had so far.

I hope, Madam Speaker, that this is an initiative that will attract and enjoy the support of Members. It is not the perfect solution because nothing is ever a perfect solution. And I hope that nobody will say, well, all we do we just passing legislation and believing that that will solve the problem. But nor do I believe that the way to solve the problem of corruption is to appeal to people's good sense. Part of our problem is that reasonable men have a tendency to be unreasonable.

And therefore what we seek to do is to put in place mechanisms, create the necessary authority, establish the systems of accountability and strengthen the machinery, our capacity to tackle a problem that is a problem that affects the nation in far more ways than would readily be acknowledged. Yes, I think it's right. I think the Leader of Opposition Business had pointed out...The appointment is by the Governor General. And it's in his sole discretion after consultation with the Prime Minister and the Leader of the Opposition.

So with those words, Mr. Speaker, I commend the...Madam Speaker, I'm sorry...I commend the Bill to the consideration of the House. I would like this Parliament to be the one that took this bold and important step in strengthening our resolve and our capacity to tackle, in an even more effective way than we have been able to do so far, this problem of corruption in public administration. (Applause)

Mr. HOLNESS: Madam Speaker, we will suspend the debate until next week when, I'm sure other Members in the House would want to participate. We would now move to the Minister of Youth, Sports and Culture.

The DEPUTY SPEAKER: Members, the question therefore is that the debate be suspended until next week to allow Members to make their contribution to the debate.

Put to the House and agreed to.

BUDGET – SECTORAL DEBATE

Miss GRANGE: Madam Speaker, I seek your permission to speak other than from my chair.

The DEPUTY SPEAKER: Granted.

A MEMBER: Thank you.

Miss GRANGE: Madam Speaker, there is much that this Government had to do to bring hope, to create opportunities, and to make people feel that there was a better way for all in Jamaica. There is more that we need to do, but we have done our best and we have done as much as we can. But we have to recognize that there is no time to lose to get our economy moving, to create new wealth, to alleviate poverty and to rebuild Jamaica, the land we love.

Madam Speaker, I believe in Jamaica. I believe in the Jamaican people. I believe in our traditions. I believe in our past. I believe in our future. I believe that here and now we are making the right moves to secure the best quality of life for our people. I believe that we are truly positioning for growth.

I want to thank the people of Jamaica for their support and encouragement. When you are in politics, if you are not creating waves and if you are not getting things done, there is nothing to criticize you about. I thank the people of Central St. Catherine who have

accepted me, not only as their representative, but as one of the family. I am, Mum, in Central St. Catherine.

Mr. WARMINGTON: Hear, hear!

Miss GRANGE: And today, they are here in the Gallery. And what's interesting about the mix in the Gallery, is that we have Jamaicans from all walks of life, and we have Jamaicans from the old to the young. And those who have taken the time to come here today to hear me speak, they have come with a lot of love. And I just want to use the opportunity to say to them, I love you, too.

Mr. WARMINGTON: Hear, hear!

Miss GRANGE: Now, I want especially to thank the Constituency Executive and the Constituency Management team for the hard work, and to single out my Councillors who, I am proud to say, are a strong part of my team. And in every family at times you have your differences. But one thing I can tell you, Madam Speaker, when push come(s) to shove, they back me one hundred per cent.

I want to use the opportunity to remember COUNCILLOR EVERTON MORRISON, the late Councillor Everton Morrison of the Spanish Town Division, who sadly left us just before the start of the New Year. He was a truly dedicated local representative and a very honest individual. And I would like to acknowledge his service and to say, may his soul rest in peace. (Applause)

I also want to use this opportunity to thank the Prime Minister, the Honourable Bruce Golding, for his support and the confidence that he shows in me. The Prime Minister established this new Ministry to lead the development of our youth, sports, culture, community and gender affairs, and we have been able to put the requisite focus on these subjects with good results.

Madam Speaker, no one can reasonably describe these subjects as appendages any more. So I thank the Prime Minister for this visionary move where he created a Ministry of Social Transformation. A Ministry that is the heartbeat and the pulse of the Government. A Ministry that is at the centre of **Brand Jamaica** with its music, its culture, its sports and its people. (Applause)

I am blessed with one of the brightest young minds, Madam Speaker, in guiding policy at the Ministry, my Parliamentary Secretary, Senator Warren Newby. (Applause) He doesn't call me Minister. He calls me Mum. And I call him, my son.

Madam Speaker, I thank the Senator for his work and offer my congratulations on his recent election to an important office in a great national institution called, the Jamaica Labour Party. (Applause)

A big, thank you to every member of the staff of the Ministry of Youth, Sports and Culture, its departments and agencies. From the top executives to the ancillary staff, to my driver. Everybody says, I love Raymond, and everybody can always call on Raymond. I want to thank the Commissioners and the Board of Directors of the various agencies. I thank them all. And today, I'm presenting the work we have been doing together to transform our blessed Jamaica. I'm going to speak briefly, Madam Speaker, on the constituency.

I do not need to restate the social and economic challenges facing Central St. Catherine. They have been ventilated in various media over the years. And I have

constantly raised these issues because I realize that they are structural and require long-term solutions. No superficial changes will help Central St. Catherine in general and Spanish Town in particular. They need - the area needs extensive, serious extensive structural planning. (Applause) And I'm proud to say today that the Member of Parliament for South-Central St. Catherine and the Member of Parliament for Central St. Catherine have worked very closely over the years and we have, as bad as Spanish Town is said to be, we have made a difference.

The problem, however, that in the middle of an intensive global economic crisis, there are challenges to funding such an extensive investment. But while we acknowledge that there is a serious economic crisis, we cannot afford to lose focus. As **Oscar Wilde** once said:

> "Even while you are in the gutter, some of us can't help looking at the stars."

In Central St. Catherine, we continue to struggle with the perennial problem of roads. Right across the constituency, right throughout the constituency, areas like Ensom City, Eltham, Gordon Pen, Buck Town, Job's Lane, St. John's Road, Tawes Meadows, Homestead, Hampton Green and Spanish Town proper, many of the roads have been severely eroded. Some eroded by rain and floods and intensive usage over the years.

Our parochial roads were totally ignored over the past two decades resulting in a build-up of problems. And so, that's why they are in deplorable condition. And I can assure everyone it was not for a lack of representation. I remember, I have to refer to it as a publication. Every single road, I got a team to cost it, what it would take to repair those roads. I end up with a thick book like this and when I went to the Minister at the time, he said to me, weh yuh goin' with that bible? He says I can't help you. I must say that I got the attention from the previous Administration. But there were more words than action.

Of course, we have a serious sewage problem in Spanish Town. And there is a problem in Tawes Pen with the sewage system there that is in urgent need of attention. And I am happy to say that I recently got confirmation from JSIF, the Jamaica Social Investment Fund, that they have included under the Inner-City Basic Programme, they have included in their budget this year to replace the sewage plant in Tawes Pen. And finally the people there will be able to live in a condition where they don't have to be holding their noses from the stench, and the kids playing in sewage water.

Now, we have a serious housing problem, Madam Speaker, in the constituency. We really do not have proper housing or proper housing solution for low income, for the poor people in that constituency. But I have been in discussion with the Minister of Housing and I am assured that that problem will be addressed in the coming financial year.

Since becoming Member of Parliament I have tried to focus as much as possible on education and training to create more opportunities for my constituents, especially the youth to support themselves and their families and find a route out of poverty.

Since 2002, I have been supporting socio-economic surveys in some 17 inner city communities to provide me with the

information for a Back to School Project in which I provide school uniforms, books and support for school fees for the students. And I must say that a number of the young people in the Gallery today are beneficiaries of that programme. And I take care of those young people from early childhood through to tertiary.

What distresses me is that there are more youngsters now who are attending tertiary institutions and I do not have the capacity, the financial capacity to sustain them in their institutions. I have some bright youngsters up there. (Applause)

Now, in this survey that I had commissioned, I found, for example, that while 36% of the residents had secondary education, 65% of these persons were not employed, either because they could not afford to go on to tertiary or to acquire skills training for which they could not pay.

We found that 66% of the households were headed by women, and the average household had approximately three children each, of which only 56% were able to attend school regularly.

Remarkably, we also found that more than 90% of those households were not receiving any form of benefit from any health care progamme. And in fact, only 11% were benefitting from the PATH Programme although the pilot Programme was in the parish of St. Catherine.

So, since that, I have spoken to the Minister responsible for the programme and we are getting the matter addressed. But, I was able to spend $5 Million from my CDF and supported by donations, to assist approximately 600 students from the constituency to meet their back to school expenses, up to the tertiary level in September last year. As I told the students and their parents, it might not have been enough, but even the widow's mite should be taken for granted.

Not only do I contribute these funds to their education, but I encourage the parents to see that the children stay in school and to keep me informed about their performance. So, I try to follow the progress of every child in this programme, every student in this programme, because I want to know how they are doing and what they are doing.

We also have a Golden-Age/School Feeding Programme which assists indigents, school children and the elderly with money for medication, food and school fee. And every two-weeks they are able to pick up their grocery package, pick up a little stipend and the youngsters go and pick up their lunch money - because sometimes parents will take the lunch money and use it for other things. So I ensure that the children have direct control over their lunch money and I have people in the community who ensure that they go to school and they stay in school.

We try to support the Sports Clubs and the Youth Clubs, and the schools in preparing for various competitions, and we have an Economic Enablement Programme, which tries to assist with self employment or self-start projects.

So, when you go by Food for the Poor and you pass over the train line and you see those youngsters selling the cashew, support them. And when you see those youngsters with the artificial flowers, selling them, support them because....

Mr. KELLIER: Going commercial now. (Laughter)

Miss GRANGE: .....what they have done is to use those funds to be creative and to generate income to help them to survive.

We have a Welfare Programme, Madam Speaker, which assists with funeral expenses. And I can tell you, funerals are very much a part of everyday life. On a Sunday you can have six funerals, even 10 funerals, and you must provide a bus, you must provide some funds towards it. What I always do I say don't come to me with the bashment funeral, come to me with something that is reasonable and you will get the assistance.

A MEMBER: You can open a morgue.

Miss GRANGE: I am telling you, but then if I open a Funeral Home it wouldn't survive, because it would all be freeness.

Now, as MP with almost 15 years experience in the job, I can tell you it is a God send to my constituents, despite the limited resources. Because I have been able to stretch the very little that I had for those years until the CDF programme was introduced. And I really want to thank the Prime Minister and Minister Robinson for administering that programme and ensuring that as Member of Parliament, I am able to assist my constituents.

We hope to spend some $60 Million on water supply improvement through the Ministry of Housing and Water. And in the Jobs Lane area the Water Improvement Programme has assisted tremendously in creating employment for the people there.

In Homestead, the Community Centre is being refurbished and there is a strong community organization that has displayed that they will be able to care that Centre and they will be able to help to manage the programmes that will be introduced there.

(The Speaker returned to the Chair at approximately 3:23 p.m.)

So, Mr. Speaker, I just want to wind up by saying that I am not a politician in the true sense, I am a social worker; and the term politician has been treated with disdain and disrespect and so, I always say when people say de politician, I say please refer to me as a social worker.

I think every individual in this House who has made the sacrifice to serve this country as a Member of Parliament deserves to be commended. (Applause by Opposition Member) And I always make the reference to the fact that there are two Ps that are always disrespected, the politician and the people. The people curse the politicians and there are those politicians who do not serve the people or do not serve them well, they just use them.

But, I think that the fact that we need each other is good enough reason that we should try to work together, we should try to understand each other, and we should recognize that it's a marriage and it's a work in progress where sometimes we are going to be upset with each other, but we are wedded together.

Now, I am going to move on and go back to the subjects that I am responsible for. Mr. Speaker, I am pleased today to make a report on the things we are doing and our plans for the future.

This is a report on the work of the Ministry, and it's being handed out. This is not the length of my speech, my speech is a summary of this document. (Laughter) I do

not promise you to speak only for 45 minutes, but I will not speak for three hours.

My Ministry, in my Ministry we cover six (6) portfolios, and so there are a number of areas on which I have to speak.

It is a massive task we have of turning Jamaica around and putting things right, things that were not done right in the past. And what has even made it worse is that the global economic downturn has put us in a position where it is a great challenge.

So as we work very hard for the people of Jamaica to do the job they sent us to do, we are positioning this Ministry and the sectors it represents as these portfolios have never been presented before or positioned before. Mr. Speaker, we are painting a picture of a new Jamaica.

The Ministry of Youth, Sports and Culture is spread across a very broad canvass with the responsibility to develop, to support, to promote such a wide array of activities that have great impact on Jamaicans from all walks of life. And we are determined to ensure that every Jamaican as a result of our work will shout, will be happy to shout 'I am proud to be Jamaican'.

We are responsible for youth, sports, culture, entertainment, cultural industries, community development, women's issues and gender affairs. I regard each subject as being equal in importance while being connected as each has a very significant impact on our country's social fabric.

Mr. Speaker, I begin to address the youth portfolio. Youth development is the preeminent focus of the Ministry of Youth, Sports and Culture. There are many reasons for this. Among them is the fact that half the population is younger than 30, with nearly a fifth of the population falling between the ages of 15 and 24. We still like to say in Jamaica that youth are our future, but I say youth is now. We are working for the now generation, Mr. Speaker, and we commit to give each young person whatever his or her background or circumstance, the support to be healthy, to be safe, to be educated, to be responsible, to make positive contributions to society, to enjoy a good quality of life and more than anything else, to enjoy his or her youth.

It is the energy of the youth that will drive this nation. It is their hopes and aspirations that must define our goal as a people. Our youth must be at the centre of our development strategy.

A MEMBER: Hear, hear!

Miss GRANGE: The Ministry provides support for youth to develop, to achieve and participate, primarily through the National Centre for Youth Development, the NCYD.

Through its Operation Phoenix Programme, the NCYD has established Youth Information Centres as part of a strategy to engage young people and increase their participation in communities.

These centres, Mr. Speaker, are youth-friendly spaces in which our young people are comfortable relating to their peers, receiving information, counselling, and completing their assignments.

Each centre includes a cyber cafe, resource room where the youth have the use of computer, free access to the Internet, access to referral services, access to empowerment sessions, access to information on scholarships, career, development,

entrepreneurship programmes and training opportunities.

There are currently six (6) of these centres. It was only a few months ago - late last year, that we opened the newest Youth Information Centre in St. Ann at the site of the Marcus Garvey Skills Training Centre. In a few months - in the few months that it has opened we have received positive feedback on its use.

Indeed, Mr. Speaker, the young people have embraced these centres in the major towns where they have already been established. The number of users at each centre continues to rise. We have entered partnerships to increase and improve the services we offer. For instance, the Kingston Youth Information Centre has partnered with Rise Life Management Services to offer capacity building and training for young people from high-risk communities and also CPR training in collaboration with St. Johns Ambulance Services, and the Salvation Army. The Portmore YIC facilitates job placement in collaboration with the National Youth Service.

The St. Mary YIC offers computer classes in partnership with the Jamaica Foundation for Lifelong Learning and Entrepreneurship Programmes.

Mr. MONTAGUE: True… good government.

Miss GRANGE: The Portland YIC offers a black identity programme to help the youth to understand and appreciate their heritage.

As part of its International Volunteers Day observances, the Portland YIC led youths who planted, who planted 200 plantains and peppers - who planted, I am sorry – it was a typo – YIC led youths who planted 200 plantains and peppers and donated pigs, farming tools and fertilizers to Muirton Boys' Home. And thanks to UNICEF several of our YICs have been able to develop creative arts programmes.

Mr. Speaker, the YIC can do much more. As we continue to develop the services at the YICs, we will use them as hubs for youth work at the community level providing an anchor for government services.

The SPEAKER: (Gavels) The Minister's time for speaking has expired.

Mr. HOLNESS: Mr. Speaker, I move for suspension of Standing Orders to enable the Member to complete her presentation - for the extension of time for the Member to complete her presentation.

The SPEAKER: The motion before the House is for the suspension of Standing Orders to allow the Minister enough time to complete her presentation.

Put to the House and agreed to.

The SPEAKER: Minister Grange.

Miss GRANGE: Thank you, sir.

By the way, Mr. Speaker, I have provided a copy of Bustamante Notes, Quotes and Anecdotes by Ken Jones to every Member of this House.

The SPEAKER: Could you provide a coupe copies for the Library too, please, Miss Grange a couple copies for the Parliamentary library?

Miss GRANGE: Yes. And, I providd a kit with information covering the work of the Jamaica National Heritage Trust, and the Institute of Jamaica.

MEMBERS: Very good, very good.

(Applause)

Mr. ARSCOTT: Can I have a look?

Government MEMBERS: You ca'an see?

(*Sotto voce* comments between Members)

Miss GRANGE: (Laughs) Mr. Speaker, because of how we have structured programmes at the Youth Information Centres, because of how we have made them relevant to the youth and given youth their own space, we have been able to remove some young people from the street corners and put them into meaningful activities.

One MEMBER: Yes.

Miss GRANGE: We are not giving up on the youth, and we are not giving up the youth to the gangs which will find less than wholesome activities for them, no, sir. We are embracing our young people, moulding them and engaging them in meaningful activities that will help them to achieve their God-given potential.

A MEMBER: Hear, hear!

Miss GRANGE: We are working very hard to ensure there is at least one Youth Information Centre in each parish over the next two years, that's by 2012, and we are in a good position to achieve that target.

In fact, Mr. Speaker, the establishment of the Youth Information Centre in Manchester and Westmoreland being completed through...

A MEMBER: Where...?

Miss GRANGE: Westmoreland and Manchester.

Mr. ARSCOTT: Continuation... continuation, man.

MEMBERS: Excellent!

Miss GRANGE: Mr. Speaker, we could have shifted those centres…

Mr. MONTAGUE: Hear, hear! yes.

Miss GRANGE: …but that is not what this Government is about.

(Applause)

We are about equal rights and justice.

Government MEMBER: Hear, hear!

(Applause)

Mr. MONTAGUE: Juk them Babsie.

(Laughter)

Miss GRANGE: So, the Youth Information Centre established at Brooks Park in Manchester and at Llandilo in Westmoreland, are the first two full-construction Youth Information Centres, as the others were established at spaces that were renovated. So, these are the first centres, based on a prototype, designed with the cyber centre with 14 computers, a resource room, three offices for staff, and a multipurpose room to accommodate 25 people.

Mr. CHARLES: What! And I don't have any at Summerfield.

Miss GRANGE: It's coming.

Mr. CLARKE: Where is that?

Government MEMBER: And we take your word.

Miss GRANGE: The Ministry has also secured funding from the Inter-American Development Bank to construct the Youth Information Centres in St. Catherine, that's Spanish Town, which will serve Spanish Town and Greater Spanish Town, and one in Clarendon, one in St. Andrew, one in Trelawny and one in Hanover.

And I should mention that the Youth Information Centres in Westmoreland and

Manchester were supported by the Korea International Corporation Agency which provided US$450,000 towards the building of those centres. The NCYD is currently identifying the most suitable sites to establish the Youth Information Centres for maximum delivery of services and participation in the parishes I mentioned earlier. Of course, we are also working on Youth Information Centres for St. Thomas and St. Elizabeth.

Now, Youth Information Centres will be established in major towns, but we know that the best way to reach our youth in remote communities, and in some inner city areas that we have to take our programmes into those areas. And so, we have begun designing what we call the Satellite Youth Information Programme. And the Satellite YICs will be smaller centres which will allow us to increase access to Government's youth services and improve engagement of unserved and underserved youth across Jamaica. And this will be a partnership between the Ministry, the NCYD and the communities.

The Satellite Youth Information Centres also will benefit from the partnership that we have established with the Universal Access Fund and several other local foundations. In fact, very soon we will be able to announce a partnership between a private sector institution and the Ministry, in establishing such a centre in West Kingston.

I am pleased to report that the contract for equipment for a Satellite Youth Information Centre in Albert Town, Trelawny has gone to tender, and we look forward to opening the centre before the close of this financial year.

Mr. Speaker, we are serious about commitment - our commitment to give greater access to our services at the Youth Information Centres to all youth, including youth with special challenges.

The Ministry has begun the dialogue with special needs groups, with the aim of ensuring that the Youth Information Centres are equipped to meet their needs.

The Ministry revived the Youth Club Movement, Mr. Speaker. We revived the Youth Club Movement in collaboration with the Social Development Commission. And the NCYD completed a youth club audit which will inform our strategy for capacity-building in the youth clubs.

But we have already begun to strengthen the leadership in the youth clubs. We have completed the ratification process of the National Youth Council Constitution. We have held capacity-building training for elected Youth Council representatives and we have facilitated the Council's elections. The National Youth Council has oversight responsibility for all youth clubs. So, our engagement with the membership of the Council is to ensure that it has the competence to lead youth club development.

Again, Mr. Speaker, this is tangible example of what we have been doing to get the youth off the corners, out of the reach of gangs and into wholesome activities.

We have also been giving more support to the National Secondary Student's Council. The youth-led council aims to promote the interest of students, promote student governance, encourage youth leadership and youth participation in decision-making. The Ministry has facilitated training sessions in

leadership, advocacy, roles and responsibility of councillors with the aim of building capacity.

During the 2010/2011 financial year, the NSSC commemorated Student's Council Week, that was February 21 to 27 under the theme: Accepting the Challenge, Raising the Standards.

Government MEMBER: Hear, hear!

Miss GRANGE: We are able to reach 1,200 youth through the Rights, Respect and Responsibility Campaign, and another 300 through the Save Yuh Life Campaign. These two programmes promoted rights and advocacy as well as safe sex practices among young people.

The NSSC, National Student's Conference drew approximately 700 students. And on their service day, they did a number of community work including the painting - the re-painting of Denham Town High School.

Mr. Speaker, we have given young people the platform to voice their opinions. And some of the young people, if not all, who have recently voiced their opinions, they are voicing their opinions from the platform which we have created for them.

Mr. MONTAGUE: Hear! Hear! Very good, very good!

Miss GRANGE: We have been working to prepare youth to take their place and help to build a new Jamaica.

(Applause)

We have made changes to the Jamaica Youth Ambassadors Programme to enhance its effectiveness. We have increased the number of youth ambassadors from 14 to 21, and assigned priority areas, including CARICOM, the Commonwealth, the Diaspora, Disabilities, Disaster Management, Healthy Lifestyle, Rural focus, Youth and Business, Youth and Technology, and Youth in Agriculture. Additionally, we have modified the duties of our youth ambassadors. We have set them measurable and achievable goals, including developing strategic partnerships and building relationships within their sectors of focus; conducting research and making recommendations regarding key issues, policies, and establishing national platforms to address key issues.

We continue to use the National Youth Parliament as an opportunity to amplify the youth voice and listen to their concerns.

Mr. MONTAGUE: Yes! Very good!

Miss GRANGE: On the recommendation of the youth themselves, we have enhanced the National Youth Parliament by the establishment of the National Youth Parliamentary Watch Committee. The Committee, which is independent of Government, although we initiated it, has the task of reviewing Bills before Parliament to ensure that the youth perspective is considered and reflected in what legislators proposed.

Mr. Speaker, if we are honest, we will acknowledge that our wonderful country is still divided in several respects. We are stratified by class, we are stratified by sex, and we are stratified by creed. There is also division between urban and rural, and there is also division between the young and the old. Many of those gaps will be eliminated in our vision of a new Jamaica.

Through the Youth Journeys Programme we have begun to eliminate the gaps between

rural and urban youth. The Youth Journeys Programme brings urban and rural youth together so that they can share, they can understand and appreciate each other's experiences. We piloted the programme in St. Mary, Kingston and St. Andrew, and we are now reviewing for further development. About 120 young people from 10 youth clubs participated in the programme, which included community tours, project site visits and cultural exchanges.

Mr. Speaker, the priority of the Ministry is to find and engage youth at risk, wherever they may be. As a priority action, the NCYD has been designing programmes designed to reach youth at risk, to put them in an organized space. In the 2010/2011 Financial Year the NCYD will introduce three new programmes, Style and Swagger...

Mr. MONTAGUE: What!

Miss GRANGE: 'Style and Swagger'...

Mr. MONTAGUE: A Roger dat! (Laughter)

Miss GRANGE: A Mentorship Programme, in conjunction with the Spanish Town YWCA, targeting 160 youths, male and female in the Old Capital.

Another programme which we introduced was **'She's Royal'**.

Government MEMBERS: Yes!

Miss GRANGE: A programme targeting...

A Government MEMBER: A you dat!

Mr. MONTAGUE: That's you, Babsy.

Miss GRANGE: Thank you.

Mr. BRODERICK: No, it's Sista P.

Miss GRANGE: A programme targeting teenaged mothers at the Jones Town Outreach Centre in St Andrew.

Yet another programme, 'Revolution: A Change Within', which targeted 447 juvenile probationers through the Department of Correctional Services.

Mr. Speaker, I said earlier that we do not think of youths as a problem to be fixed.

Mr. MONTAGUE: No, they are not.

Miss GRANGE: We do not blame the youth for the problems that challenge our country. But we recognize that young people in most instances are the perpetrators and the victims of most of the crime and antisocial behaviour. As the Minister for Youth, this concerns me deeply, and my Ministry has a role to play in finding the solutions. The efforts of the Ministry of National Security and the security forces, have to be supported by social intervention measures.

We have identified 35 stakeholder organizations engaged in community and crime-prevention work, and shortly, we will announce a coordinated strategy in support of the Anticrime Initiative. This will involve the creation of additional youth spaces, education, and re-socialisation opportunities, along with governance and entrepreneurial support.

The Ministry is working towards our National Development goal of making Jamaica the place of choice to live, work, raise families and do business. For us to achieve this we must ensure that our youth have important skills, such as problem solving, critical thinking, creativity, and entrepreneurship. We know that Jamaican youth have talent and skills that can make a positive contribution to their individual economic situation, and indeed, the economic situation of the country. We are moving to

provide more opportunities for youth entrepreneurs. We are harmonizing the various entrepreneurial efforts of entities, including the Jamaica Youth Business Trust, the Jamaica Business Development Centre, the Young Entrepreneurs Association, the Rural Youth Employment Project, Young Farmers Entrepreneurship Programme, and Youth Entrepreneurship Programme. Additionally, we are developing the National Youth Entrepreneurship Policy, which sets out our proposals to encourage a greater cross section of young people to participate in sustainable enterprise development. Through this policy, we will aim to ensure that youths are able to contribute meaningfully in building and strengthening their communities while honing their creativity and talent.

The Concept Paper was submitted to Cabinet, the Subcommittee - H.R. subcommittee of Cabinet reviewed it. And I am happy to tell you that this morning the Youth Entrepreneurship Policy was approved by the subcommittee, the H.R. subcommittee of Cabinet, and has been recommended to go on to get the final approval of the Cabinet. (Applause) And I think you really should - Lisa, you heard that, right?

Miss HANNA: Yes.

Mr. MONTAGUE: She not listening.

Mr. SAMUDA: She not listening:

Miss GRANGE: The Ministry has been providing technical and financial support to the Jamaica Youth Business Trust, to develop programmes to facilitate the creation of wealth among youth with entrepreneurial interests. In the 2008/2009 Financial Year, we provided Five Million Dollars ($5M), as capital, seed money to the Trust, to help establish a pool of credit for youths by young entrepreneurs. But in 2010 the Trust received Fifteen point Three Million Dollars ($15.3M) to be used as venture capital, to execute the Youth Entrepreneurship Programme, YEP, to start businesses in website development, in pest control, mobile telephone sale, and unlocking the meat industry, butchery, the fast food industry, pizzeria. And three of the businesses are being established in Kingston and St. Andrew, and the others in Clarendon and Westmoreland.

So, Mr. Speaker, we are providing funds so that young people can set up their own businesses, be self-sufficient and be independent, and be channelled to be productive to contribute positively to this nation.

Mr. MONTAGUE: Hear! Hear!

Miss GRANGE: We talk about giving youth the best chance. It's not just talk, Mr. Speaker.

Mr. MONTAGUE: We are doing.

Miss GRANGE: We are demonstrating that what we say, we mean.

Mr. MONTAGUE: Hear! Hear! (Applause)

Miss GRANGE: And when we say we are committed to giving youth the support, they need to enjoy the best standard of life.

Mr. MONTAGUE: True!

Miss GRANGE: We have done it, we have proven it, and we have tangible proof that we are not talk or a bag a mouth, we are action.

Mr. MONTAGUE: Action, not a bag a mouth! (Applause)

Miss GRANGE: Mr. Speaker, we are reviewing and improving the Youth

Development Programme, which aims to facilitate the transition of unattached youth to adulthood and the world of work. Components of the first phase of the Programme being financed by the IDB, include the establishment of Youth Information Centers - which I spoke about earlier - and the revision of the National Youth Policy.

Now, the National Youth Policy is due for renewal at the end of its five-year life span. It started in 2004.

The process of updating the Policy includes undertaking the first ever National Youth Survey, based on our commitment to develop evidence-based policies. The survey is currently underway, in conjunction with the Statistical Institute of Jamaica. The work will include a situational analysis and programmatic inventory, which will determine the key areas for policy attention, and provide a means to measure the effectiveness of the policy. It will be a roadmap

The survey will be completed by the end of this Financial Year, and we will provide a clearer picture of the economic, the social, the physical, the spiritual, educational and political situation of Jamaica's youth. The results of the survey will help us to improve our youth services across Government, right across Government, because the youth themselves and other stakeholders will tell us what is working and what is not.

Mr. Speaker, we expect the survey will expose gaps, because we know there are gaps, which we will close, and weaknesses which we will strengthen.

Mr. MONTAGUE: Hear! Hear!

Miss GRANGE: The Ministry, through its various agencies, is seeking to include youth as a focal area in all existing and future programmes. We have chosen sports as a special vehicle for the transfer values - not just sports, but culture - for the transfer values that will improve the survival chances of youth, while contributing to the attainment of Vision 20/30, Jamaica's goals for healthy lifestyles and productivity.

Youth mainstreaming is about putting policy into practice on a systematic basis. It is about ensuring that youths are reflected in policy design and implementation in the various sectors. It is about narrowing the gap in specific areas of youth empowerment; it is also about ensuring that stakeholders work towards common goals through increased collaboration, alliances and coordination.

The IDB is funding youth mainstreaming activities, including workshops and consultations with stakeholders, which will be held by March, 2011, to discuss a national strategy for youth mainstreaming in Jamaica.

The Ministry is bringing the key stakeholders together to share ideas, to promote joint working and ensure that there are high standards and common aims across the field. Complementing this is the recently relaunched inter-ministerial team on youth, and this brings together senior personnel from ministries, agencies and NGOs who work in youth development.

Despite our efforts at sustaining the interministerial team on youth and to coordinate the delivery of programmes, Mr. Speaker, we have accepted the need for

greater centralization of some of the entities involved in youth work. Our view is shared by the Public Sector Transformation Team, whose Report is to be considered by this House shortly. So, Mr. Speaker, I am declaring my hand today. I support the recommendations for the youth portfolio. They should be brought together under one roof.

Mr. Speaker, this Administration has given youth a greater say in national affairs than any other. This Administration has given youth a greater say in national affairs than any other (Applause) and this is not by accident.

Mr. MONTAGUE: Hear, hear. It is by design.

Miss GRANGE: It is due to our commitment to supporting youth development. The youths have good ideas. Jamaican youths are doing extraordinary things.

Mr. MONTAGUE: Amen!

Miss GRANGE: Mr. Speaker, we want to involve them more in decision making.

Arising from recent discussions with youth leaders and advocates we have decided on the following: to appoint a Youth Advisory Council to meet with me quarterly to review the programmes and to review national policy priorities and programmes, and to see how we can fasttrack the implementation of the review of the National Youth Policy and the continued strengthening of youth advocacy networks.

Mr. MONTAGUE: Excellent!

Miss GRANGE: Now, I have said all these things. But, Mr. Speaker, despite our best efforts, and I am telling you we have put our heart and soul into this, and I have demonstrated my confidence in young people by allowing my Senator, my Parliamentary Secretary, a bright youngman, to lead the process, to lead the process to communicate with the young people and to listen to what he says and to listen to what the other young people say, and then to take it to the level of Cabinet. (Applause)

Mr. MONTAGUE: Dem would understand. Too much old people over there!

Miss GRANGE: But these are challenging times, Mr. Speaker. These are challenging times. The need is great and the budget is small.

Miss HANNA: Ask for more, Babsy, ask for more. We will support you in asking for more.

Miss GRANGE: I know the Honourable Prime Minister and the Minister of Finance are committed to youth development.

Miss HANNA: No, they are not!

Miss GRANGE: And I know there are many, many competing interests, Mr. Speaker.

Mr. MONTAGUE: True, true!

(*Sotto voce* remarks by Miss Hanna)

Miss GRANGE: But, Mr. Speaker, I am going to use the opportunity today to ask for a little bit more from government (Applause) and greater involvement from private sector to enable us to reach, to guide and to support our young people.

Mr. Speaker, the Ministry of Youth, Sports and Culture continues to support the Possibility Programme. What is the Possibility Programme. It works to improve

the lives of boys who live on the street and other at-risk boys. The programme offers hope, comfort, care, accommodation, meals, training, education and counselling to several boys. The boys in the Possibility Programme are not necessarily problem boys who are lost forever. They are boys who need us to be there for them. They are boys who have great potential and can contribute much to our society.

In 2009/2010 financial year, Mr. Speaker, five of the boys enrolled in the Possibility Programme sat the Grade Nine Achievement Test. They were placed at Kingston High, one at Kingston Tech and the other at Sydney Pagan Agricultural School. All they needed was some help, Mr. Speaker. We were able to obtain a number of apprenticeship placements as well with the Jamaica Chamber of Commerce, with Sherwin Williams, with OCS Electrical, Nelson's Auto Repair and Services, and the LEAP Centre.

Two young men, Mr. Speaker, two young men obtained full-time employment and have moved into their own accommodations.

Mr. MONTAGUE: Excellent!

Miss GRANGE: And seven (7) who were employed as apprentices are now fully employed.

Mr. MONTAGUE: Hear, hear!

Miss GRANGE: The leather craft of two young men was featured, Mr. Speaker, in the HEART/Trust NTA World Skills Exhibition in October 2010. I am sure the whole House will join me in saying congratulations to DUSHANE BROWN who won a gold medal and NICHOLAS SCOTT who won a bronze. (Applause) These are boys off the corner, street boys we call them, and we have been able to make them feel respectful. I would also like to tell the House that one youngman enrolled in the Possibility Programme was accepted at Mico University where he is pursuing studies in Guidance and Counselling, Mr. Speaker.

Mr. MONTAGUE: Excellent!

Miss GRANGE: Most of the youngmen in the programme have developed healthy savings habit and save regularly through the Credit Union or the Building Society. And I am pleased to say that one youngman was reunited with his father in Westmoreland after living with strangers in Kingston for five years.

(*Sotto voce* remarks by Mrs. Neita-Headley)

Miss GRANGE: So priority actions, we are looking to expand the skills training and employment component of the programme to take it into Spanish Town and we have prioritized that for the next financial year. We will also move ahead with improvements to the assessment and referral services at the Care Centre as we aim to increase the number of residents at the hostel to its capacity of 28, thereby removing a few more at-risk boys from the dangerous streets into a programme of care and rehabilitation.

An ornamental fish farm will be constructed at the hostel to assist with the generation of income for the Possibility Programme. We are also hoping to convert from electricity to solar energy **(**Applause) at the facility. The Skills Training and Employment Centre will embark on the first phase of the development of a high-end leather manufacturing facility.

Mr. MONTAGUE: Excellent!

Miss GRANGE: Now, Mr. Speaker, this year - commencing on August 12 - last year - continues to be the international year of youth dialogue and mutual understanding. The year coincides with the 25th anniversary of the first international year in 1985 on the theme "*Participation, Development and Peace.*" The year ends August 11 this year and I believe everyone of us has a role to play. It was considered necessary to have an international year of youth to signify the importance the international community places on integrating youth-related issues into global, regional and national development agendas. Under the theme "*Dialogue and Mutual Understanding*" the year aims to promote the ideals of peace, respect for human rights and solidarity across generations, cultures, religions and civilians. So, Mr. Speaker, I am using the opportunity to say to Members of Parliament here, that during this period when we observe international year of youth, I am asking you to step up on your youth programmes and your youth activities in your constituencies. (Applause)

Now I will move quickly to community development. Mr. Speaker, at the heart of all we do in this ministry is the community.

Mr. MONTAGUE: True!

Miss GRANGE: It is our view that the community, and I quote

> "is a powerful tool for mobilizing individuals towards common goals and resolving many of the social problems plaguing our society".

And this is coming from the JLP manifesto.

Mr. MONTAGUE: Good book. Good manifesto.

Miss HANNA: You read it ?

Miss GRANGE: Mr. Speaker.

Mr. MONTAGUE: Good book.

Miss GRANGE: That's right.

Mr. MONTAGUE: Good book.

Mrs. NEITA-HEADLEY: You can read?

Mr. MONTAGUE: You don't even graduate from JAMAL yet.

Miss GRANGE: I believe, Mr. Speaker, that it is organized, vibrant communities focused on helping each member to develop his or her full potential that will be the bedrock of our achieving the National Development Goals. The communties we make determine the country we have.

Mr. MONTAGUE: Hear, hear! (Applause) Good argument that.

Miss GRANGE: So we exist to serve communities, to help them prosper and to be safer, to be healthier and happier, to give them justice, to engage them and to preserve and celebrate the best elements of their culture.

It must be stressed, Mr. Speaker, that during the last two years this ministry has set about to correct inherited community development initiatives that were fragmented, disjointed and weak in their operations and impact. Where there were fragments, disjoints and weaknesses we have begun to put order, cohesion and strength.

Mr. MONTAGUE: Hear, hear!

Miss GRANGE: To help us to put order to the state of affairs we are developing an integrated community development policy.

The policy will provide the framework and direction for the development of stronger and more prosperous and more integrated communities. We are designing it with the aim of enabling our citizens to participate fully in the achievement of sustainable community and national development.

The policy, Mr. Speaker, will eliminate the fragmented approach to Programme development, project management and implementation in favour of an integrated approach. The concept paper has been prepared and internal discussions are taking place.

Now the ministry has been reorganizing the country's lead Community Development Agency, the Social Development Commission, so that it can provide greater service to communities.

Mr. MONTAGUE: Hear, hear!

Miss GRANGE: The SDC regional structure is being transformed into a parish structure to bring decision-making closer to the people who will benefit from development initiatives and to give the people a greater opportunity to have an input in what decisions are made and what actions are taken. Initiatives have a greater chance of success when the residents help to design them, participate in them and are willing to own them. I want to make it clear that the SDC can account, I am just using this opportunity, Mr. Speaker, to say that the SDC can account for every cent that it manages. Accounting for funds is not an issue at this time.

Miss HANNA: Auditor General.

Miss GRANGE: Auditor General did not say that.

Mr. MONTAGUE: Lisa don't say that.

Miss GRANGE: During the 09/10 financial year the Social Development Commission used - Mr. Speaker, the SDC used creative approaches to fulfill its mandate of community development by establishing and strengthening civil society organizations, including CBOs, CDCs, DACs and PDCs. Specifically, the targets for the 09/10 financial year were aimed at increasing the number of established fora for citizens, particularly youth, to participate in decision making regarding their communities and increasing citizens awareness of the Local Government Reform process. So during the period approximately 254 new organized community structures emerged, 480 groups were assessed and 466 received organizational strengthening from the SDC. I don't think there is any Member in this House who can, at this time, criticize the Social Development Commission.

Mr. MONTAGUE: None of them over there can.

Miss GRANGE: We have moved it from a politicized organization to a truly community-development mechanism.

(Applause)

Mr. MONTAGUE: Not one a dem can open dem mouth. Juck dem yah, Babsy.

Ms. GRANGE: Mr. Speaker, to work to ensure that communities get what they must to develop is being done in a very systematic way, by finding out what is exists, what is needed, and what must be done next. The SDC has been researching and preparing profiles for each of the seven hundred and eighty-three communities in Jamaica—and the communities are growing. We're now I

think about eight hundred, a little over eight hundred. We're also doing development area profiles and parish profiles. These profiles detail the resources, challenges, and opportunities in community development areas and in parishes. These community profiles and the community maps, which we are also developing, will guide community development planners at all levels. They will be very useful tools, Mr. Speaker, for policy makers, for councillors, for programme designers, for community-based organizations and groups, development organizations, foundations, the security forces, businesses and residents.

The community profiles, development area profiles and parish profiles will comprise the Jamaican community database system with demographic, social and economic information produced from quantitative and local participatory processes and utilized for sustainable development planning.

Mr. MONTAGUE: Hear, hear!

Ms. GRANGE: Mr. Speaker, we have completed four hundred and twenty-four of the seven hundred and eighty-three community profiles. Some Members of this House have received profiles of the communities in their constituencies.

Mr. LAWRENCE: I got mine.

Mr. MONTAGUE: I got mine.

Ms. GRANGE: You got yours. Who else got?

Mr. PERALTO: Yes, I got it.

Government MEMBER: How none of you over there caan sey you got none?

Ms. GRANGE: You got yours, Right.

Mr. MONTAGUE: Lisa got; I delivered it.

Opposition MEMBER: Why you nuh leave Lisa alone?

Ms. GRANGE: Another two hundred and twenty-four profiles are awaiting the addition of secondary information for completion.

Mr. MONTAGUE: You nuh know weh we a talk bout.

Ms. GRANGE: We're sharing the profiles with stakeholders at all levels including central government, local government and civil society organizations.

Mr. Speaker, we are using participatory methods to facilitate community planning and increased community-driven development projects. We were able to facilitate stakeholder involvement in the preparation and implementation of local plans and projects to expand vocational training in SDC and our H.E.A.R.T Trust/NTA Centres in the first instance and then to suitable community centres; to use sports and entertainment to maintain energy .and presence in all communities and to rebuild strong cultural identity.

Mr. MONTAGUE: Hear, hear!

Ms. GRANGE: Mr. Speaker, I'm trying to move along quickly.

Mr. MONTAGUE: Don't rush Babsy. Gwaan do you thing.

Ms. GRANGE: Gender Issues and Women's Affair: The Government of Jamaica is working to create a society in which men and women live in harmony and work side by side to make our island home a better place. Jamaica has made progress, Mr. Speaker, in relation to the status and condition of women in the country as a result of legal reforms, public education, policies, programmes and

activities that we have carried out. At the same time, the Government through this Ministry is redoubling its efforts to place men's issues on the gender agenda and give them the same level of attention as women's issues.

Mr. MONTAGUE: Some of them need it like… (Inaudible)

Ms. GRANGE: It is clear we will not achieve gender equality unless men are engaged…

Mr. MONTAGUE: True.

Ms. GRANGE: …and actively participate in building a peaceful and harmonious society.

Mr. MONTAGUE: Hear, hear!

Mr. LAWRENCE: Hear, hear!

Ms. GRANGE: So we are committed to the principle of gender equality. We commit ourselves to tear down the walls that prevent women from achieving their potential and to break the back of male marginalization.

Mr. MONTAGUE: Yes!

Ms. GRANGE: We are at an advanced stage in the development of the National Gender Policy which will set a framework for gender equality. The policy addresses critical gender inequality issues and seeks to address systemic imbalances facing both men and women.

We are also focusing on a policy to address, Mr. Speaker, sexual harassment, especially at the work place.

Mr. MONTAGUE: Yes, Natalie harass me.

(Laughter)

Government MEMBER: Yes, yes, is true. (inaudible comment)

(Laughter)

Ms. GRANGE: And it's not just for women, it addresses the problem that men sometimes face.

Mr. MONTAGUE: I want that badly.

Government MEMBER**:** Want that badly.

(Laughter)

Mr. MONTAGUE: Harassment of Natalie.

Ms. GRANGE: The Sexual Harassment Policy being drafted will pave the way for the legislation on sexual harassment. The policy document is ready and has been sent to Cabinet. As part of the Policy Development process the Ministry is embarking on a public education programme to sensitize our citizens on sexual harassment. Mr. Speaker, we have been training several public sector and private sector employees in the issues involved. We are ensuring that we're all able to identify sexual harassment, prevent it from happening, and assist employers and human resource managers to develop policies and guidelines for their organizations.

There is ongoing legislative reform relating to women and girls to ensure that they receive adequate protection and redress under the law. It is about equality and fairness.

Mr. MONTAGUE: Hear, hear!

Ms. GRANGE: Some provisions under the Offences Against the Person (Amendment) Act and the Incest Punishment (Amendment) Act have been brought together to form Sexual Offences Bill.

Mr. MONTAGUE: Hear, hear!

Ms. GRANGE: Gender mainstreaming continues to be a critical strategy towards the attainment of gender equality goals. Through

the Bureau of Women's Affairs, we are establishing gender focal points in government ministries, in government departments and in agencies as part of the process of ensuring the mainstreaming of gender in all our policies, plans, programmes and projects. We're providing training to enable individuals to have an understanding of fundamental gender issues.

Mr. Speaker, I'm pleased to inform this Honourable House that as part of the gender mainstreaming and in preparation for the implementation of the National Gender Policy, a male desk has been established in the Bureau of Women's Affairs.

Mr. MONTAGUE: Hear, hear!

Miss GRANGE: And this was established since April 2009.

Government MEMBERS: Hear, hear!

Miss GRANGE: The Women's Bureau started by the establishment of a Women's Desk in the Office of the Prime Minister.

Mr. MONTAGUE: Very good.

Miss GRANGE: So we are starting to issue—the issues that affect the men. But we will not have a Men's Bureau; we will have a Gender Bureau.

Mr. MONTAGUE: Hear, hear!
Even better.

(Applause by Mr. Montague)

Miss GRANGE: So the Male Desk focuses on policy issues relating to men and boys. The desk is developing an action plan to address critical issues relating to men. The Male Desk enhances the Bureau's interaction with the men. Over the years, the bureau has targeted men and boys through its School Education Programme and its public education programme and its advocacy programme. This desk is a central point providing information on men's health and development, men and parenting…

Mr. MONTAGUE: Yes.

Ms. GRANGE: …men and education …

Mr. MONTAGUE: Yes.

Miss GRANGE: …the role of men in the elimination of gender-based violence and the creation of a gender harmonious society, among others. We have reached several young men under this initiative.

Mr. MONTAGUE: Hear, hear! Very good.

Miss GRANGE: We are serious about positioning men's issues as importantly as women's issues on the gender agenda.

Mr. MONTAGUE: Yes.

Miss GRANGE: The Bureau is also working in partnership with the Women's Centre of Jamaica Foundation and Women Inc. in the implementation of a project aimed at gender socialization of males on issues relating to the elimination of violence against women. The project is funded by the United Nations Population Fund. We are serious about ending gender-based violence. We have made significant effort to address the problem through initiative designed to increase knowledge and understanding of the root cases of gender-based violence.

Now, Mr. Speaker, poverty among rural women is a concern to us.

Mr. MONTAGUE: Yes, true!

Miss GRANGE: We are addressing the problem through a multi-sectoral approach and several agencies are involved in the process. The Ministry has also been actively working with some rural women who are engaged in various income-generating

activities to help them create sustainable livelihoods. One of the important projects for dealing with poverty among rural women is the protected agriculture greenhouse and exclusion cage, which is an intensive production technology strategy that yields greater productivity and higher returns per unit of investment capital.

I will speak a little on the Women's Centre Foundation.

Mr. MONTAGUE: Yes.

Miss GRANGE: Nothing pleases us more, Mr. Speaker, than when we are able to help to turn a life around and to give someone a hand. And we are proud of the work of the Women's Centre of Jamaica Foundation which continues to operate the programme for adolescent mothers at the seven (7) main centres and six (6) outreach sites across the country. The Women's Centre offers much needed counselling and care to teenage mothers, giving—and pregnant teenagers. Some of these youngsters are victims of incest and abuse - sexual abuse giving them the skills to be good partners and the tools to build meaningful lives and careers.

In 09/010, one thousand five hundred and seventy-three teenage mothers enrolled in the programme. Seven hundred and sixteen were returned to the formal school system.

Mr. MONTAGUE: Good!

Miss GRANGE: And twenty-nine sat CXC/CSEC Examinations with twenty or sixty-nine per cent gaining passing grades.

Mr. MONTAGUE: Hear, hear!

(Applause by Government Members)

Miss GRANGE: The nation will also want to know that the Women's Centre has also continued to expand its engagement of the baby fathers…

Mr. MONTAGUE: What!

Miss GRANGE: …and has been encouraging them to live up to their responsibility to mother and child. As a result, three hundred and twenty-six of the baby fathers were counselled and referred to other institutions. Among those seen were two sixteen year-old boys…

Mr. MONTAGUE: What!

Miss GRANGE: …who were placed back in schools.

Mr. MONTAGUE: As baby fathers?

Miss GRANGE: As baby fathers.

Mr. LAWRENCE: What!

Mr. MONTAGUE: Oh, Lord!

Miss GRANGE: And they were some sixteen year-old baby mothers too and even younger.

Mr. PEART: I hope yuh lock dem up.

Mr. MONTAGUE: Or older. But baby mother not older?

(Inaudible comment by Mr. Warmington)

Miss GRANGE: Well, that was dealt with also.

Mr. MONTAGUE: Baby mothers were older?

Mr. WARMINGTON: But man you nuh know bout no more; that pass you.

Miss GRANGE: So just making reference now quickly to the priority actions. Women's Centre will continue to give hope and transform lives. Among the priority actions, Mr. Speaker is the relocation, Mr. Speaker, of the Port Antonio Centre which will be expanded to a regional facility to

serve the parishes of Portland and St. Mary.

Mr. MONTAGUE: Hear, hear!

(Applause)

Miss GRANGE: We have also prioritized the repair of the administrative building…

Miss HANNA: Well commended.

Miss GRANGE: We have also prioritzed the repair of the administrative building at the Kingston Centre and the construction of Day Care facilities and parameter fencing at the Mandeville Centre.

Mr. Speaker, the Women's Centre andthis Ministry will also continue to advocate - and I'm sorry that my colleague Minister is not in the Chamber at this time - will continue to advocate for the mandatory re-entry of teen mothers to the formal education system.

(Applause)

Mr. MONTAGUE: Yes, that is required.

Miss GRANGE: Now, I move on to a subject that is very dear to many hearts because it is at the centre of **Brand Jamaica -** Sports.

Mr. MONTAGUE: Hear, hear!

Government MEMBER: Oh, yes, oh yes.

Miss GRANGE: The Government of Jamaica recognizes the full value of sports to nation building. Mr. Speaker, sports bring people together, a source of personal enjoyment and fulfilment, helps to raise national pride and international profile, helps us to maintain healthy lifestyle and offers significant potential for economic activity and growth.

The Ministry of Tourism and the Tourist Industry has benefited tremendously from our successes in sport.

Government MEMBERS: Hear, Hear!

Miss GRANGE: Our strategy is to ensure that each Jamaican has the opportunity to succeed in sports from the grassroots to the high performance level, develop the sports industry and to encourage participation in sports as a way of life for our people.

The Government's proposal for sports include a development plan for students, for communities and sports associations ...

Mr. MONTAGUE: Yes.

Miss GRANGE: ...a plan for the development of the sports industry and a plan to make sports a much more important part of the Jamaican way of life. The proposals will be outlined in the Revised National Sports Policy dubbed '*Sports For All'*.

Mr. Speaker, I know there is great anticipation across the country for the finalisation of the *Sports For All* document. I'm pleased that there is such interest in what we are proposing for sports.

Mr. MONTAGUE: Yes.

Miss GRANGE: It underscores what we have always known, sports matter. Policy development, however, takes time, Mr. Speaker.

Mr. MONTAGUE: Yes.

Miss GRANGE: Comprehensive policy development takes time.

Mr. MONTAGUE: Dem wouldn't understand.

Miss GRANGE: Much of the work has already been completed, including the review of related policies, legislation, regulations, documents, plans, studies, papers, proposals. Trust me, Mr. Speaker, they are many and we have looked at all of them. We've also held consultations with stakeholders including planners and sports practitioners. The policy

development process was affected by a significant absence of critical baseline data, but we have put in place a system that records data regarding the level of participation in organised sports as well as an assessment and listing of sports facilities available throughout Jamaica.

Mr. MONTAGUE: Yes.

Miss GRANGE: These are just examples of basic but critical information required, but which we did not have for long term and effective planning and policy development. So the revised policy aims to provide a framework for excellence at all levels of competition. In the Jamaican tradition of sportsmanship and play fair it is important. The policy will guide the development of knowledge and practice of sports and set the parameters for coordinated sports development.

So the national strategic framework and action plan for sports, which accompanies the policy framework document, is the first comprehensive sports plan ever.

Mr. MONTAGUE: Yes.

Miss GRANGE: It outlines processes and strategies designed to translate the policy goals into actions and programmes that can be implemented through joint action with the private sector, civil society and others.

Mr. MONTAGUE: Yeah!

Miss GRANGE: Keeping to our strategy for sports development, Mr. Speaker, the Ministry developed and piloted the Little League Football in the parishes of St. Catherine and Clarendon last year. The League targeted pupils at the early childhood level and was aimed at teaching them the rules of football, developing their technique and encouraging a lifelong habit of physical activeness.

The Little League Football, Mr. Speaker, also hopes to foster better interactions between the communities in which the children live and play. Little League was led by the Ministry in collaboration with the Institute of Sports, the Sports Development Foundation, Bouygues Construction, which provided the mini portable goals for the League and of course, with the full support of the Minister of Transport and Works, who got the equipment donated to us.

Mr. Speaker, I have been receiving feedback from the teachers in the basic schools whose students participated in the programme. They have said that they have noticed improvements in concentration, coordination and logic and they have noticed that these youngsters have a better relationship with their classmates because of what has been instilled in them from their experience in this little teamwork.

We want to expand this programme in keeping with *Sports For All*; and I've asked the Institute of Sports to prepare a plan for an all island Little League Football. (Applause)

Mr. MONTAGUE: Very good, very good, very good!

Miss GRANGE: It is going to warm your heart, Mr. Speaker, when you see from three to six and I mean, it was just a wonderful experience. I'm sorry we weren't able to do the power point today, if you'd see these little youngsters and we can see those babies coming up to be the future Reggae Boys.

(Inaudible comment by a Member)

Miss GRANGE: Yes, yes!

Opposition MEMBER: You need to have a child. (Laughter)

Miss GRANGE: Now, Mr. Speaker, I report today some successes in the Ministry's plan to support and to promote sports tourism. Our strategy for sports includes facilitating major events to enhance sports tourism. We want to build a reputation for Brand Jamaica as the best place for sports. I'm happy that the Ministry was able to facilitate the return of professional golf to Jamaica, after an absence of 20 years.

We facilitated the hosting of a brand new professional golf tournament in Jamaica - the **Mojo 6 Raceway Golf Jamaica**. The tournament which was sanctioned by the LPGA, featured 16 of the world's best women golfers competing in the new and exciting Raceway Golf format dubbed **'the Sprint of Golf'**. And it was a perfect marriage, Mr. Speaker, because the **Sprint of Golf** was played for the first time in this sprint capital of the world.

The Mojo 6 Raceway Golf was a great entertainment package that was shown to millions of television viewers across the world on CBS, ESPN International and the Golf Channel. More than 100 million viewers in the United States were able to enjoy the tournament and to see some of what Jamaica had to offer in small features on the island, which were part of the deal we negotiated for the broadcast.

The tournament was facilitated by the Ministry - our Ministry and the Ministry of Tourism through the Tourist Board and the Sports Development Foundation and in partnership with the local golfing association. We look forward to hosting the tournament again this year, because the promoters have agreed that Jamaica will become the permanent home of this LPGA calendar event.

Mr. Speaker, sports as we all know, are an effective tool in engaging the community, especially the youth. Sports have been proven to assist in improving the relationship between communities and the police as well as to reduce the level of crime. And so, great interest has been generated by the National Community Cricket Competition and the Track and Field competition organised by the Social Development Commission. The support has been phenomenal. Four hundred teams representing 437 communities participated in the cricket competition. It involved 7,200 participants and an average of 6,200 spectators each week.

Now, the Ministry has responsibility for the Jamaica Anti-Doping Commission and JADCO's mission is to ensure that Jamaican sports remain clean. It is a part of a global network working to protect the health of sports people and the integrity of sports.

Mr. Speaker, recently there were comments in the international media by an individual...

(*Sotto voce* comments by some Members)

Miss GRANGE: ... knowledgeable about doping in sports, but unconnected and obviously unfamiliar with the work of JADCO, in its fight against drugs in sports.

Let me make it clear, very clear, Mr. Speaker. Jamaica's testing programme operates to high standards and had not only

been certified, but applauded by the World Anti-Doping Agency.

A MEMBER: Hear, hear!

Miss GRANGE: And of course, JADCO has a very comprehensive education programme and they do testing in and out of competition.

Now in this publication that is handed out, there are areas that I'm not going to address now, Mr. Speaker, that the information is provided in this publication because I do not want to speak for long... (Laughter) ... ger - for longer. (Laughter)

(Inaudible comments by some Members)

Miss GRANGE: But with all the subjects I have...

(Inaudible comments by some Members)

Mr. HENRY: You are hoping to speak.

Mr. KELLIER: You have already gone two hours.

Miss GRANGE: ...with all the subjects I have, I can't help it.

(Inaudible comments by Members)

Miss GRANGE: But we're gonna handout - which is a Report and the Report is very comprehensive and so you'll be able to get all the details that I will not speak to at this time. But I want to just touch on a couple of things that...

(Inaudible comment by Mr. Samuda)

Miss GRANGE: Yes, some of those things.

This is **Reggae Month**. We celebrate Reggae Month at this time and the most significant feature of Reggae Month in 2010, was the establishment of an important link between the music industry and the Edna Manley College of the Visual and Performing Arts, particularly through the staging of weekly lively events at the College. And there is a programme that is published in relation to the activities of Reggae Month this year. But I want to lead into the fact that next year Jamaica celebrates its 50th Anniversary of Independence and we've already begun preparations for the celebration of this milestone in a format befitting the achievements of our country.

Mr. MONTAGUE: Hear, hear, hear, hear!

Miss GRANGE: Of course 2012 will also mark Olympic Year...

Mr. MONTAGUE: Yes.

Miss GRANGE: ...and the 125th Anniversary of the birth of the Right Excellent Marcus Mosiah Garvey, National Hero. (Applause)

Mr. MONTAGUE: Hear, hear, hear, hear. Special Committee.

Miss GRANGE: More information and details will be announced on the plans that we will embark on.

Now, I'm just touching a little on Garvey. The Jamaica National Heritage Trust has been requested by the Prime Minister to spearhead the development of the childhood home of National Hero, the Right Excellent Marcus Mosiah Garvey. (Applause)

Mr. MONTAGUE: Hear, hear, hear, hear!

Miss GRANGE: And this is located at 32 Marcus Garvey Way in St. Ann. (Applause)

Mr. MONTAGUE: Hear, hear, hear, hear!

Miss GRANGE: Arising from discussions with stakeholders, including the local UNIA and Liberty Hall and St. Ann community and Garvey scholars, the following was decided:

- We will rebuild a replica of a structure that resembles the house that Garvey would have grown up in.
- To create linkages, a trail beween the St. Ann's Bay site associated with Garvey, the Ryere Home, where his mother worked and where he spent time as a child and the Methodist Manse and the library.
- To finalize research on the boyhood life of Garvey which will inform the exhibits at the site.
- And to host a design competition for the creation of a Marcus Garvey Theme Park and Museum that will be housed on that property.

Government MEMBERS: What! What!

Mr. E. SMITH: Hear, hear!

(Applause)

Miss GRANGE: Now, there is growing controversy surrounding the Paul Bogle statue in Morant Bay. And I just want to touch a little on that. Through the St. Thomas Parish Council, the Jamaica National Heritage Trust has received a petition from parishoners for the permanent removal of the statue from in front of the courthouse.

Mr. LAWRENCE: And St. Ann, too!

(Inaudible comments by Miss Hanna)

Miss GRANGE: However, the Paul Bogle Foundation has sent communication urging the JNHT to let the statue remain.

A MEMBER: What!

Miss GRANGE: Mr. Speaker, the statue was vandalized in 2009, requiring the JNHT to spend approximately $1.8 Million to repair it. The view of the people opposed to the statue is that it is not a true reflection of the national hero. Mr. Speaker, we have discussed the matter thoroughly as we seek to find an acceptable compromise this financial year. It will not be easy. But because the Member of Parliament constantly asks me, the Member of Parliament from East St. Thomas...

Mr. MONTAGUE: See him there!

Miss GRANGE: ...constantly asks what is happening. (Applause)

Mr. MONTAGUE: Him want a replica of himself.

Miss GRANGE: I felt it was important that I make reference to the matter.

A MEMBER: Him get through, him get through! (Laughter)

Miss GRANGE: A decision will have to be made, and...

Mr. MONTAGUE: We will have consultations.

Miss GRANGE: ...not everybody will be happy, but the buck falls right here and a decision will be made.

Mr. MONTAGUE: Tell them, Babsy, tell them. You are royal.

Miss GRANGE: So, Mr. Speaker, at this point, I will just wrap up my presentation...

A MEMBER: Already!

(Inaudible comments)

Miss GRANGE:...by just touching on a couple of other cultural matters.

The Jamaica Cultural Development Commission which has the duty to enhance national development by creating opportunities that unearth, develop, preserve and promote the creative talents and expressions of the Jamaican people, has begun the implementation of an overall transformation strategy to realize the vision of

becoming the global centre of cultural excellence. Now, this requires a significant shift in many areas, including business operation, use of technology, organizational behaviour and effectiveness. And in the 2009-2010 financial year, the Commission undertook a major re-branding strategy designed to build on the revitalization of the Government's cultural development programme which started with the re-introduction of the Grand Gala in 2008. I saw big men cry at the Gala because they were moved.

Mr. MONTAGUE: Yeah, I was moved!

Mr. LAWRENCE: And Roger.

Miss GRANGE: During the re-imaging process, the JCDC introduced a modern new Logo, a souvenir gift shop and a museum of musical instruments. The developments helped to attract renewed interest in the activities of the Commission and resulted in overwhelming public and corporate support. And I want to use the opportunity to commend Grace Silvera... (Applause) ...and to thank Diageo...

Mr. MONTAGUE: Yes, good St. Mary woman!

Miss GRANGE: ...for lending her to us for one year. They paid her salary. They paid all her expenses. And they gave her to us to assist in this process of re-branding. So the momentum set by the re-branding process, re-energized the staging of the annual performing Culinary entertainment and Visual Arts programme, as well as a number of national and celebratory events. We provided wholesome family entertainment while preserving the unique and authentic cultural traditions of Jamaica.

Mr. MONTAGUE: Yes, it went very well.

Miss GRANGE: The annual Jamaica Festival which officially kicks off July 31, which is the eve of Emancipation Day and climaxes on August 6, plays a critical role in the Government's plan to develop and preserve our culture. Through the celebrations, the JCDC has successfully recaptured the country's imagination, kindled in citizens a strong sense of patriotism and created national focus around the significance of Emancipation and Independence.

A MEMBER: Hear, hear!

Miss GRANGE: And people continue to say, coming out of that wonderful revitalization of our culture, they continue to say, I believe in Jamaica.

Mr. MONTAGUE: Hear, hear!

Miss GRANGE: We have given careful attention, Mr. Speaker, to specialized ways in which we handle record-keeping and archiving of important Government documents. And as such the role of the Jamaica Archives and Records Department is very critical. JRD is ensuring - I just want the country to know - the efficient and effective management and use of official records in all formats, at all stages of their life cycles, and the preservation of records of archival value for current and future use by the Government and citizens of Jamaica. And you will notice outside there is an exhibition. And that exhibition is also an extension of what Government is doing to preserve our heritage.

We recently appointed a Curator for the Jamaica Music Museum which is temporarily housed at the Institute of Jamaica. We are looking for a home. And we are looking for a

home Downtown, in Downtown Kingston. But what we have displayed in the lobby is just a taste of what we can do and the material and the artefacts and the gifts that we have received from people in an industry that has been at the centre of Jamaica's development.

So, in concluding, Mr. Speaker, much work has begun but much work remains to be done to achieve our strategic priorities of leading social transformation and building the new economy.

Many have had to put up with my long hours. Many have had to put up with the pressures that I put on them to produce. And I really, before I end, want to thank them very much. As for my family, my daughter and her husband, they are here. (Applause)

Mr. SAMUDA: Hear, hear!

Miss GRANGE: Paula and Jonathan, they hardly see me. They call, they can't get me on the phone and I promise to call back and I never call back. But I hope that they will understand after hearing this presentation.

Mr. MONTAGUE: Hear, hear!

Miss GRANGE: In the past we have taken concrete steps to put our youth at the centre of our development strategy; develop vibrant, organized, peaceful and active communities; advance gender equality; provide greater opportunities for participation and success in sports, and use culture to unify our people and provide new opportunities for poverty alleviation and wealth creation.

We are now looking to the future. And we are offering hope and opportunities to youth, women and communities... (Applause) ...and leadership for the development of sports, culture and the creative sectors. We are committed, Mr. Speaker, and we are, my Ministry and this Government, we are positioning for growth. (Applause)

Thank you, Mr. Speaker.

Mr. SAMUDA: Well done. Very well done.

The SPEAKER: Mr. Samuda:

Mr. SAMUDA: Mr. Speaker, I know that the day is well spent. We had a wonderful presentation, extensive presentation from our Minister of Youth, Sports and Culture and I think she deserves another round of applause...(Applause)...for the tremendous amount of work that she has been doing.

Mr. Speaker, there were a number of Members who participated in the Sectoral Debate of this year, but unfortunately, as is customary, it's not possible for the person who closes the debate to go through and comment on everyone who participated. So I ask that those who participated and would not be part of my presentation - there are eight in all - I apologize for not having the time to deal with them wholesomely, but enough to say that they are, the Members from St. South-West, St. Ann North-West, St. Catherine North-East, Trelawny Northern, Trelawny Southern, St. Andrew Western, Hanover Eastern and St. Catherine South-East.

Everyone of those Members, Mr. Speaker, spoke passionately about their commitment to their constituents, to their constituencies, and detailed the requirements necessary in order to improve the quality of lives of those whom we represent. The one thing that is common to all those who contributed, including today, is the

commitment to nation building. We may not agree as to how we go about it. But in the final analysis, the objective remains the same on the part of everyone on both sides of this Honourable House.

Mr. Speaker, I was particularly struck, if I should start at the very end of the Sectoral Debate, I was struck by a term used by the Member from Central St. Catherine when she spoke of the social transformation that is taking through the work of her Ministry It's a very nice term and one that we ought to keep in mind, bear in mind at all times when we see what is being done.

Mr. Speaker, I'd just like to indicate that the Member from East Central St. Andrew presented to us an assortment of social issues, going back as far as the '50s. And he focused primarily on education, energy, crime and the need to finalize the legislation dealing with the Charter of Rights, while proffering the need for further tightening of the contract procurement process. He suggested also a single anti-corruption agency, amalgamating the Office of the Contractor General, the Corruption Prevention Commission and the Parliamentary Integrity Commission. Very worthwhile recommendations and very thoughtful and thought-provoking.The appointment of a special select committee on crime and violence, as well as similar committees in relation to education transformation and energy policy.

The Minister of Tourism, of course, who guides one of our most important Ministries and sectors spoke as usual, very feelingly about the significance of tourism to our economic and social well-being and our performance under very difficult and trying times.

He indicated the level of success that has attended Jamaica, despite the economic downturn in the country. In using figures to prove his point imperically, he stated to us that the total stopover arrivals increased by 3.9%, and he also indicated that revenues increased as well.

The initiatives introduced to improve our products are concessionary financing for tourism entities, where he provides out of the TEF Funds $50 Million for a development programme for marketing and systems improvement. Also $50 Million for a loan programme for contract carriage operators, which provides up to $1 Million at 3% over five years.

He spoke of the need to reshape and refashion tourism and to extend the offerings that we provide. And he spoke of passion travelling, targeting families, music, weddings, eco-tourism, sports, health and wellness tourism, heritage tourism, music festivals, which link perfectly and sports into a former speaker's portfolio, so they work very closely together, health and wellness which links into the Ministry of Health, and eco-tourism which is a very critical area that is emerging, especially in areas of the Cockpit Mountain, Blue and John Crow Mountains.

On completion of the Ministers' programme, one who I think occupies perhaps the most at the moment, one of at least, the most important ministries and has been doing a phenomenal job, I speak of the Ministry of Transport and Works. And, Mr. Speaker, it's remarkable when one looks back at the work

done under very difficult circumstances to see what has been achieved.

Not all were initiated or conceptualized by the Minister. However, what is important is that they get completed. Too often we have projects that start and get bogged down in detail and become a drain on the economyIn this case, Mr. Speaker, I can enunciate those that have been completed that adds to the infrastructural development of our country. The Waterloo Bridge in St. Andrew.

Mr. MONTAGUE: Yes.

Mr. SAMUDA: the Fairfield Bridge in St. James.

Mr. MONTAGUE: Yes.

Mr. SAMUDA: The Green Island Bridge in Hanover ....

Mr. MONTAGUE: Yes, yes.

Mr. SAMUDA: .....Alligator Church Bridge in Portland.....

Mr. MONTAGUE: Yes.

Mr. SAMUDA: ....Boscobel Aerodrome in St. Mary.

Mr. MONTAGUE: Yes, yes, yes.

Mr. SAMUDA: The Falmouth Cruise Pier to accommodate the world's largest cruise liners with over 8,000 people on board.

(Applause/Laughter)

The Boscobel Aerodrome. Notwithstanding anything that you haven't heard, it belongs to the people of St. Mary primarily.

(Applause)

The six-lane expansion of the Washington Boulevard, Dunrobin area - corridor which is very important. And the Member from Eastern St. Thomas knows this well because it was said here repeatedly in this House, that when you build Highway 2000, without access to get out of the City, you are still clogged in a bottleneck, and what we are doing is unclogging that bottleneck by providing this highway for the Dunrobin Washington Boulevard Dunrobin Avenue. (Applause)

For the future, the Minister not only addresses what is immediately necessary and has had to be attended to, but for the future he outlined to us his plans for the Vernamfield Development, (Applause by Mr. Arscott) which was enunciated many, many, many years ago by him, supported by the former Prime Minister and regrettably, not enough has been done to carry it forward. And I suspect that he is determined to achieve that. The gradual rolling out of the rail service, it will be a progressive development, because the reengagement is very difficult and there are areas that can be rehabilitated and reactivated and he will be pursuing that.

The development of the Logistic Centre Network, including Tinson Pen and Vernamfield. And the formal establishment of a single road authority to handle all road works islandwide. I think the Minister should be commended for that.

(Applause by Government Members)

Mr. Speaker, during 2009 - and I really want you my dear colleagues to listen to this because we have been in office for three years under the most trying times, and what you are hearing here is performance...

AMEMBER: Indeed.

Mr. SAMUDA: ....performance manifested.

(Applause by Government Members)

Mr. MONTAGUE: Listen carefully, yuh might learn a thing young buoy. (Laughter)

(*Sotto voce* comment by Member)(laughter by both sides)

Mr. SAMUDA: (Laughter) Never mind. Never mind, it's all right.

During the 2009/2010 Financial Year, Mr. Speaker, the Road Maintenance Fund, the RMF, financed approximately 222,000 square meters of road repair valued at $640 Million. Again, this is against the background of a very difficult time.

Mr. MONTAGUE: Hear, hear!

Mr. SAMUDA: This included major programmes and initiatives for other initiatives for 2010. The US$4 00 million Government of Jamaica/China EX-IM Bank Road Infrastructure Development Project - and here, you had minimal if anything to do with that. That is the initiative of the Minister who engaged the Chinese and now....

(*Sotto voce* comment by Mr. Montague)

Mr. SAMUDA: Hold on. Hold on. And now, what has happened is that it constitutes an avenue for Members of the Opposition to benefit as well, because we are about building lives of people, not Labourites or PNP, but everybody.

(Heckling)

Mr. SAMUDA: A $378 Million Routine Maintenance Programme to include hotmix patches, spray matching and maintenance of roadways. A $400 Million periodic maintenance programme funded from the PetroCaribe Development Fund loan. Mr. Speaker, in any language, at any time, you have to record that as performance. (Applause)

The Opposition spokesman on National Security made his presentation on May 12 and he focused primarily on problems facing the country, and spent most of his time quoting crime statistics, but short on solutions.

Mr. MONTAGUE: True dat.

Mr. SAMUDA: We would have preferred to have heard him offer some concrete solutions to these problems such as the Member from East Central St. Andrew.

He went on to question rather, I suspect unsuccessfully, the Government's sincerety in tackling crime and corruption, claiming that the government had been selective in its commitment to the Rule of Law and good governance, citing among other things, improper dismissal of public service what he terms the new practice of awarding major public sector contracts and the handling of the US extradition request for Christopher Coke. In every instance he was citing areas of concern to ourselves and to the nation, he never offered a single suggestion as to the solution.

Mr. MONTAGUE: Doesn't have an original thought. Dunce.

Mr. SAMUDA: Mr. Speaker, it's important to note - and I commend it to the Opposition Spokesman on national Security, that whenever he makes the contribution on that very important question of crime and violence that he makes suggestions that we can use, because in the final analysis this did not start in 2007. These problems have been with us for years, and the only way we are going to get over it is to realize that we ought not to be partisan as we approach the fight against crime and violence.

(Applause)

Mr. MONTAGUE: They can't help themselves.

Mr. SAMUDA: The spokesman on agriculture, the Member from Central Westmoreland spoke fulsomely, lengthy presentation, but at no stage in my memory of being in this House with him have I ever felt bored listening to him. He is easily, easily, the most easy person to listen to.

A MEMBER: Humourous!

Mr. SAMUDA: He, of course, took issue with our brilliant young Minister of Agriculture concerning rice farming, casava farming, irrigation, sugar, ginger and even took us way over to Amity Hall and Spring Plain where he claimed that only 17 acres of land was under production instead of 500.

It is not so much what was said but how he said it. And the most important thing that we must recall in his presentation was the fact that he promised and committed himself to work with the Minister to help build the country and to help to expand the agricultural sector. That to me is very significant and I commend him for it. (Applause)

The Minister of Agriculture made his presentation and his presentation focused around the expansion of agriculture, crop production. And it is clear that we have reduced our food import bill in 2009 compared to 2008. And it simply confirms that with increased production, Jamaicans are eating more what we grow, which is the objective of the Ministry from the outset.

The Supplier Development Programme which was launched to supply the natural markets of tourism and agro-processing has been met with great success. It contributed to some 30% of the $13 billion or the US$177 million in agricultural output consumed by the tourism industry, and the remaining 70% representing imports. The fact of the matter, Mr. Speaker, is that the more we support agriculture for increased output is the greater opportunity it is for us to save foreign exchange and contribute to retained foreign exchange earnings through the tourism sector. It is critical for our development.

In terms of the financing for the agricultural sector, it was indicated that under the Financial Access for Responsible Members (FARM) the acronym, programme some $537.4 million was disbursed to farmers. This is no real ....in any basis of comparison.

In the area of rice production, which the Opposition spokesman took issue with him on, the fact is, we are not going to overnight expand our rice production, let's get that clear, but we have to start. We can't give up on an important crop like that and simply say, Jamaica isn't capable of doing it. And I commend the Minister for making that effort. (Applause)

Mr. MONTAGUE: Very good, very good. Hardworking Minister.

Mr. SAMUDA: The rice unit set up in the Agro-Investment Corporation, assisted by experts from Guyana, provided support to some 12 rice farmers who have so far established close to 200 hectares of rice. The Ministry is seeking to establish at least 2,000 hectares of rice within this financial year. It is a challenge but it is a noble ambition and one that must be pursued.

As the Minister stated, the Government's intention is to replace in the medium term at least 25% of Jamaica's rice imports with a

potential foreign exchange saving of some US$15 Million *per annum*. That's incredible and we must commend him for that.

Of course, his Ministry is plagued by that perennial disease to man known as praedial larceny. Mr. Speaker, our farmers continue to be plagued by praedial larceny, who at one time were described by the former Minister of Agriculture, the Member from Central Westmoreland as the set of two-foot puss. The Ministry of Agriculture has formulated a four pronged approach to this problem.

They are:

(1) Public awareness.

(2) Sensitization of the police and the judiciary, so that they will act expeditiously when a thief has been caught.

(3) Strengthening and reviewing the existing laws and

(4) the establishment of a traceability system.

Now, you may all laugh when the Member from North West St. Elizabeth speaks of a chip by which an animal can be identified. It's a proven strategy world over, and one that should be commended. It is not one that should be laughed at. And I commend the Member from St. Elizabeth Northwest and his Minister, for embarking on that creative approach.

But at some stage we are going to try everything. We have tried the receipt book, it hasn't worked. It was impractical. But we must now go on to try every method known to us so that we can ensure some protection for our farmers.

The Minister of Health commenced his presentation with a focus on re-orienting restructuring the services in four fundamental ways.

(1) Improving affordability,

(2) Putting more health workers on the ground,

(3) Moving services closer to communities, and

(4) Expanding critical services.

In the area of improving affordability, more persons are using the Primary Health Care System with health care through health centres, and the visiting has increased by some 16.3 per cent and 7.8 per cent in the second year - increased the first year of course, because it was something new. It is being used now and the number of persons has expanded so the rate of growth in that particular regard has reduced to 7.8.

Patient visits to pharmacies increased by about 10 per cent in the first year of the policy to 15 per cent in the second year, the need for more pharmaceuticals, as they are treated.

Laboratory tests increased 14.7 per cent in Year One of the policy, and 18.3 per cent in Year Two of implementation. Thousands of Jamaicans who use the public health system are satisfied that it has saved the country, and we are satisfied it has saved the country some $4.1 Billion over the two-year period - benefit to the people of Jamaica through the Government's policy.

Putting more health care to work.

We have assisted - $100 Million has been spent on training projects for Assistant Health care workers in 2008; 60 Assistant Public Health Inspectors and 230 Community Health Aides to be trained over the next two years. We have to grow that particular sector in

terms of the outreach, and expand in the Primary Health Care sector because that takes the burden off of the more expensive health delivery system, which is the Secondary Health Care sector.

The recruitment of 51 registered nurses from Cuba for six areas, including primary health care, paediatrics, accident and emergency and operating theatre. And we thank the Government of Cuba for their assistance in that regard.

The Nurses and Midwives Act is being amended to give advanced practical nurses some prescriptive rights, very important, because at times they are the only ones qualified in a district to write a prescription, but they are now prohibited from doing so - a very excellent initiative. This will improve access to rural patients and those who suffer from chronic illnesses.

We have to move closer to the people with health care…

Government MEMBER: Hear, hear!

Mr. SAMUDA: …and that is why 36 clinics were rehabilitated islandwide, another 28 would be completed by the end of this year, performance by a Government that cares.

(Applause)

Mr. MONTAGUE: Clap Sharon!

Mr. SAMUDA: In addition, repairs have been completed on 11 of the 19 clinics under the Jamaica Social Investment Fund at the total projected cost of $131 Million. And in the Secondary Health Care system, a total of $463 Million was spent in expanding services at the secondary care level.

Now, the Member from Central Kingston will say, why are you repeating all that has already been said? The fact of the matter is that in the process of the Parliamentary system - in the Westminster system, this is how it is done for purposes of reinforcing those statements made that might have been overlooked by those who had gone outside to do whatever.

(Applause)

Mr. MONTAGUE: You are not.

Mr. SAMUDA: He wrote an article once to say, why am I boring the Parliament by repeating what was already said. The fact truth is that I am sure that even what I have said here, half of it he didn't remember.

(Laughter)

A MEMBER: He had left early.

Mr. SAMUDA: Three Hundred and Seven Million has been spent to expand and improve secondary care in the South East Region; $54 Million spent to improve the National Chest; $222 Million was spent on projects to expand and improve the Spanish Town Hospital. Hear, hear for the Spanish Town Hospital, Babsy.

(*Sotto voce* comments by Miss Grange and Mrs. Hay-Webster)

Mr. SAMUDA: Sharon, Sharon, okay.

In the area of Labour and Social Security we heard from the Minister of Labour and Social Security. And the Minister of Labour and Social Security, in his presentation, outlined the Ministry's role in putting strategies in place to bring the occupational safety and health programmes to international standards.

The National Workplace Policy on HIV and AIDS, the Workplace Policy was approved by this Honourable House, which is a great step forward. Flexi work week is

advancing quite significantly, and we hope to complete that very soon.

The PATH Programme as you know comprises some 350,000 participants who are benefitting each month. This represents an increase of over 30 per cent compared to the number registered in April 2009. This was as at August 2010. PATH addresses needs of the disabled and elderly poor. The Ministry also announced that a grant of US$2.6 Million has been secured from the Japanese Government to register disabled and the elderly poor on PATH.

Mr. MONTAGUE: Hear, hear!

Mr. SAMUDA: Additional 10,000 poor elderly and disabled persons should receive PATH benefits through this initiative.

THE NATIONAL INSURANCE SCHEME FUNDS

The Minister mentioned several reforms to ensure the long-term sustainability of the National Insurance Scheme. And this is very comforting because there are those who have expressed doubt in the past, but under this Administration, under the leadership of the Minister, there is no doubt that it will be strengthened.

Mr. MONTAGUE: Yes, sir.

Mr. SAMUDA: Mr. Speaker, we heard from the young and dynamic Minister of Information and Communications Technology, ICT, who assured us and re-affirmed Government's commitment to making full use of technological innovations to transform all sectors of the economy. He announced that the concept of GOVNET has been created, and the Central Information Technology Office, CITO, being mandated to implement the vision and concept of GOVNET.

The Universal Access Fund Company Limited was able to complete 17 community access points island wide at a cost of $30.4 Million. Some $40 Million is expected to be put towards infrastructural upgrading of the Postal Corporation of Jamaica, a very essential service, by establishing an additional ten (10) Internet facilities islandwide.

In the area of e-Learning as at August last year, all high schools, 162 of them, and six (6) special schools with students with learning and physical challenges were equipped with computers and Local Area Networks, among other accomplishments.

Mr. Speaker, we heard from the Minister of Water and Housing. And we were told that $4.5 Million will be spent on Water Improvement projects: $1.5 Billion on Kingston Metropolitan Area water projects, $450 Million in Kingston Water and Sanitation Projects, $500 Million on other on-going projects.

In the area of Housing, US$71.2 Million loan facility provided by the Chinese Government to develop 3,300 shelter solutions between Luana Gardens in St. Elizabeth, and St. Ann. Plans for Housing Agency to start some 9,800 new housing solutions, 50 per cent to be completed by the end of this year. That is a performing Minister of Water and Housing.

(Applause)

LOCAL GOVERNMENT

The Minister of State with responsibility for Local Government, who made his contribution on October 26, spoke of the

major projects and programmes being pursued by the Department of Local Government under the theme: **Positioning for Growth.**

Concerning Local Government Reform, he mentioned the Reform Agenda which includes the entrenchment of Local Government in the Constitution, moves towards the promulgation of a new National Building Act, the establishment of municipal courts. He also...

The DEPUTY SPEAKER: (Gavels) The Minister's time for speaking has expired.

Mr. SAMUDA: Ten minutes**.**

Mr. HOLNESS: Madam Speaker, I move for the suspension of Standing Orders to ask for an extension of 20 minutes to allow the Member to complete his presentation.

The DEPUTY SPEAKER: The question before the House is that the Minister be given an additional 20 minutes to finish his presentation.

Put to the House and agreed to.

(*Sotto voce* comments by Members)

The DEPUTY SPEAKER: Go ahead, Minister.

Mr. SAMUDA: (Laughs) Thanks.

He also reported on development approval. The return of pension calculation functions to local authorities, direct payment of subvention to the local authorities, a major development in the revenue overall of Parish Councils with the introduction of the Municipal Police Programme.

Government MEMBER: Hear, hear!

Mr. SAMUDA: The Member also reported - the Minister also reported on the number of projects designed to cut costs, increase revenues and deliver a more effective service to citizens. These, Mr. Speaker, spanned a number of areas.

The Minister also mentioned that in terms of property tax collection, the compliance was just under $2 Billion, had been collected, part of a targeted $3.5 Billion. He also mentioned the iMAP Database which will give the local authorities a graphic representation of the properties for which property taxes have not been paid, among other things. This is vitally important if you are going to tackle payment of property taxes. Commend you for that Minister.

Mr. MONTAGUE: Thank you, sir.

Mr. SAMUDA: The Minister also spoke of the Land Administration and Management Programme, LAMP, under which 652 applications for titles had been lodged, and 569 titles issued, bringing the total number of first registration titles issued up to 2,111. Up to the date of his presentation, 3,350 applications for titles were lodged with 2,881 approved.

Mr. Speaker, this was the bugbear of the former administration as articulated by the then Prime Minister himself, the question of the tardiness in getting titles, and the whole method by which we go about it. You can clearly see from the performance of the Minister of Local Government, that times have changed.

Mr. MONTAGUE: Indeed.

(Applause)

MEMBERS: Hear, hear!

Mr. SAMUDA: In the area of Foreign Affairs, we heard from the Deputy Prime Minister and the Minister of Foreign Affairs and Foreign Trade. He spoke of the on-going negotiations between CARICOM, Canada, in

the hope of arriving at an agreement between the CARICOM and Canada. And he outlined to the Parliament, the important ingredient necessary to make that a meaningful agreement. And that is, to have a developmental clause which gives us an opportunity to be able to establish the hard and soft infrastructure in our respective countries within the CARICOM to be able to compete once the market is open.

It is pointless to have non-reciprocal arrangements that put you at such a disadvantage - or the elimination of nonreciprocal that puts you at a disadvantage. Once you get into reciprocal trade, you then run the risk of having your products exposed to heavy competition which you are not prepared for.

And the Minister, quite rightfully, leads the charge on behalf of Jamaica that we insist that there must be a developmental clause in that agreement to protect our fledgling industries, and agriculture in particular.

He spoke of the EPA and stressed the importance of becoming competitive in order to take advantage of market opportunities under the EPA Agreement.

> **"Too many of our countries in CARICOM have lagged behind in preparing themselves to deal with the European market. And if we don't act and act swiftly, we are going to lose the initiative and that great opportunity that it offers us".**

We are working closely, between the Ministry of Foreign Affairs and Foreign Trade, and the Ministry of Industry, Investment and Commerce, to find foreign direct investments, and we work through the offices of the Foreign Ministry throughout the world, and also for the promotion of exports.

Mr. Speaker, the Minister of Foreign Affairs and Foreign Trade continues to give responsible, mature, respectful leadership to the Jamaican foreign policy.

(Applause)

I turn, Mr. Speaker, finally to the Ministry that I have the honour and privilege to shepherd, if that's the right word. I thank the Prime Minister for his continued confidence and support as we work closely together to bring about economic recovery.

I have been recently misunderstood by at least a former leading light within the manufacturing community, for suggesting that this Government is insensitive, and in fact, previous governments were insensitive to the need to focus on manufacturing as a key area. Quite frankly, no government worth their grain of salt could ever turn their backs on a sector as important as this.

The Manufacturing Sector, despite challenges, still remains the leading contributor to GDP for 2009 for the goods producing sector, surpassing the combined contribution of mining and agriculture. It is often said that agriculture is an emerging industry, but it has had its setbacks with traditional agriculture, and manufacturing is at the moment ahead in that area of contribution to Gross Domestic Product. It is still a large employer of labour, directly responsible, as it is, for some 77,000 employees. It is a diverse sector with 12 major subsectors.

Since 2008, I wish to indicate that we have introduced a number of initiatives to boost the performance of the sector. And I

enunciate for the purpose of this Honourable House and remind them of those initiatives.

1) The implementation of a National Export Strategy focusing on all areas of export services and goods with identified strategies and plans of action to achieve competitiveness.
2) Reaction – reactivation –

I am sorry –

of JAMCo., Jamaica Marketing Company, to assist small exporters in penetrating markets in the UK and the rest of Europe, which we need to take advantage of under the EPA.

3) Establishment of an incubatorat the Garmex Free Zone to provide technical assistance and capacity support to small manufacturers.
4) Unprecedented levels of financial assistance for the Micro and Small Business sector to the tune of over Seven Billion Dollars ($7B) in 2009.
5) The JBDC authorized to provide lending to the sector, with special emphasis on start-ups, direct lending at interest rates that are below those that can be obtained in the open market. It ranges now, I believe, between 11 and 12 per cent.
6) The establishment of information centres islandwide to provide business information, market access and regulatory advice.
7) Improving the business environment through legislative policy reforms, with the establishment of the Credit Reporting Act, the Credit Bureau.
8) Modernizing and simplifying the payment of taxes through e-platform, the e-platform system. We work very closely in collaboration with the Ministry of Finance, which that single activity is going to enhance our ratings in the Business Report of next year, I promise you, because it wasn't taken into account when it was last done - the last Report, and we are expecting to improve our position in next year's Report.
9) Importantly, we gave an undertaking in this Honourable House. We objected to it when it was introduced and applied to raw materials and capital goods, the cost, and we have removed that in the interest of the manufacturing sector.

Mr. MONTAGUE: Hear! Hear! True!

Mr. SAMUDA:

10) Accelerated depreciation was two years. We have reduced that to one year so that a company can write off its capital expenditure in one year. A major advancement. When the accelerated depreciation was first introduced it took five years to be enacted, five years! A most lengthy and boring process. We were able to do that very quickly.
11) Credit. We have introduced a revolutionary system of dealing with access to capital. And I want the Member from Central Kingston to write about this. (Laughter)

Mr. MONTAGUE: He won't, he won't.

Mr. SAMUDA: He won't write about it, although he agrees with it a hundred per cent, in fairness, he supports it one hundred per cent.

Mr. MONTAGUE: He won't write about it.

Mr. SAMUDA:

12) Credit Enhancement Funding Facility, through the DBJ, where the Government shares the risk with the lender, so that they are able to offer better rates of interest to entrepreneurs, especially in the micro and small business sector.

13) Establishment of a Junior Stock Exchange. It had been spoken of for years. It was this Government that introduced it. (Applause)

14) The establishment of a furniture incubator, to reestablish the furniture sector as a viable sector, which it is, and should be expanded.

15) Theestablishment of a Competitiveness Committee, providing a road map for emerging sectors and industries while dealing with the removal of obstacles to the growth of businesses.

16) Through the JDX, we have seen the reduction in interest rates.

Mr. Speaker - Madam Speaker, was there a change? when last have you heard - I am sure when the former Administration was in office people in the manufacturing sector and so on, were in such despair, they couldn't visualize ever getting a loan at 10 per cent in Jamaican dollars, couldn't visualize. Well, only recently a loan was given to a manufacturing company for 10 per cent, 10 per cent in Jamaican dollars. (Applause)

Before coming here today, I met with a company that is established in Jamaica, that is going to be spending upwards of Sixty Million Dollars, ($60M) - sorry, Seven Million U.S. Dollars, (US$7M) to expand their operation into manufacturing. They are going to be establishing, I think about a hundred thousand square feet (100,000 sq. ft.) of factory facilities. (Applause)

In addition, Madam Speaker, in addition, the Prime Minister was good enough to endorse, support and promote the decision to make available within the Factories Corporation asset base of factory space, thirty thousand square feet (30,000 sq. ft.) of selected factory space available, rent free for the first year to start-up companies, and companies who are in the manufacturing sector that will create jobs, and in the second year, 50 per cent rent, and in the third year 50 per cent rent. Today I got a call, another call of someone interested in taking as much as ten thousand square feet (10,000 sq. ft.) to expand their businesses because of this facility.

Mr. MONTAGUE: Hear! Hear!

Mr. SAMUDA: Already it has been taken up, and if people who are interested don't rush then they are going to lose out.

But we went one step further. We have decided to subdivide larger space to make way for small players, so that they can get a little place. Instead of having to say you can't go in here because it's too big, we cut it up into small units.

(The Speaker returns to the Chair - 5:40)

There is no denying the fact that in the area of incentives, where I have been misunderstood in my suggestion to the JMA Board recently, incentives and waivers, Mr. Speaker, are being reviewed, the objective being to design a more effective, efficient and

competitive incentive structure. It will not, I repeat, no new system implemented will put the productive sector at risk. It is not intended to, and this Government would not support that.

Government MEMBERS: Hear! Hear!

Mr. SAMUDA: So no one needs fear. We will not put the productive sector, particularly the manufacturing sector at risk, but we are discussing it.

The economic realities dictate that we look with fresh eyes at this incentive regime, and together public and private sector agree to a framework that is efficient and effective and performance driven, and which facilitates the competitiveness of the manufacturing sector in particular.

Mr. Speaker, as we engage in the utterances of the **doomsday syndrome**, let me indicate some basic facts on where we are as a country, Jamaica, against our competitors in the region, not Caribbean, in the region of Latin America and the Caribbean. There are thirty-four countries in Latin America and the Caribbean, thirty-four, including Canada - the NAFTA countries of the north - Canada, United States and Mexico. We, including those three, we rate - among the thirty-four in the Doing Business Report, we rate thirteenth as a country, thirteenth.

Who are the countries that are viewed as better for business? Let me name some of them. Dominican Republic, Trinidad and Tobago that rates nineteenth, Paraguay, twenty-third, Argentina, twenty-four, Nicaragua twenty-five, Uruguay twenty-six, Brazil twenty-eight, Ecuador twenty-nine, Honduras thirty, Bolivia thirty-one, Venezuela last, thirty-four. And we don't have oil. We rate right up there.

In terms of - you hear all the while the complaint that we are difficult to start business, as a country. In the area of starting a business, my colleagues, let me tell you this, Jamaica, within the Caribbean is number one. Number one.

Mr. MONTAGUE: Tell them!

Mr. SAMUDA: The only country in this region that has fewer steps, in terms of time it takes to start a company, is Puerto Rico.

Mr. MONTAGUE: What!

Mr. SAMUDA: We are number one... (applause) ...in starting a business. And you hear complaints all the while. And that is due to the tremendous work that is being done by the Companies Office of Jamaica and the Government of Jamaica that is committed to making this little country of ours more competitive. (Applause)

Mr. HENRY: What was it four years ago? Or eighteen years ago?

Mr. SAMUDA: Mr. Speaker, I would like - I would like to close, Mr. Speaker, by simply reminding everyone here that recently we did a survey on charges by the banks. And that survey revealed that the charges were excessive and unwarranted within the context of our present economic situation. And I am very pleased and I am very grateful to the banks, those who have seen fit to reduce their charges, and in some cases eliminate some charges. And we take credit for forcing that position so that they can react. (Applause)

We will unapologetically continue to monitor them and to expose anything that is

unreasonable; and they can rest assured that we are ready to cooperate, hold hands, work together but it must be equitable. It must be reasonable and it must give more than anything else, the small man a chance. (Applause)

So let us to the task, let us seek to work together. Let us seek to disagree and disagree in the most strident of manner, but it must never be anything personal, and it must never be something that is it going to disrupt the forward movement of our economic development strategy. Nothing must impede the progress that is being made to stabilize this economy, nothing, not rhetoric, not action, not disruption or anything. Too much negativity can send the wrong message abroad and damage our economy. Let us hold hands together, because only by working together can we achieve our objective of building a better country to redound to the benefit of every single one of our people.

God bless you and God bless Jamaica. (Applause)

The SPEAKER: Before you close, Mr. Samuda - Mr. Samuda, before you close, could you put the resolution as number one, just put it forward so we can put it to the House. Number one. Okay, Mr. Samuda, I will read it for you.

Mr. SAMUDA: I beg to put resolution number one.

The SPEAKER: It reads as follows,

Members:

BE IT RESOLVED that this Honourable House of Representatives approve the plans and programmes being pursued in the areas of production, commerce and infrastructure and further approves the policy projections as announced for the financial year 2010/2011.

Put to the House and agreed to.

The SPEAKER: The programme's approved.

House Leader.

Mr. HOLNESS: Mr. Speaker, the Deputy Prime Minister is prompting me to say that it is not proposed to do any further business. But it is proposed, Mr. Speaker, to do one more item of business, which is as we had planned for Wednesday, to take the Private Members' Motions. And we have a Private Member's Motion brought by the Member from Central Kingston, Private Members Motion No. 15, and I think it's a very interesting motion, Mr. Speaker. We await the Members' opening. We won't close today but the Member will certainly open.

The SPEAKER: Rev. Thwaites Private Members' Motion No. 15.

Rev. THWAITES: Mr. Speaker, I can hardly believe this is happening.

The motion reads as follows:

WHEREAS hundreds of Jamaicans are killed or suffer injury and economic loss year as a result of the road accidents;

AND WHEREAS the heavy and unnecessary burden is placed on public expenditure;

AND WHEREAS driver incompetence, indiscipline and incapacity and defective vehicles have been identified as major contributory causes to road accidents:

BE IT RESOLVED that this Honourable House recommends to the Government:

1) The need for a revised code and appropriate enforcing authority for driver education and testing;
2) to improve the integrity of the prevailing system of vehicle inspection,
3) consider amendments to the Road Traffic Act, which
   a) would prescribe mandatory driver re-education for traffic offenders at the discretion of the Court; and
   b) provide for the obligatory recertification of all holders of driver's licences of intervals of 15 years after issue.

AND BE IT FURTHER RESOLVED that all of these measures be undertaken at the expense of applicants.

Mr. Speaker, I wish to note that I begin this presentation at ten minutes to six and I will finish before 6 o' clock.

Mr. Speaker, the suggestions here,believe, ought to find favour and I crave the attention of the Members of this House in doing those things which can be done without great public expenditure, if any, and which are to the immediate benefit of members of the Jamaican community.

Every year Mr. Speaker, we regret the loss of some 300 lives due to road accidents, many of them pedestrians and children and many of them quite innocent of any negligence or recklessness in the use of the road. They die in the course of their ordinary use of public facilities.

Mr. Speaker, in addition to that, of course, there are literally billions of dollars, I quote the Minister of Health in that regard as to the expense to the public health system, the private health system, as well as the loss of productivity not to mention the huge emotional loss and personal trauma due to the accidents and injuries, non-fatal injuries that take place due to road accidents. It is incontrovertible and supported by the police that in most instances it is driver incompetence, in discipline and incapacity and defective vehicles which are the main contributory causes to road accidents.

I beg to point out that much of that money that is spent on trauma cases, for example, in the public institutions, were they not to be the case, would be available for other well-needed applications in the health system, not to mention increase in productivity in the economy which would result and general equinamity and happiness, Mr. Speaker. Therefore it is proposed that if we really want to put a break on road accidents we should try and curb a number of deficiencies that exist in our present law and in the practice of the use of the road.

Mr. Speaker, the first one of these is the need for a revised code and appropriate enforcing authority for driver education and testing. It is now possible for any person to set themselves up as a driving instructor and it is unsafe that that should be so. There is no blame to be attached to any administration about this. It is simply a fact that this is one of the professions, yes, which has sprung up and where people have simply taken on to themselves the feeling - many of them are extremely competent, but surely the driving

of a motor vehicle is no longer the purview of the privileged as it might have been two or three generations ago. It is something which is a necessary convenience to most Jamaicans and something which those who do not now have it would aspire towards.

I really support, Mr. Speaker, the introduction of driver education in schools. It ought to be done properly and professionally there as it's done in other jurisdictions. But if the House feels that that is too farreaching at this stage, it shouldn't be, but in any event you event you need to have a cadre of new professionals. It will provide jobs and give professional status by having a properly prescribed course of instruction and of training for those who then can be certified by the Island Traffic Authority as driving instructors. Let them pay for that training, Mr. Speaker, because they are investing in their own professional education; and let them be re-tested and re-licensed, certified over a period of time to make sure that they are not addicted to anything or in other ways become irresponsible, and give them the task of training our drivers in proper standards, particularly the case of those who drive commercial and heavily articulated vehicles, Mr. Speaker. And there is nothing to prevent that happening now. It wouldn't take any great deal of money. It could be accommodated within existing programmes.

The second issue has to do with the integrity of the Vehicle Inspection System. Mr. Speaker, the simple issue is, that the majority of vehicles in this country do not go through the supposed annual testing. The norm rather than the exception is that you pay a money and the vehicle gets the certificate. It's no use fooling ourselves. That is what happens. Two Thousand Five Hundred for the test and something like $3,500 or $4,000 that you pay to get it done. Mr. Speaker, we have to be frank with each other. It's no use covering that up. We need a proper system that deals with that and I am sure that others who speak on this motion may suggest it. In closing I certainly can make a suggestion as well.

Further, the Road Traffic Act has been under review for many, many years and I hope it comes to fruition this year. But I am strongly suggesting, would recommend that there be mandatory driver re-education for traffic offenders at the discretion of the Court. Mr. Speaker, how long is it since you have been to Traffic Court? Traffic Court is now a tax collection mechanism rather than as an occasion for imposing penalties and corrective measures on errant drivers and users of the road. It must be made possible for a court who sees an instance of reckless and careless driving proven before them, to be able to order that the errant person, the convicted person goes through a process of recertification before they are allowed to drive again. Suspending their licence, even if that were to work, which it seldom does, yes, and going back on the road not having been corrected - bearing in mind, Mr. Speaker, that in many instances, yes, the person with the licence before you has bought that licence. Because that too is an existing racket, not as bad as it was a few years ago, but I am sure you as a Member of Parliament are aware of a number of young

men who will come to you and ask for $7,000 or $9,000 in order to make sure that they pass the test the next time.

The SPEAKER: I don't.

Rev. THWAITES: You mustn't laugh too much, Mr. Speaker, because what it does is to point out a system, yes, the corruption in the system that exists. So they, would as it were.

The next area, Mr. Speaker, is that all of us, many of us who are long in the tooth, find ourselves not as sharp in our reflexes and in the skills necessary to drive as we were many years ago. I got my licence at age 17. I am now 65 and neither my eye sight nor my reflexes are as sharp as they were then. Manyof us have more serious maladies overtake us with the passage of time. It is a counsel of safety that we should after 10 or 15 years be asked to re-certify our driving skills. In the same way, Speaker, as we have our vehicles to be tested every year, so we the operators of the vehicles ought to have periodic recertification.

And, Mr. Speaker, these are but a few of the measures that we could take. I insist without public expenditure all of these processes that I have recommended can be paid for by the applicants for the privilege of being a certified and properly legitimated driver. They need not be done at public expense and they could immeasurably increase the safety that we have on the roads. And I commend it to the Administration to consider these.

Thank you very much. (Applause)

The SPEAKER: Thank you Rev. Thwaites. Yes, Mr. Hibbert, and I hope you will follow Reverend Thwaites' example. He took less than eight minutes actually in the opening. We hope all contributions will be less than eight minutes.

Mr. HIBBERT: I will be very short, Mr. Speaker, but there are some areas that we need to cover very quickly.

Mr. Speaker, any measure proposed or otherwise, which will number and severity of road accidents is to be commended. And I want to share with the proposer that some of the measures that he has mentioned is worthy of consideration. I'm just going to speak on about two issues, but the first is the issue of the Road Code. I'm just going to quote what is in the Road Traffic Act and it reads as follows:

> The Island Traffic Authority shall prepare a code, in this Act referred to as the Road Code, comprising such directions as appear to the Authority to be proper for the guidance of persons using the roads and may from time to time revise the Road Code by revoking, varying, amending or adding to the provisions thereof in such manner as the Authority may think fit.

And it goes on to Section 2,

> The Island Traffic Authority shall cause the Road Code and every revised edition thereof to be printed and issued to the public at a price not exceeding the prescribed price.

In fact, Mr. Speaker, the last time that the Road Code was revised was somewhere in the region of 1993, prior to that it was 1976. So we seem to be operating on a seventeen-year cycle that's if the present Road Code is ready for publication. In recent discussions I have

with the Ministry they have said that they are almost at the camera-ready stage, which means that they are just about to go to the printers. And what I would suggest, and the Minister is here, to ask that this document be submitted very, very quickly, and we put measures in place that with the new drivers, the existing drivers who have to have their licences renewed be given copies. It can be included in the cost for the renewal, because I don't expect that it will be an expensive undertaking, but we should ensure that in accordance with the Act each driver has a copy of the Road Code. I'm sure if I ask it in the House here not many of us might have a copy or even seen a copy, but we would expect that that will be the case.

I would also like to refer to the schools, I know the Road Safety Unit has been putting certain proposals for this and I would support it because as you say that there are other authorities that do it, we haven't reached that stage here in Jamaica. But the fact is that we need to introduce it at the schools so that the children can be well briefed as to what is required of them, how to use the roads and so on. They are not all drivers, but at the same time they are pedestrians who have to use the roads and should be properly advised.

There are some four to five hundred drivers in this country and I would suggest that when the printing has started that - four hundred thousand sorry when the printing has started that sufficient number of books will be printed and I expect that they will be distributed accordingly.

There is just one other section I want to mention or one other matter that the proposer mentioned. And that was this mandatory testing of persons who have met in accidents. It is a proposal that is under consideration. I know for a fact that, as I said, the Road Safety Unit has been putting it forward. The problem is that we do not have this training school to provide us with that facility. And this is something we need to look at because if you're going to establish a school or a system where somebody having met in an accident is gonna be properly trained or is going to be trained in order that they will improve their skills on the road, then we will have to ensure that that school is one that is sufficiently manned and so that proper training can be imposed on persons that are so affected.

One of the things we find and I know that you mentioned it earlier, is that there are many persons who are trained by their families. You have a car you train your son, you son trains the younger one and it happens like that and what happens is you call the Examiner and you say the boy is ready and we need him to be tested. He doesn't go through any formal training and that will still continue because it doesn't prevent anyone from providing training. Once we have reached the stage, however, where there are driving schools established then one expects that we would have a much better transmission of the knowledge.

I'm gonna support your motion, but I will say that there are certain recommendations that the Ministry will deal with. And I expect when the Minister he speaks he will complete the proposal.

Thank you very much.

(Inaudible comment by Mr. Warmington)

The SPEAKER: Thank you, Mr. Hibbert. Yes, House Leader.

Mr. HOLNESS: Thank you, Mr. Speaker, we will continue this debate next week. Mr. Speaker, it is not proposed to—

The SPEAKER: Members, the motion before the House is for the suspension of the Private Member's Motion that we are presently debating to next week.

Put to the House and agreed to.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business today. I, therefore, move that the House do adjourn until Tuesday the 8th of February at 2:00 o'clock.

The SPEAKER: The Motion before the House is that this Honourable House do adjourn until Tuesday the 8th of February at 2:00 p.m.

Put to the House and agreed to.

The SPEAKER: This Honourable House stands adjourned.

The House accordingly adjourned at approximately 6:06 p.m. to resume its sitting on February 8, 2011.

THE HONOURABLE HOUSE OF REPRESENTATIVES

SESSION 2010 – 2011

TUESDAY, February 8, 2011

PURSUANT to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2.16 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Planning and Development and Defence.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

OLIVIA ATAVIA GRANGE, (JLP), St. Catherine, Central, Minister of Youth, Culture, Sports and Culture.

LESTER MICHAEL HENRY, CD, (JLP), Clarendon, Central, Minister of Transport and Works.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

OTHER MEMBERS

MR. GEORGE DELANO ARSCOTT, (PNP), Clarendon, South Western.

DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. MAXINE ANTOINETTE HENRY-WILSON, (PNP), St. Andrew, South Eastern.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MR. CLIVE ARTHUR MULLINGS, (JLP), St. James, West Central.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. DEAN ALEXANDER PEART, (PNP), Manchester, North Western.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

DR. PETER DAVID PHILLIPS, (PNP), St. Andrew, East Central.

DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern.

THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition.

MR. DERRICK CHARLES SMITH, CD, (JLP), St. Andrew, North Western.

MR. KERN O'MAR SPENCER, (PNP), St. Elizabeth, North Eastern.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern.

PRAYERS

Prayers were offered by Reverend Ronald Thwaites.

The House resumed its sitting at 2:16 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this afternoon we would like to welcome from the Guys Hill High School teachers and students. Welcome to the sitting of Parliament. (Applause)

I would also like to welcome DR. HAMID GHANY the Dean of the Faculty of Social Sciences at the University of the West Indies, St. Augustine, and head of the Constitutional and Parliamentary Studies, at UWI. (Applause)

STATEMENTS BY THE PRIME MINISTER

The PRIME MINISTER: Mr. Speaker, you would just allow me to make a brief oral Statement.

The SPEAKER: Very well.

(DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern, entered and took his seat.)

The PRIME MINISTER: Mr. Speaker, you will recall that last week in answering questions posed by the Member from Western Westmoreland about the sale of the Sandals Whitehouse Hotel, I had indicated that the sale - well I had announced at that time that I had had word from MR. GORDON 'BUTCH' STEWART that he would be – his company would be withdrawing the claims against the

Government agencies. I pointed out at that time that the sale and the withdrawal were two separate issues. Indeed, the sale was agreed on even before knowledge - we became aware of the decision to withdraw the matters.

The Member for South St. Andrew asked me whether I got that undertaking in writing. I indicated no, I had not, but I had confidence that Mr. Stewart's word was sufficient for me to be able to make that announcement. I indicated that I had every confidence that by the time the House met today that we would have that commitment in writing. I want to say, Mr. Speaker, that we now have that commitment in writing, it's on its way to me; and we will make available copies for the Opposition and for the media.

(*Sotto voce* comment by Mr. Derrick Smith)

Dr. DAVIES: When I see it. You feel good now?

Mr. D. SMITH: I was always feeling good.

The SPEAKER: Thank you, Prime Minister.

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 8**
  Cabinet agenda issues for January 24, 2011
- **Ministry Paper No. 9**
  Reporting status for Statutory agencies and Government-owned companies
- Report of the Sessional Select Committee on Human Resources and Social Development on the socio economic imperatives for the resuscitation of Inner-City Communities with specific reference to crime and violence
- Report of the Sessional Select Committee on Human Resources and Social Development on the impact on youth of music with violent and explicit content on the Youth
- Certified Appropriation Accounts for the following agencies:
  National Land Agency 2001/2002
  Office of the Cabinet 2009/2010
  Jamaica Information Service, 2009/2010
  Passport Immigration and Citizenship Agency 2009/2010
  Office of the Prime Minister 2009/2010
  Office of the Trustee in Bankruptcy 2009/2010

(MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central, entered and took her seat.)

Rev. THWAITES: Mr. Speaker...

The SPEAKER: Yes…

Mr. THWAITES: When is it appropriate to seek clarification on any of those Reports… at what point of the Agenda?

The SPEAKER: Which particular area you wanted clarification on?

(DR. THE HON. HORACE ANTHONY CHANG (JLP), St. James, North Western, Minister of Water and Housing, entered and took his seat.)

Rev. THWAITES: Mr. Speaker, I am referring to Ministry Paper No. 9 which

indicates very serious and chronic arrears in the reporting of Statutory agencies and Government-owned companies. And I would like to know what steps are being taken to improve compliance and what sanctions are there, especially in terms of budgetary allocations for the vast majority of those Statutory agencies and Government-owned companies who disrespect the instructions, which I know the Prime Minister and members of government have given, and flout the very rubric of Parliament which requires that they should report on time. This is a serious and ongoing situation. It's embarrassing to have to see this again and to disclose this to the public.

(DR. FENTON RUDYARD FERGUSON, (PNP), St. Thomas, Eastern, entered and took his seat.)

The SPEAKER: The position, if the Prime Minister is in a position to respond…

(HON. NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy House Leader, entered and took his seat.)

The PRIME MINISTER: Mr. Speaker, just to indicate that I too am distressed. I took the trouble of writing directly to the chairmen of all boards indicating to them that this was a requirement and that they were expected to ensure that these reports were submitted. There was some initial improvement and then it just reached a plateau.

Two things I would like to suggest - one thing I would like to say and one suggestion I would like to make. Firstly, up to yesterday Cabinet spent a fair amount of time, not for the first time, examining a new framework for the governance of public bodies, focusing particularly on the composition of Boards how they are appointed, the criteria for appointment, what obligations are to be placed on them, what sanctions are to be imposed.

We didn't conclude those discussions. We have asked for certain aspects of it to be revisited. It's a matter that I will want to bring to Parliament because I think that Parliament would want to examine those even before we sign off completely.

The second I think I would like to suggest is that perhaps the efforts that we are making to secure compliance could be assisted if the Public Administration and Appropriations Committee were to get involved. I think it would be useful to summon the heads of some of these Agencies, including the Board chairmen, and have them explain to the Committee what particular challenges they have why they have not been able to comply with the statutory requirements. And I would suggest perhaps that we could, formally, refer the matter to that committee. (Applause)

(Hon. JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy, entered and took his seat.)

Rev. THWAITES: Mr. Speaker, I thank the Prime Minister.

May I just say or draw to the House's attention that the budget of these public bodies are larger than in many instances the entire line of ministries in the government. Secondly, it is my strong feeling, which you

will confirm, that the Chief Executives of these agencies who are not in compliance, are in breach of the law and are vulnerable to certain penalties; and in that glory day, Mr. Speaker, when the promise is fulfilled and Board chairmen come before Parliament for approval, that is one of the questions we should ask them and get their commitment, that they will submit their reports on time.

And I would ask the Government to, please, think carefully how can you appoint a Board again or a chairman to any such position when he has failed to comply with these things.

The SPEAKER: I think the way forward though, Rev. Thwaites, as the Prime Minister has indicated, is for the Public Administration to take up the matter.

Mr. JACKSON: The penalty is what he is speaking to.

The SPEAKER: Well recommendation can come from that committee.

REPORTS FROM COMMITTEES

The SPEAKER: Dr. Ferguson.

Dr. FERGUSON: Mr. Speaker, I beg to lay on the Table of the House a copy of the Report of the Sessional Select Committee on Human Resources and Social Development on our deliberation on the **"Socio-Economic imperatives for the resuscitation of Inner-city Communities with specific reference to crime and violence".**

Also, Mr. Speaker, Report on our deliberation on the "**Impact of music with violence and explicit content on the youth".**

(Hon. KARL GEORGE SAMUDA, CD, (JLP), St. Andrew, North Central, Minister of Industry, Commerce and Investment, entered and took his seat.)

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Mr. Mair.

Mr. MAIR: Mr. Speaker, I beg to give notice that at the next sitting of the House I will move:

WHEREAS the duties of the members of the House of Representatives precludes them from, in many instances, attending their private business appropriately;

AND WHEREAS in order to adequately represent and serve their constituents many members inevitably abandon their private endeavours and/or profession;

AND WHEREAS Members of Parliament not having security of tenure in many instances find themselves in challenging financial circumstances upon retiring from representational politics:

BE IT RESOLVED by this Honourable House that a review be done of the Retiring Allowances (Legislative Service) Act, in order to ensure that retired Members of Parliament receive a pension that at all times is adequate and commensurate with the level of service they gave to our country. (Applause)

Dr. FERGUSON: Mr. Speaker, I beg to give notice that at the next sitting of House I will move the following motions:

BE IT RESOLVED that the Report of the Sessional Select Committee on Human Resources and Social Development on our deliberation on

"The socio-economic imperatives for the resuscitation of Inner-city Communities with specific reference to crime and violence" which was laid on the Table of this House on the 8th day of February, 2011 be approved.

Also on the deliberations on **"The impact of music with violence and explicit content on the youth"** which was laid on the Table of this House on the 8th of February, 2011 also to be approved.

QUESTIONS AND ANSWERS TO QUESTIONS

TOURISM: CRUISESHIP PASSENGERS TO PAY

The SPEAKER: Yes, Rev. Thwaites.

Rev. THWAITES: Mr. Speaker, at the expiry of 21 days I crave your leave to ask the Minister of Tourism the following question:

> Will the Minister please state when the Tourism Enhancement Fund contribution will be collected from cruise ship passengers?

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, Question 34 standing in the name of the Member from St. Ann, South Eastern, is ready for answer. The Minister of Youth,
Sports and Culture is prepared to answer today.

I have handed to the Clerk a request for extension…

(*Sotto voce* comment)

Mr. HOLNESS: Yes, St. Ann.

The SPEAKER: Before we go there, House Leader, Question 29 was due for answer…

Mr. HOLNESS: Which is what I was just explaining, that I have handed to the Clerk a request for an extension for Question 29...

The SPEAKER: And 30.

Mr. HOLNESS: …30 and 31 as well. We are asking for a week's extension.

The SPEAKER: Extension of time. Okay, Dr. Rhodd and Mr. Hylton, request for extension of time on those questions.

Miss Hanna Question 34.

SPORTS – CONTRACTS ISSUED

Miss HANNA: Thank you, Mr. Speaker.

I beg to ask the Minister to answer questions standing in my name.

The SPEAKER: Miss Grange.

Miss GRANGE:

Question: Will the Minister list all contracts issued by the Ministry of Youth, Sports and Culture on and above $250,000 from September 2007 to the present.

Answer: A detailed list of all contracts issued by the Ministry of Youth, Sports and Culture valued at $250,000 and above from September 2007 to present is provided.

And I have provided the Member…

The information related to 2007 has just been located as it was information that we found out of the Ministry of Education and that information is on its way.

Miss HANNA: Thank you, Mr. Speaker.

Minister, I have the list but can you give me a total value because I just got it and I

wasn't able to total the - could you give me a total as to the contracts, because the list does not state the total value of contracts that are listed.

Miss GRANGE: The value of each contract is listed there.

The SPEAKER: She was asking for the overall…

Miss HANNA: I was asking if you have a printout of the total value of the contracts.

Miss GRANGE: No, I do not have a printout of the total but we can add the figures there and come up with the total.

Miss HANNA: Mr. Speaker, can I ask for recommittal so that I can go through to add them and then I will come back . . .

The SPEAKER: At a later time today.

Miss HANNA: …at a later time today?

The SPEAKER: No problem.

Miss HANNA: Thank you.

Mr. FAGAN: Mr. Speaker . . .

The SPEAKER: Yes, Mr. Fagan.

Mr. FAGAN: I have a difficulty, sir, because when these questions are asked and the answers are given just to one Member on this side . . .

(Cross talk)

The SPEAKER: I can't hear you. Mr. Fagan, repeat.

Mr. FAGAN: It certainly puts me in an awkward position because I am not able to peruse the answer.

The SPEAKER: Oh, you would like a copy of it ?

Mr. FAGAN: Yes, sir.

The SPEAKER: Well, it will be recommitted so you can get my copy. Okay.

Miss GRANGE: Copies are . . .

Mr. M. PEART: Mr. Speaker, it's a little more fundamental than that. I think the point the Member is trying to make is that when these questions are asked, and the answer is provided to the person asking the question alone, the rest of us are in the dark.

The SPEAKER: No, I think this particular question is - Mr. Peart and Mr. Fagan - this particular question is unusual in that the figures are given and they are not read out. In most cases the Minister who is asked usually read the question and the answer. So I can understand the need that it should be circulated, especially where figures are involved. So we will try and get copies to you some time during the course of the sitting.

Minister Grange…

Miss GRANGE: Mr. Speaker, I just want to indicate that copies are being made to be circulated. Of course, there is a problem with the equipment here and so it takes a little while to have the copies made.

The SPEAKER: No problem. Thanks, Miss Grange.

Mr. M. PEART: Upgrade the system!

The SPEAKER: House Leader.

Mr. HOLNESS: Before we move on to Public Business, Mr. Speaker, I would like to move for suspension of Standing Orders to recommit the item Statements by Ministers to take a question on the Prime Minister's earlier Statement.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow for the recommittal of the item Statements by Ministers.

Put to the House and agreed to.

STATEMENTS BY MINISTERS
(Recommitted)

The SPEAKER: Yes, Dr. Davies.

Dr. DAVIES: Thank you very much, Mr. Speaker.

Mr. Speaker, I have just received the letter to the Prime Minister from the Honourable 'Butch' Stewart concerning the withdrawal of the claims.

In the penultimate paragraph, Mr. Speaker, and, given the problem to which other Members have alluded, let me just read it. It says:

> "Therefore we give you our undertaking to discontinue our claims, which in term we would require the government entities to similarly discontinue their counter claims with all parties paying their relevant cost".

Can the Prime Minister indicate whether there has been a formal response to that proposal?

The PRIME MINISTER: No, that was simply confirming the understanding that we had. The understanding is that Gorstew would withdraw its claim and the government entities would in turn withdraw their counter claim. Because remember we had filed counter claim. Those were the matters that were to be determined by the arbitrator. So that was in inherent in that verbal discussion on that undertaking. This merely commits it to writing. The respective parties will bear their legal costs: costs relating to the battery of lawyers that had been assembled on both sides and whatever initial expenses were incurred in the arbitration. Because remember that the arbitrator had, in fact, settled one issue which had to do with entitlement to a portion of income for - I am trying to remember the name they called it - additional income that the operators earned from things like the spa, beyond just the room, lodging, certain other facilities. That matter had been the subject of dispute. That was put to the arbitrator and the arbitrator has determined that. The question of the cost overruns, the question of the claims for losses and for brand damage were what were left to be determined.

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Thank you, Mr. Speaker.

At Public Business today the Minister of Finance should have taken a Bill entitled "AN ACT to Establish a body to be known as the Jamaica International Financial Services Authority".

Dr. DAVIES: …going nowhere.

Mr. HOLNESS: But, Mr. Speaker, the Minister of Finance is away and the Minister of Industry, Investment and Commerce, who is very familiar with the proposed legislation, will take the Bill in his place. After that we will continue with the debate which we started last week on the Special Prosecutor. I believe we will have a presentation from the Leader of the Opposition.

The Prime Minister, you will recall, Mr. Speaker, opened last week. We will also have - and I am sure the Member from Central Kingston would be very pleased to know that Mr. Mair, the Member from St. Catherine North East, will be taking the Report on the Standing Orders Committee of

the House and then we will continue with the motion, Motion No. 15 brought by Reverend Thwaites. That would be the order of business today.

The SPEAKER: Thank you, House Leader. Mr. Samuda.

Mr. SAMUDA: Thank you very much, Mr. Speaker.

Mr. Speaker, it's a privilege to be able to take this matter on behalf of the Minister of Finance. Actually it was the Ministry of Industry that has been engaged in a lot of the groundwork and the preparation, so we are somewhat familiar with the matter.

On January 26, 2011, a Bill entitled The Jamaica International Financial Services Authority Act, 2011, was laid before the Parliament. This Bill seeks to create a statutory body that will be charged with the primary responsibility for ensuring that the infrastructure required for Jamaica to create a viable, compliant and progressive international financial services sector is designed and implemented.

I must pause here, Mr. Speaker, to indicate that it was the previous Administration that took the first initiative and I was a little surprised when I heard the *sotto voce* remark by the former Minister of Finance that it is not going anywhere. Well I am here to disprove that and I will indicate the extent to which we have stepped up the whole process apace.

An IFSC creates numerous opportunities for Jamaica, Mr. Speaker. And you will recall that in my presentation to this Honourable House last year I gave some details of what to look forward to.

The opportunities that it create is to generate significant employment for high-skilled workers amongst professional cadre. The ability to create the most modern and state-of-the-art regime in the region to create the linkages to other domestic product offerings. For example, to exploit synergies with tourism, infrastructural development and construction; to increase the presence of Jamaica, most importantly, in the international market; the diversification of the country's economic base - because we have to diversify our base in order to grasp the opportunities that present themselves to us; increased tax revenues, high value-added. Because, Mr. Speaker, in the management and operation of this facility only 5% is the cost, average cost of maintaining the service, 5% of the total revenues.

As an IFSC centre of excellence, Jamaica's employment potential will be between 10,000 and 25,000. Government revenues can be conservatively estimated to range between US$400 Million and US$800 Million. Service provider revenue will be in the vicinity of $1 Billion to $2 Billion because of the - and the obvious spinoff that will flow from this investment facility.

Jamaica has certain inherent strengths that lend herself ideally to the establishment of this centre. The Government is committed to the development of the sector. Relevantly large cadre of well-trained accounting, legal, finance and banking professionals are available and excellent training facilities for professionals in the financial sector, proximity to the United States and at the same time zone, I might add, to the main financial

centres of the United States. Jamaica is well served by a network of airlines from major US and international European hubs, a robust regulatory regime such as the Securities Act, Banking Act, Proceeds of Crimes Act, a well-developed capital market, liberalized economy and the opportunity to design a state-of-the-art industry that would enable us to be an attractive new player in the market.

We have, Mr. Speaker, and can boast without fear of any constructive contradiction, one of the most excellent telecommunications network in the region.

Dr. DAVIES: Hear, hear, Phillip!

Mr. SAMUDA: We are a party to several double-tax treaties and tax information exchange arrangements. The fact of the matter is that without this you can't go anywhere in this particular type of industry. Jamaica will learn from the experiences of our Caribbean neighbours and other countries with the IFSCs and will seek to establish an IFC that is tax efficient for businesses that set up here, that does not rely on secrecy nor seek hot money for its attractiveness, is consistent with Jamaica's exciting international commitments, is built to fill demands for new services required by today's market and is one of the services that can be provided at very competitive cost. It is a jurisdiction with a strong financial infrastructure as Jamaica can, Mr. Speaker, already boast the accelerated universities providing excellent training facilities at the moment for some 100 lawyers, 250 accountants and other financial professionals annually.

We have highly developed professional associations exist such as the Jamaica Bar Association, Institute of Chartered Accountants of Jamaica, Jamaica Bankers Association, to name a few. We attract over 2,000,000 tourists annually and we have some 20,000 hotel rooms, several convention centres and the best airline lift in the Caribbean geared for high-value services such as treasury and fund management.

To compete successfully, Mr. Speaker, Jamaica will need to do certain essential things. Among them to enact supporting legislation, for example, to create IBCs, statutory trusts, protected cell companies. We will need to repeal legislation identified as not in compliance with internationally accepted standards. We will continue measures to reduce crime. Crime is a terrible deterrent and the reduction of crime and violence is essential to attract investment of this kind.

We have a significant project ahead to market ourselves as a new entrant to the industry.

Mr. Speaker, steps taken thus far consist of a KPMG study that was done providing an assessment of the implementation strategy for the establishment of the IFSC; that was undertaken in 2008. In March 2010, we engaged the services of leading law firm Baker & McKenzie to assist with determining the products and services that would be our focus. Later that year, we engaged the services of a drafter to commence the drafting of the requisite legislation to support the services to be offered by the Jamaican IFSC.

Jamaica joined the OECD's Global Forum for transparency and exchange of

information for tax purposes in July 2010. An organization charged with indepth monitoring and peer review of the implementation of the standards of transparency and exchange of information for tax purposes.

We were one of the first jurisdictions, Mr. Speaker, to be assessed by Global Forum on the quality of our legal and regulatory framework. The results were very favourable and encouraging to us and we are seen as a clean destination to do this kind of business. They made certain recommendations that are being worked on already. Jamaica's Report was one of the eight, and it is important to note, Jamaica's Report was one of the eight that was adopted by the Global Forum in Singapore in October 2010.

(MR. ANTHONY GEORGE HYLTON, (PNP), St. Andrew Western entered and took his seat.)

Mr. Speaker, the structure of the statutory body to be known as the Jamaica International Financial Services Authority. The principal features are as follows:

- It is a body corporate subject to ministerial direction in the performance of its functions
- The members of the authority will consist of three (3) *ex-officio* as well as a maximum of eleven appointed members.
- The *ex-officio* members are the financial regulatory agencies such as the Bank of Jamaica, the FSC, as well as the Solicitor General's Department.
- The appointed members are as determined by the Minister.

Most importantly, Mr. Speaker,

- Excluded from membership is any person connected in anyway to an institution registered as an international financial services provider.
- The day-to-day management of the authority is to be carried out by a Chief Executive Officer who holds office for a maximum of three years.

The functions of the authority are as follows:

- To market and promote Jamaica as a centre for international financial services.
- In the exercise of this function, it is expected that the Ministry of Industry, Commerce, and Investment will provide guidance and direction to the authority to ensure that its marketing efforts and strategies are consistent with that Ministry's initiatives to promote the island generally and to stimulate investment and commercial activity.
- The authority is expected to zealously guard and protect Jamaica's reputation in the international financial market place, ensuring that all times, the island is seen as compliant with the required international standards and that it is not perceived as a tax haven or a facilitator of funds derived from illicit activities due to any regulatory weaknesses.

- The authority must also work with the local agencies such as the Registrar of Companies, the Attorney General, and the Ministry of Justice to assist in the implementation of supervisory and regulatory standards approved from time to time for the conduct of international services.
- The education of the public is also a critical function of the IFSAC. Unless all sectors of the local economy as well as the general public are kept abreast of the significance of these initiatives and are encouraged to play their part it will not achieve the success that is expected.

The ongoing review of the legislative framework for the provision of the international financial services is another important function of the authority. And it is expected to provide advice to all ministries, departments, and agencies of government as necessary to ensure that we are constantly improving efficiency and performance. The creation of this authority is expected to significantly accelerate the pace of implementation of the IFSC and on its establishment the implementation committee will be disbanded.

Turning, Mr. Speaker, to the Bill itself. Clause 2: The clause defines the services and the institutions of which the Act applies. The most significant provision in this clause is the definition of international financial services. The clause provides for the kinds of services to be designated internationally finance services to be designated from domestic financial services to indicate the difference of the types of services that are offered expressly excluding all financial services regulated under the Banking Act and the Financial Institutions Act. The client base for the institutions registered to provide these services must also be for persons not ordinarily resident in Jamaica and must be in a foreign currency. These are the basic criteria.

Clause 3: This Clause provides for the authority being formed to be a body corporate with a legal personality.

(HON. EDMUND CURTIS BARTLETT, (JLP), St. James, East Central, Minister of Tourism entered and took his seat.)

Clause 4: This clause provides for the purpose of the Act, which is to create a framework for the management of the future development of the international financial services sector. The benchmarks for the sector are that it must comply with international regulatory standards, be commercially viable, promote economic growth, diversify the economic base and increase employment.

(MR. ROBERT DIXON PICKERSGILL, (PNP), St. Catherine, North Western entered and took his seat.)

Clause 5: The functions to be carried out by the authority are provided in this clause. These are generally to market and promote the IFSC to the global community; to ensure that its reputation in the global marketplace is protected and to advise on the services the island is best placed to offer; to ensure that the facilities and regulations required to serve the needs of our clients are adequate; and to

monitor the conduct of the entities registered in the IFSC through liaison with the regulators such as the Bank of Jamaica, the FSC and advised the requisite agencies of any interventions needed to be made; to promote compliance with regulatory standards including standards for the culminating of - for the curtailment of funds linked to territory activities and money laundering.

The fact is, Mr. Speaker, one of the greatest fears in the establishment of this particular entity is the fear of being a harbour, a safe haven -

(*Sotto voce* comment by Dr. Davies)

Mr. MONTAGUE: No.

Mr. SAMUDA: A safe haven for money laundering…

Mr. PICKERSGILL: Soon have cast-eye.

Mr. SAMUDA: …and we can't have that, Mr. Speaker. We have to be transparent in all that we do.

The clause also provides that the authority is to carry out its functions generally through public awareness seminars, training programmes, the collection and dissemination of related information to inform decision-making and policy formation, and any other activities necessary to carry out its functions.

Clause 6: Clause 6, Mr. Speaker, a general revocable power of delegation is provided in this clause, which permits the authority to delegate any of its functions to an officer or an agent of the authority.

Clause 7: This clause provides for the general policy guidance which the Minister is empowered to give to the authority. Acting through the chairman, the Minister may from time to time give such directives as may be necessary in the public interest.

Clause 8, Mr. Speaker, the administrative structure of the authority is provided for in this clause. The day to day affairs of the authority are to be carried out under direct leadership and guidance of a Chief Executive Officer who will hold office for a maximum of three years. The remuneration for the chief executive officer shall not exceed the prescribed rate.

Clause 9: This clause empowers the chief executive officer to delegate functions to any person. The power of delegation cannot be exercised without the Minister's prior approval.

Clause 10: This clause provides for the Minister to approve insurance and pension arrangements for the staff of the authority as may be required.

And **Clause 11,** this very important clause provides for the confidentiality and protection of information obtained by the authority concerning the business affairs and operations of any entity in the IFSC, except as provided under Clause 12. Penalties for breach of this confidentiality provision are a fine not exceeding One Million Dollars and/or twelve months of imprisonment.

Dr. DAVIES: One Million what dollars?

A MEMBER: US dollars.

Mr. SAMUDA: No, Jamaican dollars. We can't be excessive at this stage.

Clause 13: This clause provides an indemnity to members of the authority for any act done in good faith and in the lawful performance of the functions of the authority.

An important clause because there is hesitancy on the part of many who participate at this level.

Clause 14: This clause provides a general power through the Minister to amend or vary the monetary penalties provided in the Act.

Clause 15: As is customary in legislation of this nature, Mr. Speaker, the Minister is empowered under this clause to make revelations for the better carrying out of the purpose of the Act from time to time. The regulations are to be subject to affirmative resolution.

The Schedule of the Act, Mr. Speaker, a Schedule detailing the constitution and general procedures for the conduct of the affairs of the authority is attached to the Act.

And finally, Mr. Speaker, **Clause 12.** The disclosure of information may be permitted under the following circumstances:

- where it is ordered by a court or on the prior written request of the Minister to assist in the asset recovery agency as provided under the Proceeds of Crime Act;
- on the prior written request of the Minister to any one or more of the authorities to facilitate the investigation of a criminal offence. The Minister may prescribe by affirmative resolution, the authority to which such disclosures may be made;
- with the prior approval of the Minister to a foreign regulator, or a multi-national organization in accordance with Section 18 of the FSC Act and finally,
- the Solicitor General in his capacity as a member of the Committee provided for coordinating the activities of financial regulatory agencies under the FSC Act.

The SPEAKER: Thank you, Mr. Samuda. Dr Davies.

Dr. DAVIES: Thank you very much. Mr. Speaker.

Mr. Speaker, the Minister made reference to the fact that the discussions of the possibilities in establishing the centre for International Financial Services, the discussion has been going on for sometime. In recent years, now due to a whole range of development including the global financial crisis, the potential investors, the countries which are the homes for the potential investors in this sector, in particularly the US and the European Union, they have become much more vigilant about the operations of the - to their firms externally and have brought increased pressure on some of the homes of the international financial services centres. Within that context I am - whilst I wasn't suggesting abandonment of the investigations, it is interesting that it has come forward.

But the Minister in laying out the prospects for the benefits from having such a centre here, gave some really optimistic projections like between ten and twenty-five thousand new jobs in this area. And, one of the questions that I would like to ask him is, what was the basis of these projections, and over what time period? I know the types of jobs, but what is the basis of these projections and over what time period. He also give a

projection for possible earnings, I think he said US$450 Million…

Mr. SAMUDA: Four Hundred Million US (US$400 Million).

Dr. DAVIES: Four Hundred Million US (US$400) to US$800; again I would wish to know the basis of - and his colleague indicates conservatively. So we could probably go up to a billion and done. Alright. But the question is what is the basis of these projections? How do these compare with established entities because it is not - the administration is becoming wary about promises of jobs, jobs and earnings, earnings, but I think it is important that we understand the basis for this projection.

My next question, Mr. Speaker, and I have been going through the Bill, and I am slightly concerned and I am not clear as to whether the authority is there to promote these investments or is it a quasi promotion regulatory authority. If it – in terms of the promotion, I would like to know what will the authority do which JAMPRO couldn't do with the financial services being just another sector which is promoting it. So that question is one question. I am not very clear as to why no thought has been given to using JAMPRO in this role.

Allied to that question, Mr. Speaker, is and I am not clear about the regulatory activities. Let's assume that there has been an investment in this international financial centre. Will the authority be the regulatory body which controls the activities of that investor, or will that investor be subject to the regulatory authority of the Bank of Jamaica or the FSC? Or will the authority to be established form part of the tripartite regulatory system? That is not clear to me as to what role will the authority play in terms of regulating the activities of this authority - of these investors.

My final question, Mr. Speaker, what are the next steps, what should we expect to see or what we should expect to be done in bringing to fruition what are these laudable goals, but I sincerely hope that they are realistic goals. So these are some of the issues which we would wish to have clarified as we move forward.

The SPEAKER: Mr. Bunting.

Mr. BUNTING: Thank you, Mr. Speaker.

Mr. Speaker, the Minister started off, or early in his presentation, said that this was an initiative started under the previous administration. He is not strictly correct. This initiative was studied under the previous administration. In fact, the study was done by JAMPRO during the time of - I think Chairman, JOE MATALON. And it was decided not to proceed with that initiative because a clear case hadn't been established that there was, in fact, a market, for this service and that we could differentiate ourselves from the plethora of other English-speaking Caribbean islands and other offshore financial centres in Central America and the Spanish speaking region. So, you know, I don't think it would be strictly speaking fair to say that this was an initiative.

Now, Mr. Speaker, at a time when the subject of public sector rationalization is very topical, we have been studying this for two years, in fact, I think it was in 2009, Minister Chang you could remind me when we stayed here until about 1:00 a.m. or 2:00 a.m. one

morning to hear the Prime Minister deliver a presentation on the public sector rationalization plan and the whole initiative that was started, the unit set up, I think Mr. Zacca going there et cetera. And this has been studied by committees of Parliament, been reported on. So I think with this underway, we must be very careful, while we are looking at rationalizing that as we add new statutory bodies, new "quangoes' as they refer to them in the United Kingdom. We must really convince ourselves that it is absolutely necessary.

For example, a question we must ask ourselves is, can the objectives of this new agency be carried out by any existing agent? And the Member from South St. Andrew has already suggested that most of the - at least three out of the four objects set out in clause 4, could be achieved with a small unit at JAMPRO, perhaps three or four persons. And certainly, the one - the object of the supervision of the financial sector could be achieved by adding a desk at the Financial Services Commission until we have established that there is a real demand. Because certainly, if we only have one or two or a handful of entities it wouldn't warrant the establishment of an entirely new statutory body that will, at a minimum, have a budget of tens of millions of dollars. Have we established, Mr. Speaker, that there is a significant market for this in Jamaica?

I did a quick survey, Internet survey, and I came across an IMF working paper titled;

> "Caribbean offshore financial centres, past presents and possibilities for the future."

And it was interesting, Mr. Speaker, that it concluded;

> …that under current..."

and I am quoting, that

> "under current international best practices costs associated with these sectors have increased. Thus, the prospects for significant net economic benefits from development of this sector for new entrants appear to be limited."

And the same paper, Mr. Speaker, goes on to speak to the history of these offshore operations in the western hemisphere. Interestingly, it goes back as far as the Bahamas in 1936, which was the forerunner for these types of operations. But within a relatively short period of time many other of the British Overseas territories Anguilla, BVI, Cayman and then Panama came on as well. And many of these enjoyed significant benefits over the years primarily, because they took advantage of the secrecy, they took advantage of low tax or no tax operations and they were really creating a loop hole for residents or citizens of wealthy countries in North America and Europe, and also, emerging markets as well to basically shield a lot of their assets and their income from taxation. Much of that has now changed. Pressure from the OECD countries appears to secrecy veil primarily using the imperative of anti-money laundering, anti-terrorism, financing of terrorism et cetera, so much of these benefits have evaporated.

What is more, Mr. Speaker, many, many new entrants have come on the scene. We now have within the Eastern Caribbean Union, Antigua and Barbuda, Nevis, Grenada,

Dominica, St Kitts, St. Lucia all of these have introduced quite a comprehensive suite of legislation to facilitate the development of their offshore sectors. And I think it would be useful for us to study what is the experience of one of the most recent entrants. And I think St Lucia, for example, might be very relevant to us. They started only about ten years ago and they put in the most modern legislation for trusts, for insurance companies, for various types of captives to facilitate the promotion. And they even set up a private sector-led promotion entity to do it. And from what I can gather, the economic impact on St. Lucia has been marginal, not very significant at all, even though they are relatively small economiy to ours.

If we - if I refer to the report again, Mr. Speaker, the operations of these offshore financial centres have recently come under increased scrutiny by international policy regulators especially after the recent wave of financial crises in global markets and subsequent debate on financial restructuring, regulatory reform and institutional capacity building. The role of offshore financial centres in money laundering has also contributed to the heightened scrutiny.

In that environment, Mr. Speaker, what the Minister has pointed to as the benefit to Jamaica would primarily come from employment. And it might be instructive to look at some figures for employment in other markets given in the same report.

In Dominica, it employed 100 persons, in the Bahamas, which in a sense is the grandfather of the offshore centres, it employed 940 persons. Antigua and Barbuda has the greatest employment benefit of 2,500 persons but we should note here that their - the high number of employees there is entirely associated with Internet gaming. And in the BVI, they employ 942 persons.

So, Mr. Speaker, these are countries with long traditions, very well established industries and with employment figures in all cases less than a thousand with the exception of the Internet gaming in Antigua and Barbuda which raises their level of employment to 2,500. When we compare with those figures, I think estimates of 10,000 to 25,000 must seem to be exceedingly optimistic.

A MEMBER: Unrealistic!

Mr. BUNTING: I could just as easily have said unrealistic.

So, Mr. Speaker, I would really suggest to the Minister that rather we go ahead and set up this additional entity before we have established that there is a market or a significant market for it, could we proceed cautiously and just examine setting up a promotion desk or unit in JAMPRO to kick it off, any supervision which arises in the short-term, we do that out of the FSC. And if demand warrants...if we see a momentum building in that, then we can look at establishing a separate entity.

In any event, it seems to me that establishing a regulatory and promotion body by itself without some other legislation that creates a particular framework for Trust companies, to create off-shore trust for - not just a framework, but a modern framework to facilitate Internet access to the information, to facilitate captive insurance companies, off-

shore banks, whatever the niche is that we want to pursue, this by itself is not going to allow that to happen.

So I think we are really, in a sense, putting the cart before the horse. And I would really respectfully, Minister, suggest that we slow down in terms of going ahead with establishing the overheads and the costs, before we really see whether there is the corresponding markets and revenues to go with it. The taxpayers cannot afford any unnecessary burden at this time.

Thank you.

The SPEAKER: Dr. Chang.

Dr. CHANG: Thank you, Mr. Speaker.

I'd like to extend support to my colleagues on the deduction of this issue and comment on a couple points raised by the Opposition, fairly because I think the Bill to some extent, although it was studied earlier, I'll accept it's coming late, not in terms of our Administration. But I think this is something Jamaica should have done a long time from way back.

International financial service is very much part of a worldwide expansion of the service industry and the chances are that whatever happens in terms of increased regulation and scrutiny by developed countries, there will be major markets for international financial services. It's not likely to change. There have been benefits derived, although they will make things difficult in some cases. But I'm all supportive because it's something that I know business leadership in the City of Montego Bay has been very keen on having and it is likely to be part of those...

Dr. DAVIES: You won't be lucky enough. (Inaudible)

Dr. CHANG: Well, there are centres going on in Kingston but I'm sure the Montego Bay private sector will take advantage of the emerging suite of legislation that will accompany the establishment of the authority to ensure that there will be significant economic gains. And certainly Montego Bay as the centre of most of the tourist industry, the soft IT industry as well in Jamaica really, will have the kind of atmosphere that will attract this kind of investment.

And I want to make some comments, one of which of course is that since the financial crisis, as the Member has pointed out, there is much more scrutiny by the big developed countries. But partly as the result of that, in pursuing the development of international financial services, the demand is that there is greater presence in the country that hosts the centres. And in fact there is pressure on small islands like Cayman, The Virgin Islands, which does not have the human resources to accommodate the increased requirements for corporate headquartering, trust and insurance.

In fact, part of what seems to be from the studies done recently, is that you need countries that have a certain level of human resources. And indeed, Jamaica is seeking to leverage that and can leverage that, in addition to requiring an effective communication system. And certainly in the Caribbean we have one of the best international communication systems across the island, in terms of what has been emerging since the deregulation of the

telecommunications sector.

We have a strong legal system which is internationally respected. And we have what I'd consider...

(Inaudible comments by Dr. Davies)

Dr. CHANG: We have what I would consider an adequate number of trained personnel to give ourselves, I'd call, critical mass, in the human resource sector. And that's what we can begin to leverage to build a strong international financial centre. And it can happen both as indicated in the Downtown Corporate Area where, already, there is some interest taking place in the development of Downtown area, especially since we have seen Digicel, which is a local company, putting its corporate headquarters down there.

But clearly, that's the kind of market we're going for. It's a kind of mid-market area in the international financial service, rather in the extremely high-end which could come if we developed under appropriate mechanism and demonstrate our capacity to maintain the kind of integrity in both legal and social areas that is required to attract the kind of investors we need at that level.

I think Montego Bay, too, has other advantages. The truth is that while we don't necessarily speak of it, many of the people who would like to or who can participate in this market, do come to Montego Bay on a regular basis, as my colleague will tell you, although he is occupied at this point in time. There are many of them who vacation in Montego Bay. And the truth is that people of this ilk will like to do some business when they go vacationing. It will be easy to have a major banker flying into Montego Bay on a Wednesday evening, do their business Thursday-Friday and enjoy the weekend at the golf courses at Tryall or Rose Hall. That's really the kind of market we're going for..

Dr. DAVIES: No, no...

Dr. CHANG: They fly down in their private jets, do their business and when they are out they call their lawyers.

Now, Mr. Speaker, I really think there is excellent potential in the world for this kind of market - for this kind of service; that Jamaica has advantages which at this point in time is even more positive, given what is happening in the international marketplace, where I said that companies are looking to or the big countries are looking for companies to have more in the headquartering area.

In other words, we're not finding...the tolerance for the filing-cabinet-companies is not very good at this point in time. And even those who are involved now, like the Cayman Islands, might find Jamaica being so close to them, a good partner. They can begin to ask some of those companies who are on the filing cabinets there begin to establish some substantial presence in Jamaica. And in fact we gain exactly what our colleagues are concerned about, the employment and the kind of presence that generates economic activity. And I'm sure that we can employ much more than the two thousand people in Antigua and Barbuda.

It's largely Internet gambling. Montego Bay already has many people at that level of the IT sector. I think we are looking for people as lawyers, accountants and business - people trained in business who can accommodate us, their trust companies,

insurance companies, and participate in corporate headquartering.

While it is designed, and I'm sure it will bring increased activity to the Downtown area of the Corporate Area, I know that there are people in the Montego Bay area with both the connections, the wherewithal and the commitment to take advantage of a suite of legislation which will emerge after the authority is established, to ensure that there will be significant investment in this area.

And I welcome this piece of legislation as a start of setting the stage for Jamaica to participate meaningfully in the international financial services sector.

Thank you.

(Applause)

The SPEAKER: Mr. Stern.

Mr. STERN: Mr. Speaker, I'm surprised of some of the comments from my Opposition colleagues on this matter. But I ask to speak from this position.

Mr. D. SMITH: You know why you are surprised, because they have not figured it. (Laughter)

Mr. STERN: But the arguments of the international financial services centre have been something that has been floating around for many years. And I'm pleased to see that the Government has taken a forward step to initiate such a move, because in this global economy business is not done at a fixed location anymore. Persons who are doing business want to enjoy different treaties that exist in different regions. Treaties!

Mr. PICKERSGILL: You think this is extradition? (Laughter)

Mr. STERN: And I mean treaties that have been signed by various countries to countries...

(Interruptions)...

dealing with trade.

Government MEMBER: Properly signed. Not by one Minister.

Mr. STERN: Properly signed and Cabinet know about it, approved by Cabinet.

(Interruptions)

Those are the kinds of treaties we talking about. Trade treaties. Not the bogus one. Those that Michael Manley...Those that Michael Manley...Those that your former Prime Minister, Michael Manley signed in the...

Government MEMBERS: Our! Our! Our!

Mr. STERN: Our Prime Minister signed in the 70s...Your former, right..

Dr. DAVIES: Have manners!

Mr. STERN: Those that many other Prime Ministers have signed and therefore those can become useful for trade in this region.

I know you know, Anthony, that many of what we have on paper, many companies are not really...in Jamaica not being able to use the advantage of that. They are not up to the capacity to use it. This could invite many companies to come here and take advantage of those treaties.

The registration of companies, many companies who can come here and do set up business here, don't necessarily come anymore to set up a physical company. We have off-shore centres right now that do the

back-end services for many companies here. But if they could set up their registration of their companies here and operate in that global sense, then why we shouldn't take advantage just like many other countries like Ireland or St. Lucia?

We have many local companies here that are operating now and are signed up with many other countries in the world as an offshore entity. Our own local companies that are set up and operating in a international sense, this will offer us that opportunity for those companies to take advantage of that. And what we need is the structure. We need a structure to be put in place to encourage that. We need a structure to be put in place for the Government to financially get a reward from that, too. When the fees are paid by these companies every year, it will help our budget. We will have other jobs.

Many lawyers in this country will look towards getting more work and many lawyers are in this Parliament can look forward to more work. I look forward to all the accountants getting more business. And I look forward to all the banks and trust companies getting more business.

And if you just look at the direct jobs, you have to look also at the indirect jobs, the restaurants, the hotels and all the other indirect opportunities, whether it's in the gambling business or whatever, that we will enjoy something from this country. And I believe that we are looking on it in a very short-sighted way, based on the comments made before. We need to be more visionary in our thoughts now because we are in a very shrinking economic environment. And we need to expand the situation so that it will give other people opportunity. Okay?

So let us allow for us to go ahead and continue on the work that has been put in. We have looked at the past information, when a former Minister, Mr. Paulwell, we have looked at that, and we have looked at the advantages and disadvantages and therefore those were taken into consideration in this study. And I believe that the time has come to give the Downtown Kingston and the Montego Bay areas a little more light and give them another source of business opportunity to grow business in Jamaica. Thank you. (Applause)

The SPEAKER: Mr. Hylton.

Mr. HYLTON: Mr. Speaker, I think the point has been made that this is really not a very visionary approach. This is a very mature industry and a mature sector. In fact I think the point is being made that a lot of that advantage in setting up in these areas are fast eroding. And what we need to be careful about is not to really argue about what are the possibilities, but whether in fact the increased vigilance of the OECD countries in this area have activities for the reasons that have been pointed out by my colleague, whether that does not impose a cost on the operation of the business that may well overwhelm whatever benefits there are.

I think we need to look very carefully and approach it in the light of the changing circumstance.

The point was made about the treaties, about the role of treaties in this area. Increasingly, Mr. Speaker, these treaties now fall in the realm of bilateral agreements and a

number of them are being, a number of them are not on sound grounds - a number of them are being challenged, as being discriminatory in certain areas. The United States just went through a long battle in the WTO to defend some of its legislation affecting this area. So this is an area that is highly regulated and is being supervised in a very critical way, and it imposes a cost in supervision of this activity.

It is a lesson we've learnt, a lesson we've learnt in - we just saw what has happened in the area of bananas and we may say, well what is the link between what happen in banana and what may happen in this area?

Again, in the same way that we rely on the niche areas and the arbitrage in the different areas to get benefit, in banana area we found that we had to expend tremendous amount of money defending the advantages such as they were, and in the end they were whittled away by the fact that those advantages were conferred on us by other countries and not natural advantages.

So, I see the activities, I understand this is, as I said, an area that has been looked at not just now. I think there are possibilities. We should not overstate what those possibilities are and we need to be careful in terms of how we analyze the prevailing condition and the possible benefit from the particular activities concerned.

Thank you, Mr. Speaker.

The SPEAKER: Thank you, Mr. Hylton. Mr. Mullings.

Mr. MULLINGS: Thank you, Mr. Speaker.

Mr. Speaker, years ago LEE KUAN YEW looked at the movement of money globally, and in positioning Singapore they took note of the fact, that between a certain time, over the weekend, money wasn't moving between, I think it was Zurich and Paris. And so he positioned Singapore to take account of that and that became a launchpad for that particular country.

Mr. PERALTO: Within that timeframe though?

Mr. MULLINGS: Indeed. And so, what we are seeing, something happened quite recently, where the Ministry of Finance has revolutionized its clearing house facilities for cheques, so that the waiting period has been shortened considerably, which is also facilitating the movement of money.

Now, what we are saying is that, when we speak of the financial sectors - and the Member from North West St. James pointed out the area of Montego Bay, the facilities that are there, but you must also realize that the financial sector globally is moving. It has moved from the failure to regulate, as in the United States when they loosened the regulations under Glass Steagall and of course, we had the financial meltdown that took place because of the financial instruments that were being created and it created a contagion globally, yes.

So, while we are looking at this sector, we must also take account, as the member has indicated from St. Andrew, take account of what the regulatory framework will be looking like to take account of these globalized fallout, and how we position ourselves will take into account the new regulations, of course, the bilateral treaties and so on.

And so the point I am making is that the financial sector will have to be buttressed from the Geneva perspective in terms of the negotiations and treaties that we take part in, we have to build our capacity, taking into account the changing paradigms in the financial sector globally and also to see how Jamaica and the Caribbean fits in all of that. In other words, what are the perspectives in terms of the offshore banking, and in turn what are the tax arrangements. What is the issue in terms of revealing accounts that are offshore?

So, it is going to be a complex area, and in looking at this legislation, we have to see how best we build that capacity, to take account in many layers in terms of government, in terms of private sector. So it's not just a situation of having the facility to move money, it is what is the regulatory framework domestically, internationally, and how best we can make the best of that.

I laud this move because it represents a movement to take account of the changing realities. Having said that, we must also see how best we can configure opportunities for persons in the diaspora who have experience in this area, how best we can configure our curricular to take account of this movement in terms of regulatory frameworks, in terms of the law school, in terms of the financial schools as well. So it is wide, and factor into that the EPA.

So, it's a dynamic time, Mr. Speaker. We must not miss this opportunity. We must not pass the legislation and think that the work has been done. There is much more to do and much more to learn.

Thank you, Mr. Speaker.

The SPEAKER: Thank you, Mr. Mullings. Mr. Samuda.

Mr. SAMUDA: Thank you very much, Mr. Speaker.

You know, Mr. Speaker, there comes a time in every nation's history when they must take bold creative decisions that carry with it at times an element of risk, but if you promote entrepreneurship as a necessary ingredient for growth, implicit in that is the need to take some risk. The rewards are greatest when the risk is greatest.

It is such a moment in our history when we seek to find a basis on which to build a sound economy, when we seek to diversify the basis on which we can earn our way out of our difficulties, that we go in search of those activities that others have tried successfully and have helped them enormously in building their economies.

Within our own territory, Barbados has been very successful, St. Lucia is emerging, but this facility that they have opened, the similar type of facility has redound greatly to their benefit. It is time that Jamaica enters that arena because, why? I hear the spokesman on National Security suggesting that it is overly optimistic, unrealistic says the former Minister of Finance. Well, the fact of the matter is that these other nations you are speaking to about - within our region all put together don't have the size of the professional cadre that we have. We are larger than all those put together. We have idle professionals at the moment that could fill the capacity that we are talking about to say nothing of those that will be trained.

And when we speak of professionals, we don't only speak of the lawyers and the

accountants that are graduating, we speak of those support staff that will add to this particular cadre of people.

Jamaica is the most ideally suited in relation to its size and proximity to the largest economy in the world. We have established relationships with Europe and Asia. And, Mr. Speaker, we commissioned the finest of its kind in the world.

(*Sotto voce* comment by Opposition Member)

Mr. SAMUDA: Yes, you can have a look at it. Baker & McKenzie, world renowned experts in the field of the establishment of IFSC. And this is what they said in their summary:

> "Jamaica is well placed to establish a niche IFSC. Jamaica (a), is not encumbered by a legacy of providing cheap, non-transparent financial services, serving to assist customers in hiding offshore money from their local tax authorities".

Mr. PICKERSGILL: How much you pay for it?

Mr. SAMUDA: The Member wants to know how much we pay for it. In terms of the promotion of investment, you don't get it free.

Mr. PICKERSGILL: How much money?

Mr. SAMUDA: You don't get it free because this is the basis on which you build, you grow.

It is not viewed as a tax haven, and I mentioned that in my presentation. We cannot be seen as a tax haven and that is why we enter into treaties that will give the assurance to the large financiers and financial houses and Governments of Europe, North America and as far as Asia because of those treaties that will hold us to book. And the Member from Western St. Andrew is dead on the money when he speaks. And from his statements I imply that he is in support of it and he feels that the regulatory mechanisms to protect the image of Jamaica is what is required.

It is geographically located in a convenient time zone providing easy access to North, Central and South America. What most of us in this Honourable House don't realize is that God has blessed us richly for the location of this great country of ours, ideally located, (Applause) between North, South and Central America. It has strong historical ties to Europe and to Asia, particularly China. It has excellent communications, has a significant line up of international tax treaties, as I mentioned, and has well educated, most importantly,

> "has well educated and reasonably priced legal accounting, corporate and financial industry professionals"

from the best that the world has to offer. That's their impression of us. You can have a look at it. (Applause)

(Mr. Samuda handed document over to Opposition member)

Mr. SAMUDA: Mr. Speaker, with that kind of endorsement and support, followed as it was in 2010 at the Global Forum, in the meeting in Singapore of October 2010, Jamaica's Report was adopted in one of the 10 that attended the Forum, and used as an example of what is possible. Their Report on

us was so favourable that we have begun to act on some of their recommendations. So others feel very optimistic about the future of Jamaica, but we come to Parliament and we hear that we are overly optimistic. It can't work. Because these things were not engaged in early enough that is why we are struggling to get from under, and we've got to tackle them now. (Applause) Now it is true.

Now it is true, it's a reasonable suggestion. Why not establish a..... In the case of the member from Central Manchester, he never even said establish a committee within JAMPRO or a department, he says establish a desk, that is how he sees this great opportunity. We must establish a desk!

(*Sotto voce* comments)

Now I have never heard of a more preposterously stupid suggestion than that. (Laughter)

Dr. DAVIES: Watch your language.

Mr. SAMUDA: All right, a preposterously ill-considered suggestion. (Laughter by all)

(*Sotto voce* comment by Dr. Davies)

Mr. SAMUDA: It could have been. It could have bene taken onboard and we did consider it.

But the fact of the matter is we are embarking, we are embarking on a greenfield activity. We don't have the experience in it and we don't want to make a mistake. Others want us to fail. Some neighbours close to us who are involved in it want us to fail, started with us favourably and have now turned against us to try and erode our chances of success. That's the nature of the entrepreneurial world in which we live. And we accept the challenge, because we are confident in our professionals, we are confident in all the factors that make us attractive. So we chose to have a more focused authority that will see to the proper implementation and coordination of the whole introduction of this service, and the regulatory side of it it is not singular to the authority, it could not be.

The authority, former Minister of Finance, is to work along with other agencies. And, as I had mentioned before, these other agencies include the Bank of Jamaica, the FSC, the Solicitor General's Department, and so on. So, it is a collaborative approach that will redound to our benefit.

We have started the process of drafting the legislation. As I indicated, we have taken onboard one of the finest architects of legislation …

(*Sotto voce* comment by some Members)

Mr. SAMUDA: …who will be responsible for ensuring that this is done as speedily - and it is a dedicated process being managed and monitored very closely.

So, Mr. Speaker, I hear the Member from Western St. Andrew with his concerns, and we share those concerns because others have failed. And those who have not failed because of the shady nature of their past, in trying to conceal the source of money, have been detrimental to them. We are concerned about - that's why we want this authority to be single focused, to concentrate on the development in a manner that will guarantee us the greatest possible opportunity for success. It is going to be transparent and it is going to be a professionally-managed authority that will help us to form another leg on which our economy can stand.

(Applause)

Mr. Speaker, the projection of earnings, in our view, quite frankly, if, as we expect, it will get off to a good start and will develop. We would consider those earnings conservative, because this particular type, as you will agree, Member from Southern St. Andrew, this particular type of facility provides one of the largest sources of revenue around the globe. It is - we are tapping into one of the most lucrative areas for economic development in the world. And all we need to get us from under, is just a pinch of that great potential that is out there. So, we go forward with this with great confidence.

We are going to stumble along the way but it cannot be achieved unless we have all on board. We want the Government, and we want the former Minister of Finance, and we want all the Members on the Opposition side to join with us in supporting this very worthwhile endeavour as we work together to ensure the success of this venture.

So, Mr. Speaker, I ask that the Bill be read a second time.

The SPEAKER: (Gavels) Members, the question is that the Bill be read a second time.

Put to the House and agreed to.

Bill entitled:

AN ACT to Establish a body to be known as the Jamaica International Financial Services Authority for the promotion and development of Jamaica as a Centre for International Financial Services; and for related matters,

read a second time.

The SPEAKER: The House will now resolve itself into a Committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

Clauses 1, 2, 3, 4, 5, 6 and 7 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 8...

Mr. KELLIER: Chairman, Chairman... what's the great haste, you are on a track...

The CHAIRMAN: Number 8 - Clause 8.

Mr. KELLIER: Let us slow it down a little bit, please. It says in Clause 8, subsection (6), dealing with prescribed rate, it means, a rate as the Minister may, by order, prescribe. And it says, "*the Minister is the Minister for the Public Service*". I am not very comfortable with the Minister prescribing rate. Why it has to be Minister that prescribes these rates? Isn't there any mechanism within the government structure rate - to decide on the rate? I don't know that the political representative gets down into...

Dr. DAVIES: Which Clause you said?

Mr. KELLIER: This is Clause 8, subsection (6). Why is it that the Minister has to get down into prescribing rates?

(*Sotto voce* comments)

No, no, I just waan know. Isn't there any mechanism that allows that.

(Inaudible explanation offered by the Prime Minister)

Mr. KELLIER: (5) says: *"Except with the prior approval of the Minister, no salary in excess of the prescribed rate shall be assigned to any post…"*

Dr. DAVIES: It is the Minister of the Public Service.

Mr. KELLIER: Yes.

The CHAIRMAN: You see, Mr. Kellier… it's a standard thing.

Mr. KELLIER: All right.

The CHAIRMAN: I put Clause 8

Put to the Committee and agreed to.

Clauses 9, 10, 11, 12, 13, 14 and 15 put to the Committee and agreed to.

The CHAIRMAN: I put the Schedule.

Mr. KELLIER: No, no, sorry.

THE CHAIRMAN: The Schedule…

Mr. KELLIER: Disqualification for appointment, that's 2…

THE CHAIRMAN: 2…Paragraph 2, sorry.

Mr. KELLIER: No person shall be qualified for appointment as a member of the authority who: (a) is a Member of the Senate or the House of Representatives. I would want you to add, "*or municipality*".

The CHAIRMAN: But it applies, it applies. No, but I mean…

Mr. KELLIER: No, it says here, (a) is a member of the Senate or the House of Representatives. I am saying, I would like you to add, "*or municipality*". No Councillor, no MP.

(*Sotto voce* comments by some Members)

Mr. KELLIER: You agree with that, Karl?

(Sotto voce comment by Mr. Samuda)

Mr. KELLIER: Well, consult yu man dem ova de suh nuh?

The CHAIRMAN: Okay, so we will just add "*or member of the municipality, Councillor or Mayor..."*

(The Chairman consults with the Clerk)

The Parliamentary draftsperson is saying that "*parish councilors*" tend to be local organizations as against - they have local jurisdictions and authority, while the Senators and Parliamentarians have a national authority. So, he would not be – he is suggesting you don't exclude them because… you take for instance, the Parish Council… say in Clarendon...

Mr. KELLIER: (Inaudible) …but the list of those to be excluded.

The CHAIRMAN: No, but remember now, you know, they are not excluded.

Mr. KELLIER: Yes, man, they are excluded.

The CHAIRMAN: They are excluded - they are not excluded. Remember what the preamble says, no person…

Mr. KELLIER:

"No person shall be qualified for appointment as a member of the authority who is a member of the Senate, or the House of Representatives".

A MEMBER: They are excluded

The CHAIRMAN: So, we are excluded, but not the Parish Councils.

Mr. KELLIER: But, what I am saying, I want them brought in there.

A MEMBER: No, it doan make sense.

Mr. KELLIER: Exclude them too.

Dr. DAVIES: Oh, you want them to be excluded now.

Mr. KELLIER: Yes. And the Minister is saying yes. The Minister is saying yes. But we want it put in here.

A MEMBER: Why would you...

Mr. KELLIER: You would put them in there, because you pack up a whole heap of the board dem with a whole heap a Councillor...

(Laughter)

So, you put them in there. I waan see it in there.

(*Sotto voce* comment)

Dr. DAVIES: Are you open to that?

Mr. KELLIER: Karl says yes, so wah you a back it down for?

Mr. HOLNESS: Mr. Chairman, it is not normally the case that Government policy allow that we specify the exclusion of a local authority.

Dr. DAVIES: You just making that up as you go along.

Mr. HOLNESS: No, no... it is not normal that there are excludes.

Mr. KELLIER: We don't want no politically elected people to be here.

The CHAIRMAN: Members, we have a Committee of the whole House, you know, but we have sub committees all over the place meeting. Let's have a Committee of the whole House, and not sub committees.

Mr. HOLNESS: Mr. Chairman, it would be an unusual procedure for us to…

Mr. KELLIER: No elected people.

Mr. HOLNESS: No, I am not disputing the wisdom of your suggestion. I am merely saying that when we act we create precedence. So, we must be cognizant of the fact that in doing this now, we would be creating precedence. So, we would... (Laughter) We must be careful of that.

The CHAIRMAN: The most I would say, Mr. Kellier, what could be suggested, I mean, future Ministers may look at this debate, and hopefully they don't appoint any Parish Councillors.

Dr. DAVIES: No, no, we don't want to make it…

Mr. KELLIER: No, no, we want to make it absolute clarity… absolute clarity.

Mr. SANUDA: Mr. Chairman, Mr. Chairman... I think the mischief that the Member wishes to avoid is the inclusion of any practising political personality.

The CHAIRMAN: Elected personality.

Mr. SAMUDA: Elected, yes - and there is merit in that - in a matter, especially dealing with this kind of organization.

The CHAIRMAN: Well, is it the wish of the House that...

Mr. HOLNESS: Well, as I said, Mr. Speaker, that it makes sense. We wouldn't object to it except that we should consider that where we would be breaking new ground with this.

Mr. KELLIER: Well, I think this Parliament is about breaking new ground, this Bill.

The CHAIRMAN: So, should we just put, "or a parish council - is a Member of the Senate or a parish council".

(*Sotto voce* comments by Members)

Mr. KELLIER: If… the Minister is supporting it, you know, Mr. Chairman.

The CHAIRMAN: No...eeh?

Mr. KELLIER: The Minister is supporting the amendment.

The CHAIRMAN: I think people are agreeing, but the questing is to get the wording. Should we just put, "*or Parish Council?"* So, I am just trying to get the wording.

Mr. SAMUDA: Mr. Chairman, I think it is…

The CHAIRMAN: I understand… we agree - I think that there seems to be an agreement, but I just want to hear from the drafts person how we put it in. Are we just to put "*or Parish Council*" - just add "*or Parish*

Council"? I just want to get confirmation.

The CHAIRMAN: Okay. I think we could just…

Mr. SAMUDA: Mr. Chairman, we are going to proceed to exclude Councillors, because - for the reason that it is – this…

The CHAIRMAN: No, we have agreed.

Mr. SAMUDA: …Authority is far too sensitive.

The CHAIRMAN: So what we are going to add there, Members, from the legal drafts person, in paragraph 2(1)(a), or subparagraph (2)(1)(a) we will add after 'representatives' 'or Parish Councils'.

A MEMBER: No.

The CHAIRMAN: Is that correct? No, sorry, sorry. I understand 'or Local Authority', but there will be a definition of Local Authority which we will come to in a short while.

Mr. HOLNESS: We could just say 'Local Governments or Municipal Authorities'.

Mr. KELLIER: You need to be very clear on that you know, Mr. Chairman, because we don't want any ambiguity where that is concerned.

Mr. HOLNESS: Mr. Chairman, I believe the two terms with the all embracing Local Governments or Municipal Authorities.

(*Sotto voce* comment from a Member)

The CHAIRMAN: There is no more. That's the end.

Mr. KELLIER: No, I have another correction.

The CHAIRMAN: Oh, you have another correction. What is it, Mr. Kellier?

Mr. KELLIER: In section 10…

The CHAIRMAN: That's paragraph 10.

Mr. KELLIER: No, no. Clause 10 in the…

The CHAIRMAN: In the Schedule.

Mr. KELLIER: Yes, in the Schedule.

The CHAIRMAN: It's paragraph 10.

Mr. KELLIER: Yes. In section (a), (1)(a), it mentions that:

> "The seal of the Authority shall be kept in the custody of the Chairman or the Secretary."

This is the Secretary of the Board?

The CHAIRMAN: Yes.

Mr. KELLIER: But it does not say anywhere in there how the Secretary of the Board is appointed. Nowhere in there says how you appoint the Secretary, and the secretary is entrusted with the seal of the company.

(b) says:

> "authenticated by the signatures of the Chairman or any other member of the Authority authorized to act in that behalf by the Authority, and the secretary."

So the secretary is a VIP in this business. So the secretary can't be just anybody, there must be some terms of reference of the appointment of the secretary. You can't just name a secretary so, you know, in this case.

And in (2), it also mentions:

> "All documents (other than those required by law to be under seal)…"

And so forth and so on – yes –

> "authorized to act in that behalf or the Secretary."

Mr. SAMUDA: Your only problem is how the secretary is appointed?

Mr. KELLIER: Yes, yes, that's the main

point, that's why I mentioned these.

Mr. SAMUDA: Not that the secretary holds…

Mr. HOLNESS: How the secretary is appointed.

Mr. KELLIER: Yeah, not those problems. I mentioned those to back up the fact that – you get what I am getting at.

Mr. SAMUDA: I have no problem with defining it. Andrew, how the secretary is appointed…

The CHAIRMAN: Yes, it's not stated.

Mr. SAMUDA: It's silent on the appointment of the secretary.

Mr. KELLIER: Yes. We want some action on that.

The CHAIRMAN: While we look at that, Mr. Kellier, in relation to paragraph 10…

Dr. DAVIES: Good thing one person read the Bill.

The CHAIRMAN: In relation to paragraph 2, the proposal is that we renumber paragraphs (b) to (d) and the new paragraph (b) – just listen, Mr. Samuda, please listen carefully – the new paragraph (b) will be:

> "is a member of a Parish Council or Councillor of the Kingston and St. Andrew Corporation, or a Municipal Council."

I will read it again. The new paragraph (b) will be:

> "is a member of a Parish Council or Councillor of the Kingston and St. Andrew Corporation or a Municipal Council."

Okay.

Now, the present (b), (c) and (d) will be renumbered (c), (d) and (e), okay.

So in relation to paragraph 2, which I have just indicated, those in support of the amendment?

Put to the House and agreed to.

Mr. SAMUDA: Now, how the secretary is appointed…

The CHAIRMAN: No, we are now going to deal with that.

Mr. SAMUDA: Yes.

(*Sotto voce* comment from a Member)

The CHAIRMAN: We can't put it until we amend 10.

Mr. SAMUDA: Do we really need to define that now? It's not normal to define how the secretary is appointed.

The CHAIRMAN: Well, why don't we then, instead of the secretary put Deputy Chairman, so it solves the problem?

Mr. HOLNESS: 8(1), 8(1) of the Act provides for the appointment of the secretary.

The CHAIRMAN: Oh. Mr. – 8(1), it's provided in 8(1) of the Act itself -

> "…a Chief Executive Officer, a secretary and such other officers and employees…"

Okay. So it's there, so we don't need to change that then. 8(1) on page 7.

(*Sotto voce* comment from Mr. Kellier)

The CHAIRMAN: Same thing.

Mr. KELLIER: The secretary to which that refers is the administrative secretary or the Board?

The CHAIRMAN: No, it's the Authority, the Authority, the seal of the Authority.

Mr. KELLIER: This one, this one at 8.

Mr. SAMUDA: So you don't need to –

we can proceed.

The CHAIRMAN: It's the same, "…the Authority may appoint…" It's the Authority. So it is the secretary that is being referred to in paragraph 10 of the Schedule, okay.

Mr. KELLIER: Okay.

The CHAIRMAN: All right. So we have one amendment to 2 which was passed.

So I now put the Schedule which was amended.

Put to the House and agreed to.

The Title and Enacting Clause put to the House and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed Committee Stage with one amendment.

Put to the House and agreed to.

RESUMPTION

The SPEAKER: I do report the Bill as having passed Committee Stage with one amendment.

Minister Samuda.

Mr. SAMUDA: I ask that the Bill be read a third time.

The SPEAKER: The question is that the Bill be read a third time.

Put to the House and agreed to.

Bill entitled:

AN ACT to Establish a body to be known as the Jamaica International Financial Services Authority for the promotion and development of Jamaica as a Centre for International Financial Services; and for related matters,

read a third time and passed.

The SPEAKER: Bill debated and passed.

(Applause)

House Leader.

Mr. HOLNESS: Mr. Speaker, as I had indicated earlier, we will now continue the debate on the Special Prosecutor Bill.

I believe that the Leader of the Opposition will contribute to the debate.

The SPEAKER: Thank you.

Mrs. Simpson Miller.

Mrs. SIMPSON MILLER: Thank you, Mr. Speaker.

I regret the fact that I was not here last week, but I did get a report on the Prime Minister's opening of this debate.

Jamaica's social, economic and cultural development, Mr. Speaker, must have a platform of good order in every field, a platform which influences the wide-ranging expanse of activities and interaction within our society.

A well-ordered society is inevitably, a developed society. The well-ordered society is the enemy of those who are inclined to indulge in corrupt practices, for there are lesser avenues open to them and the opportunities for them to be found out and more than likely to be in place.

Mr. Speaker, where there is a lack of good order, corrupt practices find firm footing and flourish. Where corrupt practices flourish undetected, that is a sign of decay in society. It is a sign, Mr. Speaker, of a weakening bureaucracy, a sign of an inefficient system of investigation, a sign of a weak justice regime, and a sure indicator of rampant indiscipline.

And so, Mr. Speaker, we cannot be proud of where Jamaica falls on the global corruption index, and to be sure all of those signs and indicators are to be found on the landscape of our Jamaican society.

Mr. Speaker, of course it is well known that because of the cover that they enjoy and the numerous tentacles that attach to corrupt practices, the war to curtail and eliminate that source of decay in the society has to be waged on several fronts.

Mr. Speaker, bureaucratic walls have to be broken down that would present far less opportunities for the rules to be broken. In those circumstances there is far less power in the hands of any public servant who might be inclined to indulge in corrupt practices. And at the same time, individuals in the private sector would be far less so inclined, for one of the main reasons for their indulgence, Mr. Speaker, would have been removed.

Corrupt practices have moved with the times and have captured all of that modern technology and learning have to offer, Mr. Speaker. Investigative systems must, therefore, also move with the times. Mr. Speaker, they must match and be superior to the systems that are employed in the pursuit of corrupt practices. The settled and ever-present fear of being found out is always a powerful stumbling block in the road for those who would indulge in corrupt activities.

Mr. Speaker, another huge stumbling block is the swiftness and efficiency of the justice system. If justice delayed is justice denied, a slow, creeping justice system is inspirational music to the ears of those who pursue corrupt practices. For even if they are properly investigated and charged, they are often on bail forever before they come to trial, and are at large within the society, to strengthen the order of decay.

The Opposition, Mr. Speaker, is in support of the intentions of the Bill that has been introduced by the Prime Minister in this Honourable House. We do not hesitate to acknowledge the far-reaching intentions of the proposals and we applaud the initiative to provide another tool in taking the fight to those who would be corrupt. But, Mr. Speaker, you would have already detected that we are concerned that there will be the necessity to remove some sturdy stumbling blocks that will stand in the way of the institution of the Office of the Special Prosecutor that we are moving to create. Our choking bureaucracy remains. We do not get the sense that that challenge is any urgent part of the Public Sector Modernization Plan. As the Member for St. Andrew Southern often recalls 'everything is everything'. If this wide avenue for the pursuit of corrupt practices is not removed, Mr. Speaker, the expected outcomes of the industry and effort of the Special Prosecutor will not be realized.

By Clause 26 of the Bill, Mr. Speaker, there is to be an Investigation Division of the Office of the Special Prosecutor. What are our plans in that regard? Are we prepared to invest in the quality of human resources and to commit the kind of financial resources that will be required for the achievement of measurable outcomes? Has the Government yet assembled a team to conduct a study of what these imperatives entail?

Mr. Speaker, we have not heard anything in the opening of the debate by the Prime Minister that seeks to address those requirements. A reference to the concern that was expressed that a prosecutor should not have investigative powers and duties, does not take us any distance along that road. If that concern has been appropriately

addressed - what the public wishes to be assured of, Mr. Speaker, is that the Government has set its mind to consider how the Office of the Special Prosecutor will be empowered and facilitated in this regard to produce satisfactory results.

The Government, Mr. Speaker, should not wish the impression to be given to the public that this Bill is being put forward simply as a means of fulfilling a manifesto promise or some pledge that the Prime Minister has made to certain groups within the society to have a menu of certain laws passed in this Parliament.

Mr. Speaker, it is obvious that the introduction of an Office of Special Prosecutor into our governance arrangements must go hand in hand with a demonstrated commitment, Mr. Speaker, to the reform of Jamaica's justice system. (Applause) We did not get the impression from the Prime Minister's introduction to the debate on this Bill that the breadth of everything is everything has been fully thought out.

Mr. Speaker, the Opposition is not satisfied that the links have been made by the Government and the public will not be satisfied, for it is plain for all to see that there has been no urgency in implementing the recommendations of the Reform Task Force . . .

Mrs. NEITA-HEADLEY: Hear, hear!

Mrs. SIMPSON MILLER: …which tendered its report, Mr. Speaker, just before the dawn of the present Administration. So Mr. Speaker, the public is entitled to ask, is the Special Prosecutor to struggle against the odds to have a corrupt suspect placed before the courts in a system which is beset by a mountain of backlog that is higher than when the Government assumed office? Mr. Speaker, is there to be a court dedicated specifically to addressing matters which are a direct result of the work of the Office of the Special Prosecutor? The public is entitled to know, Mr. Speaker. (Applause) Mr. Speaker, is the Government prepared to engage the Opposition and stakeholder groups in discussions concerning the integrity of the implementation process for this office?

Mr. Speaker, this is proposed legislation to break new ground in the fight against the indulgence in corrupt practices. It was decided that the task was too great and the challenges too awesome for them to be placed in the hands of a deputy within the Office of the Director of Public Prosecutions. It was determined, Mr. Speaker, that a separate institution should be created and the Joint Select Committee which considered the provisions and structure of the Bill appears to have endorsed that point of view. But certainly, Mr. Speaker, much more work needs to be done and the linkages must be carefully made in the planning for this institution to come on stream.

Mr. Speaker, Members of this Honourable House would long have been aware that the Opposition was not willing to support the promise made in the JLP manifesto that the Office of Special Prosecutor would be a Commission of Parliament. The Joint Select Committee and the stakeholder groups are to be commended for having found an appropriate way of addressing and resolving the issues that were involved. But we raise the matter once again because elements of the basic reason for our stubborn resistance are still to be found, Mr.

Speaker, in this Bill. Our basic reason was that no Prosecutor should be appointed in any manner other than the way in which our Constitution provides that the Director of Public Prosecutions is to be appointed. (Applause) And further the removal procedures, the removal procedures, Mr. Speaker, must be the same. Can't be different! (Applause) Must be the same! We were concerned that the independence of the prosecution regime in our system should be closely guarded and protected.

(*Sotto voce* remarks by Government Member)

Mr. PICKERSGILL: No bag a mouth, no!

Mrs. SIMPSON MILLER: Don't answer no. Direct him to go read it.

Mrs. SIMPSON MILLER: And what is more, Mr. Speaker, we continue to insist that neither the appointment nor the removal process should be touched by the political hand of the legislature. (Applause) We will not agree to it. In other words, the tenure of the Special Prosecutor must not, in any shape or form, Mr. Speaker, be subjected to the whim and fancy of the political directorate. (Applause)

Mr. Speaker, clause 31 of the Bill, the Special Prosecutor and staff are to be appointed by the Governor-General acting on the advice of the Public Service Commission. That satisfies the constitutional requirement for appointments to such positions within the public service. But we make the further observation, Mr. Speaker. We must move swiftly to implement the recommendations of the Constitutional Reform Committee concerning the process for the collaborative procedures for the appointment of persons to the Commissions that are provided for in the Constitution (Applause) such as the Public Service Commission and to other sensitive positions in the Public Service.

Mr. Speaker, we cannot be unmindful, Mr. Speaker, we cannot be unmindful of the Vascianne affair that was played out in the earliest days of the present Administration. (Applause) The public must at all times have a feeling of confidence in the process by which such appointments are made. There should be no room, Mr. Speaker, for suspicion of victimization or any other unclean motive. No other kind of unclean motive, Mr. Speaker. There should be no room for suspicion.

Mr. BUCHANAN: Hear, hear!

Mr. KELLIER: Must be above board!

Mrs. SIMPSON MILLER: The impression, Mr. Speaker, should never be left, for example, that a Public Service Commission or any other Commission consist of the Prime Minister's men. Those constitutional reform recommendations have long been accepted by Parliament. Mr. Speaker, the Opposition is always ready to support the implementation of those reforms and all the other accepted reforms on the constitutional reform agenda. A visionary administration should see such an exercise as a special initiative to mark the 50th year of our Independence. (Applause) But Mr. Speaker, I suppose the present Administration is too preoccupied with other challenges to grasp that vision.

Mr. Speaker, the Vascianne episode did not send a signal that Jamaica was moving towards maturity in the governance process.

The Prime Minister and the Government must know that it has left a serious blot on the practice of democratic governance in our country. (Applause)

Mrs. NEITA-HEADLEY: Warning!

Mrs. SIMPSON MILLER: Mr. Speaker, there is every opportunity for that to take place if we leave the provisions of clause 37 as they are in this Bill. It cannot be left like that. And Mr. Speaker, for the same reasons that we were not prepared to support an office of a special or any other prosecutor as a Commission of Parliament, we are not prepared, Mr. Speaker, to support the process by which this Prosecutor may be removed.

(Applause)

Mrs. NEITA-HEADLEY: Hear, hear!

Mrs. SIMPSON MILLER: The process is to be initiated by a resolution of each Houses of Parliament with each House of Parliament by resolution, Mr. Speaker, deciding that the question of removing the Special Prosecutor from office should be investigated. We do not know of any position in any department of government in which such a removal process is to be found. And so, Mr. Speaker, we do not know of any such position for which the Public Service Commission has no role in the removal process. But here, Mr. Speaker, it is proposed that the Public Sevice Commission is to have a primary role in the appointment process of the office but no role whatsoever, Mr. Speaker, in the removal process. Can't be!

Mr. KELLIER: That can't work!

Mrs. SIMPSON MILLER: Can't work!

Mr. PICKERSGILL: He who appoints must disappoint!

Mrs. SIMPSON MILLER: And we would stick to he who appoints must disappoint.

Mr. Speaker, the enactment of such a provision would not only fly in the face of settled principles, Mr. Speaker, but it would place the tenure of the Special Prosecutor directly into the hands of the political directorate.

Mr. Speaker, the Prime Minister has stated his wish for 'a Special Prosecutor', and I quote, I quote: "with the veracity and seriousness of the current Contractor-General".

Mrs. NEITA-HEADLEY: Yes.

Mrs. SIMPSON MILLER: He goes further

> "and I say that as someone who has not always agreed with the Contractor-General's position".

These are the words of the Prime Minister, not mine.

> "As I have disagreed with the advice he has given in relation to Sandals Whitehouse, but I respect his authority. I insist, of course, that in the same way that I have to know the limits of my authority, he must understand the limits of his".

Mrs. SIMPSON MILLER: Mr. Speaker, the pointed difference is that the Contractor General does not have a power to prosecute.

(Applause by Opposition Member)

And so, Mr. Speaker, what will happen when a Prime Minister's power are thought, by him, to conflict with those of a Special prosecutor what will happen, Mr. Speaker, when this happens? And I repeat when a

Prime Minister's Powers are thought by him to conflict with those of the Special Prosecutor. Would that Prime Minister not be empowered by this provision to gather his parliamentary troops to pass a resolution that the removal of the Special Prosecutor be investigated?

Mrs. NEITA-HEADLEY: Caan work.

Mrs. SIMPSON MILLER: Mr. Speaker, what is more there is the provision that one of the grounds for the removal of the Special Prosecutor is failure to discharge the functions of his office in a competent manner. Mr. Speaker, this ground is not to be found in the Constitution at Section 96 of the removal of the Director of Public Prosecutions.

Mrs. NEITA-HEADLEY: Far too subjective.

Mrs. SIMPSON MILLER: And so Mr. Speaker, we would wish the Prime Minister to assure us of its proper place in the scheme that is being developed. For it certainly, Mr. Speaker, opens the door wider for an irritated Government to initiate the process for the removal of a Special Prosecutor.

Mr. Speaker, nothing might come of that initiative in that the tribunal that is established may find the complaints to be unfounded.

Mrs. NEITA-HEADLEY: Same way.

Mrs. SIMPSON MILLER: But Mr. Speaker, grave damage would have been done...

Mr. PICKERSGILL: Yes.

Mr. KELLIER: That's right.

Mrs. SIMPSON MILLER: …to the office…

Mr. PICKERSGILL: Yes.

Mrs. SIMPSON MILLER: …and the individual public servant…

Mr. KELLIER: Yes.

Mrs. SIMPSON MILLER: …from which there might not be any avenue for recovery.

Mrs. NEITA-HEADLEY: None.

Mr. KELLIER: That's right.

Mrs. PICKERSGILL: Caan recover; that's a dead duck.

Mrs. NEITA-HEADLEY: None.

Mr. KELLIER: Hear, hear.

Mrs. SIMPSON MILLER: The Opposition, Mr. Speaker is satisfied that the system of prosecution should at all times be insulated from all influence or control, and in particular from political control.

(Applause by Opposition Members)

Mr. Speaker -

(Inaudible comment by Mr. D. Smith)

Mr. PICKERSGILL: You must tell me.

Mrs. SIMPSON MILLER: Tell us about Manatt, Phelps & Phillips that is now going on.

Mr. PICKERSGILL: You must tell me. Nuh you send fi dem.

(Inaudible comment by Mr. D. Smith)

Mrs. SIMPSON MILLER: The Prime Minister call dem not we. Him can tell you. Ask him.

Mr. PICKERSGILL: when dem come we gwine run dem.

Mrs. SIMPSON MILLER: Mr. Speaker -

(Inaudible comment by Mr. D. Smith)

Mrs. SIMPSON MILLER: Well don't provoke me. Tell your colleagues to behave.

Mr. HOLNESS: Member behave.

Mrs. SIMPSON MILLER: When the Prime Minister is speaking you notice I give full respect.

Mr. HOLNESS: Member behave.

Mrs. SIMPSON MILLER: Okay, and I'm not gonna tolerate it, is the people send me here not you. Mr. Speaker -

Mr. D. SMITH: Yuh caan frighten me.

Mrs. SIMPSON MILLER: Your look alone will frighten me.

(Laughter)

Mr. Speaker, we cannot support the process that has been proposed for the removal of the Special Prosecutor. We would suggest that the law officers, Mr. Speaker, the officers take a fresh look at the removal process at Clause 37, to bring it in line with what is provided in the Constitution for the removal of the Director of Public Prosecutions.

(Inaudible comment by the Prime Minister)

Mrs. SIMPSON MILLER: You'll look at it. Thank You, Prime Minister.

It also to be noted, Mr. Speaker, that while the Bill makes provision for the appointment of a Special Prosecutor and staff, the process for the removal of members of the staff of that office is not addressed in the Bill.

Mr. Speaker, I'm advised that these and other suggestions. Mr. Speaker, as a lawyer, I want you full attention, Mr. Speaker. I'm advised that these and other suggestions, Mr. Speaker, were made by the Opposition when the Bill was debated in the other place—

Mr. PICKERSGILL: Upstairs, yes.

Mrs. SIMPSON MILLER: Upstairs. But those suggestions were brushed aside by the mover of the Bill with the view that, and I quote, Mr. Speaker,

> "There is also provision for the Bill to be reviewed. So let us move on, put a Bill in place, make a start and then we can see all the problems that are likely to arise and address them."

Mrs. NEITA-HEADLEY: Nooo. No, no.

Mr. PICKERSGILL: Shame, shame!

Opposition MEMBER: Reckless!

Mr. PICKERSGILL: Reckless. Shame!

Opposition MEMBER: Irresponsible!

Mrs. SIMPSON MILLER: That cannot be good governance.

(Applause by Opposition Member)

No, Mr. Speaker, No. we must get it right from now.

One Opposition MEMBER: Yes.

Other Opposition MEMBER: Hear, hear!

Another Opposition MEMBER: Gregory, you agree?

Mrs. SIMPSON MILLER: Because Mr. Speaker, this Bill is flawed. We also have…

Mr. PICKERSGILL: It's not fatally flawed.

Mrs. SIMPSON MILLER: We also have a problem with Clause 38 and others will speak to this.

Mr. Speaker, the Opposition in this House is not prepared to sacrifice the independence and the insulation of the prosecution system on any altar whatsoever and certainly not on the altar of expediency and saving time. No way.

Mr. PICKERSGILL: Hear, hear!

Mrs. SIMPSON MILLER: The risks are too great.

Mr. KELLIER: Far too great.

Mrs. SIMPSON MILLER: The challenges of corrupt practices, Mr. Speaker, too strong and the expectations too high for

such a course of action to be adopted. As I have said, Mr. Speaker, other concerns are likely to be raised by Members of this side. However, please understand that we are in support of the general direction in which the Bill is meant to take Jamaica.

(Applause by the Opposition Members)

Mr. PICKERSGILL: Hear, hear.

Mr. BUCHANAN: Hear, hear. Say that one more time cause dem hard fi understand.

Mrs. SIMPSON MILLER: Corrupt practices, Mr. Speaker, affect every aspect of live in our country and I wish to make one final observation. When the suggestion was made that there should be a discreet regime for parliamentarians, it was with the view that the searchlight must shine specifically on those who occupy these Chambers.

Ms. HANNA: Hear, hear.

Mr. KELLIER: That's right.

Mrs. SIMPSON MILLER: The example that must be set by the highest law making authority of the land requires that special scrutiny should be placed on their activities.

Mr. KELLIER: Rightly so.

Mrs. SIMPSON MILLER: Of course, Mr. Speaker, if it is determined that the Office of the Special Prosecutor will come to be endowed with the all— embracing resources to be able pay specific attention to the activities of those who occupy the most powerful positions in our system of government we would certainly not withhold our support, Mr. Speaker.

Mrs. NEITA-HEADLEY: Not at all, not at all.

Mrs. SIMPSON MILLER: That is why we would make the suggestion to the Government that a small non-partisan committee be put in place to consider, Mr. Speaker,

Mr. PICKERSGILL: We don't want you.

Mrs. SIMPSON MILLER: …the challenges that will undoubtedly attend the proper implementation of this programme and to ensure the integrity of what is finally decided on.

(Applause)

Mrs. NEITA-HEADLEY: Hear, hear. Good recommendation, good recommendation.

Mr. MAIR: That's what you recommend?

Mr. PICKERSGILL: No, but a dem fool, fool Report.

Mr. MAIR: Just send it back to another committee?

Mr. PICKERSGILL: Yes, it's a fool, fool Report, wey yuh think.

Mrs. NEITA-HEADLEY: Listen to me. The Senate's recommendations—

Mr. MAIR: You're saying that … (inaudible).

Mrs. NEITA-HEADLEY: Listen to me. The Senate's recommendations were not implemented.

Mr. PICKERSGILL: No, no. they weren't considered fully.

(Inaudible comments by Mr. Mair**)**

Mr. PICKERSGILL: No!

Mrs. NEITA-HEADLEY: They were recommendations but they were not -

Mr. PICKERSGILL: No, no. Fifty-five.

Mrs. NEITA-HEADLEY: No, they were not.

Mr. PICKERSGILL: No, no. Fifty-five concerns.

Mrs. NEITA-HEADLEY: And you would not have missed this one.

Mr. BUNTING: Gregory, not the recommendations of the Report, the recommendations from the document..

Mr. KELLIER: Follow the thing, Gregory, you miss sup'n.

Mrs. SIMPSON MILLER: Mr. Speaker—

Mrs. NEITA-HEADLEY: You never hear the Prime Minister say he would consider it.

Mrs. SIMPSON MILLER: Don't pay any concern the Prime Minister already said he would be looking at some of those things we have put on the Table.

Mr. PICKERSGILL: Yes.

Mrs. NEITA HEADLEY: That's correct we are here to make sure that we get it right. Of course

Mr. PICKERSGILL: I doubt it.

Mrs. SIMPSON MILLER: We are here, Mr. Speaker, we are representatives of the Jamaican people whether they be PNP, JLP, Christians, no whererians, sinner, everybody.

Mr. PICKERSGILL: Or gunslingers.

Mrs. SIMPSON MILLER: And we are going to be carrying out our responsibility without fear or favour.

Opposition MEMBERS: Hear, Hear.

(Applause by Opposition Member)

Mrs. SIMPSON MILLER: And so, Mr. Speaker, for the Office of the Special Prosecutor to produce the desired outcomes there will be challenges to the budget. There will be the challenges of continuing training and adequate up-to-date equipment and cooperation between all of the other parts of the system.

Mr. Speaker, this is a new path, a new dimension to waging the war against corrupt practices. The public must be convinced of the seriousness with which the effort is to be approached. Mr. Speaker, the Opposition is ready and willing to be part of the implementation process. And we are also committed, Mr. Speaker, to fostering the strengthening of the process when we come once again to occupy the seats on the other side of the aisle.

Thank you, Mr. Speaker.

(Applause)

Mr. PICKERSGILL: Yuh bad, yuh bad, yuh bad.

Government MEMBERS: Hear, hear!

The SPEAKER: Mr. Bunting:

Mr. BUNTING: Mr. Speaker, the Bill to establish the Corruption Prevention (Special Prosecutor) Act is an important piece of legislation and the objects are important and, therefore, it is not a piece of legislation that we should rush. We should be careful to get it right.

(Applause)

Opposition MEMBER: Hear, hear!

Mr. BUNTING: And I know a number of Members are going to speak on this Bill. Therefore, I want to just function on one particular area, Prime Minister, because last week in opening the debate you said that your mind was still open as to the structure and that there were arguments for and against the approach set out in the Bill. So I really would just like to focus on that one area in my

contribution to the debate, that area on the structure and the functions of the Office of the Special Prosecutor.

As proposed in the Bill, Mr. Speaker, there are three broad roles in the office: the administrative role, that would involve things like collecting and examining the normal statutory declarations, the investigative role and that could arise either from anomalies or red flags that are thrown up from the returns or from a whistleblower or from some other source of crossreferencing. And finally, where the results of such of an investigation warrant there could be a charge and a prosecution. Now, Mr. Speaker, we need to examine whether what is being proposed is the most effective approach to solving the problem that faces us. And if we look at the three that the Prime Minister mentioned that deal with, let's say the broad area of anti-corruption presently, the Integrity Commission that deals with parliamentarians, the Corruption Prevention Commission that deals with the wider public officers and the Office of the Contractor General which deals with the whole area of contracts which is actually quite a broad area currently interpreted by the Contractor General.

Now, the administrative and the investigative roles today, those roles are carried out by all three of those agencies; Integrity Commission, Corruption Prevention Commission and the Office of the Contractor General. But the third role, the prosecutorial role, today or traditionally that has been the exclusive province of the Director of Public Prosecutions, though recent legislation, particularly the one establishing INDECOM is starting to encroach on that role.

But in determining the make-up of this new entity, we should consider the following. What are the deficiencies in the current arrangement and what is causing these deficiencies. In other words, what are the reasons why the system as currently established is not working? And what changes to the current structure will be the most efficient and effective solutions to the problem that we diagnose? So let's set out the process that is followed in dealing with this whole matter of corruption.

You start out with the first phase, which I refer to as the data collection phase, or the administrative phrase. Again, we have the three bodies that do that and input can come from anywhere under the Whistle Blower Legislation. Then we have the investigative phase, three bodies do that. And finally, we have the prosecutorial phase - I am describing the current structure - the DPP handles that. Where are the problems, of these three phases, where do we have a problem now? We have a problem in that the - we say the Integrity Commission and the Corruption Prevention Commission have not been as aggressive, assertive as we think the times demand. However, we certainly can't find fault with the Office of the Contractor General on that same matter, and the Prime Minister acknowledged it. Therefore, if we have a problem in that area, with two of three entities, and we are looking in the context of an overall public sector rationalization, let us combine these three entities which currently handle the same set of matters, the administrative and the investigative under the umbrella of the Office of the Contractor General, and I think immediately you would

have a strong body handling the administrative and the investigative phase. It wouldn't take any time to set up, it would be very quick because we already have an office up and running, you are not starting from scratch, right.

Now, currently, we have a special unit within the DPP's office called the Corruption Unit. It is headed by a Deputy Director of Public Prosecutions and it handles the recommendations that come from any of these three agencies. Have we established, Prime Minister, that this unit is a bottleneck in the system, that this unit is not performing? And unless the answer to that question is yes, then why do we interfere with something that is not broken. We should look at the broken section which is the administrative and investigative and put measures in place to address that.

Perhaps, if we were to look at that final phase, what I refer to as the prosecutorial phase, we could divide it really into two, the prosecution and the judicial element of that. Now, I would suspect that where a bottleneck may arise is in terms of getting all these corruption matters dealt with in a timely manner in the courts. I imagine that the majority of these matters also would be relatively small, in that, the vast number of the offences would be failure to make the statutory declaration in the first place or to answer some query around that statutory declaration and that is probably what would threaten to clog the system of the – the normal court system. And I think, if that is so, and I am speculating because I don't have the figures in front of me, but just from my experience of our Parliamentary Integrity Commission where the normal traffic flow is, if that is so, then maybe we need to look at a Special Corruption Court that will handle all the matters coming out of this piece of corruption legislation and speed up, therefore, the cases - develop a certain expertise in the judiciary in that area and fast-track the matters that go through there.

So therefore, Prime Minister, in this short intervention what I really want – what I really believe that to expedite the administration, investigation, prosecution and conviction of corruption matters the appropriate structure would be: one, on the administrative and investigative side, to merge or combine the three agencies that currently do that job; the Parliamentary Integrity Commission, the Corruption Commission and the Office of the Contractor General under the strongest agency which would be the Contractor General would leave the prosecutorial functions where it now lies in the office of the DPP, who in any event is going to have the final say on those matters.

I would also point out that in combining that, if you look at Section 20 of this Act the whole section really refers to the tendering of contracts and the collusion in terms of bidding *et cetera* which is a direct overlap with the functions of the Office of the Contractor General right now. So it definitely to my mind, Prime Minister, makes administrative sense.

So one, merge or combine the three agencies that currently operate under the strongest agency, the Office of the Contractor General, leave the Corruption Unit of the DPP as it is, or if we think feel based on the workload that is coming through it, it needs

more resources then let us put those resources there. But you don't make good prosecutors overnight; and the DPP would have a whole series of lawyers who have experience in prosecution and who can quickly move into beefing up this area if we feel it is desired.

And finally, the third element would, if we feel that there is a judicial bottleneck which at National Security Council we often hear from the police and the other agencies coming in, then may be we could consider, if this is sufficiently important, the establishment of a Special Corruption Court that would deal with the matters related to this Act. (Applause)

Prime Minister, I am not going to get into the detailed amendments because in the Senate we had - if you get a copy of the **Hansard** from the Opposition Spokesman on Industry and Commerce you will see some very detailed well - thought out suggestions on clarifications, drafting, improvements in the drafting *et cetera*, that I think we could look at the committee stage if we decide to push through with the Bill or with the structure in its present form. But I would really commend you to - given your commitment to having an open mind to looking at the structure, to have a close look at my suggestions, Prime Minister.

Thank you, Mr. Speaker.

(Applause)

The SPEAKER: Rev. Thwaites.

Rev. THWAITES: Mr. Speaker, I find myself in the same position that I did with the Whistle Blower Legislation because I am very anxious that fully adopting the spirit of the Opposition's position in respect of this legislation and adopting the suggestions that have been made by my friend from Manchester, we nonetheless have to look very carefully at the specific drafting of the Bill that we have to make sure that what we are doing is what we really want to do. (Applause)

Mr. Speaker, may I draw your attention to who this Bill applies to. This Bill applies to public officials. And in the definitional section of the Bill, it not only includes persons like your good self, members of the Executive Legislative Judicial and Administrative offices yes, whoever appointed or elected. But may I draw your attention, Mr. Speaker, to subsection (b) of that definition

> **"any other person who performs a public function."**

Now, I want to ask my learned friends on this side whether we understand the breadth of that. That means that the journalists, it means that the media owner, it means that the chairman of the PSOJ, it means that anyone, anyone, indeed everyone, can be included in the breadth of this agreement. I support this by taking you back to the definition as is suggested of what is a public function. Because a public function, yes, is described as any public service or function in the discharge of which Jamaica - listen to this now – or the public has an interest, whether or not any payment is received.

Now I challenge my colleagues of this Honourable House to tell me who would be excluded from the ambit of this legislation? And is that really what we want to do in order to slay the undoubted dragon of corruption?

(The Speaker leaves the Chair and the Deputy Speaker presides)

Mr. Speaker, it is worrisome, the breadth of some of the vulnerability that we are imposing, not only on ourselves but other members of the public in the passion that we have to allay this spectre of corruption. And we must make sure, Madam Speaker, that in our earnest attempts to do so, we do not create a greater mischief than that which we are trying to curb. (Applause)

I would like to take you further you know, Madam Speaker. If you look at section (3) of this draft in fact, the width there is unusual and almost puzzling into its meaning. Because the First Schedule of the Act sets out a definition purports to set out a definition of what corrupt practice, what kind of conduct it encompasses. But Section (3) says that

"the mention of a particular kind of conduct in the First Schedule shall not be regarded as limiting the scope of any provision of Part II".

And then when you read the breadth of Part II as I shall guide you, for a moment, Madam Speaker, you will see that the definitions there as they are encompassed in all of the sections include all manner of conduct, which will erode the right of privacy, it will mean that something like bank secrecy as I will go on to deal with is a thing of the past once we say yes to this. Let me show you. Section 5, for example, says

"that conduct may amount to corrupt conduct under this Act even though it occurred outside Jamaica, and such conduct refers to matters arising outside of Jamaica or…"

not and

"…or matters arising under the laws of Jamaica."

So presumably it would be two persons, two persons Jamaicans to fall under the jurisdiction, whatever the arrangements or whatever the business that they have, elsewhere than Jamaica are subject to the same kind of investigation, enquiry, monitoring, yes, forfeiture as this provides. Is that what we need to do to achieve the desired end I ask the Members of Parliament? Or whether we need to have a more sensitive, a more sensitive and better defined approach to this. There is a difference, there is a difference, Madam Speaker, between surgery and bludgeoning. (Applause)

Section 9, Madam Speaker, says

"that a public official commits an offence if he directly or indirectly for himself or another person, (a) in the performance of his public functions corruptly solicits or accepts an undue advantage"

but offers no definition of what an undue advantage is. Is counsel's high fee an undue advantage I want to know. And is defined by some official insulated from the same vulnerability as you will hear later on, of a high interest coupon upon the debenture; is that to be considered also taking an undue advantage?

(*Sotto voce* comments by Members/Laughter)

Rev. THWAITES: Oh! We are supposed to read this thing carefully and be mindful of what we are doing. This is supposed to purify the Constitution not over take it. (Applause)

Mrs. NEITA-HEDLEY: That is correct.

Rev. THWAITES: Section 9 (2) goes on, Madam Speaker, because it creates an offence of those who - anyone who abuses his real or supposed influence.

Madam Speaker, help me! What is your supposed influence? How do you abuse your supposed influence? No definition is offered. It opens a mischief, a latitude that I do not think careful legislators should consider or should pass unconsidered. Unless I get details of what this means - and it must be set out in here - it creates a circumstance which is, in my view, antithetical towards democratic ideals. You commit an offence if directly or indirectly you perform or refrain from performing an act. So your very deference from performing you're saying no, I'm not going to do something, can land you in this? Is that what you want to do?

(Inaudible comments by a Member)

Rev. THWAITES: You tell me that. Yes.

Madam Speaker, I go on. Please bear with me because some of these provisions it seems to me can be done far more sensitively and correctly than we are giving ourselves the opportunity to do.

In section 13 of the Act, this is something that's going to affect lots of people. I don't think that this is going to pass muster in the society generally. Is it necessary, I ask to curb the mischief of corruption? "*Where a public official*" - remember how broadly defined, this is something that each one of us will be years after we leave this House, you know. "*Where a public official owns assets disproportionate to his lawful earnings"*, and if you fail to give an explanation, it's Five Million Dollars or five years or ten years, ten-year sentence. And you will have the burden of proof to say how you got what you have. That in itself is an offence. Not a situation where you have been convicted of anything else and it's a question of forfeiture of assets. That we understand in our legislature. It is an offence itself to have something which you cannot prove how you got it. Well, I will be pointed to areas of the colonial Criminal Law where this has been countenanced. I think they were repugnant then and they are repugnant now.

And it goes further, Madam Speaker, because section 14, I warn against this, section 14, subsection (3) says that it's not only you who has to do this. Anyone who the authority says has a closeness of relationship between you the accused and another person is in the same circumstance as you.

Do we have to do this? Do we have to expose our wives, our husbands, our families, our associates, our partners to this, in order to slay corruption in this country? I do not think we need to do that.

I wonder which of us in our domestic situations, Madam Speaker, in our professional relationships, would get the approval of our colleagues to do this task for public service when in fact this - and there is much more to come let me tell you - is the jeopardy in which we face. And let not for a moment the concerns that I'm expressing take away from my solid following of the principles set out by the Honourable Leader of the Opposition that we support the Bill, we support the fight against corruption.

(Applause)

We support the intention. But I say again there's a difference between surgery and butchery.

Madam Speaker, let me take you to section 33 of the Act. I'll go through this quickly. Section 33 provides that the Director of Investigation and all officers of the Investigation Division under the Special Prosecutor are given powers of the Jamaica Constabulary. So it's not just a question now of their powers to investigate, but they have the powers of arrest, too. Is that what we need? It seems to me there is a blurring of function there, which again, would need special explanation in order to make that tolerable.

Could I direct you now to section 42, Madam Speaker. Section 42 says

> *"in performing its functions under the Act the Office",*

referring to the Special Prosecutor,

> *"shall work in cooperation with various elements of the State*".

And then look at subsection (2), if you will, Ma'am. Subsection (2) says:

> *"the Office shall request in writing*..."

Listen carefully, Members...

> "…*that another public sector body or a member of the private sector disclose information or produce documents for the purpose of assisting the Office in the performance of its functions".*

So it will be lawful for all of us as public officials and everyone of that wide category that I have already set out in the definition, is inescapably caught by this. The Office, without reference to you, by the way, can order up your bank statement without any reference to you and that's what we need to do? I don't think so.

Opposition MEMBER: That's what Gregory wants. That's what Gregory wants. That's exactly what Gregory wants.

Rev. THWAITES: Well. Section 47 goes further, because section 47 says

> "*a copy of the complaint*",

quite properly who can complain and in what form, and goes on to say that

> "*a copy of the complaint may be in a form which keeps anonymous the identity of the complaint or of any other person".*

So not only are you subject to the jeopardies which I've set out, Honourable Members, but that the person accusing you can remain a spectre, a shadow. You don't have to be confronted by your accuser.

A MEMBER: Whistle-blower!

Rev. THWAITES: I complained about this in that piece of legislation and received the scorn of the Leader of this land. But be that as it may, if we continue to do this, then the constitutional rights that we are seeking to enshrine in the Charter of Rights, we may as well forget that. (Applause)

What we are doing in section 48 is of course to completely render nugatory the Official Secrets Act. And it doesn't seem to leave much room for that narrower provision that we hope to put in its place. Because it says that:

> "any kind of restriction of information that exists under the Official Secrets Act or anything else like that, any other law, shall not apply in relation to the disclosure of information or the

production of any document or thing by that person to the Director of Investigations".

So what we are doing is enshrining a super prosecutor whose scope goes even beyond the definition of the Director of Public Prosecutions as enshrined in section 94 of our Constitution.

There's a contradiction because subsection (4) says that

"*a person cannot be compelled to give evidence or produce documents*"

after having stated the almost universal circumstances in which you shall be obliged to. I really don't understand. That would need some further information.

Interestingly though, Madam Speaker, because in section 49 the State, and particularly the Executive, gives itself a bligh. It says

"*anything out of Cabinet, any document of Government which in the judgment of the Secretary of the Cabinet might prejudice the relations of Jamaica with any other country or with any international organization can be withheld".*

Well, thanks a lot. The very arena of Government where in the public mind, untoward behaviour and unfavourable decisions to the public interest are likely to be made, gives itself a bligh, gives itself an exemption in this Bill as it is. It needs much more careful attention, Madam Speaker. (Applause)

Section 50 of the draft, Madam Speaker, says that

"*the Director of Investigations may enter and inspect any premises occupied or used by a Parliamentarian..."*

(Inaudible comments by a Member)

Yes that's what it says. I'll read it in full. Section 51(a)

"*The Director of Investigations or an authorized officer, may as the case may be, at any time for the purpose of an investigation (a) enter and inspect any premises occupied or used by a public body, a Parliamentarian, or a public official..."*

A MEMBER: What!

Rev. THWAITES: ...in that capacity. Who is going to make the distinction between what office and premises I occupy in which capacity? That's what we're going to do to each other?...

"*Can inspect any document or other thing in or on the premises and (c) take copies of any document in or on the premises".*

What we are doing, as my learned friend from St. Andrew West says, we are architects of our own...

A MEMBER: Downfall...

Rev. THWAITES: ...misfortune. We are making ourselves the pariahs, we are buying-in to the canards and to the half truths about the condigned dishonesty of anybody who is a public officer. And we must not do that.

Mr. PICKERSGILL: Giving up Cabinet rights.

Rev. THWAITES: It goes further you know, Madam Speaker, because it says anything said, any information supplied, or any document or thing produced by any person for enquiry by the office under this Act shall...the absolutely privileged. My goodness! Only we in Parliament benefit from absolute privilege. Now that category,

however deserved or undeserved, is going to be extended so that...Look at the width of it. Anything said or information supplied, or any document or thing produced by any person for enquiry by the Office under this Act, shall be absolutely privileged.

The complainant, the accused person, you, Madam Speaker, me, we have no defence. It could be absolutely malicious, absolutely malicious and your reputation scuttled and you have no defence. We have written that into - we would write that into a law of this land and apply it, not only to ourselves as if we were lemmings, but rather we would extend this to this wide ambit of public officials that will account for everybody else who holds any kind of public office of interest to the people of Jamaica. Madam Speaker, no, no, we must not do that. For the purposes of the Defamation Act, any report made, listen to this. For the purposes of the Defamation Act, any report made by the office or any person concerned with the administration of the Act and any fair and accurate report shall be deemed to be privileged.

So although there is a provision later on in the law, Madam Speaker, whereby a monitoring report or a restraining report where your assets are held on to or your monitored to see what you are doing, or your business transaction stopped, although that is supposed to be kept confidential by the Office, if it leaks and who would doubt that it will leak, you have no action, no action whatever, even under common law. So not only are your constitutional but your common law rights are in jeopardy from this. I really don't want to tell you anything to go on further.

I'll invite the Parliament to look at sections 50, 51 and 52, sections 68, 76 and 77 which in my view offend the basic principles of law and the obvious good order of the society in the same way as I have set out in the earlier sections. I ask the Parliament to be extremely careful with this Bill. Let us accept the need for an officer who deals with this but let us not go overboard. Let us take the care in order to protect what is right. And let it not be seen as any special pleading on our behalf. We have a much broader responsibility than that.

May it please you. (Applause)

Dr. CHANG: Madam Speaker, it is clear that the Members support the Memorandum and Objects of the Bill on the Table, a very far-reaching and important piece of legislation dealing with a matter that is of outstanding importance to society today. It is an issue that permeates every discussion dealing with public service. Corruption, in fact has been made to stigmatize especially those of us in elected public service. Is often described as a cancer and as a patient it's not just a cancer that you can amputate, it's like a leukemic cancer, it permeates the entire system and requires not surgery but chemotherapy. And in many ways this Bill could be referred to in that way, it's an all-embracing chemotherapy that reaches every aspect of the body.

And indeed, in doing so you get the good and the bad. Chemotherapy is a toxic, is toxic pharmacy and the object of it is to destroy that which is bad without destroying much of

that which is good. So that, although you lose your hair, Madam, in the case of some ladies, at the end of the day it is restored to its wonderful beauty after the cancer is cured.

I draw on this illustration because indeed we need some level of systematic treatment to deal with corruption in the society today. And the colleagues over there alluded to some aspects of the Bill, which might appear to be draconian.

Mr. PICKERSGILL: No man.

Dr. CHANG: And the question is, whether or not we don't need draconian measures to deal with it today. Oftentimes we - I am sure the Prime Minister will take a look at the suggestions, but the truth is at Parliament we have time in passing legislation that deal with ourselves, it is said we give ourselves the bligh as we are now doing in Cabinet.

But I think in truth, we do need the kind of far-reaching systemic legislation to deal with corruption in Jamaica today. It has gone too far. Corruption permeates all aspects of society. And we need to accept and understand that to deal with it will not only require legislation. The truth is, it will require a strong framework, strong suite of legislation providing the framework for administration, investigation and prosecution. That is without a doubt a necessity of part of our society today.

And of course, one of the problems we face is that there are several legislation out there that seek to deal with it that have never been applied, and that raises question about the administration and the investigative areas, which themselves at times might be corrupted. And that's part of the problem we face with dealing with corruption in the society today.

Indeed, what I would like to speak to - and it is not only to look at the practical implications of the law, which I think the lawyers here will spend time to do and review and as one says, you have to learn by association with the legal framework.

But in passing legislation one has to understand what the objectives are and seek to have the framework to ensure we attain those objectives.

But I also look at the fact that part of the problem we are faced with is that maybe, is the incentive to be corrupt, if I might put it that way. And I am reminded of a quotation from an ancient legislator in the Roman Empire who spoke of the more corrupt the republic is the more laws we have - the more numerous are the laws. I think a gentleman named Tacitus, from my Latin days made that expression. Because part of the problem we have, that we have so many restrictive rules that there is an incentive to be corrupt. Indeed, what I would like us to look at if we are going to do any major review, as we continue to review in fact, the basic philosophy of British law, which is our tradition, is essentially restrictive and coercive, designed to protect the Crown and to prevent the commoner from doing anything to really interfere with the Crown. That's really what British law is designed to do; and we have more or less adopted that.

Mr. PICKERSGILL: A little simplistic, but….

Dr. CHANG: It is simplistic, I agree, but for the average person to understand that's what it really is. Colonial law is that. There

have been major changes as it has grown in a sense the commoner has moved from the estate of Britain and Scotland to the City of London, which gives it a different colour. But the truth is that the basic tenet is that. The law does not seek to be facilitatory and engaging for the wider public. That is one of the basic problems we have with our laws. So we always seek to put something in somebody's way with a price literally, whether it is monetary or it is incarceration of some sort. That is what the law does in most cases.

If we take simple things: you have common debate today, Custom duty from the Minister of Industry and Commerce, there is a big debate and it is quite likely true, if we should in fact reduce custom duty to acceptable level - and duty everything including charitable organisation, we may very well collect much more money than putting this tremendous level of custom duty (Applause) and all kind of things; and in the process reduce corruption and this legislation will become almost meaningless when applied to a customs officer. The reason why this is now frightening to the customs officer is that there are so many opportunities that even a little bligh that might seem innocent could become a major challenge. Therefore, it's not only a matter of modifying these statutes to make them more acceptable and palatable, I think we have to look at the total legislative framework in which we operate and find a way to change some of the policies we currently pursue.

And we don't think holistically all the time, you know. I think the last financial year, when a simple attempt was made to reduce GCT, that was the basic attempt, and broaden the reach and include all. Pretty much you went to halfway, so you got a little bit of a not as high an increase as you should and we broadened it. Of course, you got a whole lot of hullabaloos as to what was being charged GCT from specific items for the blind to all kinds of sympathetic issues, and instead of a debate as to what was really to be done, which was to reduce and broaden and include and engage all consumption in the GCT tax, that makes a lot of sense, right. And if we debate it that way then you realize there is no need to get into a hyperactive discussion about what is charitable, what is sensitive, what is essential. Because if PATH is at a manageable level, the truth is that everybody will pay. Even those on PATH who will have to receive maybe more, an increase in PATH, but they pay, the consumption is less.

(*Sotto voce* comment)

Dr. CHANG: No, well it is related to this because it reflects the kind of policy that creates the incentive for corruption. And if we look at all our laws, we will find the same thing.

I relate to those because it's very easy for me to relate to those issues. If we look throughout our legislation, it seeks to restrict our citizens, it seeks to make them into criminals, even though we speak emotionally of being innocent until proven guilty. Much of our legislation says the average Jamaican is guilty and has to prove innocence, all we are doing is writing it down here. And, therefore, what we need to do is to look back at all those legislation and see how we can change their

basic tenet, and a lot of this, even if passed into statute becomes relevant.

Indeed, I think parallel to what we are doing here, an allusion has been made to change the Official Secrets Act, must be increased transparency, because I think that's the basis to reduce the incentive for corruption.

Mr. PICKERSGILL: Hear, hear.

Dr. CHANG: It is my own view that it is even more important that with the legislative framework we create transparency. In the modern world where communication is easy, where education, even if not accurate is farreaching. The truth is that there is very little that government and public officials do that the public should not be aware of in order to contribute and involve themselves in the decision making process of government. It is their right.

Certainly, there are certain things that should be restricted in terms of - maybe tax policy you don't want to announce early, but it should be discussed in getting to the policy, right,.....

Mr. PICKERSGILL: No, we took that decision. We took that decision.

Dr. CHANG: Should be discussed.

There might be - security issues, you have to be sensitive to the point where you implement certain action. But as soon as it is done, there is no reason why it should not be open to the public for judgment.

It is clear, Madam Speaker, that the issue of corruption is one that is a major problem in the society today. It has been of increasing challenge to society since Independence and maybe today as we go in this direction, we must commend the OCG, Office of the Contractor General, who has maybe brought it to the forefront. And it has also created some very sensitive debates when he has made statements and it would appear he has tried the case before it s tried.

That is maybe part of the maturing process, I mean, growing up so to speak of a state in dealing with corruption. But I think, Madam Speaker, in going forward with this particular Bill, I think the more critical issue now in laying down the framework, because we are going to have even more draconian measures being put forward.

Mr. PICKERSGILL: What's that?

Dr. CHANG: I say it is possible that you could have even more draconian measures being put forward because of pressure from the public. We are a democratic society. And while public officials are implicated here, more and more there is a - just like the death penalty, there is a great call to have more draconian measures by the police in dealing with felony and crime and so forth. That is the tendency of society. The truth is what we must do...

Mr. PICKERSGILL: You make a good case, don't spoil it.

Dr. CHANG: What we ought to do is to look at where we need to correct the problems that create the framework to commit the corrupt practice. When we have corrected those things, I think a lot of these in fact, as I said, will become almost irrelevant. And I think it is critical that while we pursue the passage of this piece of legislation, we begin to look at our entire legislative framework, what can be done to allow them to be more facilitative to the public, to have our people more engaged in the decision-making

process, and that there is greater transparency that from day one the public that we serve and that other public officers serve, can know and understand what is being done, what is happening and can make a judgment call before it gets to the point of a police case.

Thank you, Madam Speaker. (Applause)

Mr. PICKERSGILL: Good speech, good speech.

Mr. HYLTON: Madam Speaker, my colleague before me, I must confess that I have been listening intently to the entire debate and my colleague before me, for a while, I thought he was going to respond to the urgency of the situation, the threat that it represents and to say that the Bill should be withdrawn. But that was not the case. I am not quite sure where our colleague took us.

(Inaudible comments by a Member)

I'm not quite sure where he took us. But I remain fixed, Madam Speaker, on some realities which is this. Even as we pursue the vision of becoming a developed society, and as the Leader of the Opposition started out by saying that a well-ordered society is a developed society and we search through policy, through our laws and legislation to reach that goal. This though, what is ironic about this particular legislation is that were this particular piece of legislation to be passed, in a developed society, or attempted to be passed in a developed society, it would be challenged constitutionally and found void for vagueness. It would be found void for vagueness and would fall constitutionally. Because as was pointed out by a number of the speakers on this side and particularly my friend from Central Kingston, this legislation, you can drive several trucks and other instrumentalities through this legislation. It is so wide. It is a catch-all piece of legislation. And as the Member on that side just speaking mentioned that it is a chemotherapy that affects all parts of the body.

Madam Speaker, the problem is that this piece of legislation criminalizes a number of activities and imposes criminal penalties. These are not fines. These are not fines or a slap on the wrist.

What is being contemplated, Madam Speaker, is not only the transparency that is much needed that the Member before me spoke about. What is contemplated here is administrative investigation prosecution and criminal penalties imposed. On what? The range of activities that have been gone into on which these criminal penalties can be imposed and put us .....As I listened to what the speaker before me from Central Kingston was saying, we are almost admitting that we are a bunch of pariahs and that persons wouldn't then have to think about associating with us. Because if an Investigator can go to anywhere, at any place at any time that a Parliamentarian occupies, what is that? What is that? Who are you going to be with? When? And I say, Madam Speaker, that this legislation raises profound - other issues.

Let's look practically at how you would implement this; let's look at how you would implement it. The re-implication for resources, financial, and that has been mentioned, I won't go into that, and it is an investment that should be made. But made in pursuit of what? The wider the legislation is the more resources that have to attend the implementation. If it were focused and targeted, it would allow for proper

management, proper budgeting. This does not.

But separate and apart from that, the human resource; this is a legislation that comes in the context of a raft of new legislation that has been put before this Parliament. We have just mentioned in a debate - the Prime Minister proposes that we create a new Court of Appeal for Jamaica. All of these have implications - a wide-ranging implication, and not only the financial which I won't address in this, but the human resource.

The logical conclusion of that, Madam Speaker, is that we have a situation where we we have an express train to investigating and prosecuting persons falling under this Act, but at the end of it we have a bottle-neck because the Courts will certainly be a bottle-neck. It's like improving the roads from off the highway and then come to find out that we will get to Marcus Garvey Drive and we can't move. So, we have an express to nowhere.

Madam Speaker, creating a new Court as an express, all it simply does in the context of our courts today is that it creates something that prioritizes again, a set of activities that pushes aside what now exists. What should we make of our commercial -the need for our Courts to deal with commercial matters that are now bottle-necked and back-logged in our Courts? What should we make of the backlog already existing in the criminal justice system? What do we do with that? All of that is put aside, and this is fast-tracked and then matters - I know, matters that need speedy resolution are taking two/three years, commercial matters, people's rights, freedoms that we in this House, we profess that we are so concerned about, but we are not looking at the Court system that administers this. So, we create - in order to address the matter in the overall Justice System Reform, we pull out another piece and we address it in a special - give it special treatment without looking at the system in its totality.

This, Madam Speaker, is not a legislation that is ripe. It is not ready for prime time. It is not ready for prime time. It needs further reflection and consideration.

Mrs. NEITA-HEADLEY: That's it; hear, hear.

Mr. HYLTON: And while - as the speakers before me on this side have said, we support the aim; we support the intention of the legislation.

(*Sotto voce* comment by Mr. Samuda)

Mr. HYLTON: What is being presented to us is a recipe for disaster. And I urge that we, rather than move at expressed speed on this matter - or, following what was said in the other House elsewhere, that we pass it first, and then review it. That can't be any way to legislate. And Madam Speaker, this is far too important; this is far too important for us to pass and then review.

Mrs. NEITA-HEADLEY: Yes.

Mr. HYLTON: I propose that we stop now, reflect on what it is, heed the red light, stop and look at what we are presenting, and then make the corrective action so that we may have something that is practicable, useful and that, in the end, may do some good in affecting the problem that we seek to address.

I thank you, Madam Speaker.

(Applause)

Mr. PICKERSGILL: Madam Speaker, let me start by congratulating all those who

have participated in this debate. It has been of a very high standard. And mine will be very, very short, because - one thing I would like to say I would want all of my colleagues to read the Bill.

(*Sotto voce* comment)

Mr. PICKERSGILL: Yes, very carefully, because it is - what is it, some 87 sections, 58 pages, and this doesn't include the Schedules. It is just not ready. The last time I said that, the Prime Minister said that I was too dismissive. And I am not being unnecessarily critical of those who have provided this, but, it is not ready. It's too flawed.

And, Madam Speaker, we must always remember, in terms of preparing matters like this that, you know, haste is the enemy of perfection. And might as well we just decide that we set up this Committee that has been urged to look carefully at this.

Madam Speaker, although it has been said before, out of on abundance of caution, I am urging - well let me say first of all that we on this side, in terms of the intention of the Bill, as you have heard from nearly every speaker, we are with that, but certainly not in its present form. It has to be withdrawn. I mean, I am of the view that this Act in its present form is much too flawed. And the sections - I took the time out, Madam Speaker, to have gone through all of the sections, and let me just say, I concur with all that has been said. And the one that really…

Mr. HENRY: You work harder in Opposition. (Laugher)

A MEMBER: He's a true legislator now.

Mr. PICKERSGILL: I must remind you, you are of a higher status now, you know; you are a Chairman.

(*Sotto voce* comments by some Members)

Mr. PICKERSGILL: And it is not easy reading, but because it affects - and nearly every page refers to the Parliamentarian. And as the last speaker said, it is prison work. And they can come at you at any time. They can ask for a statutory report at any time.

Mrs. NEITA-HEADLEY: Yes, yes.

A MEMBER: (Inaudible) …a zealous prosecutor.

Mr. PICKERSGILL: Im doan have to be zealous. Even if im lazy.

Mrs. NEITA-HEADLEY: He might be energetic.

(Cross talk)

Mr. PICKERSGILL: The thing is not…

(*Sotto voce* comments)

Mr. PICKERSGILL: Right. They can come at you whether in your residence, where you working, and just haul you out. For what? Because of what I said, Madam Speaker, I would be repetitive because as I said I had gone through and saw the same. But, my colleague is going to make his intervention. But I urge the Government to withdraw this Bill and let us look at it carefully together. We would be doing our collective selves a disservice. And when we go home tonight every body should really just read the thing clause by clause, and you will see why it can't go through.

Thank you, Madam Speaker.

Dr. DUNCAN: Madam Speaker, colleagues, the case, I think, has been made, for the fundamental review of what is before us, in relation to its objectives and intent. I

think everybody has said - and I think we are all agreed, that the intention of the Bill is sound.

The Memorandum states it very clearly when it says:

> *Recognizing the corrosive effect of corrupt conduct on the maintenance of public confidence in the transparent and fair operations of services, both in the private and public sectors, the Government has identified the eradication of corrupt conduct as one of its urgent priorities.*

Subsequent to that, Madam Speaker, the Joint Select - just to recall, the Joint Select Committee was set up in the Senate on July 4th, 2008, some three years ago. As I recall, there were some 11 meetings of that Select Committee, and the Bill was brought to the Senate for its perusal. In the Senate...

(The Speaker returned to the Chair at 5:45 p. m.)

Dr. DUNCAN: I have to read this Report, yes. (Displaying booklet)

A MEMBER: How many pages?

Dr. DUNCAN: Only 90 pages.

(*Sotto voce* comment/Laughter)

Dr. DUNCAN: No Derrick, credit me a little more. Everybody looks so tired over there. I couldn't do that to you.

Mr. Speaker, I am saying that - just quickly retracing the steps that were made, that the Joint Select Committee, motion was moved on 4th July, 2008 by the Attorney General for a Select Committee – a Joint Select Committee to deliberate on a Bill shortly entitled: The Corruption Prevention (Special Prosecutor) Act.

This was consequent upon, as I understand it, not only the general climate and the public's call for measures to be put in place to curb corruption which has become endemic in the society, but it was also part of the Jamaica Labour Party's Manifesto that they would bring in measures to speak to this, and for things to be implemented in order to deal with this pernicious situation in relation to corruption.

Also, since then - since the Manifesto and the Elections, since the resolution in the Senate, to look at this Bill, a variety of events have taken place in this country which have directed the public's mind and concentrated the mind of the public to the issue of governance. And the present administration has come under the spotlight by all and sundry, as was the past administration, on this issue of governance, specifically the issue of trust, integrity, corruption, *et cetera.*

And the response, therefore, was necessary and desirable, even without that historical background. Because as we know a corrupt society leads to all kinds of dysfunction and malfunction generally, in our economy and in other ways.

So, quite correctly, the Senate deliberated at 11 meetings of the Joint Select Committee to consider this Bill. And they worked hard, as I understand it, they worked hard. The Members of the Senate, I want to congratulate them for the effort that they put in to try to bring about this Bill.

However, by the time it came to be debated in the Senate - you might recall, Mr. Speaker, from your watching PBCJ which you said never- what he said - never...the ad

they have for you in it… you say it never ends. Did you say that?

The SPEAKER: I have no idea.

Dr. DUNCAN: You have never seen it? It says PBCJ never ends. (Laughter)

(*Sotto voce* comments by some Members)

Dr. DUNCAN: What took place is that in the debate in the Senate, a number of recommendations which had been made did not find itself into the Bill, and many of the recommendations that found themselves into the Bill were not acceptable to a number of the Members of the Senate, including Members of the Opposition in the Senate.

And I would like to commend it to this House - I wish I had time to read the entire speech - the presentation made to the Senate by Senator Golding which spoke to the specifics. (Applause) And if there was a way to put it in as Exhibit A, I would have put it in. But, consider it put. And I recommend that all of us have - e-mail it, yes we could.

(*Sotto voce* comments)

Because what Senator Golding did, he went through most of the clauses that spoke to fundamental principles and dealt with them in a very fulsome way, non-partisan, fulsome way. So I recommend that.

Also, the Report of the Joint Select Committee made reference to the fact that although a number of organizations – they had put in the newspaper and asked – invited civil society and others to make recommendations, like most matters of this nature, the response was not overwhelming. As I recall it here -

> "Written submissions were received from three groups and subsequently they made all the presentations to your Committee."

This is a quote from the thing. These groups were the Independent Jamaican Council for Human Rights, Jamaicans for Justice, and the Council of Legal Education, Norman Manley Law School, MR. CLYDE WILLIAMS. The Jamaica Civil Service Association, Mr. Speaker, made a written submission, but did not appear before the Committee.

Now, as the other speakers have said, Mr. Speaker, the members of the Public Service - there are three categories listed in the Memorandum of Objectives, Parliamentarians are singled out as one category, public officials, of which we are also public officials as singled out, and other persons, and they defined how other persons get linked into - once you touch the Government, touch the State apparatus in one form or the other, you are also subject. So there are a lot of people out there in Jamaica who are thinking that this is only a law for MPs. It's for everybody, it's for everybody. So we ask that they join in the dialogue and participate in the way that this thing is crafted. In particular the Civil Service, which said – the Civil Service Association which made a written submission but did not appear, I think we should encourage them. The Minister in charge of the Public Service, I think that's the Minister of Finance, and whoever else, encourage them to have a look at the Bill in its present form and again react to it, Mr. Speaker, as well as other elements in the private sector.

So I recommend SENATOR MARK GOLDING'S composite and fulsome presentation, as well as the submissions made by those four organizations, one of which did not appear before the Committee.

And also, there is a civil society organization called the National Integrity Action Forum, at which the Prime Minister and the Member for Central Manchester spoke at a meeting at its launch on January 28, 2009, which has strong views on this whole issue of integrity and corruption.

And I commend the article which was in the Jamaica – the Sunday Observer of January 16, 2011, page 6, called Catching Big Fish: The Need for a Single Anti-Corruption Agency, authored by former Senator Trevor Munroe. And it was in the Agenda Section called Catching the Big Fish, representing the views, I think, of a lot of members of civil society who have not shown up to any meetings, but may have views, but are under the perception, Mr. Speaker, that it's only the sixty (60) persons in here that they want to catch.

Mrs. NEITA-HEADLEY: Yes.

Dr. DUNCAN: All of them are at one point or another in the same boat with us. I want to advise them…

Mr. MAIR: Including Trevor?

Dr. DUNCAN: …all of them, including Trevor. So I also commend this article. It is well written and it puts out a lot of the facts, advocating a single corruption agency. And in the article he says:

> "The proposed Special Prosecutor Act in its present form should not be allowed to close the issue. It should be put on hold either to facilitate amendments, to approximate the single anti-corruption agency…"

Et cetera, et cetera. So civil society itself or elements of it are also asking for this Bill to be – whatever the most courteous term for it – withdrawn, reviewed, returned to a Committee, to ask for some more advice from the general public as to how they see this Bill. Now – so those three things I commend.

Most of the colleagues have spoken to some details of the Bill, it is not necessary to go into it. The Member for Central Kingston has shown you how draconian it can become if you get just one or two single persons who are intent on abusing the letter of the law, even if you thought the spirit of the law is right.

Mr. MAIR: Even if you give somebody a ride home.

Dr. DUNCAN: Yes, you might be inducing somebody if you give them a ride home. Because you didn't know that they were getting a contract and the OCG might have been looking at it, and by the fact that you didn't say anything, or you did something, you are liable to whatever the fine is in this. Well intentioned but not ready - as the speaker says from Western St. Andrew - for prime time. We need to look at it.

But I just want to close with a few comments, general comments, Mr. Speaker. I think that having been agreed upon and I think the general sentiments is that we should study this thing some more.

The fact is, Mr. Speaker, that to a large extent, this Bill is predicated upon the fact that on a perception, as stated in Professor Monroe's article here, quoting from a study that was done, that 85 per cent of politicians are connected to criminal elements.

Mrs. NEITA-HEADLEY: Shameful!

Dr. DUNCAN: So in this room at this time, the only persons who are not in that category are myself, and the Speaker, and Comrade Montague, in the 15 per cent.

(Laughter) But it's a serious indictment, it's a serious indictment.

I made a presentation some time ago about the role – in the Sectoral Debate – about the role of MPs and how the wider public see us. And I still think and believe in that old adage when I used to go to the thing they used to call Elementary School, not even Primary School those days, where they said "prevention is better than cure." All of this is cure. We need to look into ourselves to continue and to see what are some of the things that can cut down the need for all these 85 sections that are in this Bill.

(*Sotto voce* comment from a Member)

Dr. DUNCAN: I know. Yes, absolutely, absolutely. Primary health care and prevention.

If we recognize that the political culture as it has developed, has led to a large extent to the perception, some of which is real, but I don't believe, myself, to this same extent as the figures demonstrate. I do not believe it.

There is an excellent article which came out again in *the Observer*, I think early this week, in which the Member for Eastern St. Thomas was interviewed – I don't know if any of you saw it…

SOME MEMBERS: Yes.

Dr. DUNCAN: …in relation to the trials and tribulations of MPs, which is most of us who are not corrupt. I can't speak for everybody, but I do not accept this notion that the majority of politicians are, I don't accept it. We have a systemic problem! We have a systemic problem! And usually when you have corruptors, you have a corruptee.

Mrs. NEITA HEADLEY: Yeah!

Dr. DUNCAN: And we need to look broadly at this entire system and what we are doing with it.

Now, Mr. Speaker, when Senator Golding made this presentation in the Senate, in relation to the thing, having looked at it very carefully – and we had the opportunity to get a review of this on this side, both from our Legal Advisor, who is also a Member of the Senate, Senator A.J. Nicholson, and Senator Mark Golding, an indepth view. All of us don't know the details of this Bill, but we were given an overview and a drill down to some items over the last few weeks, in preparation for today's – the continuation of the debate today. And we were told that – and we accept it and we want to put it also again to this House, what has been said before, but to remind them that in the Senate, having put some fifty-odd amendments to the Bill, the Senators suggested to the Senate that to just go into Committee and to look at those things clause by clause would not be enough. They suggested that for the Senate, an entire day should have been set aside for the Senators, not necessarily sitting with the President there, but somewhere, to look at this thing, because it is a critical Bill, an important Bill, a necessary Bill, but it is a flawed Bill, as it is presented, and cannot be allowed to go through.

(Applause)

They refused at the time, Mr. Speaker. And not to be cynical, but apart from the fact that the Bill - that the proposal also arose out of the Manifesto of the JLP, there is reason to believe that special interests, certain special interests have pushed…

Dr. TUFTON: Don't get carried away!

Dr. DUNCAN: Don't get carried away?

Dr. TUFTON: No.

Dr. DUNCAN: …have pushed certain elements in the political directorate to feel that we need to…

(*Sotto voce* comments)

Mrs. NEITA HEADLEY: It's the truth though, Chris.

Dr. DUNCAN: …to feel that we need to rush this.

Mrs. NEITA HEADLEY: Of course they do.

Dr. DUNCAN: It's a combination of two things.

Mrs. NEITA HEADLEY: Some people want to push the thing. Some people wouldn't mind if the whole a we get locked up.

Dr. DUNCAN: It's in your Manifesto, take credit. But even if you put something in your Manifesto, do it right. It has to be manifestly in the interest of the public. (Applause)

The intellectuals over there, or the one intellectual over there, that one, the intellectuals, all of you, right…

(*Sotto voce* comments)

Mr. MAIR: Any over there?

Dr. DUNCAN: …know how Manifestoes – how some Manifestoes get written.

A Government MEMBER: But you know!

Dr. DUNCAN: I know. I know, and that's why I can join and ask you to tell the country the truth.

Mr. KELLIER: Hear! Hear!

(Applause)

Dr. DUNCAN: Let us speak the truth. So to rely on the fact that it's a Manifesto is not a solid achievement.

(Laughter/Applause)

(*Sotto voce* comments)

Dr. DUNCAN: But regardless of whether genuine special interest groups want this done or not, regardless of whether it is with the Manifesto, regardless of the fact that the Peoples National Party is the Party of integrity, regardless of all those things…

Mrs. NEITA-HEADLEY: Hear! Hear! Hear! Hear! (Applause)

Dr. DUNCAN: …we can all unite that we want the best that we can do. We can all unite that we want the best Bill that we can produce, with consensus on both sides.

(*Sotto voce* comments)

Dr. BARTLETT: You ruined the presentation! (Laughter)

Mrs. NEITA HEADLEY: So it can accomplish what the intent is.

(*Sotto voce* comments)

Dr. DUNCAN: So, Mr. Speaker, I join with the rest of the colleagues here and there, using different words to say that one of the points made by Senator Mark Golding – I won't go into any details – was that we have to really revisit this thing about should this Commission, the Special Prosecutor and the Commission, be a creature of Parliament, or something like the DPP. We have to look at that again, revisit it without acrimony, without partisanship. Should we, in Parliament…

(*Sotto voce* comment from a Member)

Dr. DUNCAN: That's what it says here, it's proposed in the Memorandum. Look at it.

All right, let me read:

"The Bill therefore seeks…a Commission of Parliament…"

(*Sotto voce* comments)

Mrs. NEITA-HEADLEY: Listen nuh!

Dr. DUNCAN: The Bill seeks to repeal the Corruption (Prevention) Act, which is there on the books, the Chairperson is JUSTICE CHESTER ORR, it doesn't work, right. I haven't researched why it doesn't work, but it was put in there to work; and the Parliament Integrity Members Act, they say it has no teeth, so we can put in teeth, dentures, maybe - it seeks to repeal those Acts and to provide for the – listen, Member - to provide for the establishment of the Office of the Special Prosecutor for Corruption as a Commission of Parliament. That's what it says.

Mrs. NEITA-HEADLEY: Is not true.

Dr. DUNCAN: No, no, no! Oh, you have an amendment there? To be what? What is this to be now?

Mr. MAIR: The Commission proposed a department of Government.

Dr. DUNCAN: It's now a department of government. It has been changed. Well we are so overwhelmed with paper. I didn't get that last paper. I apologize.

(*Sotto voce* remarks by Mr. Mair)

Dr. DUNCAN: It's coming now. So can I start my presentation all over again?

Mrs. NEITA-HEADLEY: It's still there!

Dr. DUNCAN: Where is it? What it says? What does it say? Where is it?

Mr. MAIR: Page 18.

Dr. DUNCAN: Page who? On the two-page sheet that we got. Can somebody point out to me where it says otherwise.

Mr. MAIR: Fourth paragraph.

Dr. DUNCAN: Fourth paragraph, 'the Bill seeks and to provide for the establishment,' oh, 'of a department of government to be known as the office'. So therefore the one before us in this book, we now have an amendment? Is that right?

Mr. MAIR: Typo.

Dr. DUNCAN: No, no, this is not a typo. Yes, but it is now okay. So that has been addressed. So that having been addressed there are a whole heap of other things, as the Member has pointed out, that need to be addressed, I believe from what we have heard today. But that was one of the many fundamental things pointed out by….

So in the Senate, as I was saying, Mr. Speaker, to recall the history, the Opposition Members of Senate made the suggestion an entire day, at least at minimum, be set aside to review the sections of this Bill and they were refused so they had to walk out in protest. We have been advised by them as to what are some of the deficiencies in this flawed Bill and what we have attempted to do is to put them together for you this evening, Mr. Speaker, and therefore to suggest that there will be no need for a walk out if we all walk out together at the end of this session, knowing that we are going to withdraw, refer, pass over to, reconsider, whatever the terms are, and end up, and to ensure that we end up with a Bill that can speak to the mischief that we are trying to address.

Thank you very much, Mr. Speaker. (Applause)

Mr. HOLNESS: Mr. Speaker, I would want to move that we suspend debate on the Bill that we have listened very closely to all that the contributors have said, the

reservations will be taken into consideration. We probably would not reopen the debate tomorrow, given the level of concerns raised, Mr. Speaker. So Members should prepare themselves possibly for next week Tuesday, which would give us time to have a close…

Rev. THWAITES: More than that.

Mr. HOLNESS: Well let's budget for next week Tuesday for continuation. So I now move for the suspension of the debate presently.

The SPEAKER: Members, the issue before the House is for the suspension of the debate.

Put to the House and agreed to.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business. I therefore move that the House do adjourn until the 9th - that is tomorrow - of February at 2:00 p.m. when we will resume.

The SPEAKER: The motion before the House is that this Honourable House do adjourn until Wednesday, the 9th of February, at 2:00 p.m.

Put to the House and agreed to.

The SPEAKER: (Gavels) This Honourable House stands adjourned.

The House adjourned at 6:10 p.m. until Wednesday, February 9, at 2:00 p.m.

WEDNESDAY, February 9, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:25 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

DR. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

OTHER MEMBERS

DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

DR. PETER DAVID PHILLIPS, (PNP), St. Andrew, East Central.

MR. ROBERT DIXON PICKERSGILL, (PNP), St. Catherine, North Western.

PRAYERS

Prayers were offered by Mrs. Sharon Hay-Webster.

The House resumed its sitting at 2:25 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 10**
  Fiscal Services Limited
  Annual Report and Audited Financial Statements for the financial year ended March 31, 2010
- Central Information Technology Office Annual Report and Audited Financial Statements for the period April 2006 to March 31, 2007

(MRS. NATALIE NEITA-HEADLEY, (PNP), St. Catherine, East Central, entered and took her seat.)

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move the following motion:

BE IT RESOLVED that this Honourable House appoint a committee comprising the following Members:

Hon. Andrew Holness
Hon. Shahine Robinson
Mr. Gregory Mair
Dr. Donald Rhodd; and
Mrs. Sharon Hay-Webster

to sit jointly with a similar committee to be appointed by the Senate to consider and Report on Private Member's Motion No. 3 of 2010 brought by the Member of Parliament for St. Catherine North Eastern, regarding the family being the natural and fundamental group unit of society, and approved by the House of Representatives on the 26th day of January, 2011.

Mr. Speaker, I beg to give notice that at a later stage today I will move suspension of the Standing Orders to enable me to take the motion.

The SPEAKER: Thank you, House Leader.

(HON. JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy, entered and took his seat.)

QUESTIONS AND ANSWERS TO QUESTIONS

Mr. HOLNESS: Mr. Speaker, there are no questions ready for answer, though they are due. Recall that we had asked for extension.

The SPEAKER: A week's extension.

Mr. HOLNESS: The Member from St. Ann, South East, did not get the complete answers to her questions and the Minister of Youth, Sports and Culture should be here today, during the course of the day we could recommit...

The SPEAKER: We could recommit again.

Mr. HOLNESS: …we could recommit to have the answers provided.

The SPEAKER: Very well.

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business today we will take the long-awaited Report of the Standing Orders Committee of the House, and that will be taken by the Member from St. Catherine, North Eastern. And then we will continue debate on the motion brought by the Member from Central Kingston regarding various suggestions for the improvement of the Road Traffic Act.

Mr. Speaker, but before we do that may I take the motion, notice of which I gave earlier.

The SPEAKER: Sure. Please.

Mr. HOLNESS: Mr. Speaker - well we could now take the motion, Mr. Speaker, of which I gave notice earlier.

The SPEAKER: Members, before you is the motion...

Mr. HOLNESS: Mr. Speaker, I now move for the suspension of Standing Orders to allow me to take the motion, notice of which I gave earlier.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the House Leader to take the motion, notice of which was given earlier.

Put to the House and agreed to.

The SPEAKER: The motion before you is what the House Leader indicated earlier in terms of the appointment of the Committee to consider further the motion that was – the Private Member's Motion that was debated and approved in the House.

Put to the House and agreed to.

The SPEAKER: Very well.

Can we now move to the first item under Public Business. Mr. Mair.

COMMITTEES – ESTABLISHMENT OF

Mr. MAIR: Thank you, Mr. Speaker.

Mr. Speaker, you will recall that in May of 2008 the first Report of the Standing Orders Committee was tabled and approved; and in that Report we discussed quite a few important matters, amongst them the establishment of the Ethics Committee as a Sessional Select Committee, that our standing committees would be chaired by members of the Opposition, *et cetera, et cetera*.

In that same presentation, Mr. Speaker, in his contribution, the Prime Minister made some very important - a very important contribution which at the time we felt we should take up and further discuss, and it is out of that that the Standing Orders Committee met again in response to a motion tabled by the Member from Central Kingston, in which we discussed mainly these matters.

In the Report, Mr. Speaker, we were making the following recommendations after our various discussions. One has to do with Statements by Ministers; and it has been felt by the Committee that in order to make the

process of our - the process of Parliament - the work of Parliament more effective and efficient that we should limit Statements made by Ministers to ten minutes. But also we are recommending that the Opposition should have an opportunity to make a Statement on the issue in question, and that it would be appropriate that the Minister who would be making a Statement on that day advise by latest midday, advise the Speaker, so the Opposition can be advised and be prepared for a Statement on the matter that will be raised.

Mr. PICKERSGILL: On the same day?

Mr. MAIR: Yes.

Mr. PICKERSGILL: No.

Mr. MAIR: And that this response would be three minutes. And as we have also been doing, after that questions may be asked of the Minister who has made a Statement.

Also in the Report we discussed at length the matter of Statement by Members. Presently, under section 11 of our Standing Orders, a Member may raise at the adjournment of the House, matters which may be of urgent public importance. We felt that we should allow Members the opportunity to make Statements, which most likely would be on matters of concern in their constituencies, so they could have the opportunity to address the House. This also seeking that we have a more vibrant House of Representatives, which would also gives the opportunity to Members like myself who are in the back bench, to also bring to attention of the House matters which we might consider of national importance. And, therefore, it was recommended that not more than three members per meeting would be allowed to speak for not more than three minutes, on matters considered to be of national importance; and that they should submit their Statement to the Speaker of the House by latest midday of that day for him to consider and approve.

What was also important, we also recommend that this item be inserted on our Order Paper right below Statements from Ministers; so we would have Statement from Ministers then we have Statement from Members.

Another matter that we discussed at length, which we have not yet been able to resolve, is that of the parliamentary oversight of appointments to certain public posts. There are legal issues involved because there are certain posts that we feel we could not have an oversight over and we are seeking...

Mr. PICKERSGILL: Example.

Mr. MAIR: Example would be like the Director of Public Prosecutions. So what I am trying to say we were trying to define but apart from that you have Boards, for example. There are two hundred and odd Boards. So we still have to meet. And one of the requests in this Report - request permission from this Honourable House for us to continue discussing these matters and one of them is this one, which would take some time.

We also discussed the aspect of the Prime Minister‘s question time. Whereas, Mr. Speaker, it is already in Standing Orders under Section 17(b) and it says,

> “During the second sitting of the House in each month there shall be a question time during which responses by the Prime Minister to questions asked of him in relation to matters of national importance

and national interest shall take precedence."

In our discussions former Speaker Peart had mentioned that it is customary that the questions were usually made in writing. I, in my interpretation, had an opinion that – my interpretation was that it would be spontaneous as set in the Standing Orders presently. So what was agreed is that we would amend that provision slightly so as to make it clear and that in the provision we would clearly state that it would be - that the Question Time of the Prime Minister would be spontaneous and it would be on the second Tuesday of every month.

Mr. PICKERSGILL: So what happen to the spontaneous question and answer?

Mr. MAIR: That you can just can just rise and ask him any question. And, of course, as the Prime Minister has said before that, of course, that if there is a lot of technical aspects to the answer he would probably have to defer that answer to the next sitting.

The other matter which, I think, is of great importance was the continuation of other Bills, Motions, and Questions at prorogation. And this when - and it is based mostly on what we see in - what is done in the Parliament of Singapore, the Standing Orders of Singapore, and over there the provision states and I quote,

"A Bill before Parliament shall not lapse upon the prorogation of Parliament and all businesses and proceedings connected therewith shall be carried over to the next session of the same Parliament and continue from the stage that it had reached in the preceding session."

Once again this is just to allow the flow of work because you might be about to complete the work on a Bill, the annual session is terminated it falls off the Order Paper and then you have to Re-table it. But what is critical in this is that the Standing Committee of the Senate that deals with their Standing Orders, would also have to make this amendment to ensure that it flows in both Houses. And, therefore, we would be writing them and inviting them to revise their Standing Orders to accommodate this new amendment.

(HON. KARL GEORGE SAMUDA, CD, (JLP), St. Andrew, North Central, Minister of Industry, Commerce and Investment, entered and took his seat.)

On the matter of questions, it's already, I gather, the practice, but that we also should amend the Standing Orders so it highlights that in submitting questions they must be submitted to the Clerk by noon of the day in question.

(THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition. St. Andrew, South Western entered and took her seat.)

On the matter of Private Member's Motions, it is also recommended that we amend Section 32 (9) and limit the time in which speakers can make a contribution to the motion. And what we have recommended is that twenty minutes for the proposer of the motion; fifteen minutes for each of the other contributors, and ten minutes for the proposer

of the motion in his closing remarks. Once again, looking for the efficient and effective work of this Parliament, of this Honourable House.

Another matter that came up for discussion that is in the Report, Mr. Speaker, is the reading of Statements during a debate. Under Section 32 (11) it states:

> "A Member shall not read his speech, but he may read extracts from written or printed papers, or books in support of his argument and may refresh his memory by reference to notes."

And this is in the Rules of Debate. The Committee is of the opinion, Mr. Speaker, that this rule should remain, not to be amended; and that if a Member wishes to read his or her Statement in a debate they should request a suspension of Standing Orders to enable them to do so.

Another matter of importance that was discussed by the Committee was the aspect to do with the new Financial Administration and Audit (Amendment) (No. 2) Act which addresses the fiscal responsibility framework and it has vested in the Public Administration and Appropriations Committee. This created a little bit of conflict because as you are aware it is the Finance Committee at the sitting of the full House which deals with all financial matters.

And in our discussions, Mr. Speaker, two options were presented to us. We found that there were two possibilities of dealing with this impasse. One would be to amend the Standing Orders to indicate that only the Annual Estimates would be referred to the Standing Finance Committee and that Supplementary Estimates would be referred to the PAAC, and after the deliberations a Report embodying the recommendations should be submitted to the House.

The other recommendation was that the Supplementary Estimates and Statements of Excess are first referred to the PAAC and then that committee reports to the House, which would have been based on careful study, is referred then to the Standing Finance Committee to provide a basis for their consideration of the Statements of Excess and/or Supplementary Estimates. This would not preclude the Standing Finance Committee raising issues, taking decisions that are not included in the PAAC's Report.

> (MR. DERRICK CHARLES SMITH, (JLP), St. Andrew, North Western, entered and took his seat.)

We took a decision to recommend the second proposal as we felt it would be a little bit untidy, we used the first one; and that we feel that it's in the Finance Committee where the decision taking should be kept on matters dealing with the finances of our country.

Lastly, Mr. Speaker, it is felt that we still have to continue reviewing the Standing Orders as we still feel there is much more to be done. As discussed we feel that we should go into retreat for a day to go through the entire Standing Orders after these two Reports have been tabled in the House and come to a final proposal for the printing of a new Standing Order with these new amendments.

So I put to the House the Report, Mr. Speaker.

The SPEAKER: Thank you very much, Mr. Mair. Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, I would like to thank you and the Member for North East St. Catherine, for your role of leadership in respect of the reform of the Standing Orders. And at the same time to chide all of us who have had anything to do with it, as to the length of time it has taken. It is not an emblem of pride that from May 2008 to February 2011 we are able to - that elapse of time has had to have passed before we have dealt with this. And I urge us to put our house in order and challenge you, Mr. Speaker, that during your tenure in office, however brief that may turn out to be, that you complete the revision of the Standing Orders as a testimony to your commitment to the parliamentary process. I feel if we hurry *festinate lente*, make haste slowly, is a way that we can achieve this in time. Because the Member is perfectly correct that there is much more to be done. And I had hoped that that Retreat of which he spoke latterly would have been scheduled long before this, sir, perhaps in the doldrums of the year. However, let us see how we can get it done as quickly as possible.

Mr. Speaker, you know, certainly an ambition I'm sure that you share with me, is that we need to attract young talent into this Parliament, young in spirit and young and fresh and radical minds. And if we have turgid procedures this won't attract them you know, sir. The political process is seen as being far too arcane for many to want to spend their time engaged in. It's the problem of many nations, and ours is no exception. And, therefore, we must have a form here, a form of operation and procedure that attracts people as being able to get things done rather than having your ideas bogged down either in the turgidness of party discipline or in the black holes of parliamentary procedures which they seem never to be able to – from which they seem never to be able to emerge. Some of us have long patience, sir, where you put up something and you hope that it will get some discourse and continuation and consideration. And it takes months and months and months, years before it comes forward. And then we use these artificial guillotines like the lapsing of motions and questions to try and stamp out other people's good ideas. Parliament is not a place for only government business, you know. Some people nurture that illusion, even if they do not do so explicitly. Yes. It is for the people's representative from every stripe to come forward.

(MR. ANTHONY GEORGE HYLTON, (PNP), St. Andrew, Western entered and took his seat.)

And this appeals too, Mr. Speaker, to the option that the Member spoke of, to deal with the Estimates of Expenditure. It's very important that that second option be accepted. You know why, sir? Because if the Estimates go as the earlier legislation from March last year prescribes, to the Appropriations Committee, that gives the opportunity for that Committee to take advice from and counsel from the broader society. The Standing Finance Committee can't do that. And, therefore, you are likely to get without any delay, a much more mature consideration of the issues involved, and they are the vital issues, are they not? Of how we apportion the economy. And then we would have it go through the PAAC, consulting as widely as

possible as they would wish to do so, and then come for the final decision before the representatives of all the people in Standing Finance Committee. So I really urge that upon members of the House.

Mr. Speaker, I completely support the issue of the limitation of time for speaking. Loquaciousness is a sign of an untidy mind. Yes. Most of the good ideas in this Chamber can be expressed very succinctly and ought to be. I'm very concerned about the—if I use betrayal it would a word only so strong as to indicate acute disappointment, Mr. Speaker, as to the proposal, that eminently wise proposal coming from none other than the Prime Minister of the country, for the vetting of significant appointments by this Parliament.

And what we have done, you know, sir, is something - I hope it's unconscious but it still ought to be brought into the open. It is because some people don't want that to happen at all that we have found every excuse and every legal obstruction to prevent it from happening. Sure, there may be offices where there are other statutes and traditions regarding appointments which have to be taken into account which may take some time, surely not the time that has passed, but even so, but we could have gone ahead with many of them. We could have dealt with the complex of Board persons, Chairmen, however we chose to define it. So far, Mr. Speaker, we have done none. We have, unfortunately, let the Prime Minister's best intention down. I wonder if we realize that? Not to mention the strong feeling, I believe, of the majority of our people who wish to see this kind of broad consensus develop over sensitive appointments.

I raise that particularly against in the issue - in the instance of reporting to Parliament of these public bodies that was raised yesterday. Look at it, Mr. Speaker. Every one of those chairpersons ought to be able to be called to book. They should have when they're being appointed. They shouldn't be appointed for any other reason, but their capacity and willingness to carry out the basic functions of law and reporting of the good stewardship of their bodies. Clearly some of them that have been appointed by means we know not how, we merely see them in Cabinet - in the Reports on Cabinet issues, have not been good stewards at all.

Surely Parliament could have done much better by polite but searching questioning as to who they are and what their commitment to that particular enterprise is.

We welcome the Statements by Members, the inclusion of that on our Order Paper. And I strongly support the suggestion of the Committee that Prime Minister's question time should be spontaneous. Any and every Prime Minister must have such a knowledge and control of the affairs of government that he or she can respond to queries. And obviously if there is any complex matter it would be perfectly understood that that would be reserved for further enquiry.

I disagree with the suggestion regarding keeping the rule that you can't read your speeches. It is no point, Mr. Speaker. Many people deliver best when they have a text in front of them. That is the obvious fact day after day in this Chamber. And while it is nice

to be able to speak extemporaneously, if we can't, do not let us hold on to that rule to the detriment of proper expression and brief presentation. So I would ask for a review of that matter. Yes.

Yes, Mr. Speaker, in the review of the Standing Orders overall, I would suggest that we have a careful look at the operations of the committees, because they are becoming more and more the locus of a great deal of Parliamentary business, where depth and good discourse is very often far more easily engendered than in the sittings of the whole House. And their facilitation and their ease of operation needs to be reconsidered, I think, carefully.

I hope that these comments may be of assistance. I certainly approve the - support the report of the Standing Orders Committee and look forward to its adoption.

Thank you.

The SPEAKER: Mr. Jackson.

Mr. JACKSON: Mr. Speaker, my comments will be brief.

I wish to lend my support to the recommendations of the Committee on which I have had the opportunity to sit. But I must, Mr. Speaker, out of all honesty register my grave disappointment in how long it has taken to get to this point, well over a year. And I say that, Mr. Speaker, against the background that this Parliament faces tremendous challenges every week, every month, in getting the committees to meet and to deliberate on matters before them. And it is not very encouraging that when matters are decided on, or dealt with at committee they take a very long time to be dealt with by the House. At the Committee level we know very well we don't make decisions, we make recommendations. It is the responsibility of the Parliament to make the decisions and further recommendations where necessary.

So I want to support the concern raised by other Members on the delay and I want to urge you, Mr. Speaker, to do the very best to ensure that these matters are dealt with; and particularly because even as was presented in the report from the Member from North East St. Catherine, there are some matters that require continued deliberation and the longer we delay in making the first step is the further the destination comes to us.

I want to make a suggestion, Mr. Speaker, in respect to - in fact, the Supplementary Budget that is now referred to the Appropriations and Administration Committee, the practice has now overtaken the recommendations that have been made earlier on. But my suggestion in that regard is that where the Supplementary Budget is being taken by the Appropriations and Administration Committee, that the Members of the House be permitted to be *ex-officio* Members, so that they will have an opportunity, all Members given that we are moving from the Standing Finance Committee of all Members, that all Members who are interested to take part in the more detailed discussions on the Supplementary Budget be afforded that chance.

So, with those suggestions, Mr. Speaker, I want to give my support to the recommendations.

The SPEAKER: Thank you very much, Mr. Jackson. Yes, Mr. Fagan.

Mr. FAGAN: Mr. Speaker, I want to lend my support to the Report. However, I am thinking, Sir, that in respect to the committees, it is of grave concern in respect to meeting times and availability of space and time for meetings. Because many times the committees would want to meet and there is really no, there is really no space. I understand that there is another section that can be used of the House but the accommodation is not of such that we can meet, Sir. I think that while we look at all of that, we also look at how the Members can be accommodated.

The SPEAKER: Thank you Mr. Fagan. Dr. Duncan.

Dr. DUNCAN: Just a quick question. I am not sure if my attention was diverted from the presentation by the Member from North East. But I am wondering if any consideration is given to the question of the Sectoral Debate. I was just wondering if the question of the Sectoral Debate was looked at by the committee.

The SPEAKER: Dr. Duncan, it is not a part of the Standing Orders.

Dr. DUNCAN: I know, but it is not a part, but where would you discuss that, then?

The SPEAKER: You could recommend that it be taken up.

Dr. DUNCAN: Yes, that is essentially what I am saying, that it is a challenge, I know it is a challenge but you could look at it.

And I want to re-emphasize this again, this is not part of the Standing Orders, but part of the criticism of the public is about the number of sittings that we have as a Parliament, if you want to look at that also, our sittings, frequencies, *et cetera*.

And finally, the facilities, I want to stress the point of facilities because it is not really attractive to come down here and - you know, to prepare for debates and for other - the work of the Parliament. So despite the fact that there is a freeze on expenditure across the country, we definitely need to look at that in a very serious way.

The SPEAKER: Thanks, Dr. Duncan. Mr. Pickersgill, then Mr. Clarke.

Mr. PICKERSGILL: Yes, Mr. Speaker, I agree that loquacity is a popular disease among politicians.

Mr. ROBERTSON: What you said?

Mr. PICKERSGILL: You don't understand that word. (Laughter) It's not a matter of what you didn't hear, you don't understand.

(*Sotto voce* comments by Member)

Mr. PICKERSGILL: You heard him - who used the loquacious, that is the adjective I am using the noun. Loquacity, babble like some of us inside here.

I have often said, Mr. Speaker, that interventions to be immortal don't have to eternal I agree, and I have said that on a number of occasions. The fact though, Mr. Speaker, I wouldn't mind if the Member from St. Catherine North East, if Statements by Ministers, you say it is to be subjected to ten minutes and a three minute response, and I don't mind that. What I don't understand you are saying the very day the Minister would tell the Opposition person why - but the Minister would be thinking about it why not - why you are giving them less than twenty-four hours? We want matters to be properly ventilated.

(*Sotto voce* comments by a Member)

Mr. PICKERSGILL: No, if it comes the same day put it off for the other week and tell the - Mr. Speaker, that's not fair.

The SPEAKER: I think the Member will respond, but it is the urgency sometimes that statement has to be made. And therefore - even now you don't get any - you get no notice at the moment of Statements by Ministers. So what we are urging is that at least you be told before Parliament starts.

Mr. PICKERSGILL: Alright well. Now I agree with the Member from St. Catherine, because as the Chairman of a committee and I have written because, performances are recorded by these noble people up there and on an annual basis they publish attendance and meetings held. And because our meetings had to be postpone because there is no facility. And I wrote to the learned and distinguished Clerk. I asked recently at a meeting and I was told that the alternative venue still is devoid of microphones and the acoustics are not up to standard. So please remember that it is not a matter…

A MEMBER: You can't use that as an excuse.

Mr. PICKERSGILL: Well, that is what I have been told repeatedly. And you know, Mr. Speaker that cannot continue, we need to do something about that.

And, although I agree with the Member from Hanover - beg you pardon DK - you are the general. You know, the Sectoral debate is not in here, but it has become a mockery. The Member from Central Kingston has long said that, and we must make up our minds about it because Ministers are called upon to give a report of their stewardship, that is one of the main topics in this Honourable House. And the Opposition needs to be able to comment and make suggestions. But we are now what, we are now February of the following year, and I am not sure we have heard from…

The SPEAKER: It's closed.

Mr. PICKERSGILL: It's closed, when?

A MEMBER: Last week.

Mr. PICKERSGILL: You see, it can't, go on like that. It cannot go like that. Now, listen your tenure as minister all you trying to do was lock up PNP people, so shut your mouth and don't….

(*Sotto voce* comments by a Member)

Mr. PICKERSGILL: That is why you never last.

No but, Mr. Speaker, the Member from Central Kingston spoke about it long ago, so let us do something about that, Sir.

The SPEAKER: Thank you, Mr. Clarke.

Mr. CLARKE: Yes, Mr. Speaker.

My contribution is in reference again to that point about Statements by Ministers. What is the lead time for the response because, you will hear that - or you will be informed that the Minister is going to be making a Statement, right? You don't know what the Statement is about, the specifics. So you come, you sit, you hear the Statement, you don't have a lead time to really make the response. What kind of lead time can be given to the Opposition? If you got it the day before, the Statement that is to be made, you could respond in an appropriate way. I don't know if anything can be done in that regard because I think that lead time would be too short.

When the Minister speaks and you get a chance to ask for clarification and all that, but

something as substantial as a response they there should be a lead time.

The SPEAKER: Miss Hanna.

Miss HANNA: Thank you, Mr. Speaker.

I just have a quick intervention on the matter. I am all for the improving of the Standing Orders because it guides us and gives us a degree of civility and how we should have proper parliamentary behaviour.

But, Mr. Speaker, it still redounds to your ruling on many instances or whoever sits in that Chair. Oftentimes what goes for one side doesn't go for the other side, especially in terms of when you make a ruling sometimes you break it. And so, all I am saying, especially where situations - I have been at the hand of your ruling especially in terms of the reading of the speech and when that was thrown in I put the speech away. Sometimes we don't cite those things. But in terms of behaviour on many instances, you have cited a certain Standing Order and then when you cite it you don't follow through. It is useless for us to approve Standing Orders and we don't hold all accountable to them.

Thank you, Mr. Speaker.

The SPEAKER: Yes House Leader.

Mr. HOLNESS: Mr. Speaker, it is timely, indeed, it is very important that the House from time to time reviews the rules that govern our operations.

In relation to the rule regarding Members reading their speeches, whilst I can see the thinking behind the rule, which is that the Parliament is a place where all Members should be able to stand on their feet and express their ideas as the Member from Central Kingston says, extemporaneously.

But you will find, Mr. Speaker, that some of the matters that you have to deal with are very complicated matters, texts and numbers and graphs and sometimes come into play. I believe, Mr. Speaker that we ought to seriously consider allowing reading of the text especially Ministers. But the compromise position of asking for the suspension of Standing Orders does not relieve us of the problem which we have, which is, sometimes it will become a tool of disruption and I have seen it used to good effect on Members while they are speaking. So I think we should take a second look at it to - even if we were to say that on some issues - so for Private Member's Motions I would say you should not come here with a prepared text. But clearly if a Minister – well, it would depend on the motion. But I am saying that if we want to preserve the spontaneity in the House then we could say for Private Member's motions that certainly you don't come with your prepared text that should be a very spontaneous debate.

(*Sotto voce* comments by Mr. Pickersgill)

Mr. HOLNESS: Well, now that you've put it that way, I mean, we really wouldn't want to have a trade-off, as you have said, with spontaneity with accuracy. But this would be best discussed at the Committee...

A MEMBER: Again!

Mr. HOLNESS: Again. I'm not intending to solve that problem here. I'm just...

(Inaudible comments by Mr. Samuda)

Mr. HOLNESS: Precisely. So, I'm merely suggesting that that may be something that the Committee should re-look.

In terms of the lead time for Statements, you know, when I was over that side, there

were many a times when we would hear, Statements from Ministers...

A MEMBER: Nothing.

Mr. HOLNESS: ...and there was no lead time, nothing. We do try, however, we do try to signal. And I know...it doesn't happen all the time, but sometimes a signal will be sent that a Statement is coming on this matter, especially if it is a...

(Inaudible comments)(Laughter)...

...especially if it is a matter of great national significance. I don't believe that we should say that Ministers ought to give notice of their Statements, because I have seen situations where it is the hour before Parliament that a decision is taken to give a Statement to Parliament. So I am not supporting the idea of notice for Statements. I understand what you are saying, but I don't see it...

Mr. PICKERSGILL: It is always read.

Mr. HOLNESS: ...but I don't see it...Yes, but the decision is taken sometimes or, you know, before Parliament. You wouldn't know because...So...

Mr. PICKERSGILL: You just can't come in here and hand it in!

Mr. HOLNESS: Well, sometimes, but there is no requirement for the Statement to be written, you know.

(Inaudible comments by Mr. Pickersgill)

Mr. HOLNESS: Oh, no, no, I'm not talking about the reading of the Statement. What I'm talking about is the other point he had raised which is the notice of Statements, and I'm saying we couldn't agree with that.

Another fundamental point raised by all the Members who have spoken, is that of the Sectoral Debate. We have had serious challenges in scheduling of the Sectoral Debate. And we really only can blame ourselves because when we prepared a comprehensive schedule, (but) sometimes Ministers fall out, Opposition spokespersons fall out...

A MEMBER: We are here trying to hear the debate...

Mr. HOLNESS: It is really the discipline of the Members that determines how successful the debates are. And then the schedule sometimes gets scuttled by virtue of important legislation that comes to the fore. As you have said, former House Leader, the various by-elections that we have had, the graduation season, the Christmas season. And it really poses a problem.

What I have been contemplating, and which I have shared informally with the Leader of Opposition Business, is that we may have to be, and this is what has actually happened, we may have to be selective in the Members that participate in the Sectoral Debate.

So it may very well be a debate that is limited only to the Ministers and their Opposition spokespersons. And I think that is something that we may very well have to consider. And then use a different means by which now we include back-benchers and others to participate. That's a compromise position that we may very well have to consider. And we'll arrange it so that on the same day the Minister speaks and the Opposition spokespersons speak.

(Inaudible comments)

Well, as I say, I'm throwing that out for consideration.

A MEMBER: That may be open to debate.

Mr. HOLNESS: Well, that would make it a debate. That would make it a debate.

(*Sotto voce* comments by Opposition Members)

Mrs. SIMPSON MILLER: But they would not have the information to do their research.

Mr. HOLNESS: Well, as I'm saying, I'm throwing it out as a compromise. It may very well be that we have to limit the Sectoral Debate and then we block off two or three weeks and we have Sectoral Debates to make it more meaningful.

The other issue is one that I'm gravely concerned about, Mr. Speaker, and that is that the business of Parliament has grown so much that the physical plant cannot accommodate the business of Parliament in an efficient way.

(Inaudible comments by Mrs. Hay-Webster)

Well, there are plans and a decision has been taken regarding a new parliament. But like so many other things that have had to be rationalized... (Cross talk)

You know, we had actually...Mr. Speaker, we were quite advanced in our plans for a new parliament, but it is now clear to us, and you are, you know, we stand under the scrutiny of the Press and sometimes we get criticisms...

Mr. MAIR: Sometimes!

Mr. HOLNESS: Sometimes we get unfair criticisms. Some criticisms are fair regarding the meetings of the House, the attendance of Members at meetings...

A MEMBER: And committees.

Mr. HOLNESS: And, and committee meetings.

But I do know as a fact, Mr. Speaker, that committees have severe difficulties because we simply do not have enough meeting rooms. And because we don't have enough meeting rooms, we are not able to have several committees meeting at once. And that stretches out the schedule and makes it very difficult for Members to actually attend meetings. Because you would come into Kingston for Tuesday, you may overnight for Wednesday but then you may find yourself here even up 'til Friday because Committee meetings have to be stretched out whereas if you were able to have simultaneous committee meetings. But we don't have that capacity right now, Mr. Speaker. And that is something that as Leader of Government Business I am very concerned about and will be looking at it for the next year to see how best we can seek to address that issue...

(Inaudible comments by Opposition Members)

Mr. HOLNESS: I agree with you. I agree with you. But it is clear, Mr. Speaker, the business of Parliament has outgrown this Parliament.

(Inaudible comments by an Opposition Member)

Mr. HOLNESS: This building.

Mr. PICKERSGILL: Long time! Long time!

Mr. HOLNESS: And we have to come to grips with it, Mr. Speaker. A Parliament should reflect the vision and aspiration of the people. (Applause) It is a monument to the people. And I don't believe that we are doing justice to that with the facilities here.

Mr. PICKERSGILL: I have played my part before.

Mr. HOLNESS: Well, as I said, Mr. Speaker, I believe it is now time that we look seriously at the facilities. So, Mr. Speaker, with those few comments, I would lend my support generally, but ask that some of the issues that I have raised be... (Inaudible)

The SPEAKER: Thank you, House Leader. Mrs. Natalie Headley.

Mrs. NEITA-HEADLEY: Just a quick intervention. Mr. Speaker. As it relates to Statements by Members of Parliament, I would wonder, would that be treated as we treat motions on the adjournment? Would we need to advise the Speaker? Would it be a matter of whether or not the Speaker would think the issues pertinent enough to bring to the House? Or is it that we would have the leeway to be able to speak on whatever it is that ails our constituency and our people would send us here to do? Would it also be, outside of your discretion, Mr. Speaker, would it be - would there be an opportunity for the relevant Ministers to respond to issues concerning the various Members of Parliament?

Certainly I wouldn't just want to come here and speak about an issue in Bog Walk without being able to have the relevant Minister respond so that the people in Bog Walk can understand what is happening and what is the plan of action of the Government.

Mr. HOLNESS: Remember Statements by Ministers.

The SPEAKER: Yes. Okay. Thank you, Mrs. Neita-Headley.

Mrs. NEITA-HEADLEY: Well, we certainly need to revisit that one then because it would not be sufficient for me, and I don't know about the other Members of Parliament, I speak on behalf of the people I represent...

Mr. HOLNESS: Well, in that case you... (Inaudible)

Mrs. NEITA-HEADLEY: Right. But the questions are not...

(Inaudible comments by Mr. Holness)

The SPEAKER: Okay.

Mrs. NEITA-HEADLEY: But some of those issues, if they are of national importance, certainly something happening in the Gorge, for example, would we expect the Minister to respond? It's a matter of urgency. And I think that it's something that we should look at.

The SPEAKER: Thank you, Mrs. Neita-Headley. Mr. Mair.

Mr. MAIR: Thank you, Mr. Speaker. Thank you, Members, for your participation.

I would just like to bring... Quite a few Members spoke about the matter of reading your speech in a debate. And I would like to just mention to the Members that the Committee deliberated much on it. And I would just like to phrase an extraction from *Erskine May's Parliamentary Practice* in reference to that matter:

> "In principle, a Member is not permitted to read his speech but he may refresh his memory by reference to notes. Similarly, a Member may read extracts from documents but such extracts and quotations should be reasonably short. The purpose of this rule is to maintain the cut and thrust of debate which depends on successive speakers meeting in their speeches to some extent".

Because you are responding in the debate to what others have said.

> "The argument in earlier speeches, debate is more than a series of set speeches prepared beforehand without reference to each other"

So what was taken into consideration, Mr. Speaker, is that you don't want six persons making a statement and there is really no debate and response to what other persons might be proposing. And that is what was discussed. But we nevertheless felt that if someone wanted to read their speech, they could request a suspension of the Standing Orders. So that was discussed. I just want to bring it to the attention of the House.

Also, in reference to the Sectoral Debate, it was discussed also, but we recognized it's not part of the Standing Orders. But the Member for Central Kingston and myself are on that matter on the same side. And the Member in the Committee meeting expressed that the Sectoral Debate is basically dysfunctional.

Mr. PICKERSGILL: What?

Mr. MAIR: Dysfunctional, dysfunctional, the Sectoral Debate.

Mr. PICKERSGILL: Oh.

Mr. MAIR: And that we should find a way where out of these debates we could probably get more meaningful discussions and conclusions that would benefit the nation.

As many Members mentioned, yes, we have outgrown this building. And I'm also a Member of the House Committee and we were quite advanced in preparing to submit.....there was going to be a... for architects to make a proposal. There was going (to be) submissions made. But that came to an end with the financial crisis and it is right now on standstill and pause waiting for when we can readily restart that process again. Because I also do agree, Mr. Speaker, that we have really outgrown this physical structure for our work.

The Member from Westmoreland mentioned about Statement by Ministers - no, in the recommendation it is requested that the Minister should indicate to the Opposition spokesperson the substance of the Statement by midday. So, it would be given to the Clerk of the Houses, the Speaker, who would then advise the spokesperson of the Opposition of the matter that is going to be presented.

The Member from East Central St. Catherine was concerned about Private Member's Statement. Well, first of all, it would have to be an issue of national importance to make a statement. We felt that when it comes to matters that might be happening I your constituencies and you want the appropriate Minister to address them, it could be done through questions which is already there, but we felt that a Member may want to make a statement to the House of a matter of national importance and he should just be given that privilege through the Standing Orders and that's why we did…

Mr. HOLNESS: There was a number.

Mr. MAIR: Yes, three, three!

And also what we discussed, the Speaker would have the discretion of priority because he might have more, but he also has the discretion as to how many statements a Member can make within a certain period of time like in a month, because you don't want

Members to abuse that privilege that at every meeting they would be standing and making a statement. So with those few comments I now put the Report.

A MEMBER: What about the Retreat?

Mr. MAIR: No, we don't have a date for the Retreat but in this Report we are asking...

Mr. PICKERSGILL: All Members of Parliament....

Mr. MAIR: .....permission for the committee to go to the Retreat to continue deliberating on the Standing Orders.

(*Sotto voce* comments)

Mr. MAIR: Right, but as you are aware we cannot amend the Report, we just have to adopt it or not.

Mr. PICKERSGILL: Who say you can't?

Mr. MAIR: No, cannot.

(*Sotto voce* comment by Mr. Holness)

Mr. MAIR: What you could do is - from what I understand the proper procedure is that you could move a motion for an additional recommendation to be put towards the Report, but Reports, it is my understanding...

(*Sotto voce* comments by both sides)

Mr. MAIR: Right. So I am now putting to the House the approval of the Report as presented, Mr. Speaker.

The SPEAKER: Members, before you is the Report of the Standing Orders Committee and we now ask for its approval.

Put to the House and agreed to.

The SPEAKER: The Report is adopted. I understand that there could be an amendment in terms of the whole Parliament going to the Retreat.

Mrs. NEITA-HEADLEY: Yes.

Mr. PICKERSGILL: Yes, Mr. Speaker, a weekend retreat.

The SPEAKER: You will have a word with the Clerk of Parliament.

House Leader, we now move on to - is it Reverend Thwaites' Motion, House Leader? House Leader, which Motion we are now resuming?

Mr. HOLNESS: We will resume our debate on Private Member's Motion No. 15.

The SPEAKER: Okay. Mr. Pickersgill, you want to speak on that?

Mr. PICKERSGILL: Yes, yes, yes.

The SPEAKER: This is traffic - matters dealing with traffic?

Mr. PICKERSGILL: Yes.

The SPEAKER: Okay. Private Member's Motion No. 15. Mr. Pickersgill.

Mr. PICKERSGILL: Mr. Speaker....

The SPEAKER: And remember, the recommendation although not yet in the Standing Orders is still...

Mr. PICKERSGILL: (Laughter)

The SPEAKER: (laughter)..... succinctness is important. (Laughter)

Mr. PICKERSGILL: (Laughter) Mr. Speaker, are they in force? (Laughter)

So, the capacity - I will be speaking in terms of a motion. But I never heard any mention about that.

No, but seriously, Mr. Speaker, in the Prayer it has three aspects. The need for a revised code and appropriate enforcing authority for driver education and testing, and to improve the integrity of the prevailing system of vehicle inspection and consider amendments to the Road Traffic Act. Now, to the best of my knowledge, all of these

recommendations from 2004, certainly when I was Minister, we had a consultant.....

(*Sotto voce* comment by the Speaker)

Mr. PICKERSGILL: I beg your pardon?

The SPEAKER: A 15 year renewal of licence in the.....

Mr. PICKERSGILL: Oh, which one?

The SPEAKER: That you renew your licence every 15 years.

Mr. PICKERSGILL: Oh. I can't recall specifically, but we had a consultant from South Africa who came here, looked at the various regulations affecting the Road Traffic Act, and, let me not say, they have been languishing - but I suppose because there is a shortage of staff - from '04. But I gather we have a seven year cycle so, perhaps anytime now that will come, but I must commend the Member for bringing it forward.

Mr. Speaker, I don't know how seriously we take road traffic accidents in Jamaica because, I have information here, Mr. Speaker, which says that road traffic crashes have become the leading cause of death among young people, with nearly 400,000, people between the ages of 10 and 24 are killed around the world each year and millions others disabled or injured, usually in crashes that are entirely preventable.

And the United Nations World Health Organization (WHO) warns in a new Report, Mr. Speaker, it shows that

> "The overwhelming majority of deaths and injuries occur in low and middle-income countries with Africa and the Middle East the worst affected regions.
>
> Males are at much greater risk than females and people from economically disadvantaged backgrounds are also more likely to be injured or killed."

And I suspect that in Jamaica it runs pretty close to that. And one of the things we are not taking into consideration, Mr. Speaker, is the amount of money in terms of health facilities that we have to spend because of these crashes.

The number of deaths....

It continues, Mr. Speaker.

> ...and injuries will rise significantly unless more comprehensive action is taken around the world the WHO warned. With traffic accidents already estimated to cost US$518 Billion in material, health and other costs."

So, Mr. Speaker, it is something that we really need to take. We were trying to be under the mark of 300. We didn't succeed last year. It is quite sometime now that we have been below that mark. Our children and young adults are among the most vulnerable this expert said, and road traffic crashes are not accidents. We need to challenge the notion that they are unavoidable and make room for a proactive, preventative approach.

And recently, I was happy to see, Mr. Speaker, that MRS. PAULA FLETCHER, the Executive Director of the NRSC she explained that under the new system the police will have hand-held instruments for ticket issuing, supported by an automated interconnected ticket management system. And this will give the police easier access to a database on motorists and any traffic

violations that they have committed in the past. This new system will allow the police to be more effective in the field in monitoring motorists and ensuring that they comply with the traffic regulations.

Now, you probably know that the ticket system had not worked well at all. There was a backlog and there was no follow up. So, we look forward to seeing that, Mr. Speaker, because what I gather it is intended to do is to work with the private sector for them to do some more education in the workplace at large.

And what it is called, Mr. Speaker, just for information, the National Road Safety Council/PSOJ Road Safety Charter for the promotion of what they call Occupational Road Safety, including not only fleet drivers but the entire staff in a company. And I think that will prove to be most useful, Mr. Speaker.

I would like to commend the mover of this motion and to hope that the proposals are treated with the seriousness that they deserve.

Thank you, Mr. Speaker.

The SPEAKER: Thank you for your brevity, Mr. Pickersgill. (Laughter) Mrs. Sharon Hay-Webster then Mr. Hylton.

Mrs. HAY-WEBSTER: Thank you, Mr. Speaker.

Just a short intervention on this and I would want to make some comments in respect of the same Report that the member from North West St. Catherine referred to in terms of Mrs. Fletcher's comments.

I want to refer in particular, Mr. Speaker, to Clause 17 of the Road Traffic Act, in particular subclause (3) and (4)(b). And also 17(2)(a) and (b).

This speaks to the establishment of a book which reflects all issuances of licence. And the book is also supposed to have a record of suspension of licence and reasons for same. Why do I raise that, Mr. Speaker?

I have been victim of at least two serious accidents in the past year. The last one had me in a Thomas Collar for quite sometime, and interestingly the person who ran into me had been in an accident just two weeks before and written off a vehicle.

Now, it caused me untold testing and still follow up up to now as a result of whiplash and concussion. Yes, okay, that's out of the way, but look at the fact now, this person is still on the road, no case has been heard and the issuance of licences, Mr. Speaker, is not tracked in keeping with what the Member from North West St. Catherine speaks of in respect of a digital system following it up.

In fact, in speaking with one of the road traffic police officers at a very high level, he pointed out to me that he has within his office five licences issued to someone who had had his licence suspended. Every time it got taken away, he just went back to the licensing authority and sey me licence lost, pay de fee and get back a new licence. Commit another act again, get his licence taken from him, go back to the licence authority.... we laugh! But it could have been a life each time. And his licence, having been revoked, suspended, the licensing authority - there is nothing in the system now, Mr. Speaker, that ensures that if I Sharon Hay-Webster have my licence suspended, no other licensing authority be it Montego Bay, Mandeville, May Pen, in my own Spanish Town can issue me a new licence because in the system would be a

record that my licence s had been suspended, nothing there like that. (Applause) And if you wish, go to the Island Traffic Authority and check it out. I am speaking from what I know as experience.

Now, we can't as legislators, and as Member Pickersgill was pointing out, there has been quite a bit of work done as someone who has spent a lot of time at the Ministry of Health too, having served there as an assistant to two Ministers, there is frightening information in respect of what happens in road accidents, Mr. Speaker, and certainly I could speak as I say to my own experience of having come near to loss of life as a result of that, of other people's just very bad judgment.

And the truth is, as a driver now, and for many of us who drive ourselves on the road, there is just a difference in how people operate on the road now. And the truth is, we know that there is compromise in the systems. My own child at 19 wants me to do what she says her other friends' parents doing. I tell her, I not doing it because I see what happen when people compromise the system. Some parents willing to go out there and pay $10,000 for their child to get a licence and compromise it; Ten Thousand Dollars is the same that Grennell's Driving School, or anywhere else, where your child can properly learn to operate their vehicle, and understand the rules of the road.

And if we don't do that we are not going to save lives. It ties right back in to what the Member from North West St. Catherine speaks to, in terms, not just of stats locally, but internationally. And I think, we really need to make sure that those same systems that have been under consideration by the Minister of Transport, and need to be considered by the Island Traffic Authority, and all the supports, let's do it and save lives and enforce the law, Mr. Speaker. We would have less public health bills to worry about, in terms of hospital bills as a result of violent accidents because of either, drunk driving, or just lack of understanding of rules and regulations on the road.

So, I would really like that in these considerations, once this matter, I hope, goes to Committee, that we would have reconsideration of Clause 17(2)(a) and (b) as to the use of the driver's licence book, it's record of suspensions and revocations and the linkages within the system.

Thank you, Mr. Speaker.

The SPEAKER: Thank you very much.Mr. Hylton.

Mr. HYLTON: Mr. Speaker, as I rise in support of the motion, I want to commend the mover of the motion for what is really a timely act on his part. And we've heard already from the speakers before me, the various reasons and the urgency of bringing this Resolution to the attention of this Honourable House, and to seek the actions and the amendments in the way that is being sought by the mover.

Mr. Speaker, I want to just focus, if I might, on just one area of this wider problem, which is the issue of the heavy trucks on the roads. Just yesterday, Mr. Speaker, I had reason to be going in a particular area of the city on one of the off-roads - on one of these off-roads, I was turning to make my way through the traffic. And as I turned, there was a massive truck almost as big as the small off road that blocked the entire pathway of

anything coming on the opposite side of the road. Everybody had to move to the side, stop to allow this truck to pass.

And, Mr. Speaker, it just occurred to me that among the many problems affecting these massive trucks are: one, the - because of the weight and size of these trucks, the manoeuvrability of these trucks, and the particular risk and danger they pose to the public, whether it be vehicular or those walking on the road, in that the call for proper inspection, one, addresses the fit and proper use of these vehicles, because, if these vehicles are not properly inspected, then what happens is, when there is an accident involving one of these trucks, the disaster is far greater, the impact on the users and on the vehicular traffic is significant.

And therefore, I think the aspect of the Resolution that calls for the inspection, I think properly and perhaps most urgently, applies to this heavy usage – these heavy trucks. The ability to stop at short distances and the speed at which they go, I think, is directly related, and many of the accidents - I don't know the percentage but, I think a good portion of the accidents, I would imagine, would be caused from failure to have proper inspection on a number of these large vehicular traffic.

I wonder as well, Mr. Speaker, that I know that there is a move afoot to address the amendment of the Road Traffic Act in a very comprehensive way. The Minister has so indicated. Already the previous Minister had mentioned the Regulations of 2004. But, I wonder if anywhere in these pre-existing or updated Regulations, it speaks to the need to properly regulate the pathways and the areas – the areas where these large trucks can move, and the hour of their movement.

You just have to - as has happened to me on many occasions – be coming from particular areas, particularly in those areas that move massive amount of aggregate, to see - to be caught behind a couple of these trucks driving in convoy, and to be at the back end of that trying to pass on the roadways that we have, with sand and other things, debris falling from the trucks; for the vehicles that stay behind them, and if you attempt to pass them then you find yourself at an unusual risk. And I just wonder whether the time has not come for us to look carefully at the overall system of how we move goods - particularly goods, over a roadway, and to look at that whole system of movement.

And I am not now proposing that there is not a role for trucks, but I believe that we need to look very carefully at the length, because it appears as if these trucks get longer and longer each year. Each year you see some trucks that seem more appropriate for the highways in the United States where there are massive five/six lane highways. The trucks get wider; they get longer. And all in an effort - on the one hand as they support the economy - the economics of movement, of transportation, at the same time, I believe they pose particular threat to vehicular traffic and to users of the road. And I think the time has come for us to look at how we regulate the movement of goods and the use of these heavy trucks over the road.

Mr. Speaker, I think the impact on the road themselves - and the Minister would know well what that cost when you overlay sections of the road, and where you have

impact from these massive trucks almost on a daily basis, what that does to the road way and the need for repair on a much more frequent basis.

So, I think all of this augurs for us to look - in particular, while I support the motion generally, I believe in particular, the impact on, whether it be accident, the impact on the road surface itself, and the impact on general use of the thoroughfare, that we should look at the particular role that these massive trucks play on the road traffic and its regulations.

The SPEAKER: Thank you, Mr. Hylton. Dr. Bartlett.

Dr. BARTLETT: Mr. Speaker, it is very interesting that we are discussing this motion at this time. And, it was only yesterday that the Road Safety Unit dropped off a package here in the Parliament that has some very instructive information - and, you know, Mr. Speaker, I heard the Member from St. Catherine just made some comments about some world trends, with respect to accidents and fatalities - and in that package was a summary for the last five years of - it is called: *A Traffic Crash Report in Jamaica Over the Last Five Years - 2005 to 2010*.

And what it has pointed out, that over that period, the number of persons killed on the roads per 100,000 inhabitants range from 15.56 in 2005, to just under 12 to 1,000 in 2010. And when you look, Mr. Speaker, at the number of fatalities that we have had over the last five years, and the number of fatal accidents that we have had over the last five years, and when you look at the areas in which these fatalities occur most frequently, you find that St. Catherine, and Kingston and St. Andrew account for the highest level of both fatal accidents and fatalities.

Indeed, over the last five years, we have, at all times, been in the 300 range. The number of fatal accidents in 2005 was reported at 284, while the number of fatalities was 325. In 2010, the number of fatal accidents was 292, and the number of fatalities was 317. And all of this information I am reading because these are statistics that are provided by a document. And so, whatever reference - I have already referenced the document for **Hansard**, so that it can be properly recorded.

Mr. Speaker, indeed, I just want to make note that in St. Catherine, for example - in St. Catherine, there has been between 47 fatalities in 2005, and 54 in 2010. In St. Andrew, we have had 56 fatalities, in 2010, moving from 39 in 2005. And in Kingston, we have seen 18 fatalities in 2005, compared to 24 in 2010.

Indeed, the parishes with the lowest number of fatal accidents and fatalities are Portland and St. Thomas. And you wonder why, whether or not it is because they are at the other end of the island. Because what you do find that in St. Catherine where you have to get into Kingston - as a matter of fact, as a single parish, Mr. Speaker, St. Catherine has the most fatal accidents, and also the most fatalities on the road.

And so that when I look at this document, and I look at the statistics that is presented here, I wonder whether or not the authorities look at them seriously and see what can they learn, in terms of proper policing of the roads to probably reduce these number of fatalities.

Also of significance, Mr. Speaker, is the fact that the data is showing that on weekends: Friday, Saturday and Sunday, the incidence of fatal accidents and fatalities is also higher than the other periods and days of the year.

In addition to that, for some reason, our senior citizens, in terms of pedestrians who are actually part of the fatalities on the road, we find that our senior citizens over 65, account for the highest number of persons who are actually killed on the roads. And, Mr. Speaker, these are - and pedestrian, of course, is among the highest.

Another thing that I have seen in this data, Mr. Speaker, is the fact that when you look at the different kinds of vehicles on the roads, the private motor vehicles compared to the passenger vehicles, you find that a significant - there is a significantly higher number of fatalities in privately-operated motor vehicles, compared to the PPV passenger vehicles.

And if you look at the way our bus drivers operate on the road, and you maybe would think that there would be more accidents, fatal accidents among them. But indeed, what the data is showing is that private-operated motor vehicles have a significantly higher incidence of accidents on the road.

Mr. Speaker, while I was preparing for this intervention here in this debate, I went on to **Go-Jamaica**, and there is a blog there that speaks to the Road Safety Unit on the retesting of drivers. And the public made some comments. And I know that a part of this resolution asks for the testing of individuals, especially those over sixty-five. And here is what some of the persons who came on this blog had to say. One person said:

> "I definitely think about 50 per cent of Jamaican drivers need to be retested, not to re-buy their licence, but to be retested by decent and honest traffic examiners. There are so many on the roads without licence, without insurance, and fully without any knowledge of how to operate a motor vehicle."

The person went on to say:

> "It's full time to do the draconian clamp down. Jamaican police and Transport Minister need to take this into consideration. Never allow drivers to go on their way who would say they forgot their licence at home that is wrong. In this country…"

The person says -

> "…a driver must, and when I say must have in his possession at all times a drivers licence, insurance, and ownership of the vehicle he or she is operating. Without those in possession, you are charged, the vehicle should be seized and towed, and you may even find yourself in jail until documents are produced."

That's what one person had to say. Another person had this to say:

> "This is total discrimination."

Speaking to testing of individuals over sixty-five.

> "How many drivers over sixty-five years old have created accidents? Compare that with the younger drivers. If we are talking about road safety, we need to look at the group that is causing the most accidents and retest them. The people

who are making the recommendations are under sixty-five, so who cares. They might be in more accidents than those over sixty-five."

And Mr. Speaker, when you look at the data that is presented by the Road Safety Unit, and the Accident Report, you do find that individuals, when they go by age, the individuals who are more prone to accidents are really around the twenty-four to thirty-five age group, and that indeed, the number of accidents among individuals over sixty-five is significantly less than among the other groups.

Another person said that:

"Reckless drivers should have their drivers licence revoked and suspended for no less than one year, and have to go back through the whole process of obtaining one."

Another person also said that:

"Mr. Ayre is guilty of ageism. This is a knee-jerk and I concede response to the problem of drivers' competence. The statistics do not come near to justifying such a conclusion. Perhaps it is Mr. Ayre who needs to be revisited."

And so, Mr. Speaker, what we are doing here in this Parliament, in debating this matter today, is something that the public out there, our Jamaican public are also discussing this very matter. And I commend these data. And I ask that all of us look at them, and all of us read it and understand it.

Because there is another thing in it, Mr. Speaker, that caught my attention, and that is, among the young people who are fatalities on the road, you do find that children, school children, and fatalities among school children is mainly between Monday and Thursday of the week, which is a clear indication that they are the pedestrians, they are walking on the streets, you know, and they are being knocked down by the reckless drivers on the road.

(DR. KENNETH LEIGH O'NEIL BAUGH, (JLP), St. Catherine, West Central, Deputy Prime Minister and Minister of Foreign Affairs and Foreign Trade, entered and took his seat.)

The Member from St. Thomas, Mr. Speaker, spoke to some of the over-laden vehicles that we have, and some of the over-long vehicles, the vehicles that are so long and should really not be on Jamaican roads. And you know, it was sometime last year that the Minister had instituted the weighing of vehicles, and I saw that the scale out at…

A MEMBER: Harbour View.

Dr. BARTLETT: Not Harbour View, but up at Six Mile end there, and I have seen that one or two days, that indeed, they are weighing vehicles out there. And I think that we should continue to do that because it is seeking to fine the people who are driving on the road with these over-weight vehicles. And especially down in the St. Thomas area where they are coming from - with all of those aggregates. That road just cannot stay in good condition because of the fact that the vehicles that are passing through that area are over-laden, and you know, it is just a mess out there. It costs a lot for us to build these roads, and, you know, over-laden traffic that is going to cause destruction to them should also be taken care of.

Mr. Speaker, there is just one other thing I want to bring here. And I do think, Mr. Speaker, that persons who are involved in accidents on the road, that there should be something, Mr. Speaker, in the insurance, the motor insurance, that ensures that where an individual destroys public property through an accident, that the insurance of that driver should take care of the repairs to the road. Because, Mr. Speaker, you go all over Jamaica, and so soon as the road is completed, and so soon as barriers are put up or lights are erected, somebody crashes into that barrier, or they crash into that light pole, and it remains there for a long time. You go to Six Mile, coming down at that overpass, there is never a barrier along the road that is in good shape. And every time it is repaired somebody crashes in it. And I think that we should really, really seek to ensure that something is done to ensure that the insurance of the drivers, those who are insured on the road, that they be responsible for repairing the damage that they cause.

(MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern, entered and took his seat.)

Mr. Speaker, I am very happy to have been a part of today's Parliament, to really discuss this very, very important matter. And I think that we should give it all of the support. And we here in Parliament should give the Road Safety Council all of the support that we can give them.

Thank you, Mr. Speaker.

The SPEAKER: Thank you, Dr. Bartlett. Prime Minister.

The PRIME MINISTER: Mr. Speaker, I wanted to make just a few comments on the resolution, largely because I happen to chair the National Road Safety Council, which I should point out in the past had been accustomed to meeting two or three times a year. I have insisted that the Council meet every month, and it has been meeting every month.

And I want to place on record our appreciation to a lot of people who work hard to ensure that the Council functions and achieves its objectives. If I could just single out two. I know it's dangerous to do so, but I would like to single out the Vice Chairman of the Council, DR. LUCIEN JONES, who is a tower of strength. (Applause) As a matter of fact, he is the real Chairman, I am more the Honourary Chairman. And also to highlight the tremendous work that is done by MRS. PAULA FLETCHER ...(applause)...who is the Executive Director.

Let me just give you an indication, Mr. Speaker, of what we have been trying to do and what we have achieved so far. Last year we had set ourselves a target of keeping the number of road fatalities under 300. We mounted the "**Save 300 Lives"** programme. I want to express our appreciation to Jamaica National and to MR. EARL JARRETT, in particular, because they sponsored that programme. We didn't achieve it, Mr. Speaker. We ended up for 2010 with 317 fatalities from road accidents. But what is significant is that with the exception of 1999, that was the lowest number of deaths on the road in the last 25 years. (Applause) So we are making some progress.

For this year, the statistics up to the end of last week are encouraging. I will give you an idea. Up to the end of last week we had 30 road accidents - sorry, up to the end of last week we had 30 road accidents, but that compared with 38 for the same period in 2010, and 41 for the same period the year before. We had 23 fatalities, compared with 33 for the same period last year, and 37 for the same period in 2009. So we are pointing in the right direction. Now, five or six weeks do not a year make, but at least the trend is heading in the right direction.

Some of the things that have brought this about have to do with increased presence of traffic police on the road. The police have done a tremendous job, because bear in mind that they have several other priorities, and yet we have been able to get into those priorities the attention to road usage. And people have observed - I am sure Members here would have observed that there is an increased presence of police personnel on the road. In addition to that, Mr. Speaker, we have been able to equip them with, I think it is 50 new radar guns, which have certainly improved their ability to monitor the use of the road and to ensure that those persons who use the road recklessly and speedily can be brought to book.

But there are some other significant things that are being done. We have had problems for years with the traffic ticketing system. It has been inefficient. It's a paper-based system, you write up the paper, you send in the paper, then the paper is loaded into a computer data base. There is no connection between that and who pays and who doesn't pay, which is why we end up with thousands and thousands of tickets. I can't remember exactly how many tickets are outstanding, but I know the value of those tickets is somewhere in the region of almost Three Billion Dollars, ($3B) of tickets that have not been paid.

I actually wanted to see - to ask the Court system to deal with the collection of those tickets, Mr. Speaker, is - I mean, to dump that load onto the already overburdened Court system is something I wanted to avoid.

(DR. KENNETH WYKEHAM MCNEILL, (PNP), Westmoreland, Western, entered and took his seat.)

Now, what I asked them if we couldn't do, is if we couldn't pass it over to a collecting agency and say, hey, you go collect this. I am told that it can't be done, because once they have failed to pay the fine, then it becomes a matter before the Court, and you can't take it out of the Court and assign it to a collecting agency. We are seeking to address that in some amendments that are coming to the Road Traffic Act, which I will speak of shortly.

The good news, though, is that we have now almost, using my words carefully, almost completed the installation of a new ticket-issuing system. We now have an integrated system where the moment the ticket is issued it is registered in that database. We have servers that download it to the courts offices. We have installed in seven (7) parishes so far and I believe by now we perhaps have completed the other parishes. Under that new system, just to give you an idea as to where we are, it was introduced in the middle of November, up to 26th of January that system

had issued 97,609 tickets. Of that number, 40,065 have been paid. Some of those that have not yet been paid are still within the time that is allowed for payment.

When we had the meeting of the National Road Safety Council last week it was brought to our attention that we are running into a problem because the system is slow. And I am told that the system is slow because it has not been inoculated from viruses. And therefore there is some cleaning up that has to be done. I am assured that that can be done fairly easily and that in a short time we should be up to the speed that we want.

But we are going to go further, Mr. Speaker. We hope to take delivery soon of hand-held ticketing machines. So that if you are stopped by the policeman on the road he is going to have a unit that the moment he issues that ticket it automatically is uploaded and downloaded into the server. It's like if you go to Miami and rent a car and you return the car, the man comes out with a little hand-held thing and he processes you and it checks off your payment and does everything. Right now what they have to do is that they issue the ticket and they take it into a central point that is loading into the system. Once we get those hand-helds and we are hoping to have delivery - I don't have a date here but I know it is fairly soon that we hope to have those hand-helds in hand. But once we do that it means that if you issue the ticket now by the time you can get to the tax office it is there on the system.

Importantly, in this, too - and I think it has to do with a point I am told that the Member for South Central St. Catherine made - we are going to be able to bring together in that system all information relating to that licence and that driver. I gather the Member raised the point, and it's quite significant that she raised it, because we spent a lot of time last week discussing it, that there are persons out there whose licences have been suspended or whose points may be on the verge of revocation, who simply go to the police station, report that they have lost their licence, they get a letter from the police and they go and they are issued with a substitute licence and they go their merry way. This system will now bring all of that together, so that at the point where you are going to seek to have that new licence it will know whether or not your original licence was revoked, what your points numbers are. So that if you do get a substitute licence and you were at 14 points before, that substitute licence will now carry 14 points on it, so you can't - it's not like zero in the count and starting all over again. It will know if there are any warrants out for you. It will know if there are any outstanding tickets. All of that information will now be centralized.

Mrs. HAY-WEBSTER: What about if it is suspended?

The PRIME MINISTER: About?

Mrs. HAY-WEBSTER: If it is suspended?

The PRIME MINISTER: Yes, man, all of that. The good thing about the system is that not only does it bring everything together but you can get that in immediately. So if you go to Court and the Court suspends your licence, for example, that is reported immediately. We have brought the whole thing together. As I say we are now in seven (7) parishes and I believe that, certainly

before the end of this month, I believe that we will have it in the other parishes as well. As a matter of fact, we may be there already. I know that this Report was up to the 26th of January. And in that process, I am looking at my notes here, it will match receipts against tickets, it will report unpaid tickets, it will manage demerit points, it will manage warrants and it will record disposition of court cases.

Let me just mention a few other things that we are doing. We have completed - let me use my words carefully - we had agreed on significant changes to the Road Traffic Act. Drafting instructions were issued. A new Road Traffic Act has been drafted. But it is a huge, I think it has something like 136 sections. The team that is going through it before it finally goes before the legislation committee, told me last week that they have so far completed 97 of the 136. They are hoping to complete the rest. I think they gave me a two-week time frame. We are hoping to have that in Parliament and hope that we can get it passed before Parliament prorogues at the end of March. There are some significant changes that are coming there to manage the use of the roads, to manage the use of vehicles. And maybe I am being a little ambitious, because I am almost sure that Members will want perhaps more time to study it because of the voluminous nature of the Bill. But once it gets here I am going to ask that we try to deal with it as quickly as possible because it will certainly strengthen the hands of the policing agencies, the enforcement agencies to improve road conditions.

Two quick points I want to mention on this. I have asked for, and I have just received within the last week, draft proposals for privatizing motor vehicle certification. Now we haven't taken a decision on it. I am very much in favour of it. But I will confess that since I have received it, I certainly don't have the chance to go through it, I don't know if the Minister of Transport and Works has, but we had instructed them to look at a system of privatize/licensing garages, making sure that we license sufficient so that there can't be any price gouging or fee gouging. Right across the island where garages would be licensed, they would be inspected, they would have to meet certain standards and they would be empowered to issue Certificates of Fitness. Take that out of the system altogether. That is still under study, but I hope that we will be able to get to some conclusive position on that soon. I would like as well, something I have been advocating from when I was in the Ministry of Construction, but I am not where I want to be on it. I wanted to find a way to minimize, you can't completely eliminate, but to minimize the human contact in the issuing of driver's licences.

I happen to have gone to a place in, I can't now remember whether it was Tampa or Orlando, it was somewhere in Florida, where I saw them with a simulation, where you go in and you sit behind this wheel and you have a screen in front of you and you are told, instructions come through speakers, you are told what to do, turn right, turn left, and the computer records your performance and at the end of it it gives you a grade and if you

don't get that grade, you don't get a licence. Interestingly, if you go to Norman Manley Airport now and you go the the JDF's flight training school, they have something that is so similar for training of pilots. And I actually went there and you sit in that seat and you feel that you are in an aircraft. I mean, the whole feel and you see the place moving up and down and so on and you have to navigate your way through. I still believe it can be done. I saw this in Florida almost 20 years ago, almost 20 years. And I am sure that that technology would have advanced significantly since then. The reason why that is so important. You know, the Minister of Transport and Works told me yesterday, yesterday when we were down in Parliament, they are recruiting drivers for JUTC now. And he told me that a number of the persons who have applied they have the licence, you know, they have whatever is the category of licence that they need to have, but when tested some of them couldn't read or write. Could not read or write!

I will confess that when I was Minister and I became so frustrated with the problem I used to impress upon the Permanent Secretary. I say if we can't find any other solution move the people up and down regularly. Until one day somebody said to me that can't work either, you know. You see Miss Mamma at the gate who sell the orange, is she run the business. So it doesn't matter who you send there Miss Mamma is going to continue control him. So when you go to Miss Mamma you not only buy orange but you buy a licence as well. It's a crying shame. And I mean, I am not impugning the integrity and I am not using broadbrush to paint everybody. But the fact of the matter is that the way in which people get licences suggests that the whole system is porous. We used to have that problem with passports. I think that we have plugged it. I don't know how many of you have had the experience that I have had. A man came to me one day wanted a letter to go to the US Embassy. So I say you have a passport, him say, yes, boss, took out a passport and showedme. I say this is your right name, Albert Gordon? Him sey no, boss, is the wrong one that, boss, and promptly handed me another one. (Laughter) I think we have plugged the problem with the passport with this new security system and the paper and the extensive checks and the computer-supported verification. We have not done anything like that with driver's licences. It's something that we are going to have to take on. So that, too, is coming.

There is one other thing and the Minister can no doubt, Minister of Transport and Works when he speaks can address it, one of the things that we have been looking at but is frightfully expensive, is the question of closed circuit surveillance at critical points. We have some of it now but it's limited and I don't even want to say where it is. It's limited. We want to try to expand that as much as possible. Because it does provide critical information, not just for road traffic control but for law enforcement generally. So, Mr. Speaker, I support entirely what the Resolution is seeking to achieve. We have a lot of work to do, but I think we can recognize that we are making some progress. I am hoping that this year we are going to be able to, not only make the target but make the target more than comfortably.

We are going to have to do more in terms of public education. We are going to have to do more, particularly with our schools. I am particularly concerned at the number of road fatalities that involve pedestrians. It is significant. As a matter of fact, I might have a figure here. Just for this year alone, of the 19 persons that were killed, 11 are pedestrians. Last year, of the 33 people that were killed for the same period, 16 were pedestrians. I mean, almost 50%. And it points us to where I think we have to focus.

Another significant fact that was brought out in the analysis last week was the number of road accidents that involve back-end collision, people running into… The evidence did not go far enough to find out what was the reason but I have a suspension, that's cellphone usage, cellphone usage. I have a suspicion. I have asked them in terms of their evaluation - because what they have not been doing is that the police who come on the scene are not asking, and perhaps I don't know if they will be told, but they are not seeking to find out were you distracted by cellphone or by somebody calling to you or what? I have asked them to try to see if they can capture that information in future. But we are going to have to address that.

I heard a point made on a radio programme couple of weeks ago, interestingly by one of your councillors, (referring to Mr. Shaw) Councillor Wint. And it hadn't really occurred to me. When you think of cellphone use you think of people with the phones at their ears and so on, but with modern phones, not only are they texting, they are browsing and you can even be watching television, watching movies.

Dr. DUNCAN: X-rated.

Miss HANNA: Have a headset.

The PRIME MINISTER: Pull over and stop, make as many calls as you want, text as much as you want, and then when you finish your texting you put down the phone and you go back in gear. I mean, the cellphone is a vital instrument. I mean, people can use the phone to call to say, look, I am in danger, I believe I am being followed, whatever. So I don't know that you can sort of - in the States, in some states in the United States, if you are found with more than six bottles of beers in your car you can be charged. I don't know that we can go there. But certainly in terms of the usage of the road, and the focus that you ought to be giving to managing your vehicle, we are going to have to look at legislation to curtail the use of the phone, not necessarily precluding it altogether.

I am just getting a note here. Mrs. Fletcher says there is no date for the introduction of the hand-held ticketing system. They are still testing the software for the system. There was a soft launch for the new traffic ticketing system which involves an interconnecting system and so on. So we don't have a firm date but that's where we are going. And part of the contract, just to indicate that this is very firm, part of the contract with **Iluminat** is to provide the hand-helds. So even though they are not giving me a date when those will be delivered, it is part of the contract that we have with the company.

So with these few remarks, Mr. Speaker, I support the general thrust of the Resolution.

The SPEAKER: Thank you Prime Minister. Mr. Smith, then Mr. Charles, then Dr. Ferguson.

Mr. D. SMITH: Thank you, Mr. Speaker.

Mr. Speaker, I first of all would like to congratulate the mover of this motion. He has brought a motion here which is, to my mind, extraordinarily important. It deals with the social and - it speaks to, Mr. Speaker, a social and economic problem that confronts, not only Jamaica, but many developing countries. Here in Jamaica, over the last 15 years, we have had some 5,000 road fatalities and of these 5,000, two-thirds of those individuals killed were pedestrians. Mr. Speaker, this, of course, places a tremendous pressure on the public resources. I am told that some 7% of the health budget goes towards treating road accident victims. And if we equate that with the national budget we are talking about approximately1% of the national budget.

So indeed, Mr. Speaker, we can see the sort of impact it has on the financial resources of the country. On the other end, we have a major problem with those who have not been killed, but those who have been made disabled or somehow non-productive, not in a position to find work, not in a position to support themselves. And in fact, even those who have suffered some mental problem - permanent mental problem as a result of the problems that they have suffered in this road accident.

Mr. Speaker, I would like to focus somewhat on the behaviour of the public passenger - the drivers of these public passenger vehicles. I consider a significant amount of these individuals as terrorists. If you -

Mr. KELLIER: Try them under the Terrorism Bill.

Mr. D. SMITH: For those of us who have to use the roads daily and who must experience the type of driving that these individuals how they perform on our highways I think there is no other way of describing them. These drivers they're with one bus owner, they get these tickets - you heard the Prime Minister speak to what is being implemented to take care of this problem of ignoring hundreds of tickets. They wreck the vehicle, they move onto another owner, and they keep doing this going around in a cycle. Now, it has been suggested that what we need, perhaps, is some sort of a clearing house for drivers who have been performing in a most disgraceful way with one owner or another. But, Mr. Speaker, I would like go even one step further, I think these bus owners, these bus operators, these taxi owners they really ought to themselves have a responsibility. They can't recklessly, to my mind, be just picking up persons with a general licence off the road, or with a PPV licence or whatever it is to try their vehicles without doing the appropriate checks. They, to my mind, something has to be done that they have to be held somewhat responsible for what's been happening.

Mr. Speaker, if you observe the behaviour of these drivers, they run red lights, they run pedestrian crossings, they race peak hour traffic on our roads, they stop anywhere on the road to pick up passengers, to leave passengers, or drop off passengers, a total disregard for the other road users. The police

have been trying. The Prime Minister spoke to additional police personnel on our roads, they have been doing a good job and at this venture perhaps it's reasonable - and I really ought to commend and congratulate Senior SUPERINTENDENT RADCLIFFE LEWIS.

(Applause)

SENIOR SUPERINTENDENT LEWIS really, and his team, has been on them like a hawk. But you can achieve so much and no more. And I feel, Mr. Speaker - and I heard the Prime Minister allude to it somewhat - that we need much harsher penalties. When you seize a bus and a man goes down to Elletson Road and he goes to the pound and pays money and then within hours he's back on the road doing the same thing, I think that after a certain amount of seizure of that same bus, that bus should be off the road for anything between three or six months. We really have to get serious if we want this thing to stop, you know.

Mr. Speaker, I think also that how I see some of these drivers, how they drive these buses, they must be under some sort of an influence. And I am of the view, and I'm suggesting that drivers of public passenger vehicles ought to be subjected to random drug testing, right. I have seen drivers with ganja spliff in the corner of their mouths, I have seen that. And I firmly would like to have these drivers periodically do the random - and anybody found with any trace of any narcotic or otherwise in their blood to be banned from driving for life. It's a very serious thing; and I think we as a country it's about time we come to grips with dealing with this problem. The Prime Minister had asked me to look at what's happening with…

The PRIME MINISTER: The tickets of the old system

Mr. D. SMITH: …the tickets from the old system - I'm trying to read the writing here. Under the old system one million tickets, one million tickets outstanding right, outstanding. One million tickets outstanding and that's the point that I was making that we have to get serious. The Prime Minister earlier spoke to a new system being in place, but to complement that we have to do some seizures which are very, very important. When you look at the level of traffic on our roads, ten years ago we had some in the four parishes, Kingston, St. Andrew, St. Ann, St. Catherine just some two hundred fifty vehicles. Subsequent to that if you include the other parishes over half million vehicles on the road. There is one Prime Minister, who at a public conference, boasted about the amount of phones, cars and something else—you can finish it you were right beside him. Right. It is a fact that there's been an influx of many, many vehicles…

Mr. PICKERSGILL: Trailer load.

Mr. D. SMITH: …over the last last twenty years. And the problem is getting worse. So the Road Safety Council and the Jamaica Automobile Association, they have been doing their bit to try to have the regulations implemented. We have had an outline from the PM and as Chairman of the Road Safety Council, I think eventually we should get some action in this direction. But I commend the mover of the motions with these few words.

There is a section here which I cannot fully support, 3(b), in relation to after fifteen years. The reason why I can't give full

support at this time is the fact that it is lacking in statistics. These accidents that we're having—these multitudes of accidents I see no statistics to support that it is persons who are in possession of licence over fifteen years that they are the overwhelming majority involved in these. And if you ask me I don't think that they are. I think it's the one to five or one to ten persons that are in this. So this 3(b), Mr. Mover, I would ask if you could provide us with some statistics to support the point that you are making here.

Having said that, Mr. Speaker, it has been my pleasure. Thank you very much.

The SPEAKER: Thank you, Mr. Smith.

(Applause by Government Member)

Mr. Charles.

Mr. CHARLES: Mr. Speaker, I might just so express my support for many areas of this resolution. Twenty-six years ago, I had the responsibility to head the portfolio of traffic and I think it is fair to say we all wanted to see restructuring and reorganization. It didn't take place. Sitting where I am now I recognize that the present Minister and the government has the reorganization and the restructuring of the whole traffic act as a priority.

In fact, the Minister has advised me that in a few weeks I think it should be in Parliament.

But, Mr. Speaker, I am not quite sure that the leaders over the years can get away with much of what is happening. Every time one comes along, and tries to bring some sort of discipline, there is a cry out for wickedness against poor people. Thousands and thousands of people have died. Sanctions, small sanctions have not helped and the people, pedestrian, motorbike, bicycle keeps dying. We keep adding up how many people die. We are not adding up how many hundreds or thousands of Jamaicans are permanently injured or injured in away that they cannot work again, they become handicapped and they become the part of our responsibility to take care of them. As the Minister of Social Security, I can tell you, a major part of what we have to pay out is for people who have been literally destroyed by traffic accidents.

We cry out about the little man wanting to make some money. He has an unlicensed car, uninsured car, no tyres that should be carrying passengers, no route assigned to him. He does not have the discipline of staying in the line, he takes the other side of the road, and run everybody off. I dare you even blink light when you see him coming. I travel every morning on the Red Hills road and I can tell you between Lees Food Fair and Eastwood Park Road, the only time you can travel and don't hold your breath as if you are going to die is if a policeman is on the road. A group of taxi men and it is as if they are smiling, they are laughing at you, bus men.

Now, we in this Parliament have been assigned by the people, the responsibility to bring certain order to the country. And I am glad that the resolution is coming from the Opposition. I am not sure whether every Member of this House supports much of what is in here. But we cannot continue to be leaders leading a society where a minority in the society decides that they run their own government, they run their own country. And some of us either by our silence or loud applause support them, because they them

poor. Well, poverty in my opinion should not encourage indiscipline and corruption the way it is happening.

Now, Mr. Speaker, an unlicensed taxi, it doesn't matter whether you are poor or you black or you what, you don't have a licence, you have don't have insurance, you should not be carrying public passengers because when they die they get nothing, absolutely nothing. And if a man hit you with one of those cars, you don't get anything. Children going to go school die, not because of a careful driver who makes a little mistake, these are guys who out there who do nothing else, but run the road-hog operation every day.

I am asking you - Prime Minister, let us not just count the one million tickets that have not been paid for. Let us ask ourselves which country should allow that to happen. You have police, you have leaders, you have men on the roads, some of them have all 40, 50, 60 tickets in their cars, don't care. And we are here saying we have been given the responsibility to lead. Tough times, hard times, good times. We have to take a decision, all of us, that it doesn't matter whether it is your mother, your mother-in-law, your friend or your enemy what is going on cannot continue. And I am emphasizing, sorry for the death, but believe me, the injury that has been left behind is a burden to themselves. Families, Mr. Speaker, children cannot go back to school because their father died, mother died, they are left without anyone to help them. Why? Some careless bad man, say that him not driving behind nobody, him taking the road or drunk, and him take the highway, as a laugh. And I am not feeling that there is any seriousness about these guys when we talk about education and sanction.

So I congratulate you for bringing it here. But I am congratulating the Minister of Transport for hurrying up, as he has done, this new piece of legislation or this restructured or reorganized Road Act that will come here. And I hope, I hope, that when it is presented, I don't hear any bleeding hearts come here talking about, can't do that to poor people, can't do that to a man who a look a little thing. Let us talk about what we are going to do for the innocent woman who stand waiting for a bus to go to school, to go to church, to go to market, to go to her work and two guys decide they are not following the rules by staying on left side of the road they take the right side bounce down four, five and gone.

So, Mr. Speaker, I am warning the taxi drivers out there, the road-hogs driving cars calling them taxi, because they have nothing to say they are taxi. They are private cars with Third Party - and I remember the Member from Central Kingston, I have listened to him on many occasions. This Third Party insurance thing, where people are - the Minister say you can't carry passenger if you have a Third Party, you have to be insured that if anything happen, and he is being told he is wicked because it is too high. You know how much we pay for one man who die? You know how much the State has to pay for those who are injured for years and years, and how much the State has to pay for the children who no longer can get support from them. This is a very serious situation.

I congratulate the Member for bringing it here. I congratulate the Minister knowing his mission. And Prime Minister, I know it is

tough, much is expected from you. But this government must not allow a year to pass and we don't bring serious protection to the population of this country as far as traffic is concerned.

I close by saying, I am not sure whether we have enough time to educate those who don't even want to hear us. I am not sure that the kind of sanction that can bring them under control will be acceptable. All I know is that something has to be done. And I appeal not to them out there now, but to us in here to let this Parliament take a strong position and say to the nation for protection of our children, our elderly, our general citizens, we must bring this traffic situation under control either by education or sanction. It cannot go any further.

Thank you, Mr. Speaker. (Applause)

Mr. PICKERSGILL: Very good, very good.

The SPEAKER: Dr. Ferguson:

Dr. FERGUSON: Thank you, Mr. Speaker.

Mr. Speaker, I rise to support this motion. Well thoughtout motion, Mr. Speaker, which speaks to the loss of lives of hundreds of our people, the injury, and also the economic fallout as a result of incompetent, indiscipline and drivers who are incapacity - have incapacity. And when you take all that into consideration, Mr. Speaker, tied into the use of defective vehicles, not only has the country suffered in relation to useful man hours and power relative to our production and productivity, but as it relates to our health system.

In fact, Mr. Speaker, in 2009 it costs the Government of Jamaica somewhere in region of $1.7 Billion, as a result of persons who went to institutions, base on accidents, motor vehicle accidents. But in particular, Mr. Speaker, many of your these patients because their injury is of such that their stay in institution is much longer than the normal patients, many of these persons become orthopaedic patients. Many of the prosthesis used in some of these patients cost as much as $800,000. And this is why sometimes you see, in institutions such as KPH a patient is there for months, not being able to have surgery, because of the cost of the surgery in terms of the prosthesis. And therefore, when we take that into consideration the fact that these trauma cases, health professionals have to spend much more time with these cases, it creates a serious problem on the health sector.

And therefore, as I support this motion, Mr. Speaker, I am saying that the Member from North West St. Ann just spoke to 12% of the national budget. What I have put forward are figures as it relates to 2009. I believe, that with all the other attending problems we face in the sector, we have to look at this group and what they have done.

Secondly, I want to make the point, and I know the Minister for Transport and Works will speak to that no doubt. But the question of our road furniture, Mr. Speaker, our guardrails, our medians, our bus stops, our traffic lights it is costing the Government somewhere in the region of a hundred million *per annum*, based on road accidents, based on theft of road furniture and also even demonstrations that take place from time to time.

But in particular, our focus this afternoon speaks to the road accidents.

The question is, Mr. Speaker, that when we have accident most of the time, when you damage a traffic light, it is not accounted for in terms of insurance, and so it is the government often times that has to take upon this. I believe that the Minister of Transport and Works must be looking seriously as to how we are going to capture that situation because that is also a significant loss to the country.

The Member from North Central Clarendon spoke to the impact also on families, Mr. Speaker, many of whom; children, our elderly citizens, and many of these victims are pedestrians. When you look at figures coming from the Road Safety Units you see that many of persons affected are children and our senior citizens as pedestrians.

And therefore, this motion is timely. I am supportive of it, and we hope that it will be given and treated with the urgency that it deserves.

May I thank you, Mr. Speaker.

The SPEAKER: Thank you Dr. Ferguson. Mr. Holness.

Mr. HOLNESS: Thank you, Mr. Speaker.

Mr. Speaker, I generally support the intentions of the motion and I would want to commend the Member from Central Kingston for once again bringing these motions which address issues of national importance.

Mr. D. SMITH: No, man, him mus' bring a good one after so many.

Mr. HOLNESS: After so many.

Mr. Speaker, the whole business of order in the public transportation system is one that is of particular concern to education. And we hear many complaints, Mr. Speaker, about the behaviour of students in public passenger transportation vehicles. And I believe, Mr. Speaker, that we need to pay close attention to what is happening in the buses and taxis with our children.

The driver of a public transportation vehicle, Mr. Speaker, would be the equivalent of the pilot of an airplane. That person is responsible for the lives that he carries in his vessel. Or the captain of a ship, he is responsible for the order that is maintained in that vehicle.

(Inaudible comments by Mr. Pickersgill)

So, Mr. Speaker, I believe it may very well be time to tie the licensing of the driver in such a way that should there be a violation or should it be found that the vehicle that he is driving has students behaving in a certain manner, or he is endorsing or promoting certain behaviour, that we could tie it to his licence a de-merit as we now do for various other traffic offences. And I think that would start to address some of the major problems that we have with behaviour in the public passenger transport system regarding our school children. That's just one suggestion I'd want to make, Mr. Speaker.

The other is this business, Mr. Speaker, of mandatory re-education. The motion itself says:

> ...consider amendment to the Road Traffic Act which would prescribe mandatory driver re-education for traffic offenders at the discretion of the Court.

There's a little bit of inconsistency in that mandatory re-education at the discretion... I think the Member may want to adjust that part of the resolution. I detect, Mr. Speaker,

that there may not necessarily be full support for the intervals of re-certification or obligatory re-certification. And that we may need to adjust when we come to determine the actual state of the resolution.

So with those two brief observations, Mr. Speaker.

The Speaker left the Chair and Dr. Bartlett takes over.

The Acting SPEAKER: Mr. Henry.

Mr. HENRY: Thank you very much, Mr. Speaker.

Mr. Speaker, I certainly didn't come prepared to give the litany of woes that relate to the transport sector. I say that because I want to open by saying that I really came to deal with the specifics, as raised in the motion, and I'm going to move very quickly to that. So suffice it to say that it would be unfair of me, not having heard every speaker in detail, to try and do what maybe is customary and answer them specifically, because this is indeed a work-in-progress. And the areas raised by the question is really one aspect of the whole transport system. And I say that because I want to always keep reminding that the socio-economic structure of this country retards a really fully disciplined transport system.

Without a national registration of identification of your people, with the continuity of a growth in people living on streets with no names, houses with no numbers and being known more by aliases, evidenced by a lot of the presentations here as to how you can get a drivers licence quickly, *et cetera, et cetera*, retards how quickly you can move to bring discipline.

I continue to say if I asked anyone in this House what is a taxi, I'm sure if you were in New York you could tell me. If you were in London you could tell me. And in the area of New York you could tell me which is a Manhattan taxi, which is one that is in Queens, *et cetera*. There's been no disciplined structure in terms of transport as a business. And therefore in that context, it has been allowed to be a fact that you get a car, you apply for a red plate or you hustle from morning, noon and night, and therefore the whole system has broken down.

And has broken down, too, Mr. Speaker, the speaker before me is the Minister of Education and I daresay if we had zoned schools, forty per cent of my problems would be resolved in the flick of a switch. As you continue to move students further and further away, you continue to impact on the transport, that I'm now faced with a real problem that without a rural/urban transport plan, the children outside of that is the KMTR region, are paying almost ten times, and it could be more, to get to school. Therefore as a taxi is used as a bus, the bus is ignored, *et cetera*. But those things will come. And I therefore want to now move very quickly to the specific.

Prime Minister, I want to congratulate him on the NRSC, because they are the ones that drive much of the road safety. I will confirm for him that the CCTV aspect is being implemented to be put into all of the traffic lights. Simulators are being part of the system to be put in place in selected areas. Some of these really impact on whether the laws need to be changed, which is where the

Road Traffic Act being re-written is very important. So therefore I rather regard it as a work-in-progress. And therefore I have been making notes and will require from **Hansard** all the Reports of every input, that I can begin to put that within the structure that needs to make a change. Because in that context, Mr. Speaker, the main cause of driver crashes for the period 2005-2009, I have it in the right colours. But in that analysis very quickly, driver incapacity is only 3.16%; driver incompetence - 18.78%; driver indiscipline is 70.48%.

Mr. PICKERSGILL: What? Is what?

Mr. HENRY: 70.48%.

Mr. PICKERSGILL: Seventeen?

Mr. HENRY: Seventy, seven, zero!

Now, I'll explain that for everyone. Because what is under *driver indiscipline*, which means we ourselves as drivers can control, proceeding at excessive speed with no regard to conditions, failing to keep to the near side, cutting in, overtaking improperly on the inside, overtaking improperly on the offside. All of these are what we call *driver indiscipline*. And I'm... very important to hear one of my colleagues, I think it's Mr. Smith, the Member from...what is the constituency again, Derrick?

Mr. D. SMITH: North-West.

Mr. HENRY: North-West. Because as I said...

Mr. PICKERSGILL: That's where the bad drivers come from.

Mr. HENRY: Let me quickly answer him. Potholes only contributed to 0.39%. (Laughter) So the work has been ongoing and is declining. But I'm trying to be more specific to what we need to do. Because if we are not able to really penetrate the issues, then I'm not sure we're going to resolve much of the problem. So what I'm saying is, I would question that under *driver-influence by drinks and drugs*, all that we have had is five persons in 2009 and 0.08%. To me that either means when you are questioned, when you are tested - maybe the breathalyzer didn't work, maybe something is - but I think that's a mighty low figure...

(Inaudible comments)

For Jamaica.

Again, we spoke to *following too closely behind another vehicle*. That comes under driver indiscipline in the analysis that I have. And in that context, that has increased to the *following too closely behind vehicles*, to 1,715 in 2009. So that basically I would like to confine my presentation to analysis of these statistics, which is what is important for us to plan. And indeed, I made sure yesterday to provide a package for every Member of...which included designated driver, list of the road safety material presented - various issues - journey of life and what-have-you and the education process, which is the real answer that we are going to have to rely on. Pedestrian crossing guidelines, pedestrian traffic lights, *et cetera*, and they were all in a package and given.

The road crash analysis as was referred to by one speaker, analyzes the issues we have to look at. And, of course, is deduced by much of the presentation as to how that is impacting on Jamaica. So that in the light of it being a work-in-progress, in the light of making sure I get all the inputs and congratulate the mover of the motion for bringing it to us that I can now be more

specific in terms of what is being answered. The motion:

> AND WHEREAS driver incompetence, indiscipline and incapacity and defective vehicles have been identified as major contributory causes to road accidents...

I gave that analysis in the percentages that I have given, and I'll make available to the Member this sheet which breaks them down in every definitive aspect. And as I said, I question some of the statistics, but which is what will drive or guide me. And I want to pay my respect to Mr. Kenute Hare of the Ministry who has provided me with all of this information and research.

The need for a revised code and appropriate enforcing authority for driver-education and testing. The advanced age of the Road Code and the advances in driver-education locally, we know, needs to be improved. The mandate was to revise the Road Code in 1987 and develop operations manuals for the Island Traffic Authority to form part of the whole modernization of the ITA. The revised Road Code is now in draft format, while two manuals, a learner-driver manual and an instructors manual are complete. Both manuals are being reviewed by the Permanent Secretary for its final approval, as I speak.

The development of these manuals presupposes new activities and responsibilities to be assumed by the Island Traffic Authority. They include the licensing of driving schools and instructors. Also the revised Road Traffic Act is proposing a three-stage learner-driver system.

Stage 1**:** The learner is issued with a earner's permit after he or she passes the Road Code.

Stage 2**:** The learner is issued a provisional driver's licence with specific conditions attached. And this will be valid for one year.

Stage 3**:** On the completion of the year, if all the conditions are met and with no offences against the provisional driver's licence, the driver's licence will be granted.

I cover my words with a-work-in-progress. Because I think one of my colleagues pointed out, and I pointed out the socio-economic problems and challenges you may face in seeking to implement some of what is required would be considered stringent in the context of the Jamaican psyche. The manuals and the new road code will form part of the initial learning process before a licence is issued.

The other one was the need to improve the integrity of the prevailing system of vehicle inspection. The modernization of the ITA is an on-going process, as many changes are being proposed, including the establishment of a Land Transport Authority to include the ITA and the TA and the regulatory arm of the Jamaica Railway Corporation.

The Ministry of Transport, on the instructions of the Prime Minister, has been investigating the possibilities of privatizing or delegating the services of the Motor Vehicle Inspection Services.

To this end the ITA has put together a Paper which was submitted to the Permanent Secretary for review. And that is in the process. The Ministry of Transport, as a measure to improve the integrity of motor vehicle inspection service, has undertaken to modernize the ITA by making it an Executive Agency with a CEO.

The CEO will have the authority to delegate any activity which the ITA does not have the technical competence or the management to carry out. Again, a work-in-progress, to be analyzed, discussed, disseminated and formulated.

This modernization is far advanced as the Ministry under the instruction of the previous Cabinet which I think my colleague will remember was to open discussions with the Ministry of Finance and Planning on the matter of the funding of the modernization process, which then was estimated to cost $454.3 Million in the first three years.

Under the current proposal in the Public Sector Modernization Unit for the merger of some entities, it is being proposed that the MTW establish a Land Transport Authority by merging the Island with the Transport, with the JRC as I have said. All of these are issues that we are looking at against the integrated multi-modal transport plan.

Then the question was the need to consider amendments to the Road Traffic Act which would prescribe mandatory driver, re-education for traffic offenders at the discretion of the court, and (b) provide for the obligatory recertification of all holders of Drivers Licences at intervals of 15 years after issue.

In the years proceeding 2004, the Legislation Revision Committee guided a number of amendments to the Road Traffic Act. For example, driving while intoxicated 1995, Safety Devices Legislation 1999. The Legislation Committee was reestablished in 2004 with a specific purpose of undertaking a comprehensive review of the Road Traffic Law - note my dates, 1938.

Mr. PICKERSGILL: Yes, 1938.

Mr. HENRY: And they made recommendation for it to be updated. Out of the review a draft Bill entitled AN ACT to Repeal and Replace the Road Traffic Act, 2010. In November 2010, it was submitted to the Legislation Committee. It is at the Legislation Committee where deliberations have started and we hope to complete as the Prime Minister has said 2004 is what it should read. I corrected it, it's 2004.

Mr. PICKERSGILL: Yes.

Mr. HENRY: The reeducation of traffic offenders - this is provided for in the Road Traffic Act that we are preparing - drivers, age 65, need to be recertified. There is a widescale objection to that. Not led by me - I am a professional racing driver. (Laughter) My ability excuses me and it's the exception that doesn't prove the rule in this case. (Laughter)

But, there was a widescale objection, sorry, for the Revision Committee, for the age of 65 years may seem discriminatory. It was also concluded by that committee that persons of age 65 were not the ones involved in the road crashes. (Applause)

Mandatory re-certification after 15 years of holding a Driver's Licence. In this regard

the committee felt that at this point in any person's driving experience, drivers would have honed the skills of proper manoeuvring so it would be pointless. Either of the two would not solve the problem of reckless loss of lives. Again, a work-in-progress. One argues for, one argues against. It comes back here finally for our approval.

And it is being proposed that we do more what is called "In Your Face Public Education Campaign" in beginning to prepare us for the change of the attitudes of drivers and other road users. And taking into account, we have heightened the involvement of the traffic management which has formed part of my recent series of meetings. And the Traffic Management Department has been upgraded and will be given the fullest support.

In fact, I am coming here after a meeting with the Commissioner of Police today about traffic management overall and how we have to relook at how the issue is really implemented and resolved. Because, you will note, there are more traffic cops now standing up where we have traffic lights. That shouldn't be. The traffic light should be so connected to have the people move. And if it is that there are interventions in other areas that are affecting it, we must analyze that. And the department has presented me with a full programme for the traffic management.

We have put in place cameras at Half-Way Tree and in one two-week period I heard somebody talking about a million, that's how we picked up by licence plates. Someone with 1,500 tickets immediately outstanding.

This must be linked to the driver's licence plates which must have the security line, that when the cameras at the traffic lights you can pick up the person moving. All of these are being put in place, planned for within the Ministry and the restructuring of the driving habits, the movement of people across the country.

So that basically, I welcome and congratulate the mover of the motion. I think the implementation of everyone here or the suggestions are very important. I'll take them onboard and I will stand ready to see and to exchange at anytime - maybe we may think we should be preemptively working in this Parliament, where perhaps we have a committee that looks at this before it becomes ....to a committee if we are in a hurry. I am quite prepared to seek to find out if I can make that available and circulated, that you get the input before you come to have disagreements on the point. Because I am sure everyone who has spoken and everyone who has said this, is in the interest that we must get the accident ratio down to reduce the impact on the health services. And by extension, in the world today, every five seconds a child dies from a motor accident, that's the world overall.

Mr. PICKERSGILL: Yes.

Mr. HENRY: So if we add up the time that we have spoken, we can think of how many children have died. So, it's important that we address it, but it's important that we educate the persons, equally. My job yes, is to see that the sidewalks are improved. Our job is to ensure that pedestrians know- in the world out there they have started to cross the road diagonally rather than across. They have tested that I think in London and found it very successful. So that, basically, there are a lot

of things we have to address, but in the context the Ministry will take onboard everything that is being offered to us and we leave it as open for any further suggestions or recommendations. And I congratulate the mover of the motion and I hope I have done as much credit to it, because I would have been able to answer a lot more if I had known we would have widened the whole aspect.

Thank you very much, Mr. Speaker. (Applause by both sides)

The Actg. SPEAKER: Mr. Kellier.

Mr. KELLIER: Thank you, Mr. Speaker. I will be very short with my intervention.

First of all I wish to also thank the Member from Central Kingston for bringing this motion to the House. I think it's very timely and very important that we should settle all the matters relating to the problem that he has identified.

However, Mr. Speaker, I wish to just pose a few questions here, because incompetence, driver incompetence is the first thing that is identified in a slew of things that the Member mentions in this - the penal incapacity and defective vehicles and so on. So let us start at the beginning, driver incompetence, because I think that the majority of the things that revolve around the causation of accidents have to do with driver incompetence in one way or the other.

Now, what is the cause of all of this? We need to examine whether or not the contributory factors to this situation has to do with what happens at the Examination Depot, Whether or not there is any level of corruption, and I say so very seriously,

corruption at the level of the Examination Depot. And if we have identified that there is a high level of corruption at the Examination Depot, that gives cause, gives rise to the incompetence, because if a man don't have a licence he is not supposed to be on the road. So we are not talking about people here now who have created accidents that are not licensed. We are talking about people who have a licence, supposedly valid licence, how did that person come by that licence. Must have come through the Examination Depot one way or the other.

So it means that if incompetence has been identified as the primary causes among the causes outlined here, then we need to zero in more on those who operate the Examination Depot, the persons who are in the category that we call examiners, that is where we need to zero in, Mr. Speaker. Because, if we do all the mandatory testing and the reeducation and all that, and recertification of holders of licence and all that, it's the same people we are talking about that is going to be responsible for doing the recertification of drivers. So if a man give a man a licence that him not supposed to have, is him same one gwine have to recertify him when the time come. So the problem will still be there at the end of the game.

I would want to see when we get to the level of the committees that we discuss this matter of what goes on at the Examination Depot and how we treat what is perceived, maybe real or maybe not real, the corruption that exists in the depot. That is where the crux of the matter is, because if you don't get a licence, you are not supposed to be on the road.

So all the things that we have identified, the discipline, again, it goes right back there. So, you know, the whole business of giving a man a licence who can't read, when him reach to the sign him really don't know if it sey or it sey go you know. Again, it's the fault of the Examiner for giving the man a licence who caan read.

So you see, Mr. Speaker, while we castigating the rest of the society on this problem, the root cause of the problem lies in the Examination Depot. And I would have - well, I guess by the time it gets to the committee stage, we can make the necessary amendments and proposals there, but that is what I have identified. The Minister has said that 70% of the problem, 70 has to do with driver indiscipline, and that is something that you have to take into consideration.

The way that we have to go about rectifying this problem, Mr. Speaker, is really not an easy thing to answer. And while we have to do it, it is going to take some amount of courage because it is full time that we call a spade a spade in relation to this problem.

We have known for years that there is this breakdown in what happens at the Depot, and I am very passionate about it. Because there are some people that have to go to the depot four, five, six times to get a licence and some people don't go at all and get a licence. So, you know, that to me is where we have to act. And this Corruption Prevention Bill that we have, I wonder whether or not we have extended it to look at some of these situations, because to me, part of the greatest miscarriage of justice in this country takes place in an Examination Depot. And a lot of people who have died have died because of the corrupt action that has taken place in there. We must call a spade a spade. So we need to do more and the Minister needs to come here as well and tell us - not that we divesting this thing out to some - because there is some proposal from we were in government that we should divest the passing of vehicles into private hands. That is not going to solve the thing. That is not going to solve it. We need to ensure the integrity of the persons who are in charge of the Examination Depot to give people licence because they qualify to get a licence. We need to get to that stage when we have to insist, we have to insist...

(*Sotto voce* comment by Government Members)

Mr. KELLIER: Well is fulltime now. No matter bout the 18 years, is full time now we rectify it. We have to insist on that, Mr. Speaker, the integrity of those who operate the depot.

So while I support the motion in its general principle, and as I say when we get to Committee stage we will be able to go into deeper discussion as to how we should formalize a proposal that can reach to a Bill or some sort of resolution that will change the system for the better

I just want to thank the Member. But, as I said, Mr. Speaker, when I started, I am very passionate about us zeroing in on the Examination Depot, those who operate the system. That is the root cause. Ah not blaming the people who get the licence, I am blaming the people who give it to them, because if you never give a man a licence im couldn't go out there. And a licence is like a licence to kill, when you give a man who

caan read a licence, and you say drive. And we know it is happening so you must call a spade a spade.

Thank you.

The SPEAKER: Thank you, Mr. Kellier. Rev. Thwaites.

(*Sotto voce* comments)

Rev. THWAITES: Mr. Speaker, I am very, very grateful for all the contributions to this motion. Without any presumption, can I say this is how the House should operate? Look at this, sir; we have taken, after much delay, a simple motion with some suggestions, by no means covering the totality of the issue, only a part, and we have treated it with, I think, certain amount of depth and certainly a clear comity among all Members.

And very importantly, Members have had the chance at this juncture, to indicate aspects of policy, which we have a right to. And as - I hope you will allow me to amend the motion to refer it to the appropriate committee when I close. And we are very grateful for the Minister's unsolicited suggestion, but very important one, that he would have the existing work that has been done on the broad issue of Road Traffic Reform available to that Committee, so that the full input of the representatives can be had before a draft is brought before legislative committee.

This is how we are to do it. This is how good law is made. It doesn't come from on high. It involves the widest possible participation. And so, I commend the process as well as the content of what has been said here today.

I would just like to clarify very briefly; very glad to hear that the revised code for driver education is in the making. And I certainly, want to associate myself with a system of testing which would, as far as possible, involve simulation that would be very helpful, and appreciated the analogy of the Minister of Education of the driver being similar to the pilot. And, I ask the question *apropos* to the other sections of the Resolution, Mr. Speaker. Which pilot, yes, can, no matter how successful he is, can hold his licence for more than a very limited period without re-testing? And, with regard to the amendments to do with driver re-education, I specifically put it this way, and would consideration of the House of it.

The mandatory driver re-education would be in the nature of a prescribed penalty. Where the discretion of the Court would arise, is only in terms of the specific offences that a Judge felt that whatever the offence a person came before them, if it involved a measure or a conduct which indicated either incompetence or indiscipline, as opposed to any other circumstance, that is when this mandatory re-education would play a part. So, I understand the capacity for confusion but I would like to explain that was the thinking.

And secondly, with regard to the re-certification of holders of driver's licences at intervals of fifteen years after issue, I have no doubt it is true that older drivers may be more careful. This provision was put in there as a health concern. Mr. Speaker, my eyesight is not what it was when I got a driver’s licence. Many of us pick up bad habits during the elapse of time. And therefore, it is quite reasonable to have a health check up, just again as the pilot or the ship's captain is obliged to do when one is piloting such an

important piece of machinery as a motor vehicle.

I understand that there is a system - a computer system again which can be used very efficiently for vehicle inspection and for certification. And, I would have thought that we would wish to try that, and to ensure that we explore this fully before we did anything otherwise, by way of privatizing the process. But, that is something that we will have the chance to work out when it comes to Committee.

So, once again, sir, I am glad that we have had the chance to, in the kind of dispassionate and with a high degree of unanimity and good suggestions, deal with this matter. And I would ask that the Honourable House express its approval of the motion. And I would ask you, Mr. Speaker, if you would guide us through the approval of an amendment to it which would read that:

> BE IT RESOLVED that this Resolution - this Motion be referred to the Committee on Infrastructure for further consideration.

Mr. HOLNESS: On a point of order, Mr. Speaker. Just to be clear. Is the Member asking that the Resolutions - the prayers as stated here, in terms of 1, 2 and 3...? We have no difficulty with 1, the need for the revised code, the improved integrity of the prevailing system. But 3 would have to have some amendments. So, I would suggest that you take out, Member, the specific intervals and leave that to the discretion of the Committee to determine.

(*Sotto voce* comment)

Mr. HOLNESS: So….yes, but we wouldn't want to go there with a prescription, and then… and the same thing regarding mandatory driver re-education.

Rev. THWAITES: Surely, Mr. Speaker, I will be happy to accept those suggestions.

The SPEAKER: Sorry... go ahead again...

Rev. THWAITES: I am happy to accept the suggestions of the...

The SPEAKER: That we remove the -

Rev. THWAITES: So, we would remove the…from 3(a), we would remove the word…

The SPEAKER: From 3(a)...

Rev. THWAITES: …mandatory... take out the word mandatory. And in 3(b), rather than at intervals of 15 years… at specific intervals…

A MEMBER: To be determined.

Rev. THWAITES: …to be determined.

The SPEAKER: And I think we should refer it to the Human Resources Committee.

Rev. THWAITES: No.

Mr. PICKERSGILL: Infrastructure.

Rev. THWAITES: It must be Infrastructure.

Mr. PICKERSGILL: It must be Infrastructure.

Mrs. NEITA-HEADLEY: Infrastructure.

The SPEAKER: Infrastructure and Physical Development Committee.

Rev. THWAITES: Surely, sir.

(Cross talk)

Mr. PICKERSGILL: No.

Rev. THWAITES: I am proposing that amendment, sir, please.

Mr. HOLNESS: On a point of order, Mr. Speaker.

The SPEAKER: Refer it to the relevant committee then. (Laughs)

(*Sotto voce* comment by some Members)

The SPEAKER: My understanding is that this has more to do with Human Resources rather than actual Infrastructure.

Rev. THWAITES: Clearly not, Mr. Speaker.

Mr. PICKERSGILL: It has to do with roads; it has to do with physical development, and infrastructure.

Rev. THWAITES: The Ministry of Works and Transport.

(Cross talk)

Mr. PICKERSGILL: No, but the Act that is being looked at now is under that ministry.

Rev. THWAITES: Don't be narrow.

Mrs. HAY-WEBSTER: No, it has to do with the traffic system.

Dr. BARTLETT: It is a sociological problem.

(*Sotto voce* comment/Laughter)

Mr. HOLNESS: On a point of order. I can see the arguments on both sides, Mr. Speaker. But, in terms of the - if we were to effect this, the Ministry that would give effect to it would have to be the Ministry of Transport and Works…

MEMBERS: Yes.

Mr. HOLNESS: …which would suggest that from the start we would best place it in the Committee that suits that. So, I would suggest, Mr. Speaker, that it stands referred to the Infrastructure.

(*Sotto voce* comments)

The SPEAKER: The referral then that we would add, Members, will be to the Infrastructure Committee, fine. And so there are three amendments; the two to 3(a) and 3(b), and then to further referral.

Okay, so, may I just put the amendment.

Put the House and agreed to.

The SPEAKER: I now put Motion Number 15 as amended.

Put to the House and agreed to.

(*Sotto voce* comments)

Mr. HOLNESS: Mr. Speaker, I would like to re-commit the item, Notices of Motions Given Orally.

The SPEAKER: Members, the motion before us is for the suspension of Standing Orders to allow the recommittal of the item Notices of Motions Given Orally.

Put to the House and agreed to.

NOTICES OF MOTIONS GIVEN ORALLY
(Recommitted)

The SPEAKER: Mr. Montague**.**

Mr. MONTAGUE: Thank you, Mr. Speaker.

Mr. MONTAGUE: I beg to give notice that at the next meeting of the House, I will move to introduce and have read a first time, a Bill entitled:

AN ACT to postpone the holding of a General Election under the Parish Council Act and for the purposes connected therein.

(Heckling)

And a Bill entitled:

AN ACT to postpone the holding of a General Election under the Kingston and St. Andrew Corporation Act for the purposes connected therein.

(Cross talk)

Mr. PICKERSGILL: The third time you coming with that.

The SPEAKER: Going back to Public Business...

Mr. HOLNESS: Mr. Speaker...

Rev. THWAITES: Mr. Speaker, would the House Leader allow me to correct one omission. I wish to record that on this motion regarding changes to the Road Traffic Act, considerable assistance was done by research provided for me by the interns of the Department of Government at the University. I want to thank them and also to recommend their services to other Members that whenever there is a subject that needs deeper enquiry than we individually have the time, or maybe the capacity to do, their services are available through the auspices of the Clerk.

The SPEAKER: Thank you, Reverend Thwaites. And this is something that Members should be aware, that facilities for assistance can be obtained. Just, please contact the Clerk. House Leader.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business today. I therefore move that the House do adjourn until the 15th, next week Tuesday when we will resume our sitting at 2:00 p. m sharp.

The SPEAKER: Members, the motion before the House is that this Honourable House do adjourn until Tuesday, 15th February at 2:00 p. m.

Put to the House and agreed to.

The SPEAKER: (Gavels) This Honourable House stands adjourned.

The House accordingly adjourned at 5:37 p.m. to 15th February, 2011 at 2:00 p. m.

TUESDAY, February 15, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:39 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

DR. KENNETH LEIGH O'NEIL BAUGH, (JLP), St. Catherine, West Central, Deputy Prime Minister and Minister of Foreign Affairs and Trade.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

LESTER MICHAEL HENRY, CD, (JLP), Clarendon, Central, Minister of Transport and Works.

RUDYARD CONRAD SPENCER, (JLP), Clarendon, South Eastern, Minister of Health and the Environment.

DR. CHRISTOPHER CHARLES TUFTON, (JLP), St. Elizabeth, South Western, Minister of Agriculture.

JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

MICHAEL ANTHONY STERN, (JLP), Clarendon, North Western, Minister of State in the Ministry of Industry, Commerce and Investment.

OTHER MEMBERS

MR. GEORGE DELANO ARSCOTT, (PNP), Clarendon, South Western.

DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern.

MR. LUTHER BARTLEY MONTEITH BUCHANAN, (PNP), Westmoreland, South Eastern.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. FENTON RUDYARD FERGUSON, (PNP), St. Thomas, Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. ANTHONY GEORGE HYLTON, (PNP), St. Andrew, Western.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. OTHNEIL DAMION ST. ELMO LAWRENCE, (JLP), St. Ann, North Western.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MR. CLIVE ARTHUR MULLINGS, (JLP), St. James, West Central.

MRS. NATALIE NEITA-HEADLEY, (PNP), St. Catherine, East Central.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. DEAN ALEXANDER PEART, (PNP), Manchester, North Western.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

MR. ROBERT DIXON PICKERSGILL, (PNP), St. Catherine, North Western.

DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern.

THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition.

MR. DERRICK CHARLES SMITH, (JLP), St. Andrew, North Western.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern.

PRAYERS

Prayers were offered by Mr. Desmond Mair.

The House resumed its sitting at 2:39 p.m.

The SPEAKER: Please be seated. This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this afternoon I would like to welcome to Parliament teachers and students from York Castle High School and Meadowbrook High School. Welcome. (Applause)

Please enjoy the sitting of Parliament this afternoon.

STATEMENTS BY MINISTERS

Mr. HOLNESS: Mr. Speaker, the Minister of Energy and Mining has a Statement to make.

The SPEAKER: Thank you.

Mr. Robertson. Please, have you circulated it?

Mr. ROBERTSON: I have shared a copy with the spokesman on energy.

The SPEAKER: But you should send copies to the Leader of Opposition Business.

Mr. ROBERTSON: They are on their way, sir, and they will be circulated immediately.

Thank you, Mr. Speaker. Mr. Speaker, I am pleased to re-announce or to announce the planned restart of operations of UC RUSAL's **Windalco** Kirkvine Works Plant in Manchester beginning July 1, this year. (Applause)

Mr. Speaker, you are aware that I alluded to this fact and spoke to this with a lot of optimism over the last year, once we had accomplished the opening of the Ewarton plant.

(HON. AUDLEY FITZ ALBERT SHAW, (JLP), Manchester, North Eastern, Minister of Finance and the Public Service, entered and took his seat.)

Government MEMBER: Jobs, jobs, jobs! (Laughter)

Mr. ROBERTSON: Mr. Speaker, this follows the restart of operations at the Ewarton plant in St. Catherine last July…

Mr. MONTEITH: Hear, hear!

Mr. ROBERTSON: …bringing onboard over a thousand high-level jobs. (Applause)

Mr. CHARLES: Not one of you over there believed.

Mr. MONTAGUE: Pickersgill, clap.

Mr. ROBERTSON: Mr. Speaker, the very hard and focussed work of the Ministry of Energy and Mining, the Jamaica Bauxite Institute and UC RUSAL continues to pay off.

And I am going to take this opportunity to indicate that we are looking now at what's going to happen with the Alpart plant as we turn to having a full resumption of all our bauxite/alumina refineries.

(DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern, entered and took his seat.)

Government MEMBERS: Hear, hear!

Mr. MONTAGUE: Gwaan yah, young bwoy!

Mr. ROBERTSON: Mr. Speaker, you will recall that operations at the WindalCo Kirkvine Works Plant were temporarily suspended in April 2009 due to cost-cutting measures - and many predicted that that historic plant would not ever reopen. It was closed due to cost-cutting measures linked to the broader global economic crisis then. You would also recall the general devastating effect of the global economic crisis on the bauxite/alumina sector worldwide, and the 15 Bauxite Development Community Councils that we support and the industry has supported.

Mr. Speaker, during the period in which operations were suspended, UC RUSAL undertook measures to ensure that when market conditions became favourable, the

Kirkvine plant could come back on line with increased efficiencies and competitiveness. This included the optimising of the facility's structure, production processes, reducing cash operating cost and making more efficient plant operations.

(DR. PETER DAVID PHILLIPS, (PNP), St. Andrew, East Central, entered and took his seat.)

The planned restart of Kirkvine Works plant will see a massive investment not yet quantified by the Jamaica Bauxite Institute - Even though I have been made aware of a number of figures banded around in the press and in press releases - A total of one thousand jobs, again many of them medium and high-end jobs will come on stream in the areas of engineering, mining, haulage, management and the new contracting and mining operations, which will be in the hands of local contractors this time around.

(Applause)

Mr. PICKERSGILL: What kinda Statement dat? Is a campaign Statement.

(*Sotto voce* comment by Dr. Davies)

Mr. ROBERTSON: Yes, but you have a draft. Check against delivery.

Mr. CHARLES: Yuh doan hear anything yet!

Mr. MONTAGUE: Aoh!

Mr. ROBERTSON: The multiplier effect to the economy and people of Manchester and the surrounding parishes is even more significant.

Mr. BUCHANAN: You announce an election.

A MEMBER: Yuh hear, Mr. Peart?

Mr. ROBERTSON: Mr. Speaker, over the last year and a half of the closure of this plant many children were unable to finish their education, tertiary education, and the fall-out in these communities paid a great toll. And to their Members of Parliament who had to standby using their Constituency Development Fund, I understand why they love it and enjoy that fund so much.

Mr. MONTAGUE: Hear, hear!
Right, Mikey Peart?

Mr. ROBERTSON: Mr. Speaker, it is noteworthy to point out that the total capacity of Kirkvine is around six hundred thousand tons of alumina per year, whilst the production of the Kirkvine Works Plant for 2011 is planned to be approximately two hundred and fifty-two thousand tons. This means that the plant within six months will be up to full operation capacity. (Applause)

Mr. Speaker, I must however sound words of caution. The planned restart of operations at Kirkvine is subject to the approval of UC RUSAL's international lenders, further discussions with UC RUSAL's partners on the project and extensive Government of Jamaica support.

Mr. Speaker, among the areas that the Government of Jamaica must address is the possible temporary lifting of the bauxite levy for **Windalco** Kirkvine. And I point out that section 6 of the Bauxite (Production Levy) Act states clearly that

> "*the Minister may, upon application of any person liable for payment of any production levy, if he is satisfied that it is just and equitable so do, waive, remit or refund such levy in*

whole or in part and any such waiver, remission or refund may be subject to such conditions as the Minister may see fit to impose".

And I was quoting. And it has to be gazetted.

I will point out though, Mr. Speaker, that any attempt to offer a waiver will be done through the Jamaica Bauxite Institute, the Ministry of Finance and Cabinet. We will have no shortcuts and we will make no costly decisions here. They will be well weighed.

Mr. MONTAGUE: Hear, hear!

Mr. ROBERTSON: Mr. Speaker, there are about eight other major issues that have to be resolved in short order; and resolving issues pertaining to the US$18 Million debt owed by JBI, Jamaica Bauxite Mines, to **Windalco** and UC RUSAL as a result of old supply contracts, production and restart costs of Ewarton is one such major issue to be resolved. The rehabilitation of the railway tracks from Port Esquivel to Kirkvine is another such major issue with huge cost.

Resolving the sale of 7%, the Government's 7% of shares in **Windalco** owned by Jamaica Bauxite Mines along with old supply contracts with Glencore is another major issue. Assisting in power projects for **Windalco** Plants including the leasing of lands along railway tracks for growing biofuel, research and development sharing with Jamaica Bauxite Institute, licences and carbon trading credits – carbon credit trading is another such issue. We also - the Government must -- the Ministry and Jamaica Bauxite Institute must monitor and collaborate with NEPA on the dredging of Port Esquivel. The environmental issues there, we are paying close attention to. We must also assist in the hiring of local mining

contractors for Kirkvine Mines, as the spokesman is well aware that at the closure the mining was being done through an international company and this is a matter that will have a lot of positive spinoffs for the people of Jamaica.

Mr. MONTAGUE: Hear, hear!

Mr. ROBERTSON: The truckers, the small business operators who want to play their role.

Also we have been able to secure five scholarships to Russian universities at RUSAL's expense. (Applause) And that is a major highlight of this.

Mr. PICKERSGILL: You accept scholarship?

Dr. DAVIES: Can go in for post grad.

Mr. ROBERTSON: Because you will be well aware that the Kirkvine Plant had a major challenge in the type of bauxite it could process and the type of reserves that were - it had access to, referred to as yellow bauxite. The UC RUSAL does have new technology which is being put into that plant.

Mr. Speaker, let me close by saying, we are committed to ensuring that the best interest of Jamaica is advanced at all times and will continue to work untiringly towards the full resuscitation of the bauxite and alumina sector. Thank you.

(Applause)

The SPEAKER: Thank you, Minister Robertson. Mr. Peart.

Mr. M. PEART: Thank you, Mr. Speaker.

This announcement on the face of it is welcome news, especially not only for

Jamaica but specifically for Manchester. But,

Mr. Speaker, I just have a couple of questions with regard to the numbers stated by the Minister.

(*Sotto voce* comments by Government Members)

Mr. M. PEART: The Minister mentioned that the planned production level would be approximately two hundred and fifty-two thousand tons per year.

Mr. D. SMITH: Look on the paper, don't misquote the man.

Mr. M. PEART: No, no. It could be an error in this.

Mr. D. SMITH: He said up to six months.

Mr. M. PEART: Oh! Okay. Because two hundred and fifty-two thousand tons per year, Mr. Speaker, would mean that the plant would be running less than half of its rated production. And as we all know, in the alumina plant if you are not up or near to full production you have a problem in terms of efficiency and cost per ton.

With regard to cost per ton, Mr. Speaker, the Minister mentioned the figure, 1,000 people to be employed. Now, that is hardly likely to be a reality because the three critical costs that have to be watched in the production of alumina in these plants is labour, energy – the Minister mentioned nothing about energy – and the actual mining cost.

Well, it was demonstrated – it has been demonstrated in JAMALCO that local contractors doing the mining is more efficient, and cost less than using expatriate mining companies. So, I wonder if the Minister could just clarify for us if there is anything specific with regard to energy, because as we know the energy is – the cost of fuel oil has been creeping back up, and it is actually in the ballpark of $90 per ton now, to $100 – per barrel.

The SPEAKER: Minister Robertson.

Mr. ROBERTSON: Thank you.

I did indicate to the Member that you should check on delivery. It is the seven-month period, July 1st – over the seven-month period, 252 tons. So, just cross out the last two words at the end of that sentence. That's relevant to that.

The Member is correct – the Spokesman on Mining is correct. Labour, energy and mining cost – and in energy you also just factor in the caustic, at the same time because they are linked, caustic soda. You are correct. I could make reference to a letter January 12, 2011, written by the Country Manager, and I can share the letter with you: …where we highly appreciate the efforts of your Ministry, 'in promoting the natural gas LNG project.' And we sincerely hope that we will be able to be a part of it'. And I can make that. So, they are… UC RUSAL and WINDALCO are waiting on the LNG project to come onstream to make this plant sustainable. And they are embracing. I also indicated on the energy side that they were looking at bio fuel, leasing land for roughly – for bagasse use, to burning, and they were doing an RND project which is in that.

In terms of the mining cost, you are correct. The local mining operators have proven themselves using smaller vehicles, in terms of the infrastructural cost, as being very cost effective. So, those were the three points. Thank you.

The SPEAKER: Mr. Bunting… sorry.

Mr. M. PEART: One other point, Mr. Speaker. The announcement is that the Plant should be resuming operations June/July. But there is the statement that it is subject to the approval of international lenders. There is an element of risk.

(*Sotto voce* comments)

The SPEAKER: Is that a comment or you want a response…?

Mr. M. PEART: The point I am making, Mr. Speaker, is that there is an announcement of the Plant starting, and then there is a rider tat it is subject to approval of international lenders.

The SPEAKER: Yes, yes, yes!

Mr. M. PEART: And the question is, if you don't get the approval, what next?

The SPEAKER: It collapses. (Laughs) Mr. Robertson.

(*Sotto voce* comments)

The SPEAKER: You want to comment on, or…?

Mr. ROBERTSON: Once again, I indicated that the lease came from UC RUSAL, and I will share that with you… I am surprised he did not see that. It was on… I will also share the release. The Board of UC RUSAL has approved the opening… (Inaudible) subject to the international lenders. (Inaudible) And I indicated we were supporting the physical requirements of… (Inaudible) …subject to the Ministry of Finance for approval. So, in light… (Inaudible) process, you must… (Inaudible)

Mr. M. PEART: Mr. Speaker, the reason I asked the question, you know, as we all know UC RUSAL has been going through a very tough period of time over these past two years. In fact, at one time there was the question as to their survival in the present form, or if there would be a breakup, or if there would be an intervention by the Russian Government.

The SPEAKER: So, we hope for the best.

Mr. SHAW: (Inaudible) You want it open back or not?

(Cross talk)

The SPEAKER: Mr. Bunting.

Mr. BUNTING: Mr. Speaker.

The SPEAKER: Mr. Bunting.

(Cross talk)

Mr. BUNTING: Mr. Speaker…

The Minister mentioned… the Minister mentioned that the issue of a waiver for some period of time, of the bauxite levey, is on the table for negotiation. At the time that the Committee on Economy and Production, Mr. Speaker, met – and we have a Report which has been on the Table now for a couple years to be debated. But, one of the concerns raised at that time was that the way the original agreement was done with the bauxite companies left a massive unfunded liability outstanding, which would have to be picked up by the Jamaican Government and people, in terms of the rehabilitation of the mined-out land. There were always many, many hectares behind, and in an era when we are much more sensitive to environmental impact and potential environmental damage, would the Minister be willing to use this opportunity of the re-negotiation to consider having the companies fund the cost of rehabilitation, which they are on the line for anyway – and I know the Minister of Finance is listening keenly to this, because it would make sense

from a fiscal standpoint as well – the companies fund the cost of rehabilitation, foot the cost of rehabilitating a particular acreage as they mined it.

(The Speaker left the Chair and the Deputy Speaker presides)

As they are mining and they are incurring the revenues from that mining, that the corresponding expense, the matching expense which is the cost of rehabilitation, be put into some sort of escrow with the Government that in the event that for whatever reason the company is, down the road, unable to perform – because we have seen no rehabilitation taking place, Madam Speaker, in Central Manchester for the last couple years of the lands that Kirkvine was mining.

And this is a huge risk that the Government and the people of Jamaica take, by allowing billions of dollars of unfunded liabilities to be built up by the bauxite/alumina companies. And this was by agreement which was made forty years ago, or fifty years ago, but which is a very real and present risk now.

And if we are going back to the negotiating table, and they are asking us to give up something, which is the bauxite levy which by agreement they are supposed to pay, then perhaps we could use the opportunity, Mandam Speaker, in those negotiations to ask them, can we now fund the liability as they earn the revenue from the mining, the corresponding expense for the rehabilitation of those lands, that it could be put into an escrow which they can draw on when they are doing the rehabilitation, or if something happens to the company and they go out of business, or become insolvent, at least the Government would then have those funds to do the rehabilitation so that the citizens and the community would not be left exposed?

Mr. BRODERICK: Good news for Central Manchester now.

Mr. ROBERTSON: We thank the Member from Central Manchester for his concerns. Let me just indicate that we have been working closely with these companies and to good results. The spokesman on Mining is aware that even in the shutdown period for Alpart, a lot of reclamation work has been done.

(*Sotto voce* comments)

Mr. ROBERTSON: Yes. And also, let me indicate that I personaly have visited the mud lake reserves storage areas, and the maintenance of them, so I am going further than you were going. I am looking at both the reclamation and the mud lakes. They were properly maintained. We went through two areas – two times of serious rainfall and drought – extremes, and we did not have any catastrophes as we saw in Europe. But, your point we do take on board.

Let me just indicate also, that I am aware that one of the areas where lands has been not reclaimed for a long period of time, the Mocho area, a lot of good work had been done over the last 24 months in that area in terms of reclamation. But, we take your points on. It is not the first time you have raised your concerns.

Thank you.

The Deputy SPEAKER: Dr. Davies.

Dr. DAVIES: Thank you. Through you, Madam Speaker.

Minister, you have listed – well, the other Members wouldn't have seen it, but you have

listed eight issues to be dealt with on even importance – varying importance. But I want to focus on a couple. One is the temporary lifting of the levy. Is it that they have agreed, even before the concession has been made, or the concession has been made subject to details, one?

And secondly, there is – Number 4, the sale of the seven per cent (7%) of shares in WINDALCO, is this an agreement in principle subject, or it is just an idea being discussed?

Mr. ROBERTSON: I will take the last one first. That's just what they have put on the table. They wished to discuss the purchase of the seven per cent (7%). So, it is an unsolicited offer that's coming from them that they have put in writing.

In terms of the levy, they would make an assumption because of what was done, in terms of Ewarton and Norando. It would be falling under what would be referred to as the most favoured nation clause where whatever you do for one they would expect you to do for other and for all. So, that's your answer.

(The Speaker returned to the Chair at 3.06 p.m.)

Dr. DAVIES: So, it is a little stronger than possible.

Mr. ROBERTSON: Yes.

Dr. DAVIES: In summary, Minister and clearly, the Opposition welcomes the re-opening of the Plant.

Mr. MONTAGUE: Hear, hear!

(Applause)

Dr. DAVIES: In summary, we are doing this for the income, for the employment, *et cetera*, because essentially, you are putting aside the levy and you are making other concessions. So, it's just to get back in the industry and for the employment, in summary.

Mr. ROBERTSON: I have no – I would accept your analysis, that's one, and your observation, but I would also indicate that if you leave a plant like this sitting idle for too long, you will come back and find absolutely no value, as the maintenance of it would not be – it's not the same as when you are not – as when you are operating, that's one. And two, as I did indicate, the bauxite, the good word of the bauxite task force, work done by Dr. Davies – another Dr. Davies, indicated that….

A MEMBER: A bright Davies!

Mr. ROBERTSON: A good man.

(Laughter)

A man who has taught many of us well.

(Laughter/*Sotto voce* comments)

Mr. ROBERTSON: It's your own brother and you said that?

(Laughter/*Sotto voce* comments)

Mr. ROBERTSON: I said many things. …indicated – also indicated – the studies indicated that with the availability at the doors of our refineries, their existence would be sustainable, and they would no longer be seen as swing plants for when the world economies and the bauxite/alumina – alumina markets go up and down, and dip, we would not see an opening and closing; we would have truly sustainable refineries.

The SPEAKER: Mr. Fitz Jackson.

Mr. JACKSON: Through you, Mr. Speaker, Minister, I want to, at the outset, welcome the news of the re-opening for the obvious advantages that it provides… but I have two concerns.

Mr. MONTAGUE: Congratulate the Minister.

Mr. JACKSON: I congratulate all efforts that are successful.

(Laughter)

Mr. MONTAGUE: Congratulate the Minister.

Mr. JACKSON: Minister…

(*Sotto voce* comments)

Mr. JACKSON: (Laughs) Congratulations Minister.

Government MEMBERS: Aaahhh….!

(Applause)

Mr. JACKSON: Whatever that can help. Minister, it has come to my – I have gotten information that the normal mining practice is that the rich areas are mined with other less-rich areas. It's a balanced way. And the reasoning behind that is that the pool of national resource in that regard is depleted in a very even basis.

Mr. JACKSON: However I've learnt that in recent times the mining practices have varied and the more potent areas are being mined and the less potent areas are not being mined. The consequence of that practice, I'm told, if allowed to continue, will mean that only the rich areas will be exploited now and the less rich ones will be left unmined and not be attractive for further investment.

Can you assure this House, Minister, that through your good efforts, your Ministry, that that practice of ensuring that our natural resources are depleted in an even way, so that in the end we can maximize the benefits that reside in them?

Mr. ROBERTSON: The simple answer to that is yes. And I will also indicate that UC RUSAL has and will be putting in new technology, which will also make our reserves accessible, or the reserves that, for example, Kirkvine can have even greater, in terms of during this restart period and the future. And I think that that is something that is very important. It is - we will always look forward to the new technology being put into that Kirkvine plant along with an energy fix.

Mr. JACKSON: Minister, I want to be specific. The mining practice to which I make reference exists outside of those areas served by the Kirkvine plant. In fact it relates to the mining operations that are now going. I also I'm aware, that there are needed technology to improve the yield from the kind of bauxite that is in the area served by Kirkvine. I'm speaking specifically of those less productive mining areas outside of the Kirkvine zone, or the quality of bauxite that is in that zone.

Mr. ROBERTSON: Yeah, I spoke specifically to Kirkvine because that is where we, over the years, have had the most concern, was the yellow bauxite of Kirkvine. In terms of going and looking at the other two plants that are presently opened, the answer is yes. The Jamaica Bauxite Institute gets a mining plan and it is the Bauxite Institute that knows exactly what areas, what pits have the high yielding low and it is for them to monitor.

And your concern is real and we will take it on board.

Mr. JACKSON: Can you say - is it the case that the Jamaica Bauxite Institute approved those mining plans, or is it left to the bauxite company to determine which

areas in the mining plans that approved?

Mr. ROBERTSON: The Jamaica Bauxite... (Inaudible)

(Inaudible comments by Mr. Hylton)

The SPEAKER: Turn on your mike now, Minister.

A MEMBER: No Jim screechie buoy!

The SPEAKER: Yes, Ms. Hanna.

Ms. HANNA: Minister, could you give me any updates on the - while it is related to your opening of that plant - could you give me any updates on perhaps the reopening of the Lydford Plant and what the Chinese - if there is any advances with the Chinese, in terms of the plant in Lydford?

Mr. ROBERTSON: No, I'm not going to give any information at this time on that, it is something that we - a member of the Jamaica Bauxite Institute visited late last year, Ming Metals, and we are waiting on them to come to the island to start and to continue their research and development. We expect to be able to make announcements very soon on that.

I've said very little on ALPART and the Greenfield Plant, I still refer to that one as a Greenfield operation.

ANNOUNCEMENTS

The Clerk laid on the Table of the House today copies of the following:

- Ministry Paper No. 11
  Cabinet Agenda Issues for 31st January, 2011
- Commission for the Prevention of Corruption
  Annual Reports for the financial years 2007/2008, 2008/2009 and 2009/2010
- Office of the Children's Advocate
  Annual Report For the fiscal year 2009/2010

BILLS BROUGHT FROM THE SENATE

The Clerk read a letter from the President of the Senate.

To the Honourable House of Representatives:

"I have the honour to advise the Honourable House of Representatives that on the 11th day of February 2011, the Senate agreed to the House of Representatives amendments to the Bill entitled, "AN ACT to Encourage and facilitate the making by employees to specified disclosures of improper conduct in the public interest; to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct; to protect employees who make specified disclosures from being subjected to occupational detriment and for connected matters".

I also have the honour to advise the Honourable House of Representatives that on the 11th day of February 2011, a Bill entitled, "AN ACT to Amend provisions relating to penalties and monetary obligations in legislation relating to certain health and allied professions and services and for connected matters", was passed in the Senate.

Signed: Oswald G. Harding,
President of the Senate"

NOTICES OF MOTIONS GIVEN ORALLY

The PRESIDENT: Mr. Charles.

Mr. CHARLES: Mr. Speaker, I beg to give notice that at the next sitting of the House, I will move to introduce and have read a first time, the Bill shortly entitled, The National Insurance (Validation) (Amendment) Act, 2011.

QUESTIONS AND ANSWERS TO QUESTIONS

The SPEAKER: Mrs. Portia Simpson Miller.

Mrs. SIMPSON MILLER: Thank you, Mr. Speaker.

I beg to move that at the expiration of 21 days I will ask the Minister of Youth, Sports and Culture, the following questions:

Question 1: Will the Minister indicate whether an allocation was made by her Ministry to facilitate preparation for the hosting of the CONCACAF Under-17 Soccer Tournament?

Question 2: If the answer to No. 1 is in the affirmative, would the Minister indicate the amount allocated and the agency through which the allocation was made?

Question 3: Will the Minister indicate whether any amount from any allocation made was specifically earmarked for preparation of the Trelawny Multi-Purpose Stadium for the Tournament?

Question 4: If the answer to No. 3 is in the affirmative, will the Minister indicate the amount so allocated?

Question 5: If the answer to No. 4 is in the affirmative, will the Minister indicate the contractor/contractors retained to carry out the prescribed work?

Question 6: Will the Minister indicate what steps have been taken to do damage control internationally so that Jamaica may continue to have the opportunity to host international sporting events?

The SPEAKER: Thank you.

Dr. Davies.

Dr. DAVIES: Thank you, Mr. Speaker.

At the expiration of 21 days I'll ask the Minister of Labour and Social Security to answer the questions which I've listed:

Question 1: Does the Minister recall informing Parliament of his intention to establish a committee which would advise him on an appropriate "liveable wage"?

Question 2: If the answer to No. 1 is in the affirmative, would the Minister indicate whether this committee has been established?

Question 3: If the answer to No. 2 is in the affirmative, would the Minister provide details on the membership, terms of

reference and expected output from the committee?

Question 4: If the answer to No. 2 is in the negative, will the Minister indicate why?

Question 5: Would the Minister indicate the manner in which the committee will solicit inputs from interested individuals and institutions?

Question 6: Would the Minister indicate whether there are provisions for Members of Parliament to have an input into the deliberations of the committee, prior to the submission of its report?

Mr. Speaker, since I'm on my...

The SPEAKER: I think your answer might be forthcoming you know, Dr. Davies.

Dr. DAVIES: Answer to what?

The SPEAKER: You have a question due for answer? Oh, sorry go a...

Dr. DAVIES: No, I was just indicating that I had some questions and the Minister of Finance and the Public Service answered, I think, five of the seven. I received a copy of a letter written to you explaining the reason the other two hadn't been answered, but I just wish to know when.

The SPEAKER: You're awaiting the response for those two?

Dr. DAVIES: Yes, I'm awaiting that so I just would like to know when they'll be available?

The SPEAKER: I don't think he has a timetable as yet, he'll be coming up with them soon.

Dr. DAVIES: Timetable?

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, at the expiration of 21 days I beg to pose the questions in my name to the Honourable Prime Minister:

Question: Will the Government commit to appointing a Commission of Enquiry to investigate the circumstances under which several score of citizens were killed in Tivoli last May?

The SPEAKER: Very well.

Mr. Clarke.

Mr. CLARKE: Mr. Speaker, when is the appropriate time that one can ask the Prime Minister...

The SPEAKER: I think today is a day that we could ask. The Prime Minister will...

Mr. CLARKE: At what time?

The SPEAKER: No, could we just get through the preliminaries, a few questions are being asked - I think three have been asked - but some answers - so as soon as we finish the answers to these...

House Leader.

Mr. HOLNESS: Mr. Speaker, the Standing Orders says that if the questions are not answered by 3:15 then they stand over till the next session. However, Mr. Speaker, we want to answer the questions today so I'll move for the suspension of Standing Orders to allow us to take questions beyond 3:15.

The SPEAKER: The motion before the House is for the suspension of Standing Orders to allow Questions and Answers to Questions to proceed beyond the time of 3:15.

Put to the House and agreed to.

The SPEAKER: Yes, House Leader.

I think, just for the records, the House Leader has indicated to me... Dr. Rhodd, your question was due and Dr. Chang is asking for one more week. Is that agreeable?

Dr. RHODD: One more week?

The SPEAKER: One more week.

And Mr. Clarke and Mr. Fitz Jackson, your two questions were due today, another week is being asked for both questions, one more week for both questions. They were due today, but another week is being asked for both questions.

Mr. HOLNESS: Mr. Speaker.

The SPEAKER: Yes?

Mr. HOLNESS: Just to clarify the position, Mr. Speaker. The Standing Orders require us to ask for the first extension, which is in your discretion...

The SPEAKER: Yes.

Mr. HOLNESS: And then if a further extension is required then we consult with the Member who asked the question and the Speaker. So in the case of the Member from Portland, we've asked for his cooperation and we are grateful for his agreement.

The SPEAKER: No, well we are - basically we should - the House is being asked to approve the extension with the consent of the Members for further...

Mr. HOLNESS: Following the rules.

The SPEAKER: ...one week extension.

Put to the House and agreed to.

The SPEAKER: The other questions, sir.

Mr. HOLNESS: Mr. Speaker, we have two questions ready for answer. The Deputy Prime Minister is prepared to answer questions asked of him by the Member from St. Andrew Western. And the Minister of Transport and Works is also prepared to answer questions asked of him by the Member from Eastern Portland.

The SPEAKER: Very well. We go first with...

Mr. HOLNESS: We'll go with...

The SPEAKER: ...Mr. Hylton.

Mr. HOLNESS: ...we will go with the Deputy Prime Minister.

The SPEAKER: Mr. Hylton, question 29.

Dr. BAUGH: Thank you, Mr. Speaker.

Mr. Speaker, I am grateful to the Member from Western St. Andrew, for his...

The SPEAKER: You have copies?

Dr. BAUGH: Copies are being circulated.

The SPEAKER: Not yet.

Dr. BAUGH: Because I have an opportunity to make a speech as was intimated *sotto voce* comments from the former Minister of Finance. It's just that the questions are very comprehensive and very extensive and so the answers will have to be equally. But I thank him for the opportunity, Mr. Speaker, because the issue of our external relations, especially in relation to trade, is of great importance to Jamaica. And for us to properly mobilise our activities to take advantage of the market access that we have gained from trading agreements, does require an informed population to mobilise people to take advantage of these opportunities.

Mr. Speaker, the first question:

Question 1: Will the Minister state whether or not he is satisfied with the level of preparedness by state institutions as well as the

private sector for the implementation of the historic Economic Partnership Agreement (EPA)?

Answer: No. There are outstanding matters which are still being addressed, including the legislative aspect related to the phased liberalisation of tariffs, under the Economic Partnership Agreement, to ensure that the tariff regime becomes operable. Work on the legislative aspect is currently underway.

Mr. Speaker, just to point out that the effort to take advantage of these agreements does require not only mobilisation, not only legislation, but the whole question of motivation of our private sector; this refers to the private sector as well. And the following decades of stagnation, decades of the opportunities for risk-free investment in Government securities, we've got to a critical juncture where it requires a cultural change and a cultural transformation for our people to take risks, to get involved in enterprises that diversify our economic base for the production of goods and services for export to take advantage of these markets.

Now we are at a stage where there has been significant macroeconomic achievement stabilising our economy, it has created a platform for us to build on this platform, to improve our productivity, to improve the availability of productive enterprises to take advantage of those trading agreements.

Mr. Speaker, in reality the implementation of the EPA commenced upon conclusion of the negotiations as of December 2007, as the EU - the European Union - continued to accord duty-free access into its market in accordance with the duty-free/ quota free market access provision for CARIFORUM States, offered by the Economic Union in the negotiations and included in the Agreement in Articles 14 and 15.

Mr. Speaker, we always did have that access, that access is there at all times for us to take advantage of. Jamaica commenced provisional application of the EPA on the 29th of December 2008, in accordance with Article 243.3.

The services provisions of the EPA, in Articles 75 through 118, particularly Article 76, on Market Access, were not subject to a moratorium, and thus became eligible for implementation when the Agreement was signed on the 15th of October, 2008.

Regarding the liberalization of tariffs on goods, in our market, in the CARIFORUM domestic market, there was a general moratorium for three (3) years; and for motor vehicles and parts the moratorium is for ten (10) years. For other duties and charges, listed as ODCs, it is for seven (7) years, in accordance with Article 16.4. The three-year moratorium came to an end on January 1, 2011, this year, Mr. Speaker.

Effective EPA implementation requires addressing the implementation of all trading agreements to which Jamaica is a party, such as with the World Trade Organization Agreements, the revised Treaty of

Chaguaramas, all of which form an important part of Jamaica's trade policy framework. The priority is to modernize Jamaica's trade regime, and increase production of goods and services to position the country to trade under all trade arrangements. In this regard, there is still much work to be done.

I think the Member from Western St. Andrew, the former spokesman - the former Minister of Foreign Affairs and Foreign Trade, is well aware of the TPR, which was recently conducted in Geneva, that is the trade policy review done by the World Trade Organization. We had a discussion this morning on one of the public radio stations, concerning this matter, where our performance, in terms of trade policy, in terms of implementation of trade policies, in relation to our trading partners across the world, came under very intense review. And this was the third one, as he pointed out in his presentation, the last one being 2005. It was felt by all those who participated - some twenty (20) countries participated in the discussion - that in fact there was much improvement, in relation to Jamaica, since the last Trade Policy Review in 2005.

It must be remembered, Mr. Speaker, that there were solid, legal reasons for entering into the EPA negotiations. And these were set out - and the Member well knows this, as I believe that he took part in it at that stage - set out in the COTONOU Agreement which followed the LOME 1 to 4 Agreements. Articles 36 and 37, which require States to negotiate new trading arrangements to establish compatibility with the World Trade Organization - in Article 37, in particular, the EPAs were to be negotiated and completed by the 31st of December, 2007.

So that when the COTONOU Agreement was signed there was an inbuilt mechanism for us to move towards dealing with reciprocal arrangements rather than preferential arrangements into Europe, reciprocal arrangements, which have materialized in the form of the Economic Partnership Agreement with Europe.

Question 2: If the answer to Part 1 is in the affirmative, will the Minister state clearly the basis on which he arrives at this conclusion?

Answer: Mr. Speaker, the response to Question 1 is not in the affirmative.

Question 3: If the answer to Part 1 is in the negative, will the Minister state the measures and strategies to be implemented in order to assist the Jamaican private sector, in particular, the Micro Small Medium Enterprises, (MSMEs), to take advantage of the possible benefits under the Economic Partnership Agreement?

Answer: First of all, Mr. Speaker, The National Development Plan, the first long-term plan that we have developed, called Vision 2030, which focuses inter alia on creating a stable macroeconomic environment and an enabling business

environment, that is the first. Because I believe that more and more people, especially people in the private sector, should become aware and should utilize that Vision 2030, which, Mr. Speaker, is an excellent document which sets a framework and a road map and brings focus to the kind of activities that can be undertaken to improve Jamaica's capability of taking part in these trading agreements.

Secondly, the National Export Strategy, which is linked to Vision 2030, is aimed at building trade capacity to increase exports. And I took the opportunity when I was in Geneva, to make sure that our National Exports Strategy, developed by the Ministry of Investment, Industry and Commerce, with the assistance of the Economic Union, and also the assistance of the International Trade Centre, (ITC), that indeed, it's a good document, and brings again focus and attention to value chains activities, integration of MSMEs with larger companies, value chains in which people can take part, to end up in production not only for our domestic consumption, but production that can link us up to activities in the region and internationally.

Thirdly, the National Aid for Trade Strategy, which is currently being formulated with the assistance of the Inter - the IDB, the Inter-American Development Bank, to ensure that Jamaica can increase the level of international resources which are available, to increase trade capacity. In this regard, a Technical Assistant Desk Audit was done to identify technical assistance gaps, which will require funding. This desk audit has been taken into account in the preparation of the National Aid for Trade Strategy. This test audit was done somewhere about one-and-a-half years ago to look at the strengths that we have and the weaknesses that we have in the implementation of the Economic Partnership Arrangement and other trade agreements.

Fourthly, the Revision of Jamaica's Trade Policy. The last Trade Policy was developed in 2001, which

was called the New Trade Policy, to ensure cohesion and coherence between the National Development Plan, Vision 2030, the strategies and various trade-related projects. The Ministry of Foreign Affairs and Foreign Trade is in consultations, with a view to revising Jamaica's Trade Policy. This will take into account changes in the international environment over the last ten years. And it will also take into account the trading agreements into which we have entered, regionally, and especially with the United States of America and Canada. It is well known that we are now in the process, through the Office of Trade Negotiations in CARICOM, which is headed by our own AMBASSADOR GAIL MATHURIN, to enter into new trading agreements with Canada. And all of these trading arrangements will be taken into consideration in developing our new trade policy.

The Member asked for our strategies specific to micro, small and medium-sized enterprises. The Ministry of Industry, Investment and Commerce, and the Jamaica Business Development Corporation, (JBDC), have projects and programmes in place to assist the development of SMEs, MSMEs, to improve their competitiveness in export markets.

Emphasis, Mr. Speaker, is being placed on producing goods and services which meet international standards. The Ministry of Industry, Investment and Commerce is now finalizing a policy for micro, small and medium-sized enterprises. The Japanese International Corporation Agency, ((JICA), provided technical assistance through a consultant, to identify the constraints and weaknesses in MSMEs, and this information was used in formulating the policy. Jamaica Promotions Corporation, (JAMPRO), is focusing on finding new market opportunities in the EU and on upgrading their trade facilitation services, such as - and I will list them, Mr. Speaker:

The JAMPROs Fast-Track Facility, to allow direct client interface with a number of trade-related public bodies at one location;

Secondly, the Enterprise Export Development Programme, an export development initiative to provide value-added services to include market promotion, capacity-building hand-holding services, to select import-ready firms.

Mr. CLARKE: Sectoral debate? (Laughter)

Dr. BAUGH: The Ministry of Agriculture and Fisheries, in collaboration with all other government Ministries and departments responsible for food safety and standards, such as the SPS, is working to ensure that facilities, such as abattoirs, laboratories, processing plants, regardless of size, are upgraded to meet the highest international standards, thus enabling products to be traded in the EU and other export markets.

Mr. Speaker, it must be...

Mr. CLARKE: ...submitted as Exhibit 30. (Laughter/*Sotto voce* comments)

Dr. BAUGH: If you don't want the information, you don't need it. This is for people who need it.

Mr. SHAW: If you don't want it don't ask for it.

(*Sotto voce* comments)

Dr. BAUGH: You asked the questions.

Mr. CLARKE: It looks like both of you should sit and deal with it. (Laughter)

Dr. BAUGH: Mr. Speaker, I will continue.

Question 4: Will the Minister state specifically...

Mr. BUCHANAN: Four! Four!

Dr. DAVIES: I thought I heard you say 8 a while ago.

Dr. BAUGH: That is to come.

(Cross talk)

As I said at the beginning, Mr. Speaker, they were quite extensive and comprehensive. But I have to answer the questions as put by the Minister - by the Member, sorry.

Dr. DAVIES: I will take them as read and approve them.

Dr. BAUGH: They have to go on the records of the House.

Mr. SHAW: Absolutely.

Dr. BAUGH:

Question 4: Will the Minister state specifically whether an assessment of the likely impact on Jamaican productive sector was completed prior or since the signing of the EPA in 2008?

Answer: Mr. Speaker, impact assessments are usually done prior to the commencement of trade negotiations. As a matter of fact, the current Cabinet took a decision that before all trade agreements are commenced, the negotiations are commenced, an impact assessment should be done. And we have done so for the new negotiations with Canada. And that impact assessment was very important as a guide to us, as to exactly how to negotiate with Canada. As a result, we have embarked on a trade and

development negotiation with Canada. Although Canada was reluctant from the beginning to undertake a development component, we have insisted on it. Because it is recognized that in fact Jamaica and similar countries like ours with small economies cannot benefit from these trading agreements. We open up our markets to access, and we can be flooded with goods, and at the same time we are not taking advantage of the fact that we have access to these much larger markets. And the reason why we cannot take advantage is because we do not have the productive capacity. So the development component is to ensure that we build capacities for production in our economies, and this we can't do without the assistance of those countries with whom we would like to trade, our industrial and trading partners.

It will be recalled, Mr. Speaker that the impact assessments for the EPA were done between 1999 and 2004, as follows: Between 2001 and 2004, impact assessments were done with the EU technical assistance, both at the national and regional levels across the African and Caribbean and Pacific countries.

Within CARIFORUM they were done by individual countries, the OECS Secretariat, and then the CRNM, which is the Caribbean Regional Negotiating Machinery, which has been replaced by the Office of Trade Negotiations. In Jamaica a consultant was provided in the context of the ACP/EU technical assistance, to focus on EPA-related issues. The region also benefited from impact assessment studies done by extra-regional institutions, such as the Commonwealth Secretariat and the Overseas Development Institute.

Mr. Speaker, I have given those instances to indicate that in fact impact assessments were done, and have been extremely valuable in guiding the process of negotiations, so that we can make certain that our benefit is guaranteed.

Question 5: Thank you. I am following your lead. Question 5 is on page 6. You don't have a copy? We have circulated copies so you can have a copy in front of you. There is a copy, good.

Question 5: Will the Minister state the results of the impact assessment for both the manufacturing and agricultural sectors, as well as the services sector of the Jamaican economy?

Answer: The manufacturing and agricultural sectors would maintain duty-free access into the EU market which, without an EPA, would have its exports accorded under Generalized System of Preferences.

In the domestic market...

The GSP, Mr. Speaker, means that if we did not have the EPA we would have to enter Europe under the GSP which would mean tariff being imposed on our exports into Europe.

In the domestic market, under EPA, tariff liberalization is phased over 25 years and the most sensitive products for agriculture and manufacturing are on the EPA exclusions list.

Which means, Mr. Speaker, we have agreed to an exclusion list, whereby we protect those items in our agriculture and industry that are of importance to our economy.

Services have also been recognized as an area of potential benefit both from investments in the domestic market and market access to the EU.

Development funds are also available to assist CARIFORUM in the context of the European Development Fund for the Economic Partnership agreement.

Question 6: Will the Minister state whether the other CARICOM partners are in a good or a better position than Jamaica to meet their obligations under the EPA?

Answer: The 31st Meeting for the Council for Trade and Economic Development held in Guyana from the 2nd to 3rd December 2010, indicated that only three (3) CARIFORUM States have so far ratified the Economic Partnership Agreement. Those countries are Antigua and Barbuda, Dominica and the Dominican Republic and five (5) EU Member States, Malta, Slovakia, Spain, Sweden and the United Kingdom. All other Member States of CARICOM and the Eu are provisionally applying the Agreement including Jamaica as provided for in Article 243.3. Provisional applications allow us the time for Member States to put in place the necessary measures prior to the entry into force.

Haiti is not yet in a position to ratify the Agreement.

Mr. Speaker, I will move to Question 7.

Question 7: Is the Minister aware of any effort by CARIFORUM countries to seek an extension from the European Union of the moratorium on the phased implementation of the EPA?

Answer: Mr. Speaker, informal contact was made with me by one other Member State concerning this issue. We have not been advised by the CARICOM Secretariat of any formal approaches by any Member States for the extension of the moratorium on the EPA.

Question 8: If the answer to Part 7 is in the affirmative, will the Government support such an effort by CARIFORUM countries to attempt to extend the moratorium?

Answer: Mr. Speaker, if a formal request is made, Jamaica would have no difficulty in supporting this as it would allow Member States to complete the implementation programme, especially in respect of legislation.

Question 9: If the answer to Question 7 is in the negative, will the Minister state the reason for the Government's decision?

Answer: Please refer to Question 8, response to Question 8.

Dr. DAVIES: That's a good answer. That's a very good answer.

Dr. BAUGH:

Question 10: Will the Minister state what measures if any, the Government is prepared to take in light of the following developments subsequent to the signing of the EPA in 2008?

Opposition MEMBER: That's a long question.

Dr. BAUGH: These are your questions. These are your questions.

(*Sotto voce* comments)

This is the question.

The continuing refusal by other African Caribbean and Pacific countries to sign the EPA.

Answer: Mr. Speaker, all the African and the Pacific countries are still in the process of negotiating the Economic Partnership Agreements. Some countries have entered into interim agreements while others have not. Jamaica, in the context of the ACP, is sympathetic to their concerns and believes that they should be allowed the space to complete the negotiations in order to achieve the best outcomes. It should be recalled that many of the

ACP countries in Africa and the Pacific are LDCs, they are classified internationally as LDCs.

In the Caribbean, there is only one LDC based on international classification and that is Haiti.

(a) And those LDCs in Africa are beneficiaries of a certain Agreement called the Everything But Arms Agreement, the EBA, Everything But Arms Agreement.

The PRIME MINISTER: You need to spell that out. They don't need that.

Dr. BAUGH: It means that they have access for everything in the European economy except arms.

The PRIME MINISTER: So they don't need EPA.

Dr. BAUGH: So they don't need the EPA. And, therefore, if we have been asked in this House before, why are we breaking partnership with the ACP countries to proceed on signing the EPAs when they are not ready? But they are okay, we would have to enter Europe under the GSP and pay duty. And the calculations are.....in fact that we would have to pay hundreds of millions of dollars on our aluminum exports into Europe had we not signed the EPA. But for those countries, under the EBA, they have access duty-free.

The (b) part of the question is:

(b) The negative effects of the global recession and the decision of European countries to stimulate their economies through significant subsidies to various sectors and firms.

Mr. Speaker, the answer again is extensive, but we are coming to the end, so let me address this quickly. It's a very good question, it's a very important question.

The PRIME MINISTER: Very good answers.

Mr. PICKERSGILL: Is that a promise or a threat? (Laughter)

Dr. BAUGH:

B. Having concluded a binding legal agreement with the EU, the Government of Jamaica will meet all its obligations under EPA. Built into the Agreement are several provisions which allow States parties to have dialogue on issues which affect its application in the context of the Trade and Development Committee provided for in Articles 230.3. The Trade and Development Committee is scheduled to hold its first meeting at the end of March to early April 2011.

Secondly, the EU would be using subsidies in accordance with their common agricultural policy.

And this is something that I speak about regularly, Mr. Speaker.

.....and their commitments under the World Trade Organization. The EU is continuing to participate in the agricultural negotiations at the WTO Doha Development Round, which includes subsidies as domestic support. In addition, the WTO has been mandated to monitor the use of

protectionist measures during this economic recession. Jamaica is also participating in the trade negotiations in the WTO, seeking a greater focus on development concerns for developing countries like ourselves. Jamaica is continuing consultations with the EU to ensure that the trade agreements they have entered into are not detrimental to the concerns of Jamaica, nor to CARIFORUM or the ACP. And this is of great concern to Jamaica.

Recall, Mr. Speaker, that the EU concluded negotiations with Central American countries in 2010 and it appears that resuming negotiations with Mercosur in South America is still a possibility. These and other free trade agreements negotiated by the EU will erode preferences secured under the EPA more rapidly than those negotiated within the World Trade Organization.

Jamaica and the ACP Group at the WTO in Geneva also have to ensure that gains secured in the banana negotiations are not reopened or traded away in any move to conclude the Doha Development Round of negotiations.

And may I just emphasize in closing, Mr. Speaker, that Jamaica is very prominent in its presence at the World Trade Organization. We have a new Ambassador, AMBASSADOR WAYNE MCCOOKE, who has recently taken up his position in Geneva, especially in the context of the optimism that they are now going to energize the discussions of the World Trade Organization, using the year 2011 as a window of opportunity, because next year we may be approaching elections in the United States of America and those elections....

Mr. PICKERSGILL: What bout here? (Laughter)

Dr. BAUGH: You can ask the person who has that responsibility of informing you about that.

Mr. PICKERSGILL: Then you don't know as the Deputy?

Dr. BAUGH: No.

It's very important that we establish a very strong presence because this round of negotiations as you well know, the Doha Development Agenda is particularly tailored to meet the needs of developing countries. And we have been fighting for a special and differential treatment for countries like ours, Mr. Speaker, and therefore, it is very important that we maintain that presence at the WTO and those questions that you asked to secure protection, especially in the light of the recession of those goods that we want to protect in these markets.

Mr. Speaker, I will now end my answers to the questions and await any supplemental questions.

The SPEAKER: In light of that there can't be any supplementary. There are supplementary questions ahm....

Mr. HYLTON: Mr. Speaker, let me.....

The SPEAKER: Yes, Mr. Hylton.

Mr. HYLTON: First of all, let me thank the Minister for really a very exhaustive....

Dr. DAVIES: Exhausting. (Laughter)

Mr. HYLTON: .....very comprehensive and exhaustive responses, but let me say this.

Mr. Speaker, what is interesting, and there are some responses here that I think are very, very useful and I'll just say to you Minister that what you have just gone through generally is something that I have had reason to bring to attention in this House because the tedium that it appears to be when you are talking about trade issues, really belies the importance of it and what we have to face economically in this country, and so I understand and I share that concern with you, but let me just say.

Two specific points were raised in the questions to which the answers are really either not forthcoming or not very clear and I just want to put them again.

Firstly, there was nothing said - and this is particularly true about the MSME, it's particularly true of the MSMEs that the issues of non-tariff barriers into Europe continues t be of major concerns and that has not been addressed in any meaningful way in the responses, and I hope that that is not to say that this is not recognized by the Ministry in what it must do, if in fact our companies generally but in particular the MSMEs are going to be effective in actually penetrating or even a presence in the European market. That's the first thing.

The second thing is that in response to the question you pointed out.....

Dr. BAUGH: Are you asking a question? (Laughter)

Mr. HYLTON: No, no, I am saying I make the point, I am making two questions.

(*Sotto voce* comments)

Well, is it, does the Ministry recognize that particular provision has to be made with respect to the MSMEs, if in fact there is going to be effective trading by our companies generally but the MSMEs in particular in the European market?

Dr. BAUGH: Mr. Speaker, first of all, concerning non-tariff barriers. It's only by diligent interventions that we can deal with NTVs, whether at World Trade Organization level or in any trading agreements. Because we also have to recognize that one of the weaknesses that we have is the failure to meet international quality standards. And this is something that came out very strongly in the trade policy review. And it is recognized by our Minister of Industry and our Minister of Agriculture, they made statements about it, that we have to do a lot to establish the processes and the strategies that can bring our products to the level where it is internationally recognized and therefore gain access to those markets.

I have said it here before, when I was in London I visited a few warehouses where people who dealt with Jamaican products entering London, and what they lamented is that they could not bring in any meat, any animal products whatsoever, not even fish products because we were not yet at the stage where we met the SPS, the sanitary phyto standards, or the HSP standards, or the ISO standards to have access to those markets. So this is one of the issues that is now being dealt with under EPA for trade, for the Caribbean, that we are putting in place. And we recently established a facility in Suriname, a centre to deal with that, but we are a far way off from it. We have to establish facilities in the CARICOM to bring our goods up to that level to meet the SPS standards so we can enter other markets.

It's also affecting intra-CARICOM trade. As you realize recently from the problems with patty and other meat products. So it is not necessarily non-tariff barriers, it's that we ourselves have to meet those standards. If non-tariff barriers are being used just to block imports into any country, it is something that we can deal through active negotiation and dialogue, as we have done in the Caribbean.

I didn't quite get the second point you were raising because other people were talking. I didn't hear you.

Mr. HYLTON: The second point, Minister, is that you, in answer to my question, particularly on 6, regarding those African countries that did not conclude an EPA, you placed emphasis in your response on the LDCs. I asked the question whether all African countries are LDCs and, if not, what is the situation regarding those countries that are not LDCs?

Dr. BAUGH: Well the situation is what I said, that they are continuing to negotiate. Many of them have special interests and special concerns, so the negotiations continue, but they have not abandoned the EPA. They are, in fact, in negotiation.

Mr. HYLTON: But, Minister, we were told, this House was told that unless we sign the agreement, in December of 2007, or conclude negotiation that GSP, and you repeated here in this document, that GSP would be what we would have to face to the tune of millions of dollars on our goods. You make the point now that countries are still negotiating with no - and I want you to answer the question, what has happened to their goods entering the EU market?

Dr. BAUGH: I assume you are talking about non-LDC countries, what is their position? I can't answer that question for you. I am afraid - well, I haven't been to the last ACP meeting but I can find out for you, I can find out the details if, in fact, they are suffering any penalties. I suspect that through dialogue and negotiations they have extended the term of their negotiation. It doesn't mean that we will suffer the same fate. As a matter of fact, it was you who built into the Cotonou Agreement a mechanism that sets the deadline for us to complete our negotiations. Don't you remember? And that deadline is something that we have honoured.

(*Sotto voce* remarks by Opposition Members)

Mr. HYLTON: Minister, please, that will not avail you. Because you just made the point and we were making the same point that you did not have to conclude the negotiation when you did because you just said and told this House that other African countries are continuing their negotiation. And if I say to you that they are continuing the negotiation with no threat to their export into Europe that is the position as of today.

Dr. BAUGH: Mr. Speaker, I am having difficulty understanding why we would go to that extent to try not to conclude. The EPA is a very beneficial arrangement.

(*Sotto voce* remarks by Mr. Hylton)

Dr. BAUGH: The EPA… Hold a minute… the EPA has given us access to Europe. The question is, the difference is Europe now has access to our market. But the access they have is over an extended period, 25 years. We are phasing in their

access to us. The moratorium this year has just run out when they had no access. Now we are dealing with the first package. There is a five-year package of goods that Europe will gain access to our markets, and we are now dealing with that. The Minister of Finance has taken through Cabinet and got approval to proceed to legislation to put that first phase in place, but this is over 25 years. We have an adjustment period. We don't have to suffer any consequences.

I must also remind you that there is a significant exclusion list where items that are important to us, agricultural, non-agricultural items are important to us, because we produce them here and we want to offer them some protection. There is an exclusion list that deals with that, an extensive exclusion list which was discussed with the trade and the profession. So there is no need for us to contemplate that we should not have signed the EPA. We are not suffering any consequences of having signed the EPA. It is going to give us access to a large market. It's going to give us a development component whereby, as you have heard over and over, EU is the largest grant provider to Jamaica and the CARICOM. So they are providing the technical assistance to build our capacity here to be able to take advantage of those markets. So I don't know why we would contemplate not signing the EPA.

Mr. HYLTON: The answer to that, Minister, is that we simply are not ready as you have indicated. You have said in this document that - in answer to my first question your answer is no, we are not ready. So if we are not ready my very point is why sign an agreement which gives Europe as a…

The SPEAKER: This sounds very contentious though, Mr. Hylton. Let's have the final few questions.

Dr. BAUGH: Mr. Speaker, I would like to correct him.

Mr. HYLTON: Minister, may I? May I, Minister, please? As of January 1, it is agreed that the EPA, that Europe will begin to have access to our market. Is that so or not? Is that correct?

Dr. BAUGH: As of January 1, 2011….

Mr. HYLTON: Yes, 2011.

Dr. BAUGH: …yes, but in a phased basis. They can't just flood us with goods. There is a five-year package that we are now dealing with. It is extended over 25 years. Most of us will not be around when they get to that point.

Mr. HYLTON: We agree. That's agreed, Minister. My point, though, is your answer to my first question is, we are not ready, the private sector is not ready, our state institutions are not ready. My question to you about the MSME, in particular, and the barriers they face going into Europe, your answer is, yes, that is so but you have to negotiate them as they arise and that we in Jamaica have now to build our quality assurances through our firms going into Europe. So I am saying that is the point, why sign an agreement that gives Europe access to our markets and we are unprepared to respond to that. That is the question.

Dr. BAUGH: Mr. Speaker, I would like to correct.

The SPEAKER: (Gavels) Okay, come we are wrapping up, wrapping up.

Dr. BAUGH: I would like to correct the impression that he has given that we are not ready.

Will the Minister state whether or not he is satisfied with the level of preparedness by the state institutions as well as the private sector for the implementation? And I have explained. I have said that the problem with Jamaica, as has been manifested in the TPR, the trade policy review, is that we have a lot of structural and domestic weakenesses. It's not going to happen overnight. We are not going to change it overnight. This is a new cultural transformation that our Prime Minister is now leading as to how to transform this economy coming out of three decades when you were there. Three decades of stagnation…

Dr. DAVIES: Stick to your normal thing.

Dr. BAUGH: …when the intense private sector activity was just to sit back and buy government securities and earn risk-free interest. Now that the macro-economic stability has been established through the activities of our Prime Minister and our Minister of Finance, a platform has been created for us to move to that next phase now to bring about this transformation, which is not a simple process. It's a changing of the mindset in Jamaica so that investors, the private sector in partnership with government can explore possibilities of how to proceed to create that diversification that we so badly need. It has been found that we have not diversified our goods, that we do not have the productive capacity or the diversification of export to take advantage of these things. But it is something that - now that we have the access, now that we have the opportunities and the development component of these agreements we must embark on that road.

The SPEAKER: (Gavels) Could this be the final one please, Mr. Hylton.

Mr. HYLTON: Minister, you have stated in your response that if other CARIFORUM countries make a request for a moratorium that you will join that request. Do we need a moratorium or not?

Dr. BAUGH: What we are doing, it's gone to legislation. It depends on how long it takes to complete the legislative process in terms of its implementation. The deadline was set dating back to the time when we concluded the agreement, not when we signed. We signed in October. If we need that extension it's quite possible to get it, it's not any difficulty. So far I have not heard from any of my colleagues in the Caribbean that they want this extension. They are all at the same phase as we are in terms of proceeding on legislation to implement it and to make it possible.

The SPEAKER: (Gavels) Dr. Rhodd, Question 31.

Dr. RHODD: Mr. Speaker, I would like to ask the Minister of Transport and Works questions listed on the Question Paper under my name.

The SPEAKER: Mr. Henry, Question 31.

Mr. HENRY: Yes, Mr. Speaker. That's an easy one.

The SPEAKER: Dr. Rhodd, you got the written . . .

(*Sotto voce* remarks by Dr. Davies)

Mr. HENRY: We have just defeated Tivoli. We are going to wipe you out next weekend.

Dr. DAVIES: What's the pay bill now, Mike?

Mr. HENRY: You have to check with my wife. She ensures that I am well taken care of. But I am sorry you were not paying them, that's why I have to take them over.

Question 1: Will the Minister please state whether or not he is aware of the deplorable state of the main road between Brandon Hill in St. Andrew and Gray's Inn in St. Mary, popularly known as the Junction Road?

Answer: Yes. And plans are already at work to correct this long outstanding condition for the past 20-odd years or more, in which I have to ensure that the corrective action remains complete, in depth and never to be repeated again, and which I am sure the member drove over a long period of time, and I am searching **Hansard** for the answer that he asked his own government at the time.

Question 2: If the answer to Part 1 is in the affirmative, what plans are being made to construct or reconstruct retaining walls, the absence of which threatens the integrity of this major corridor, as well as the stability of some bridges along this corridor?

Answer: There are plans to upgrade this corridor by

(a) improving the drainage system which exists in the area,

(b) construction of retaining walls, making the necessary improvements on the road surface and the installation of safety features along the corridor.

Question 3: If the answer to Part 1 is in the negative, when will the Minister visit the corridor in order to apprise himself of the sorry state of this main road?

Answer: I have answered that. It's not applicable but I do drive on the road from time to time. I am aware of the threats myself.

Question 4: Whether or not an investigation was done or is being done, following an accident in December, involving a bus carrying several passengers, which careened off the road at Brandon Hill and fell into a ravine?

Answer: Yes, an investigation was carried out by the police from the St. Andrew North Division. We await the receipt of the police report on

the accident which took place on December 30, 2010. The Road Safety Unit will, on receipt of the report, complete an analysis of the incident and any corrective action that needs to be taken will be taken.

Question 5: If the answer to Question 4 is in the affirmative, when will the findings be made available?

Answer: The findings will be made available within 30 days of the Ministry's receipt of the report.

Question 6: If the answer to Question 4 is in the negative, whether or not he is considering requesting such an investigation?

Answer: See answer to Question 5.

Question 7: Whether or not this main corridor is slated for reconstruction under the Jamaica Infrastructure Development Programme, and if the answer is in the affirmative, what is the timetable for carrying out this work?

Answer: The answer is no. This road corridor is not in the JDIP. The JDIP of $400 Million cannot satisfy a neglect of US$2 Billion over 20-odd years of neglect. It can only deal with what are the immediate needs as it relates to the neglect of the infrastructure over the period. However, some of the critical walls will be constructed under this programme.

Question 8: If the answer to Part 7 is in the negative, what programme is being designed to address the reconstructions improvement of this major corridor?

Answer: The road way is currently under the Government of Jamaica/Kuwaiti Fund for Arab Economic Development Programme. The following are achievements to date and the future plan based on the inheritance that was left in the ministry.

(a) engineering design of roadway. The designs were completed in mid 2009.

(b) Land acquisition. In 2010, the GOJ engaged Land Surveying services to have the affected parcels of land identified and surveyed for the purpose of land acquisition, which is now approximately 60% complete. All 350 affected parcels have been identified and is proposed to commence the physical acquisition of lands in April, 2011.

Relocation of affected utilities. Most of the affected utility poles will be scheduled for relocation

as soon as access is gained to the required prosperities and the remainder would be done when the works contractor carries out the earthworks. The waterline relocation will form part of the works contract.

Environmental permit. An application has been submitted to the National Environment and Planning Agency (NEPA) and is expected to be granted before commencement of the civil works contract in mid 2012.

A date that should mean something.

NEPA will monitor the project during the construction phase to ensure compliance.

Everything blooms in 2012. 1/3/5/7/10.

Proposed milestones and duration. Completion of preparation works September 2012, construction period October 12 to March 2015, when I will open it, 30 months; and defects liability period March 2015 to March 2016, twelve months.

That is the answer to your Questions.

The SPEAKER: Yes, Dr. Rhodd.

Dr. RHODD: Mr. Speaker, I would like to first thank the Minister for his answers.

I am, however, very disappointed that the Minister has sought to politicize every thing.

MEMBERS: Oh, oh!

The SPEAKER: What is the point, what is the point?

Dr. RHODD: The reality is, Mr. Speaker…

(*Sotto voce* comments by Members)

The SPEAKER: No, no, please.

Dr. RHODD: Mr. Speaker, I would like to ask the follow-up questions.

The SPEAKER: Well, ask the questions.

Dr. RHODD: And the follow-up question has to do with the fact that despite the response by the Minister - and you might ask why I have asked these questions, because it is the major corridor that the over 40,000 constituents who I represent have to use daily to access the capital, Kingston, plus the other tens of thousands in St Mary. But I am speaking for the over 40,000. That is the only corridor westward and eastwards, the one through St. Thomas is even in a more deplorable state.

Now, the question that I want to ask the follow-up, Mr. Speaker, because it has to do with deteriorating conditions because of the weather pattern, the constant rainfall in this area; the roads were maintained but of recent there has not been a strong maintenance programme, so this does not fit - we don't have to politicize it. Time has passed three years and we have had several weather conditions. What is the plan for the maintenance? What is the plan, for example, Minister….

The SPEAKER: Alright, let him answer the question on the maintenance.

Dr. RHODD: Until we get to 2012, when you have your comprehensive programme to build even guardrails…

The SPEAKER: But, Dr. Rhodd, let him answer the maintenance question.

Dr. RHODD: Mr. Speaker, I am asking a question will you allow me.

The SPEAKER: That sounds like a presentation.

Dr. RHODD: It is not a presentation. I am asking him what is the plan to construct even guardrails? If you travel on that road you will realize the treacherous state of the road that I am talking about, tens of thousands of people's lives are at stake even mine. (Applause) And all of the other Members who have to use that road. So it is not a simple matter, there was an accident in December and several more can occur between now and next year, 2012, when the Minister….

(*Sotto voce* comments by Members)

Dr. RHODD: It is not a frivolous matter, Mr. Speaker, I would like to ask what is the temporary measure to be put in place until the 2012 comprehensive plan comes into place...

The SPEAKER: Okay – the Minister - let him answer.

Dr. RHODD: …the guard rails. Mr. Minister, I would like to ask through the Speaker, what simple soil conservation techniques can be used in consultation with the Department of Forestry even to retain the soil that we are losing several retaining walls because of the weather pattern. Some simple questions, Mr. Speaker, we don't have to politicize the matter. Lives are at stake and we want some temporary measures until the comprehensive plan is put in place in 2012.

The SPEAKER: Mr. Henry, could you respond.

(*Sotto voce* comments by Members)

Mr. HENRY: Mr. Speaker, I am only here because…

Mr. BUCHANAN: Give him some water deh, give him some water.

(*Sotto voce* comments by Members)

Mr. HENRY: I will assist him to seek to run the seat again.

Mr. Speaker, I am only here because of politics, that is how I got here. If I had been in Government, Mr. Speaker, when there was a programme called NARRIT, in which the funding was confined to only certain sections of the island, when this area was threatened and had its own economic contribution to make, as Minister, I would have ensured…

Mr. MONTAGUE: Talk up the things dem.

Mr. HENRY: …that it didn't reach to this dangerous level.

So in that context, I said to the questioner, that I need $2 Billion - and $400 Million can't do everything. I equally said that under JDIP, we would begin the retaining walls, and I have clearly stated, we are not in a position to merely surface a road for it to be washed away by the next rainfall. We are going to ensure the quality of work is done and done properly. And I have said we must repair the retaining walls first, repair the drainage, then move to the road surface that has to be done. Within that context if the economy and I would have hoped you would have congratulated the Minister of Finance for his great success that he just made overseas; because if indeed the funding was available, and if the maintenance budget had been, if indeed, for 10 years you had not allowed the application for the cess to lie fallow, then you might have been able to have had the maintenance budget to maintain it and leave it with me in a level to produce. But any emergency, any need that will be necessary for maintaining will be done under the JDIP retaining wall process, but the major construction will be done under the Kuwaiti funding. And we still have to deal with the

purchasing of land along the road, which should have been done 10 years ago.

(*Sotto voce* comments by Members)

The SPEAKER: Yes, Dr. Rhodd.

Dr. RHODD: Mr. Speaker, and the simple question is, will the Minister consider some temporary measures such as guardrails…?

The SPEAKER: But he said yes, he is coming, under the JDIP programme.

Dr. RHODD: Under the what?

The SPEAKER: Under the JDIP programme.

Dr. RHODD: I didn't hear that response.

The SPEAKER: But I heard him say the retaining walls…

Dr. RHODD: I did not hear him say that. Guardrails take a couple weeks, Mr. Speaker, in fact days.

The SPEAKER: Minister could you give…

Mr. HENRY: Mr. Speaker, if the Member of Parliament wants to release $800,000 Million being spent in the Buff Bay Valley where there is the highest heavy rainfall and let me put that into the corridor he can tell me. He is the MP. He can make the suggestion, and I will stop that retaining wall to build this one. And then he can put up some of his forthcoming CDF to match my $10 Million which I will make available.

Dr. RHODD: Mr. Speaker, guardrails to my best – my knowledge because I had to instruct - get those installed through the CDF in Portland in December at an accident site, less than a $100,000. They are in stock at the NWA, the NWA has them in stock. So all I am asking, can the Minister, as a temporary measure, temporary measure, use a couple thousand dollars to install guardrails along these dangerous - at the dangerous section, there is about five of them, you know, (Applause) they are simple questions, about five of them about five sections which threaten life and property right now, $500,000 can do it Minister. You know that, so please don't let us blow the thing out of proportion.

Mr. HENRY: I thank the Member for $500,000. I will seek to ask him to send it to the Ministry so that I can implement the programme. (Applause)

The SPEAKER: Dr. Guy.

Dr. GUY: Minister, thank you Mr. Speaker.

(*Sotto voce* comments by Members)

Dr. GUY: No, no man mi drive on it.

Minister, the emphasis was primarily on retaining walls and guardrails, but certainly and I am sure you have been - representations have been made to you by the Member of Parliament for that constituency. But in terms of road surface, whereas we recognize the timeframe you have given in terms of the project coming onstream and its completion, can a significant attention be paid to the driving surface in terms of the potholes and so? Because I know in the past that some measures have been done to do some patching. Could that be extended and even accelerated?

Mr. HENRY: I certainly will always - I am always prepared to ensure the movement and safety of the travelling public wherever possible. And I certainly will ask the Works Agency to give me a final update on any immediacy of the situation other than beyond

what I have. And you should know as a MP that I always respond to the immediacy of the needs.

(*Sotto voce* comments by Dr. Guy)

Mr. HENRY: Well, you have scored your points with this Minister to look on it overall. But we will certainly ensure the safety of the travelling public and the economic development that must flow from all of these that relate to the country overall.

The SPEAKER: Mr. Clarke wanted to ask. So I just asked the Acting House Leader to check with the Prime Minister. Okay Members, in the meantime we will continue with the agenda.

PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED

The SPEAKER: Mr. Montague.

Mr. MONTAGUE: Thank you very much, Mr. Speaker.

I now move to introduce and have read a first time, A Bill shortly entitled; "The Kingston and St Andrew Corporation (General Election) (Postponement) Act, 2011" and A Bill entitled, "The Parish Council (General Election)(Postponement) Act 2011.

Bill shortly entitled:-

"The Kingston and St Andrew Corporation (General Election) (Postponement) Act, 2011"

read a first time.

Bill shortly entitled:-

"The Parish Councils (General Election) (Postponement) Act. 2011"

read a first time.

Mr. MONTAGUE: Mr. Speaker, I beg to give notice of `a second reading of the Bills.

Mr. Speaker, I further beg to give notice that at a later stage today, I will move for the suspension of the Standing Orders to enable me to take the second reading of the Bills and to have them through all their concluding stages.

The SPEAKER: Thank you.

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business we will be taking the Bills that the Minister just gave notice of, those Bills regarding the postponement of the Local Government Elections.

We are also scheduled to have two Reports taken today. One report from the Sessional Select Committee on the Economy and Production, that is to be moved by the Member from Manchester and we are also expecting to have a Report from the Infrastructure and Physical Development Committee. We are expecting to have it, Mr. Speaker.

Mr. Speaker, the Members are suggesting...

The SPEAKER: Mr. Pickersgill and Mr. Bunting, would you be prepared to take those two sessional reports now? Because they should be fairly short

Mr. PICKERSGILL: No, no, not today, tomorrow.

The SPEAKER: Very well.

Mr. HOLNESS: Well, is the Member from Manchester ready for his?

Mr. BUNTING: Tomorrow.

The SPEAKER: Okay, very well. Mr. Montague.

Mr. MONTAGUE: Mr. Speaker, I now move for suspension of the Standing Orders to enable me to take second reading of the Bill, notice of which I had given earlier. And also take them through their concluding stages.

The SPEAKER: Members, the motion before the House is for the suspension of the Standing Orders to allow the Member to take the motion notice of which was given earlier.

Motion put to the House and agreed to.

The SPEAKER: Yes, Mr. Montegue.

Mr. MONTAGUE: Thank you, Mr. Speaker.

Mr. Speaker, it is with some amount of difficulty, that I am here today seeking the consent of the House for the postponement of the Local Government Elections.

Mr. Speaker, while we were far advanced in preparing the country for those elections, circumstances have overtaken us; because the postponement of the population census for so many years has resulted on us moving forward with that census. And Mr. Speaker, the Statistical Institute of Jamaica has written a letter to the Honourable Prime Minister which I would like to quote from.

Mr. MONTAGUE:

"During the discussion, we raised our concerns about elections and the impact that these would have on the data collection process in the Census. Since that time, we have been informed that the Local Government Elections are due between March and June 2011. We have also noted that from the activities in the media, that the two major political parties have began preparing for these elections. The Census is an important national exercise in which there is a great financial investment and it would be unwise for the results to be compromised in any way.

The planning for the Census is well advanced, as we are scheduled to begin data collection on 5th April.

In the past, and in particular during Census 2001, the pre-election activities posed a great challenge for data collection as there is unusual difficulty in differentiating between the two processes, electioneering and data collection for the Census".

Dr. DAVIES: Mr. Mayor, you reading your speech.

Mr. MONTAGUE: I'm quoting from a letter written by Sonia Jackson, The Director General, The Statistical Institute of Jamaica.

Mr. Speaker, as a responsible Government, we have to take into consideration the needs of these agencies and the need of having an accurate Census that at this time, so that some of the very issues I hear Members speaking about, can be accurately and adequately provisioned for.

So therefore, Mr. Speaker...

Dr. DAVIES: Example!

Mr. MONTAGUE: Example? Example? Building schools

Mr. PICKERSGILL: What?

Mr. MONTAGUE: Building schools and hospitals and clinics and where to site them because you, and where to put roads.

Mr. ROBERTSON: And where to put roads that have meaning.

Mr. MONTAGUE: So, Mr. Speaker, as a responsible Government we have to bear

this in mind. And we are with great pain and difficulty coming to the House today seeking the postponement of the elections.

Furthermore, Mr. Speaker, the enactment, Mr. Speaker, of the changes in the electoral system is still undone. And therefore this Government made a commitment to establish Portmore as a parish. And that we cannot do, Mr. Speaker, until the electoral boundaries have been completed and gazetted.

Further, Mr. Speaker, we have made significant progress in the Local Government Reform Programme. However, the programme is not done. Some of the progress we have made, Mr. Speaker, is that since January of this year, St. James, St. Thomas and the Manchester Parish Councils have been receiving direct funding from the Ministry of Finance. The first time any local authority has received direct funding from the Ministry of Finance. Significant progress, Mr. Speaker. (Applause)

While we met the criteria to transfer the calculation of pensions to the Councils, the Ministry of Finance raised an issue. And we are in discussion with them to sort through that matter.

Our three strategic laws, Mr. Speaker, have reached the drafting stage. The Constitutional Amendment, Mr. Speaker, is complete. And that amendment passed through all the consultative processes and is now with the Ministry of Justice awaiting the holistic programme of constitutional amendment to be just included in that, Mr. Speaker. (Applause).

Mr. Speaker, on that regard, this Government has done what no other Government has done before.

Opposition MEMBERS: Yuh right! Yuh right! Yuh right!

Mr. MONTAGUE: They have spoken about a constitutional amendment. We have drafted that amendment.

(Heckling by Opposition Members)

Oppoition MEMBERS: Lie, lie, lie. (Applause)

Mr. MONTAGUE: They speak the speak. We walk the talk. (Applause)

Opposition MEMBERS: Lie! Lie! Lie!

Mr. MONTAGUE: Mr. Speaker, the National Building Code is complete. And the first draft of the Building Act has been completed and we are going through the consultative process. We believe, Mr. Speaker, in consultation.

Mrs. NEITA-HEADLEY: What? What? What?

Mr. MONTAGUE: Mr. Speaker, two of the outstanding Building Codes are yet to be gazetted. The Amanda System of tracking development plans, Mr. Speaker, has been installed in the KSAC, in St. Catherine, in St. James and in the Manchester Parish Council, Mr. Speaker, and in Phase 2, we will move to Clarendon, Trelawny, St. Ann, Hanover and St. Elizabeth. We are working with the various Councils, Mr. Speaker, because some do have infrastructural hindrances and difficulties to install the systems.

MEMBERS: True, true!

Mr. MONTAGUE: The financial management accounting system, Mr. Speaker, has been installed in seven local authorities and the rest to come. Mr. Speaker, I have been speaking with a number of Members of Parliament seeking their assistance...

Mr. PICKERSGILL: For what?

Mr. MONTAGUE: ...to working with the local authorities in completing some building plans in three municipal authorities because we wish to construct new municipal buildings in Portmore, St. Thomas and Westmoreland.

(Applause)

Mr. ROBERTSON: St. Thomas, because they perform.

Mr. MONTAGUE: And we have been asking some MPs to help us.

The progress of reform, Mr. Speaker, continues, where when we took it, the rate for property tax collection was 40%. Today it is at 52%, Mr. Speaker.

The issue of the Councils providing some 30% of their own budget from their own sources, Mr. Speaker, is an objective we are pursuing. We have moved from an average 11% to an average 21%, Mr. Speaker. (Applause)

And, Mr. Speaker, I know, and the Prime Minister has so instructed me as the substantive Minister, and I know that this is good news to the Opposition.

Mr. PICKERSGILL: What is that?

Mr. MONTAGUE: This is going to be sweet news to their ears. The Prime Minister has instructed that should both Houses of Parliament consent to this postponement, he has instructed me under section 8 subsection (3) of the Parish Council Act, to immediately begin discussions with the Mayors and Chairmen of Councils to set an appropriate date for the holding of the vacant divisions in the island. (Applause)

Opposition MEMBERS: All a dem, all a dem.

Mr. MONTAGUE: Mr. Speaker, all four. Mr. Speaker, Mr. Speaker...

(Cross talk)

...we are a responsible Government and we are going to be holding those discussions with the Mayors, with STATIN and with the Electoral Office to find a suitable time, because, Mr. Speaker, as we are postponing the elections we must also be cognizant and be aware that there are persons living in these divisions that crave, demand and want representation. (Applause)

(Cross talk)

I am confident, Mr. Speaker, I am confident, that Members of the Opposition will take a leaf from our book...

(Heckling by the Opposition)

...and that the process of consultation and the process of representation to the people, they will not shy away, but they will come. Because in the recent past, Mr. Speaker, we have had instances where they have initiated the action, the time came for them to meet us Nomination Day and they disappeared. (Laughter) (Applause)

Mr. Speaker, Mr. Speaker...

The SPEAKER: Mr. Montague, I can't hear a thing....

(Inaudible comments)

A MEMBER: Shut up, man. Shut up an' move.

Mr. MONTAGUE: Mr. Speaker...

The SPEAKER: Please, please. Okay, continue, Mr. Montague. Mr. Buchanan, hold please, Mr. Buchanan.

Mr. MONTAGUE: Mr. Speaker, in Sunday's paper, the Director General of STATIN gave a speech to the Rotarians where she advised of the dangers of

electioneering during the census collection. Mr. Speaker, Mr. Speaker...

A MEMBER: Country man bite up people!

Mr. MONTAGUE: Mr. Speaker, we must be mindful, as responsible leaders. And when the consultation with the Mayors, STATIN and the Electoral Office is done, and the Mayors announce those dates, we must be mindful that if and when there is a period of electioneering, we ask that it be responsible, we ask that we do so being mindful that the eyes of the world is upon us.

A MEMBER: Exactly!

(Cross talk)

Mr. MONTAGUE: Mr. Speaker, we have done, we have done, Mr. Speaker, much with the Reform programme under extremely exacting circumstances. (Applause)

And as I close, Mr. Speaker, I must pay tribute to those who came before me and started the process. I must pay tribute to the Most Honourable Portia Simpson Miller.

Mrs. SIMPSON MILLER: Yes!

Mr. MONTAGUE: I must pay tribute to the Honourable Dean Peart ,who started the process...

Dr. DAVIES: And Roger.

Mr. MONTAGUE: And indeed, Roger. And they have allowed me the privilege and the pleasure of continuing the progress for the benefit of Jamaica.

Mr. Speaker, Local Government is in good hands. This Government and Prime Minister are committed to the Local Government Reform Programme. This Prime Minister and this Government, if you go to any parish council...As a matter of fact, the Mayor of Sav-la-Mar has clearly stated, in all his years as a Councillor, he has never had it so good. (Applause)

Mr. BUCHANAN: No, boy! No, boy! No, boy!

Mr. MONTAGUE: Mr. Speaker, I therefore, I therefore ask, Mr. Speaker, that my fellow colleagues, I therefore ask...

(Interruptions)

Government MEMBER: Shut up, country bwoy!

Mr. MONTAGUE: Mr. Speaker, I therefore ask that my fellow colleagues in this House join with us in this difficult period as we walk to conclude this difficult task, and support the postponement of the Local Government Elections, and the Parish Councils and the KSAC. Thank you, Mr. Speaker. (Applause)

The SPEAKER: Mr. Fagan.

Okay, Mr. Fagan is on his feet. Go ahead, Mr. Fagan.

(Applause)

Mr. FAGAN: Mr. Speaker, I am very... I am not very well today, sir, but I had to come to listen to...

A MEMBER: What a pity!

Mr. FAGAN: … to such a – and I am so disappointed to understand that…

(*Sotto voce* comment)

Mr. FAGAN: …that the Minister of State with responsibility for Local Government...

Mr. ROBERTSON: You are disappointed with yourself.

Mr. FAGAN: …who himself is a former Mayor and Councillor, could have come…

Mrs. NEITA-HEADLEY: Shame!

Mr. FAGAN: …to this Parliament, and delivered such a presentation to say that, for the third time...

(Cross talk)

A MEMBER: For the third time at last.

Mr. FAGAN: …he's... third time, 1-2-3, not one time, not two times, sir, three times, in less than a year, he has come to postpone Local Government elections.

Mr. Speaker, the reasons given cannot be enough to deprive the people of their representation. I can tell you, sir, that the reasons given are not those reasons that can be justified for not calling the Local Government Elections.

(Cross talk)

In fact, I don't know if the Minister has just suddenly come to realize that they cannot continue to have the people in the respected divisions: Duncans, Frankfield, Norbrook, and just recently, Spanish Town, to continue to have them not being represented - those divisions not being represented. To cherry-pick like this is a kind of a selective democracy, which...

A MEMBER: Hear, hear!

(Applause by Opposition Members/Cross talk)

Mr. FAGAN: We cannot continue like this, Mr. Speaker. Selective democracy, what would cause you now…

A MEMBER: Poppyshow!

Mr. FAGAN: …to want to have four elections? Postpone the General Elections - Local Government, and say that STATIN has advised you against elections because...

Mrs. NEITA-HEADLEY: Rubbish!

Mr. BUCHANAN: A mek up business that.

Mr. FAGAN: If, Mr. Speaker, STATIN is so concerned about Local Government Elections, why wouldn't they be concerned about the four elections that are to be held?

(Heckling)

Are we going to have any kind of campaigning in those divisions, Mr. Speaker? That really don't make any sense to me…

(Applause)

…really don't make any sense, Mr. Speaker.

A MEMBER: You a messenger.

Mr. FAGAN: Mr. Speaker, each time the Minister comes he adds one more to the list. The first time was that there was going to be the parish for Portmore - fifteen parishes. I recall saying creating a new parish is more than just making the announcement, Mr. Speaker, because I don't see that happening.

(Applause/Cross talk)

Mr. Speaker, it involves the re-drawing and re-visiting of major legislation, such as the Town and Country Planning Act, the Local Improvement Act, the Parish Councils Building Act. And more fundamentally, Mr. Speaker, we would like to know how the lives of the people of Portmore will be better off by making Portmore a parish.

A MEMBER: Thank you.

(Applause)

Mr. FAGAN: We continue to say that there has been no consultation. We continue to say...

(Applause/*Sotto voce* comments)

We continue to say, Mr. Speaker, that we need to do - Portmore don't really need a parish, what it needs is a strong municipality...

A MEMBER: Thank you.

Mrs. NEITA-HEADLEY: Exactly.

Mr. FAGAN: …with good management.

MEMBERS: Hear, hear!

(Applause)

Mr. FAGAN: That's what we need, Mr. Speaker.

(*Sotto voce* comments)

Mr. FAGAN: Mr. Speaker, I understand that legislation is being drafted to establish the legal rights to Local Government, but we need to see the draft legislation. The legislation needs to be discussed by the people in their communities.

Mr. CLARKE: Yes.

(Cross talk)

Mr. FAGAN: Mr. Speaker, I have a list…

Mr. CLARKE: Which one is the emergency, yours or…

Mr. FAGAN: …that the Minister, at some point, had circulated. And he said that the major focus for Local Government Reform, and what he intends to achieve during his tenure - in fact, that should have been about a year-and-a-half or two years ago, because he shouldn't be - he shouldn't even be sitting and talking now as he is talking because he shouldn't be - he shouldn't have a work. And he told us...

(Applause)

Mr. Speaker, you remember the reason he told us why he was not in the Cabinet...?

Mr. M. PEART: Cock mouth kill cock, man; cock mouth kill cock.

Mr. FAGAN: I will remind you downstairs, sir.

Dr. DAVIES: There will be lots of vacancies soon.

Mr. FAGAN: But he had a list. And the list said: entrenchment of local government in the Constitution…

Mr. BUCHANAN: Where is that?

Mr. FAGAN: strengthening community-based organization through implementation of a Parish Development Committee.

A MEMBER: Im talk bout fixed election too, you know.

Mr. FAGAN: He also said, strengthening accountability, transparency and probity in the local authorities through mechanisms such as the local public - Parish Public Accounts Committee in all parishes…

A MEMBER: Somebody gi him that fi read.

Mr. FAGAN: …encouraging the establishment of municipalities by allowing for directly elected mayors…

(Cross talk)

Mr. FAGAN: …establishment of digital townhalls in each council to facilitate publishing of workshops and work plans and budgets for community inputs; setting up a Local Government Reform Committee in each council to assist in fast-tracking reform process.

A MEMBER: Nothing.

Mr. FAGAN: And I could go on and on, Mr. Speaker.

MEMBERS: Go on man, go on.

A MEMBER: Jook him man. You come in here with yu little…

(Inaudible)

A MEMBER: … self and nuh know wah yu a do.

Mr. FAGAN: Mr. Speaker, the Prime Minister… the Prime Minister, in this House, Mr. Speaker, promised that he would never postpone Local Government elections.

(Heckling)

In fact, Mr. Speaker in the JLP Manifesto, it is clearly stated that Local Government Elections would not be postponed. And, in fact, the JLP was seeking to have fixed dates for Local Government council.

(Cross talk)

A MEMBER: Four years. Four years no come yet.

Mr. BUCHANAN: A ginnalism.

Mr. CLARKE: You are a hypocrite.

(Cross talk)

The SPEAKER: (Gavels) Members, Members.

Mr. FAGAN: The truth, Mr. Speaker, is that...

The SPEAKER: Mr. Fagan is on his feet, and his colleagues are giving him a hard time.

Mr. BUCHANAN: Those on that side.

(Cross talk)

The SPEAKER: His colleagues on this side, they are giving him a hard time.

Mr. FAGAN: Mr. Speaker...

The SPEAKER: Yes, Mr. Fagan.

Mr. FAGAN: The truth is, Mr. Speaker, I don't believe that - and we on this side don't believe that...

Mr. CHARLES: Why don't you walk out, it look better in the headline.

Mr. FAGAN: We don't believe that the Government is serious about Local Government.

(Applause/*Sotto voce* comments)

Mr. FAGAN: We don't believe that they can face the public with any elections at this time, whether local or general.

A MEMBER: Dem a hide, man.

Mr. FAGAN: We believe, Mr. Speaker…

Mrs. HAY-WEBSTER: The Government is hiding. Face the music.

Mr. PERALTO: That's why they didn't contest the last General Elections.

Mr. FAGAN: …that they don't want to face the music.

Mrs. NEITA-HEADLEY: Face the music.

Mr. FAGAN: And so, they are going to do everything to hide from the people.

(Applause/*Sotto voce* comment)

Mrs. NEITA-HEADLEY: Hear, hear!

Mr. FAGAN: But, I can tell you, Mr. Speaker, they can't hide. They can hide for so long, but not for all the time because there is going to be a time when, by all means, they have to come and see the people.

(Applause)

And at that time, Mr. Speaker, the people...

Mr. CHARLES: You don't see anything yet.

Mr. FAGAN: …will speak**.**

Mr. PICKERSGILL: You right, we haven't seen anything yet.

Mr. M. PEART: Time must run out pon unno.

Mr. FAGAN: Mr. Speaker, I know that there are some other Members on this side who will want to say something...

The SPEAKER: Okay.

(Cross talk)

A MEMBER: You talking rubbish.

Mr. FAGAN: But, I also know that the programme - the JDIP, that programme, Mr. Speaker...

Mr. PICKERSGILL: Read the promises.

Mr. MAIR: You gwine get four nil.

Mr. CHARLES: You not gwine nominate like the last time.

(Cross talk)

Mr. FAGAN: The JDIP has not yet, has not yet...

The SPEAKER: (Gavels) Come on, listen, we are trying to hear Mr. Fagan.

Mr. FAGAN: That has not yet rolled out, Mr. Speaker. And so, the Government is depending on what is going to come with that road programme. But, I can tell you... I can tell you, Mr. Speaker...

(Cross talk)

Mr. FAGAN:I can tell you, Mr. Speaker, that it is going to put you in more trouble than what you are in now.

Mrs. NEITA-HEADLEY: Hear, hear!

(Applause)

Mr. FAGAN: I want to tell you, Mr. Speaker, that having had no representation in a number of the divisions for such a long time, I can't guarantee you that the people are going to have any faith in you. And so...

Mr. M. PEART: You know fi sure.

(*Sotto voce* comments)

Mr. BUCHANAN: Call the elections.

Mr. FAGAN: And so, Mr. Speaker, the truth is that you are going to have... you are going to be in office, but really don't have the power...

Mrs. NEITA-HEADLEY: Hear, hear!

(Applause)

Mr. FAGAN: …or the support of the people.

Mr. Speaker, I want so say to you - I want to say, Mr. Speaker, that we are not in agreement with the postponement. And the People's National Party and this Opposition does not support the suspension, or the postponement of Local Government Elections. And we are looking forward to the Government to revisit that Bill, and come and see the people as soon as possible. The argument given is foolishness…

Mr. MAIR: Four nil; you a get four nil.

Mr. ROBERTSON: Five nil.

Mr. FAGAN: …and cannot be sustained.

Thank you very much, Mr. Speaker.

A MEMBER: Hear, hear!

(Applause)

The SPEAKER: Mr. Fitz Jackson.

Mr. JACKSON: Mr. Speaker, after all the shout is over, we have to come to grips with the reality that faces our people in our respective municipalities. And I just wish to speak on one of the points raised by the Minister in charge, that is, in regard to the proposal to create a parish in Portmore.

Mr. Speaker, much can be attributed as to why really, the postponement is taking place again. But, I don't want to dwell there. I happen to have had the opportunity to have been a part of the process that brought the Portmore municipality into being from its beginning in the 1990s.

(Applause)

The truth be told, it was not an initiative by the political directorate. It was an initiative by the people of Portmore...

Mrs. HAY-WEBSTER: Exactly!

Mr. JACKSON: ..facilitated ...facilitated by the political leadership then, and throughout. What gave it some sense of relevance and meaning is because there was some deep sense of ownership by the people. The truth be told, some of us are concerned about the extent of that at this time. We made some very far-reaching proposals and new

directions, such as, the direct election of Mayors - of the Mayor; such as, the creation of the Citizen's Advisory Committee in the municipality. It doesn't happen anywhere else in the Jamaican Local Government system. It was an attempt to give voice to the people at the decision-making table.

(Applause)

A MEMBER: Hear, hear!

Mr. JACKSON: Indeed, we can say it was experimental. But you can't develop unless you are bold enough to go in new areas. But we are careful and cautious enough to say to ourselves, let us review these bold initiatives at some stage along the way. That review process is now due because, the truth be told, some things are not working out as good as we contemplated them then.

Mr. Speaker I can't understand why at this stage where we are trying to make good that which we have development brought into being 2003 to go one larger step when we have yet to seek to refine and develop the mechanism that we have put in place in the portmore municipality.

(Applause)

Mr. Speaker, I have had and continue to have ongoing interaction with the people of Portmore not only on an individual basis, but through the citizens organisation, the community groups such as the Ministers Fraternal, the Parents and Teachers Association, many different groups.

Ms. HANNA: The sporting group.

Mr. JACKSON: What we are crying for is more effective governance at the local level.

(Applause)

Ms. HANNA: Hear, hear!

Mr. JACKSON: The Minister knows as much as I do that there are some challenges right now in the Portmore Municipal Council, administrative and managerial challenges.

Mr. M. PEART: You have challenges at the ministerial level too.

Mr. JACKSON: So I want to... That said, Mr. Speaker, I want to beg of you, Minister, I know as a matter of fact, and you know, that the whole idea of a parish for Portmore, came during the height of the political campaign, that's where it emanated. No consultation at all has taken place...

Mrs. HAY-WEBSTER: None.

Mr. JACKSON: ...with the people of Portmore about making that gigantic leap.

And I say to you, Minister, please, please let us not relegate this very important matter to one of political convenience.

(Cross talks)

Dr. DAVIES: One hundred and fifty million.

The SPEAKER: Continue, Mr. Jackson.

Mr. JACKSON: I won't do so in the midst of the noise.

The SPEAKER: Yes, please the Member is on his feet allow him to continue uninterrupted.

Mr. JACKSON: I try to be respectful to others when they are speaking and I expect that that courtesy will be returned. (Applause)

Mr. BUCHANAN: Hear, hear!

Mr. JACKSON: So, Mr. Minister, I humbly, I humbly request of you, notwithstanding how it might appear regarding this whole thing about the parish of Portmore, I will ask you to learn from what we have done before, before you follow

through as an agenda item for new elections, suspend this whole thing about the parish for Portmore. Let us spend the energy and the time and all the resources that you can garner and what I will avail - and I've been seeking to avail through my CDF from time to time - to develop the model that we already have a substantial buying in, but need to develop more. (Applause)

Because the intention at that time, Mr. Speaker, is to use it as a model for the rest of the country...

Ms. HANNA: That's right.

Mr. JACKSON: ...in a practical way. Let us not turn it over for mere political convenience. Let us show our strength of character and say, pull back, let this one rest for a while, develop what we have and see what become of it and see how much we can use Portmore to contribute to the development of the local government system throughout Jamaica. (Applause)

A MEMBER: Boundary.

Mr. BUCHANAN: Touch me.

The SPEAKER: Dr. Phillips, you want to recover your seat, or...

Dr. PHILLIPS: No, I will speak from - with your permission, Mr. Speaker.

The SPEAKER: Very well, permission granted.

Mr. WARMINGTON: Denied.

Dr. PHILLIPS: I speak from a place other than my own.

Mr. WARMINGTON: Denied.

Dr. PHILLIPS: Mr. Speaker, I hadn't intended to participate in this debate, but I must say that I am saddened once again to see local government and the Local Government Institutions...

Mr. MAIR: Sell out.

Mrs. NEITA-HEADLEY: Manatt.

Mr. MAIR: Sell out!

Dr. PHILLIPS: ...being used as a political football in search of the fortunes of one party or the other.

Mr. SHAW: Just like Manatt, Manatt, Manatt. (Laughter)

Dr. PHILLIPS: The...

(Laughter/heckling)

Dr. PHILLIPS: Mr. Speaker...

Dr. DAVIES: Mine you haffi go testify.

Mr. ROBERTSON: Sell out!

Mr. MAIR: Sell out!

Mrs. NEITA-HEADLEY: Manatt.

Mr. PICKERSGILL: Yu hear yu.

The SPEAKER: (Gavelling) No, please, Members, allow the Member to complete his presentation.

Mr. BUCHANAN: What him sell out? What him sell out? You are a criminal.

Mr. PERALTO: The rights of the people.

The SPEAKER: Members, Members, Members.

Dr. PHILLIPS: Mr. Speaker, let's not forget that local government is that aspect of Government which touches most closely upon the lives of the people. It is through Local Government institutions that we can - that our communities can secure streetlights...

Mr. ROBERTSON: Countryman.

Dr. PHILLIPS: ...outside their gates.

Mr. ROBERTSON: Yu a star in a Manatt tomorrow.

Dr. PHILLIPS: It is through the Local Government institutions that we get a chance to have the drains cleaned and protect the health of communities. It is through the local

government institutions that the roads that pass most people's gates are in fact prepared and repaired. It is through the local government institutions that garbage collection - all those things that are closest to the life experiences of the Jamaican people and which determine ultimately, the quality of life.

Some writings in the newspapers talk about the small things that affect the condition of life of the Jamaican people and our Local Government Institutions are the institutions that touch upon our existence most closely.

We on this side have always considered local government to be a prime element of the whole structure of government. (Applause)

Mr. BUCHANAN: Hear, hear!

Dr. PHILLIPS: Indeed, for those who might not recall in the 1980s it took extensive direct action to prevent Local Government institutions being gutted and the number of councillors being reduced and almost every function being removed from local government. And let history record accurately, that it was we on this side, who insisted many decades ago, that local government should be entrenched in the Constitution of Jamaica so that those possibilities should never, should never be revived. (Applause)

Ms. HANNA: Hear, hear!

Mr. MAIR: You didn't do it.

Mr. BUCHANAN: We're not speaking to Venezuelan laws now yu nuh. We are not speaking to Venezuelan laws yu nuh, we are talking about Jamaica.

Dr. PHILLIPS: We have always hoped, and indeed if you will recall, but you may not recall, it is part...

Mr. MAIR: I wasn't here.

Dr. PHILLIPS: Whether you were here or not, you were not in Jamaica

Mr. BUCHANAN: He was in Venezuela, he was in Venezuela

Dr. PHILLIPS: ...it is part of the Report of the Constitutional Commission and it is part of the Report of the Joint Select Committee, which was received by this Parliament. What is needed - and I've said it many times - is for there to be a meeting of the minds. Our Constitution is so designed, that effective constitutional reform will require the support and the consensus of both sides and you have never been prepared to walk that walk so that the Jamaican people can have that new beginning.

Mr. SHAW: Don't bother with the grandstanding.

Ms. HANNA: Hear, hear, hear, hear!

Dr. PHILLIPS: No, well then tell him to shut his mouth.

(*Sotto voce* comments)(Cross talks)

The SPEAKER: (Gavelling) Okay, Members.

Dr. PHILLIPS: I would expect you to raise it otherwise.

(Cross talks)

The SPEAKER: Members, Members please, no need for the shouting across the corridor.

Mr. BUCHANAN: You are hearing conveniently.

The SPEAKER: Yes.

Mr. BUCHANAN: You are hearing conveniently.

The SPEAKER: Mr. Buchanan, please on both sides.

Dr. PHILLIPS: Mr. Speaker...

(Cross talks)

The SPEAKER: Yes, Dr. Phillips.

Dr. PHILLIPS: ...we've also long advocated reform of Local Government institutions...

Mr. BUCHANAN: No hold on, hold on. Mr. Speaker, on a point of order. The Member from...

MEMBERS: Sidung! Sidung!

Mr. BUCHANAN: ...North East St. Catherine, has referred to the Member from ...

(*Sotto voce* comments)

The SPEAKER: What is the point of order?

Mr. BUCHANAN: That the Member has referred to the Member as a CIA agent.

The SPEAKER: I did not hear that.

Mr. BUCHANAN: It is unparliamentary for the Member to refer to the Member as a CIA agent.

The SPEAKER: I didn't hear that, I did not hear that.

Government MEMBERS: Sidung man! Sidung man!

Mr. BUCHANAN: Hansard can prove me correctly.

Mrs. NEITA-HEADLEY: We hear it, we hear it.

Government MEMBERS: Sidung! Sidung!

Mr. BUCHANAN: And you must chose...

The SPEAKER: No, no!

Mr. BUCHANAN: ...who are your colleagues.

(Cross talks)

The SPEAKER: Geez, Dr. Phillips...

Mr. WARMINGTON: Mr. Speaker, Mr. Speaker...

The SPEAKER: No, no, no there's no need for...

Mr. WARMINGTON: Mr. Speaker, if the Member rises...

The SPEAKER: He has to say and there's no stop on point of order, yes.

Mr. WARMINGTON: ...he ought to state the point of order...

The SPEAKER: And there is none.

(Inaudible comments)

Mr. M. PEART: Where you're going?

Mr. WARMINGTON: ...and that point of order must be relevant...

The SPEAKER: That is correct.

Mr. WARMINGTON: ...to the Standing Order of the House of Representatives.

The SPEAKER: Yes, yes, Mr. Warmington, I'm aware.

Mr. WARMINGTON: So he need to state to you, Mr. Speaker, what section of the Standing Order...

The SPEAKER: It was not taken, Mr. Warmington.

Mr. WARMINGTON: ...is being breached.

The SPEAKER: Dr. Phillips, Dr. Phillips.

Mr. WARMINGTON: Dr. Duncan.

Mr. BUCHANAN: Imputing proper (sic) motives, Mr. Speaker. (Laughter)

Mr. WARMINGTON: The Member of Eastern... stop it, stop it. (Laughter)

A MEMBER: Yes, you're right.

Mr. BUCHANAN: The section that speaks to such, Mr. Speaker, 35(4), 35(4).

(Laughter)

Mr. HOLNESS: Mr. Speaker...

The SPEAKER: Mr. Buchanan

Mr. BUCHANAN: Thirty-five four, Mr. Speaker, of the Standing Orders, that is the section I'm referring to.

The SPEAKER: Mr. Buchanan, please, please have a seat.

Mr. BUCHANAN: That is the section I was referring to, Mr. Speaker.

The SPEAKER: Mr. Buchanan, Mr. Buchanan.

(Laughter/heckling)

Mr. HOLNESS: Mr. Speaker.

The SPEAKER: Yes.

Mr. HOLNESS: We would want to know, Mr. Speaker, if the comment made or alleged to have been made, was recorded in **Hansard**?

The SPEAKER: I didn't hear it.

Mr. HOLNESS: It didn't catch you ear, Mr. Speaker.

The SPEAKER: No.

(Cross talks)

The SPEAKER: Dr. Phillips.

Mr. HOLNESS: Mr. Speaker, Mr. Speaker, I urge you to ignore the Member's request.

(Cross talks)

The SPEAKER: Dr. Phillips, please continue.

(*Sotto voce* comments)

The SPEAKER: (Gavelling) Now Members! Members! Members!

(Cross talks)

The SPEAKER: One second!

(Cross talks)

Mr. HOLNESS: It's an insult.

The SPEAKER: (Gavelling) Now please, please we're going to have some order in the House you know, because if we're not going to get it then the only basis on which we can continue is to exclude some Members from the House, we just have to do it.

A MEMBER: Yes, Buchanan and...

The SPEAKER: Really and truly, the Speaker doesn't want to do it but we have to do it, we just have to do it.

(Inaudible comments)

The SPEAKER: Yes.

Mr. KELLIER: Mr. Speaker...

A Government MEMBER: Run out Buchanan out a di House.

(Cross talks)

Mr. KELLIER: You may not have heard...

The SPEAKER: Sorry?

Mr. KELLIER: ...you may not have heard the comment that was made by the Member.

A MEMBER: Me never heard neither.

Mr. KELLIER: There are many comments that are made in here that are recorded up there that you don't hear.

A MEMBER: Did you hear?

Mr. KELLIER: I am suggesting in this matter...

Mr. ROBERTSON: Did you hear?

Mr. KELLIER: ...that we get the **Hansard** Report...

The SPEAKER: Very well.

Mr. KELLIER: ...of what was said, *sotto voce*...

(Inaudible comments)

Mr. KELLIER: ...'irrespect' of the comments.

The SPEAKER: Okay, all right.

Mr. KELLIER: ...so that we can proceed.

The SPEAKER: Now - okay...

Mr. KELLIER: And if it is that **Hansard** has it recorded...

The SPEAKER: Okay, Mr. Kellier.

Mr. KELLIER: ...the Member must be made to withdraw and apologise.

Mr. HOLNESS: Mr. Speaker, let us be clear.

A MEMBER: No, but we cannot detain the House.

Mr. HOLNESS: Is a comment, which we have yet to prove, we have yet to prove whether or not that comment was said, but the Member has taken - the Member who raised - who got up on his feet from Westmoreland ...

Mr. WARMINGTON: South East, Westmoreland.

Mr. HOLNESS: ...South East Westmoreland...

Mr. BUCHANAN: There is no such constituency.

Mr. MONTAGUE: Eastern!

Mr. HOLNESS: ...Eastern Westmoreland, wants to say to this House, Mr. Speaker, that the Member from St. Andrew Eastern - East Central - who is being called a CIA agent...

A MEMBER: Yes.

Mr. HOLNESS: ...that that is an offensive comment...

Mr. JACKSON: No, in conjunction...

Mr. BUCHANAN: In conjunction...

Mr. HOLNESS: ...is that an offensive comment in itself?

(Cross talks)

Mr. HOLNESS: But the Member is - we have no facts that the Member is a CIA agent, so why are we making...

Mr. BUCHANAN: Mr. Speaker, Mr. Speaker.

The SPEAKER: Yes?

Mr. KELLIER: Mr. Speaker, the very fact - get the **Hansard** Report and then we can -the meeting can proceed and you get the **Hansard** report and at such time if it confirms that the Member's comments were recorded, then you take the appropriate action.

Mr. HOLNESS: What appropriate action can be taken for a statement, Mr. Speaker, saying that a Member is a CIA agent?

(Inaudible comments/cross talks)

Mr. KELLIER: The concept in which it was said, it's derogatory and abusive and it's imputing a motive.

Dr. PHILLIPS: Let me tell - Mr. Speaker, the Member, the Leader of the House...

Mr. KELLIER: And under section 35(4) it is against the Standing Orders.

(Cross talks)

Dr. PHILLIPS: ...is continuing to impugn. The Member of the House and the other Member, you come outside and say that, you come outside and say that.

Mrs. SIMPSON MILLER: No, that's what I was gonna say.

Dr. PHILLIPS: Let me tell you something, I have served this country...

Mrs. SIMPSON MILLER: Mr. Speaker...

Dr. PHILLIPS: …better and more than you'll ever do and I will never permit anyone of you...

(Applause)

Mr. BUCHANAN: Chose yu company!

Dr. PHILLIPS: ...to come and question my service and loyalty to Jamaica. You are out of order!

(Applause/standing ovation)

The SPEAKER: All right! Okay! Yes, Mrs…. (Gavelling) Mr. Robertson! Mr. Robertson!

(Cross talk/heckling)

Mrs. SIMPSON MILLER: Mr. Speaker, the House just descended to a level that is a new low…

Mr. CHARLES: You are a part of it!

Mrs. SIMPSON MILLER: …for the Honourable House of this Parliament.

Mrs. NEITA HEADLEY: A part of what?! Out of order!

The SPEAKER: Mr. Charles! Mr. Charles…

Mr. M. PEART: You have been named!

Mrs. SIMPSON MILLER: I am ignoring what he just said because I know he is not hearing properly what I am saying. So I am going to ignore him.

(Laughter/Applause)

(Cross talk)

Mrs. NEITA-HEADLEY: Anything you throw you get!

Mrs. SIMPSON MILLER: Mr. Speaker, Mr. Speaker, I want to make a point. The repu – you know what, all of us inside here on both sides, when one should pass, everyone gets up and says how good that person was.

Dr. BARTLETT: Like two weeks ago…

Mrs. SIMPSON MILLER: But as long as the person is alive…

The SPEAKER: Dr. Bartlett, please, can I just have some quiet?

Mrs. NEITA-HEADLEY: Put him outside!

(*Sotto voce* comment from Dr. Bartlett)

The SPEAKER: Yes, you! Please!

Mrs. SIMPSON MILLER: As long as the person is alive in this Parliament, and we – both sides, you know, create this kind of perception out there, that politicians are no good.

Mrs. NEITA-HEADLEY: We do it to ourselves.

Mrs. SIMPSON MILLER: We do it to ourselves!

But I do not believe in using the privilege of Parliament to destroy one another's reputation.

Opposition MEMBERS: Hear! Hear!

(Applause)

Mrs. SIMPSON MILLER: And I believe, Mr. Speaker – Mr. Speaker, all of us are going to be looking weak and incompetent if we allow Parliament to continue at this level and no action is taken.

When somebody imputes any motive concerning a Parliamentarian, and the integrity and reputation of a Parliamentarian – and it doesn't matter whether they are on that side or this side – I believe - and I am challenging the person that said so to go outside and repeat that Dr. Peter Phillips, Member of Parliament for Central St. Andrew, is a CIA!

(Opposition Members applaud)

The SPEAKER: Yes, yes, yes!

Mrs. SIMPSON MILLER: I am challenging you, if you think you are bad…

The SPEAKER: Okay, okay, Mrs. Simpson Miller, okay.

Mrs. SIMPSON MILLER: …go outside and…

(Cross talk)

Mr. WARMINGTON: Mr. Speaker! Mr. Speaker! Mr. Speaker…

The SPEAKER: No, no, no! Hold it, Mr. Warmington.

(Cross talk)

Mr. KELLIER: Mr. Speaker…

Mr. WARMINGTON: Mr. Kellier, I was on my feet before you.

The SPEAKER: No, no, no! Please! Please!

Mr. KELLIER: Mr. Speaker, we want a ruling. You have not ruled!

Mr. WARMINGTON: Mr. Kellier, I was on my feet before you!

The SPEAKER: (Gavelling) Could you please!

(Cross talk/heckling)

Mr. KELLIER: We want a ruling!

Mr. WARMINGTON: Mr. Speaker, I just want to…

The SPEAKER: Have a seat! Have a seat!

Mr. WARMINGTON: I am dealing with the Standing Orders, here!

The SPEAKER: I said have a seat! Have a seat!

Mr. WARMINGTON: Mr. Speaker!

Mrs. NEITA-HEADLEY: Have a seat!

The SPEAKER: Well, first of all, Members, I have asked **Hansard**. **Hansard** has not recorded it because when the cross talk was going on they have just confirmed that they did not hear the comment. I must say I didn't hear the comment, so I couldn't act.

(Cross talk)

A Government MEMBER: I didn't hear it.

Mrs. NEITA-HEADLEY: We heard it!

Opposition MEMBERS: We heard it!

(Cross talk)

The SPEAKER: Dr. Phillips, you heard it? I didn't hear it.

(Cross talk/heckling)

Dr. Phillips, I can assure you I didn't hear the comment. I am not too sure Members heard it.

Dr. PHILLIPS: Mr. Speaker…

(Cross talk/heckling)

The SPEAKER: (Gavelling) No! Members… (Gavelling)…really and truly, we are getting…

Mr. KELLIER: Ask the Member if he never said so, Mr. Speaker! You simply have to ask him if him say so! If he said so, let him withdraw!

The SPEAKER: No, we don't need to go there.

Mr. KELLIER: If he did not say so… (Heckling)

The SPEAKER: We don't need to go there!

Mr. KELLIER: If he did not say so we will apologise to him.

The SPEAKER: No. We don't need to go there!

Mr. KELLIER: We will apologise to him if him neva say so! Ask him! Let him be honest enough, let him be honest enough as a Member of this House to defend the truth! Let him be honest enough as a Member of the

House to defend the truth!

The SPEAKER: Mr. Kellier!

Mr. KELLIER: Let him get up and say so! If he did not say so we will apologise to him!

(Heckling/cross talk)

If he never said so we will apologise to him! If he said so he must withdraw it! He must be man enough! This is an honourable House! He must be man enough!

(Heckling)

Mr. ROBERTSON: Look at your behaviour! Look at yours!

Mr. HOLNESS: Mr. Speaker…

The SPEAKER: Yes, yes, Mr. Holness.

Mr. HOLNESS: Mr. Speaker, there is no evidence before us…

(Heckling)

…that a statement was made that would impute motive to the Member.

The SPEAKER: I didn't hear it!

Mr. HOLNESS: I encourage you, Mr. Speaker, to continue the debate on the Bills that are before us for the postponement of the Local Government Elections.

(Heckling/cross talk)

The SPEAKER: (Gavelling) Listen! Members! Members! Members!

Mrs. SIMPSON MILLER: Mr. Speaker, if there is no action – because you know, there are some of us who do not want to be associated with this kind of behaviour.

The SPEAKER: No, but Mrs. Simpson Miller, I don't even know who is it supposed to have said it.

Opposition MEMBERS: Mair! Mair! Mair!

Mr. MAIR: No, no, no!

The SPEAKER: I certainly didn't hear it!

(Cross talk)

Mr. BUCHANAN: You said it, Mair! You said it! And you know you said it!

(Cross talk/heckling)

The SPEAKER: (Gavelling) We are going to continue. Dr. Phillips, Dr. Phillips, please continue.

(Heckling)

Dr. Phillips, please continue.

Dr. PHILLIPS: Mr. Speaker, let me make something very clear.

(Heckling)

The SPEAKER: (Gavelling) Members, I want no further interruption!

(Cross talk)

Dr. PHILLIPS: The people of East Central St. Andrew have sent me here.

Opposition MEMBERS: Yes.

Dr. PHILLIPS: And as long as they do so, I insist on being heard on the business of this Parliament. And I insist on being heard without interruption and without abuse. I do not appreciate people who want to bring my life at risk, the life of my family and children at risk…

Government MEMBERS: Noooooo! Noooooo!

(Heckling/cross talk)

Dr. PHILLIPS: What the hell do you think you are doing?!

Government MEMBERS: Noooo! Nooooo!

(Heckling/cross talk)

Dr. PHILLIPS: What do you think you are doing!?

Mr. HOLNESS: Mr. Speaker, it is the Member who is now imputing motive! It is

the Member who is now doing that, Mr. Speaker!

(Cross talk)

Dr. PHILLIPS: Mr. Speaker, it is the consequence of the venom and vitriol and abuse that flow from that side.

Mrs. NEITA-HEADLEY: Exactly!

(Heckling)

Dr. PHILLIPS: And I have to endure it. And when the Prime Minister goes down because somebody paint up 'PNP' against a wall and when venom is painted up in the precincts of the Parliament…

(Cross talk/heckling)

The SPEAKER: Dr. Phillips! Dr. Phillips!

Dr. PHILLIPS: …I don't hear one word from him!

(Heckling/cross talk)

The SPEAKER: Dr. Phillips!

Dr. PHILLIPS: They are out of order and I will not put up with it!

(Government Members applaud)

(Heckling)

The SPEAKER: Dr. Phillips! Dr. Phillips, please!

Dr. PHILLIPS: Mr. Speaker, let them come, because I can deal with all of them!

(Opposition Members applaud)

(Heckling)

Mr. HOLNESS: Mr. Speaker, Mr. Speaker…

The SPEAKER: Dr. Phillips, please! Please!

Mr. HOLNESS: Mr. Speaker, the Member is descending into an abyss where we will not recover. He has cast aspersions on the Government, that we are threatening him and his family. He has cast aspersions that he can take us on.

(Heckling)

Mr. Speaker, it is unbecoming of the Member! It is unbecoming of the Member!

(Heckling)

Mr. BUCHANAN: He never said that! He never said that!

(Heckling/cross talk)

Dr. PHILLIPS: Mr. Speaker, blood runs through my veins!

The SPEAKER: Dr. Phillips! Dr. Phillips! Dr. Phillips! Stick to the debate, please! Stick to the debate!

Dr. PHILLIPS: If you - let me tell you something…

Mr. E. SMITH: Don't threaten the Speaker!

The SPEAKER: No. Stick to the debate. Dr. Phillips, I understand your passion, but please control it and stick to the debate. Let us be relevant, please.

(Cross talk)

Dr. PHILLIPS: Mr. Speaker, blood runs through my veins! If I am assured, Mr. Speaker, that you will control the language.

The SPEAKER: If I hear it I will …so please stick to the debate.

(Cross talk)

Mr. SHAW: This is not Manatt and MOU, you know.

Dr. PHILLIPS: And it's not Mandeville or Christiana or yuh banker!

(Heckling)

The SPEAKER: (Gavelling) Members! Would you please allow Dr. Phillips to continue!

Mr. SHAW: Stick to the Local Government issue!

The SPEAKER: Okay. Mr. Shaw!

Dr. PHILLIPS: Yes, Mr. Speaker, Local Government…

Government MEMBERS: Aahhh! Very good.

Dr. PHILLIPS: …as I said, is an important element in the whole corpus of government in the country. We have insisted and decided that there should be constitutional reform. We also on this side are proud of the record that we undertook, with respect to reform of Local Government.

(Opposition Members applaud)

It was us on this side - we introduced - the Municipal structure in Portmore has already been mentioned. We introduced the system whereby Local Government Authorities would have access to their own funds, so that they could be used to deal with the lives, and improvement of the lives of the people in their communities.

Mr. BUCHANAN: That's right!

Dr. PHILLIPS: We had proposals, Mr. Speaker, for further reforms. We had proposals for reforms including adding a number of Municipalities. We had proposals to allow more of the revenue flowing from local resources into the hands of the Local Government institutions.

And what do we see now, Mr. Speaker, is that in the period since '07, what we have is a situation where that reform agenda has been put on hold. It has been totally abandoned. The parochial funds from which resources were pulled for road improvement, yet the road improvement was done without any reference to the Parish Councils in many instances.

We have had no further proposals in the three years about additional Municipalities. We have had no further proposals with respect to strengthening the administrative capacity. There were proposals from this side about putting professional managers for our cities. Nothing more has been heard.

Now, Mr. Speaker, we are being told once again that the Local Government elections are to be postponed. They were postponed before, supposedly because reform measures were to come. Now we are being told that they must be postponed again, and there are no reform measures before us.

Mr. Speaker, this is nothing more than a patent political manoeuvre to suit the interest of the Government which is afraid to face the people in Local Government elections.

(Applause)

Mr. BUCHANAN: Boundary.

Dr. PHILLIPS: We should vote against this legislation.

Mr. M. PEART: I voted against it.

Dr. PHILLIPS: We should agree that we will entrench – both sides – let us agree to entrench Local Government in the Constitution. Let us agree that we will not allow the postponement of Local Government elections in the future, willy-nilly. Let us finally show some respect to the people of Jamaica in their communities, Mr. Speaker. (Applause)

We vote against this legislation.

Mr. BUCHANAN: Hear! Hear! (Applause)

The SPEAKER: Mr. Bunting.

Mr. BUNTING: Mr. Speaker, hopefully we can bring the temperature down.

(*Sotto voce* comments)

Mr. BUNTING: Because I really think when the Minister responsible for Local Government made his presentation, he was really doing it – although he was delivering it with a lot of bombast, he really was doing it tongue-in-cheek, because he knows that the reasons that he proffered for the postponement were barely plausible and quite superficial.

The truth is, Mr. Speaker, that if we want to postpone an election we can always come up with some reasons. And the truth of the matter is, an election is inconvenient, it is inconvenient, it is always going to disrupt something. And if nothing else, it is expensive.

But that, Mr. Speaker, is the price we pay for democracy. And that is why we cannot treat that democracy which has been fought for by our fore-parents, which those who don't have it – as we see demonstrated in Egypt and the Middle East now - it becomes so precious, that is why we cannot take it for granted.

Mrs. NEITA-HEADLEY: Hear! Hear! (Applause)

Mr. BUNTING: Now, Mr. Speaker, the Member for North West St. Catherine often likes to remind us that the past is a point of reference, not a place of residence. And when I listened to some of the Members on the Government side going back in history, decades, to the nineties, to point out earlier periods of postponement of Local Government elections, I wonder if we take the past as a place of residence, how will we ever make progress in our governance and in our running of the country?

Mr. BRODERICK: You suffer from Alzheimer's!

Mr. BUNTING: Mr. Speaker, the Government must remember that they are 70% through the normal constitutional term in office. They are midway through their fourth year in office, almost twice the length of time the Minister promised to make himself redundant. (*Sotto voce* comments) And at some point, at some point they have to stop trying to blame the previous administration. It is just not credible.

(Applause by Opposition Members)

Mr. BUCHANAN: One term office!

Mr. BUNTING: Mr. Speaker, the Minister referred to the advances in Local Government reform, and I really, - particularly in reference to the Manchester Parish Council - find it, I struggle to understand his justification. He speaks to plans and bills that are being drafted, but we haven't seen anything manifest.

What we have seen manifest is that they have captured 50% of the Road Maintenance Fund with a promise, with a promise that much more resources would have flowed to the parish councils for repairing parish council roads. And what we have seen is that those roads, they have given it up but they have gotten they received nothing in return. They have no say in the selection of the road or the prioritization, what we have seen is more centralization**.**

Mr. Speaker, when we look at a simple thing like solid waste management and in particular, street-cleaning, garbage collection, these are the most basic responsibilities of Local Government. To my mind, we should be looking at how do we move these back,

these responsibilities back to the parish councils which had them decades ago. Because there is no special technology that we need centralized to tell us how to keep the streets clean and how to collect the garbage.

We can accept, you know, central landfills, *et cetera*, can be managed by NSWMA. But what we have seen is, instead of moving these things back to the parish councils, what we are seeing is even greater centralization. So now, even the maintenance of the road verges, the roundabouts, *et cetera*, we see bus loads of these weed-whacker operators driving from Kingston down to Manchester to cut the grass on the side of the road.

(*Sotto voce* comments by Government Members)

Mr. BUNTING: Now, Mr. Speaker, this is really an insult to the idea of Local Government. It is an insult to the principle of subsidiarity, which is doing at the level of the subsidiary what they are capable of doing. And that is really the whole principle of local government.

Mr. Speaker, if we turn even to local government's responsibility as a planning authority, again using the example of Manchester. In my constituency, Mr. Speaker, there is a major housing development taking place, the Perth Housing Scheme, hundreds of lots. And normally, I would welcome it, but what is happening, Mr. Speaker, is the lots are being cut up - the Minister has used his powers as a corporation sole, I assume, and he has proceeded, he is putting in infrastructure, work is going on. The Parish Council has not given their approval to it, but it is probably not required. But even the questions they have asked, Mr. Speaker, where is the water coming from for this major scheme Mandeville is already suffering from insufficient water. We have no answer. We have seen nothing happening on the developments which the Minister promised two years ago, and yet the scheme is going ahead. When the NHT sells the lots, Mr. Speaker, and there is no water supply, the pressure is going to come back on the local council and on the Member of Parliament, and the Minister will be inaccessible to them.

So, Mr. Speaker, the Member from West St. Mary really needs to look beyond the theory. And I know, as I said, you know, I know him well enough to know when he was delivering with bombast he was really delivering tongue-in-cheek, and I know he really didn't take that seriously. I know he really didn't think that this was about empowering local citizens to feel that they have some control and authority over what happens in their lives.... And this is the opportunity that we are taking away from them by this continuous postponement of their elections. It removes from them an opportunity to make their voices heard, and I think this is very important, Mr. Speaker.

And finally, you know, it is interesting that - the Minister, I believe, is reluctant to face the general public in the 227 Parish Council divisions which should shortly be 228, but he is more open to go into four divisions which the JLP held in the last Local Government elections.

(*Sotto voce* comments by Government Members)

Mr. BUNTING: Now, Mr. Speaker, as a lawyer, you know if he was part of your

profession he could be accused of sharp practice for doing that, because what he is really doing is avoiding facing the music in a general Local Government election and trying to cherry-pick a few seats that he hopes, he hopes should be safe seats based on the traditional results. I would warn the Minister, he may be in for a surprise. (Applause by Opposition Members)

So, Mr. Speaker, we do not support the postponement. We believe that the public deserves to have a regular say in the selection of their Local Government representatives, and we believe that these reasons proffered are superficial and implausible. (Applause)

The SPEAKER: Mr. Mullings.

Mr. MULLINGS: Thank you, Mr. Speaker.

Mr. Speaker, one has to look very carefully at the arguments that are being put forward about the issue of the Local Government elections. And I have listened keenly to the Opposition and I am hearing two arguments.

On one hand I am hearing the Member from South Eastern St. Catherine saying that the need for the system to be improved yes, but that ought not to prevent Local Government election. Then I hear the Member from Southern St. Catherine say, almost like the anti-abolitionist, hold on, don't give us another parish because we are not ready. Almost like saying, give us half-free not full-free. And so, what we are getting is, on the one hand the need to build up the institutions, so don't give us the authority, and on the other, we are hearing that we must have elections regardless.

Mr. Speaker, we have to be very careful when we are looking at this issue because if we are serious about governance, the casting of a ballot is but one event for that process.

Dr. DAVIES: Critical, critical.

Mr. MULLINGS: Critical yes, critical yes, but we must also be keen to improve that process.

A MEMBER: Hear, hear!

Mr. MULLINGS: And we are all agreed on that.

I believe, Mr. Speaker, that we are all agreed that it's not the best scenario for elections to be postponed. But we must not at the same time throw the baby out with the bath-water. If there are issues as to how best we can improve the system, let us do it. If we are going to put it in the Constitution, and if we are agreed, let us do it.

And I think, Mr. Speaker, that we understand the concern especially in a competitive democracy where parties are always contending for the opportunity to get power, we understand that, but let us not allow ourselves to lose sight of the overall objective.

Dr. DAVIES: So you want to sketch it for us?

Mr. MULLINGS: If I maybe - I may humbly suggest. I humbly suggest this, that we will always hold up the objectives and measure what you achieve in those objectives. We are agreed we must have better tax collection for our Property Taxes for resources to be made available we are agreed on that. We are agreed that you need to entrench it in the Constitution. So let us I suggest humbly, even if this House is so keen

to set up a committee of the Parliament to see how best we can move that process along.

If you don't agree, and I know you don't with the extension, then we exercise that right here in this House. But I think we have gotten lost in the passion of the concerns and unfortunately we have taken a turn, which we ought not to have taken. I think we can retrieve that, and I think that we can retrieve that civility, even if you are going to take a vote, we'll take the vote but let us work towards the benchmarks that we are agreed on. (Applause)

And so, I urge all of us, my colleagues, that we exercise that right now, but then, let us set up this Committee of Parliament to look at some of those things, especially the entrenchment in the Constitution, how best we can fast-track that and at the very least, have something we can say that we have achieved while looking forward to the next election day.

Thank you, Mr. Speaker. (Applause)

The SPEAKER: Dr. Duncan.

Dr. DUNCAN: Mr. Speaker, Mr. Speaker, Mr. Speaker, I am sure by now, sir, that you are fully aware that, based upon what has been said by all of the speakers from this side, that on this side we are totally opposed to the postponement of the Local Government elections.

(Applause by Opposition Members)

Dr. DUNCAN: In case there are any doubts, we are totally opposed to postponement of the KSAC Municipal Elections and we are opposed to the postponement of Parish Council elections. Let it be absolutely clear, and we are opposed for many important reasons.

The Minister, on behalf of the Prime Minister, on behalf of the Government, on behalf of the Jamaica Labour Party, have put forward some reasons for the postponement. We on this side have so far put forward a number of arguments to suggest that those reasons are auspicious, they are not the real reasons. We contend, Mr. Speaker, they are reasons that have been put forward, but they are not the real reasons.

Mrs. NEITA-HEADLEY: Absolutely!

Dr. DUNCAN: We contend, as we have said on this side, that the People's National Party in Government and outside of Government has had a long history of commitment to genuine fundamental Local Government reform that it cannot be disputed. (Applause by Opposition Members) They are committed to it because of our commitment to the process of decentralization and bringing the whole concept of governance to every single human being in this country, because the People's National Party puts people first.

(Applause by Opposition Members)

Mrs. NEITA-HEADLEY: Hear, hear!

Dr. DUNCAN: We have a problem however, Mr. Speaker. We have a problem, which not only has to do with the history of who is committed to what or when, but we have a problem with the present. The entire concept of governance and what we do about it in this country is under siege in this country. (Applause)

Mrs. NEITA-HEADLEY: Hear, hear!

Dr. DUNCAN: There is a tremendous, as we said in the last debate when we were speaking about the Standing Orders, the review of the Standing Orders, it's almost a continuation of the theme that we are at risk

of further devaluing Parliament, devaluing the way that people see us Parliamentarians and devaluing the system. Admittedly, that system needs change. But we are in danger! And if you do not give reasons for action that can stand up to scrutiny, you further devalue the whole idea of governance. (Applause)

Mrs. NEITA-HEADLEY: Hear, hear!

Dr. DUNCAN: You must seek reasons that can stand up to scrutiny because they are based upon truth….

Mr. BUCHANAN: Boundary!

Dr. DUNCAN: …and reside in integrity.

Mr. BUCHANAN: Six runs!

Dr. DUNCAN: At the moment there are other things going on in this country at this time every morning between 9:30 and 1:00 speaking to the issue of governance and integrity.

Mr. BUCHANAN: Manatt, Manatt, Manatt!

Mr. WARMINGTON: Sell out, sell out, sell out!

Dr. DUNCAN: We cannot in this Parliament, cannot in this Parliament continue to give credence or to establish evidence that we are less and less capable of good governance and that's what we are doing. In this case telling the truth, the whole truth and nothing but the truth. (Applause)

Mr. BUCHANAN: The whole truth.

Dr. DUNCAN: I don't need to go into the details that have been spoken to already. But the letter from the Director of STATIN does not hold water in relation to postponing election.

Mrs. NEITA-HEADLEY: It does not!

(*Sotto voce* remarks by Members)

Mrs. NEITA-HEADLEY: Hear, hear! You never drill a toothache and feel…

Dr. DUNCAN: Mr. Speaker, in politics that process….

Mrs. NEITA-HEADLEY: Distraction is not a process! Democracy is a process.

Dr. DUNCAN: …the journey is as important as the destination.

Mrs. NEITA-HEADLEY: Correct! Hear, hear!

Dr. DUNCAN: Even sometimes more important the way you get to the destination is critical and very important. If on the way, if on the way you muddy the waters with contrived reasons for trying to get that process completed the population, the people of this country will continue to lose confidence in us.

(*Sotto voce* remarks by Mr. Robertson)

Dr. DUNCAN: When the present Administration came to office they came to office with a lot of trust invested in them.

Dr. DAVIES: Misplaced!

Dr. DUNCAN: The main reason for dilemma they have now is that that trust has been eroded. (Applause)

Mrs. NEITA-HEADLEY: Completely!

Dr. DUNCAN: You will further erode it if the reasons that you are giving, to deny the people of this country their democratic right at this stage, you further erode that trust.

Mr. D. SMITH: How you accept vote!

Mr. SHAW: You never win your seat, you now!

Dr. DUNCAN: Trust - Mr. Speaker, if you throw stone in certain places and certain people squeal you know they need a vet.

(*Sotto voce* remarks by Dr. Bartlett)

The SPEAKER: Okay.

Dr. DUNCAN: So, Mr. Speaker, the government does not need.

Mr. BUCHANAN: Mr. Speaker, protect the Member on his feet.

The SPEAKER: (Gavels) Okay.

Dr. DUNCAN: Reason (a) the Government does not need more time to implement elements of local government reform. That is a process. The country needs to continue that process.

In the meantime, the new buzz word, Mr. Speaker, as I understand it from that side, is a thing call renewal, renewal of the Chairman of the party. The renewal of the General Secretary of the party. The new buzz word is renewal. Critical to the system of local government is the concept of - democracy, is the concept of renewal. The fact that under a previous Administration run by the People's National Party, that you have postponement after postponement is not a reason to bring to this House to say that two wrongs make a right. Two wrongs don't make a right. That is now history under the progressive agenda of the People's National Party. (Applause) We have conceded that we did some things wrong and we are going to make them right because we need better outcomes. We have conceded it, but we know we have done most things right and we will also continue to make them better. (Applause) So renewal, Mr. Minister, through you, Mr. Speaker, is a critical component of the local government process. Many people across this country have had their councillors in place for a number of years, they want to change them. They want to change your councillors.

Mr. ROBERTSON: How you know that!

Dr. DUNCAN: They are ready to change them. Some are willing to resign. Some are willing not to run again. Renewal is the order of the day. Mr. Minister ask the Prime Minister to rescind your advice and let us have the election now. (Applause)

But, Mr. Speaker, others have spoken to that. I will just go - let us go behind, as they say, the back story. Let us look at the back story. The real story, not the reasons put here which I easily dismiss, the three, and let's go to the three real reasons. Reason number one.

Miss HANNA: Talk up the things!

Mr. ROBERTSON: We never asked for your opinion.

Dr. DUNCAN: Reason number one, Mr. Speaker, is the old adage of the politics of power. The Government is in retreat. (Applause)

Mrs. NEITA-HEADLEY: That's it! That's it!

Dr. DUNCAN: The Government is in retreat. They cannot face the people. They cannot face the people.

Mr. ROBERTSON: Four zero.

Mr. SHAW: Waste a time.

Mrs. SIMPSON MILLER: You want to go back to sleep.

Mr. SHAW: Why you never run in St. Ann.

The SPEAKER: (Gavels) Okay.

Dr. DUNCAN: So, Mr. Speaker . . .

(*Sotto voce* remarks)

The SPEAKER: (Gavels) Members, please.

Mr. SHAW: Nonsense number two!

Dr. DUNCAN: Mr. Speaker, in relation to that understanding, which we understand and we sympathize. If you are about to become the first first-term only government it is not at nice thing. (Applause) It's not a nice thing. It's not a nice thing.

Mrs. NEITA-HEADLEY: One term, one term!

Dr. DUNCAN: But let's.

Mr. HENRY: Call a by-election in your seat.

Mr. BUCHANAN: Call a general election, just call a general…

(Cross talks)

The SPEAKER: Okay, Mr. Henry. Please continue.

Mr. MONTAGUE: Reason number two.

Dr. DUNCAN: I am going to put into evidence exhibit number one to demonstrate - I am watching the Commission of Enquiry very closely and I am going to lay the foundation for the case.

Mrs. HAY-WEBSTER: Talk, D.K, talk!

Dr. DUNCAN: What is the foundation? Fact number one, the local government elections are due, not for the first time, not for the second time, but for the third time.

Mr. HENRY: Ten times.

Dr. DUNCAN: Every time reasons are given, which cannot hold water, but they are good reasons for postponing from the Government's point of view and good reasons to have a Plan B to give the impression that they are interested in democracy. If you are interested in democracy, let's go to the polls generally. (Applause) The plan, Mr. Speaker, after delaying a number of by-elections, after delaying a number of by-elections a way has to be found to suggest, as the Minister has said, that they are into this representationWe on this side, when the Duncans Division by-election was postponed, made it clear here that we are upset that the people would not be having representation for a period of time, and we said it should not be put off. But they said it was legally due to be put off. So it's no longer legally due to be put off, so we say let's have the general election to cover all of the divisions, including those divisions.

Mr. HENRY: Wait 'til you get to the poll.

Dr. DUNCAN: I return to the full evidence. But let me go to number two. They have made no provisions, no provisions have been made with the Electoral Commission of Jamaica for funds to be in place to allow for an election between now and the end of March.

Mrs. NEITA-HEADLEY: None!

Dr. DUNCAN: You cannot have an election between now and the end of March.

Mr. PERALTO: There was none for the by-election and we had by-election, so that evidence is flawed.

Dr. DUNCAN: There is no budget. No budget. Neither of your two representatives on the ECJ sit in this House. The only person with information that is credible is no longer on the Commission but in front of another Commission, the former General Secretary.

(Laughter/cross talk)

Mr. SHAW: Where is nonsense number three?

Dr. DUNCAN: Now, in order, Mr. Speaker, let the country picture this very clearly, very clearly.

We are due - Local Government elections are due for the third time and you say no, right, you are not going to have it. You don't want to have it because you are going to lose it, if you have it.

(Applause)

Mrs. NEITA-HEADLEY: That is it, that is it. (Applause)

Dr. DUNCAN: But in order, Mr. Speaker, in order, to do a little political engineering….

Mrs. NEITA-HEADLEY: Talk the talk, talk up the things dem.

Dr. DUNCAN: …in an attempt to set the stage for a possible, not renewal, but revival, which is not on the cards, they have looked at the political map and both of us know, but we need the press to know, the public to know, that it is a game that you are playing.

Mrs. NEITA-HEADLEY: Yes.

Dr. DUNCAN: What is the game? There are four divisions, there are at least four divisions, Mr. Speaker, where by-elections have been overdue, have been due, will be due, will be due, thank you. As far as representation is concerned they are without - they have been without representation for a long time, that is a fact. Let's look at them have quickly. So the government says to itself, we are in trouble, we are in deep trouble, that that is what the government says to themselves. So they then say, ask the State Minister to come here and give us a story.

(*Sotto voce* comments by Mr. Shaw)

Opposition MEMBER: Ask Tufton.

Mrs. NEITA-HEADLEY: Ask Chris.

Dr. DUNCAN: Yes, listen. So, Mr. Speaker, what they have decided to do, what they have decided to do is what the spokesperson on this said, they have decided to cherry pick, cherry pick and have selective democracy as the basis to hope for a recovery.

Mr. ROBERTSON: That sound like the minister's mobilization.

Dr. DUNCAN: So, you have four divisions, four divisions that the Minister says that he wants to have - the mayor have discussion with somebody about having by-elections in these divisions right. We are going to ask STATIN don't bother do the census, not that. Alright, so we will have discussions and see, but at the heart of it they want these four elections. Norbrook - deep respect and thing for the councillor who died. But in the last election the Jamaica Labour Party got 3,461 votes in that division, 3,461 to the People's National Party 1,881 right. In the Spanish Town division, the JLP got 1,846 votes, listen to me, the Deputy Leader to the PNP's 282 right, 1,846 to the PNP's 282. In the last general election into the Frankfield division, the JLP got 2,549 to the PNP 1,637 and in the Duncan's division 2,275 to 1,851.

The politics of power, remember your book? Tells you that therefore you try the selective - you didn't read the book.

Mrs. NEITA-HEADLEY: No.

Dr. DUNCAN: It is clearly stated, although, the elections are due for the entire island, although the….

(*Sotto voce* comments by Members)

Dr. DUNCAN: What is that? Although the elections - although the general elections, the general Local Government elections are due, they say postpone that, but let's see if we can run these four and pump up a little revivalist business, to see if they can win. (Applause)

Mrs. NEITA HEADLEY: Same way, same way!

Dr. DUNCAN: Mr. Speaker, Mr. Speaker, Mr. Speaker, I am here to tell you, I am here to tell you, that the People's National Party is committed to democracy. The People's National Party is committed to the people having representation. Whether we can win a division or not we want the people to have representation. (Applause)

Mrs. NEITA-HEADLEY: Say it again, say it again.

Dr. DUNCAN: We, however, recognize as the Minister has recognized that he has postpone these local government elections three times. We want to include these four in the 227 and let's have one big Local Government election which is due. (Applause)

Mrs. NEITA-HEADLEY: Hear! Hear! Hear!

Dr. DUNCAN: And Mr. Speaker, we will tell you, with these four the tradition is, the tradition, Mr. Speaker, in the last three to four years is not to have - the tradition is not to have By-elections but to have BUY elections (Applause) and it is easier to buy four than 227.

Mrs. NEITA-HEADLEY: That's it, that's right.

Dr. DUNCAN: We challenge you on this side to call the Local Government elections in Kingston because we will win…

Mr. WARMINGTON: Mr. Speaker, Mr. Speaker.

Dr. DUNCAN: ….in St. Catherine because we will, in Clarendon because we will win, in Manchester because we will win, in St Elizabeth because we will win, in Westmoreland because we will win, in Hanover because we will win, in St. James because we will win, in Trelawny because we will win, in St. Ann because we will win, in St. Mary because we will win, in Portland because we will win, in St Thomas because we will win. You are our - people in Jamaican right now if any. (Inaudible) (Applause)

Thank you, Mr. Speaker. (Applause)

(*Sotto voce* comments by Members)

A MEMBER: Mr. Speaker, Mr. Speaker.

Opposition MEMBER: Shake mi hand.

(*Sotto voce* comments by Members)

The SPEAKER: Mr. Charles.

Mr. E. SMITH: Mr. Speaker, on a point of… He should be cited and excluded from the House. He should be excluded from the House.

The SPEAKER: You heard what he said?

Mr. E. SMITH: He should be excluded from the House.

The SPEAKER: Why?

Mr. E. SMITH: That's a political ….he has breached the Standing Order.

Mr. PICKERSGILL: Which Standing Order, there is no Standing Order call shut up?

Mr. E. SMITH: Shut your mouth, you don't have no sense. Duppy.

The SPEAKER: Mr. Charles, Mr. Charles… Mr. Smith please now cool down. Mr. Charles.

(*Sotto voce* comments by Members)

The SPEAKER: (Gavels) Okay, Mr. Charles.

(Cross talk)

Mr. CHARLES: Mr. Speaker, I am going to ask the Members of this House, to accord me the privilege to speak in silence.

Mr. PICKERSGILL: Come, Pearnel, start your speech, how you stand up there like…

(Cross talk)

The SPEAKER: Hansard Writers need some… no cross talk in the Chamber please. Please, go ahead.

Mr. CHARLES: Mr. Speaker, I have been here for a while. And some of those who are now shouting for democracy should be shouting that it is hypocrisy. (Laughter) Some of those who are coming here with clean hands; they have no heart, dirty heart. I feel a little revived to see the Member from Hanover…

Mr. MONTAGUE: Eastern.

Mr. CHARLES: …getting back to his 1970 days, (Laughter) when he was Minister of Mobilization and the other Member over here who dare to call the head of the Statistics department's letter that she is in contrivance...

Government MEMBER: Out of order.

(Cross talk)

Mr. CHARLES: I believe that this House ought to apologize ought to see an apology…

Dr. DUNCAN: Mr. Speaker …

Mr. SPEAKER: Mr. Charles hold a sec. Yes, I don't think he said contrivance, he didn't use that term. Yes Mr. Charles he did not use that term.

Mr. CHARLES: You know, Mr. Speaker, there are some of us…

The SPEAKER: Mr. Charles he never used the term…

(Cross talk)

The SPEAKER: No, Mr. Charles.

(**Sotto voce** comments by Dr. Duncan)

Mr. CHARLES: Would you like to speak again?

Government MEMBER: You said so.

The SPEAKER: Mr. Charles, no, what he said was that the - it was not being contrived, but not the letter was contrived.

Mr. CHARLES: Mr. Speaker, in this House it is not permitted to call names, and that is why I would not say Mr. Pickersgill - Robert Pickersgill.

A MEMBER: No, no!

Mr. CHARLES: Hold a minute, I said it is not permitted to call names, but because I don't remember what constituency he comes from I have to identify him by name. (Laughter) He said that the letter is contrived, he said so. And Mr. Speaker, don't tell me that he did not say so…

The SPEAKER: No, no!

Mr. CHARLES: …he ought to apologize to the lady.

Mr. PICKERSGILL: Sit down.

Mr. CHARLES: You are disrespecting her, a civil servant who has worked hard for this country…

The SPEAKER: But Mr. Charles…

Mr. CHARLES: …to talk that she is contriving with the Labour Party, you are disrespecting her.

The SPEAKER: Mr. Charles, you are on the wrong premise, you are on the wrong premise Mr. Charles.

(*Sotto voce* comments by Mr. Pickersgill)

Mr. CHARLES: One of the problems with you, one of the problems with you all, you all have become lily white in just 36 months.

(*Sotto voce* comments by Members)

A MEMBER: Pearnel, you are not going to speak long?

Mr. CHARLES: Mr. Speaker, I am going be speaking as long as I want.

(*Sotto voce* comments by Mr. Buchanan)

The SPEAKER: Mr. Buchanan Please.

Mr. CHARLES: Mr. Speaker, I hope that those of us in this House who try to say we are representing certain types of people…

Mr. PICKERSGILL: Who inside here….

Mr. CHARLES: …will recognize that when people are not here to defend themselves, we are not to say these sort of things about them. And I want to apologize to the lady, I want to apologize to her that I was in this House when that remark was made that, she is contriving letter to support the Minister in his demand for local government election.

(*Sotto voce* comments by Members)

The SPEAKER: Yes.

Mrs. SIMPSON MILLER: Mr. Speaker, I rise on a Point of Order because the Member is misleading the House. He is saying something that was not said by the Member, and he continues to do that and to behave as if the lady was disrespected. Nobody could hold that public servant and that distinguished lady responsible for calling of any elections. (Applause)

The SPEAKER: Yes, Mr. Charles.

Mr. CHARLES: You know Mr. Speaker.

The SPEAKER: No, Mr. Charles, I don't recall the Member…

Mr. CHARLES: Mr. Speaker…

The SPEAKER: One second. I don't recall the Member, saying - imputing any motive or any act to the letter.

Mr. SHAW: Hansard, Hansard!

Mr. KELLIER: Hansard, ask **Hansard**, ask **Hansard!**

Mr. MULLINGS: Mr. Speaker, Mr. Speaker, Mr. Speaker.

The SPEAKER: Yes.

Mr. MULLINGS: The Member from Eastern Hanover I'm sure will agree with me that he said the letter couldn't hold water.

The SPEAKER: That is correct. That is correct.

Mr. MULLINGS: Which is therefore imputing that the author of the letter is...obviously. (Shouting) It must be, it must be.

The SPEAKER: No, no, no! Mr. Mullings, Mr. Mullings and Mr. Charles, I heard when he said the letter couldn't hold water. You can't depend on the letter as a basis.

Opposition MEMBERS: Ahh, ahh, ahh!

The SPEAKER: That's what he said. But to say that the letter was contrived is a different thing, please. (Cross talk) No, no, far different thing.

Mr. MULLINGS: If the Member had said, Mr. Speaker, with respect, if the Member...

(Interruptions)

Please, please. If the Member had said that the argument couldn't hold water...

Mr. KELLIER: On a point of order, Mr. Speaker, point of order... (Interruptions)

Mr. MULLINGS: ...it would be a different thing.

The SPEAKER: Okay, Mr. Mullings. Okay, Mr. Mullings, there is no doubt in my mind. What he said, he was saying that the letter...

Mr. MULLINGS: Yes...

The SPEAKER: ...that the letter.

Mr. MULLINGS: Yes.

The SPEAKER: ...was of...

A MEMBER: Was of no value.

The SPEAKER: ...no value in holding...

Mr. KELLIER: Couldn't hold water.

The SPEAKER: ...was not to be used as the basis, that's my understanding...

Mr. MULLINGS: No, Mr. Speaker. If the Member, with respect...

Mr. KELLIER: Mr. Speaker, on a point of order.

Mr. MULLINGS: Opposition Leader, if the Member had said ...

Mr. KELLIER: Point of Order.

Mr. MULLINGS: I'm on my feet.

Mr. KELLIER: No, you can't finish.

The SPEAKER: Let him finish.

Mr. KELLIER: You have ruled already. Him violating the Standing Orders.

Mr. MULLINGS: I'm on my feet.

Mr. KELLIER: He's violating the Standing Orders.

The SPEAKER: Just let him finish nuh!

Mr. MULLINGS: Mr. Speaker...

The SPEAKER: Yes.

Mr. MULLINGS: Hansard will record it, you know. If the Member had said that the argument put forward on that letter doesn't hold water... It is one thing if the Member said that the letter itself does not hold water is another. And I stand...I will stand to be corrected by **Hansard,** Mr. Speaker.

The SPEAKER: Very well. We can get a copy of **Hansard**, but in the meantime, Mr. Charles, please don't impute that meaning to the Member in what he has said. You can continue.

Mr. CHARLES: Mr. Speaker, as a senior Member of this House I will not disrespect the Speaker of the House. But I'm going to say to you, Mr. Speaker, you didn't hear. (Laughter) The Member from St. Catherine...

The SPEAKER: No, don't go back to that, please.

Mr. CHARLES: Mr. Speaker, the Member...

The SPEAKER: No, don't go back there.

Mr. CHARLES: But sir...

The SPEAKER: Don't go back to that.

Mr. CHARLES: The Member from St. Catherine said, the letter is contrived.

The SPEAKER: No, never did.

Mrs. NEITA-HEADLEY: No!

Mr. CHARLES: Mr. Speaker, I'm going to yield and ask the Member to get up and say if him didn't say suh.

The SPEAKER: No!

Mr. CHARLES: The Member from St. Catherine said the letter is contrived and the Member from Hanover seh it don' hol' wata. MrSpeaker, that's disrespecting the lady, and the PNP must apologize for that. (Interruptions) (Inaudible) They must get up and apologize.

The SPEAKER: Mr. Charles, now, Mr. Charles.

(Shouting)(Inaudible comments by Mr. Charles)

The SPEAKER: Mr. Charles, the Member from St. Catherine hasn't spoken.

Mr. CHARLES: I will apologize to the lady on behalf of the Member of this House and ask her to continue to do her good job on behalf of Jamaica. Mr. Speaker, it is well known.

(Dr. Duncan is on his feet)

Mr. MULLINGS: DK, don't bother with this rubbish...

The SPEAKER: ....continue... (Inaudible)

Dr. DUNCAN: Just want to draw your attention to...

Mr. MULLINGS: DK, let just finish, nuh man, and sit down.

Dr. DUNCAN: ...Rule 41, Standing Order 41...

Mr. MULLINGS: Let him just finish nuh man.

Dr. DUNCAN: Bear that in mind. That's all I want to tell you....

(Inaudible comments)

The SPEAKER: But I told him not to continue along that line. Yes, Mr. Charles, but don't continue along that line.

Mr. CHARLES: Mr. Chairman, (Speaker), can I proceed.

The SPEAKER: Yes, go ahead.

Mr. M. PEART: Having a senior moment!

Mr. CHARLES: Mr. Speaker, it is well known that Members of this side of the House have been searching and working for Local Government reforms. Some of us like me, believe that Local Government should also be five-year elected, should also be in the Constitution and should have a specific date for election. I made it when I was over that side and I made it on the Committee and I'm saying so now.

Mr. M. PEART: Not a good... (Inaudible)

Mr. HYLTON: Wrong system.

Mr. CHARLES: That Local Government must be given more respect, more value as a community organization, and people willing to work with it. I have no problem with saying what is there now must be re-organized, must be reformed and we must wait until we have the thing in place before we start making all of this.

Mr. PICKERSGILL: Remember you were Minister of Local Government?

Mr. CHARLES: I was Minister of Local Government.

(Inaudible comments by Mr. Pickersgill)

Mr. CHARLES: I was also spokesman on Local Government. And I made it then and I'm making it now.

(Inaudible comments by Mr. Pickersgill)

The only reason why you all came to Parliament today in your totality...

(Inaudible comments by Members)

...All a yuh come, is to vote out the Local Government election.

A MEMBER: Yes.

Mr. CHARLES: Like you did the State of Emergency. Like you did the State of Emergency....

Opposition MEMBERS: Oh! oh! oh.!

Mr. CHARLES: And if you don't like it yuh will walk out.

Mr. BUCHANAN: War, war, war!

Mr. CHARLES: When I hear certain Members get up to talk about trust, trust, trust! Did you say trust?

Mr. M. PEART: Trust you? You have hearing-aid.

Mr. CHARLES: Did you really say trust? (Laughter) You mean somebody must have confidence in you? It couldn't be you. We were battered and bruised. You? You form the Pickersgill Committee that eliminated every Labourite from work! No Labourite get a job. (Interruptions) (Heckling) (Inaudible)

Mr. KELLIER: Mr. Speaker, the Member needs to be cautioned. (Heckling)

The SPEAKER: No, but, Mr. Kellier, nothing is wrong with what he said. (Heckling)

Mr. CHARLES: Mr. Speaker, I would like to get the same amount of latitude to speak as the Opposition. (Heckling)

Mr. Speaker, every Government for the past few years, PNP and JLP Government, has had reason to postpone Local Government Elections. And every time this Government postpones, the Opposition cry (cries). The only reason they are crying, they say they think they can win. (Laughter) They say if you think yuh bad, go, mek we win. (Heckling)

Dr. DUNCAN: I never used the word think. I said I know. (Inaudible)

Mr. CHARLES: The only reason they are crying for election, as the Member has said, call it if yuh bad mek we win. We would like to hear you say something about the people who we are to represent. (Applause) We would like to hear you demonstrate some interest in the people.

There are four seats that are vacant and the Member has gone to pains to say if we have to postpone the election for some more time we cannot deny these people in these divisions representation for so long.

Mrs. NEITA-HEADLEY: Reasonable!

Mr. CHARLES: So we are asking you to nominate this time. Don't hide! Don't hide! (Laughter) (Applause) You are going to hide. And you are going to run. An' if ah stay here long enough, if a stay here long enough all the chickens will walk out. (Laughter) But let me say this, let me say this. Mr. Speaker, this Government, we on this side, know that yuh going to win election, you going to lose election. We may...you gonna win sometimes and lose sometimes. But the people interest is what we are going... and so, Mr. Speaker...

A MEMBER: Call the election. 'Bout people interest.

Mr. CHARLES: Let me say this. When I hear you talk about reform, Local Government Reform, for 18 years you have sat on it. You have done all kind a foolishness. And up to now...is under this Minister that meaningful reform has....

(Inaudible)(Heckling)

Mr. Speaker, I'm not going to...I know you want to go home because the only reason you are here is to obstain, or to vote nay.

Mr. PICKERSGILL: Obstain?

Mr. CHARLES: You...

Mr. PICKERSGILL: Obstain?

Mr. CHARLES: ...or to vote nay. Now that we see you don't have the volume....you can't get to walk out because we won't let you. You must say nay, or obstain. But the Government is going to govern at this time and we are going to take a stand in the people's interest. Thank you, Mr. Speaker.

The SPEAKER: Mr. Warmington.

Mr. WARMINGTON: Mr. Speaker, I really didn't want to make a contribution today. But based on comments from the Member from Eastern Hanover, I am forced to say something here today.

The Member spoke about Members from this side used to represent party on Electoral Commission and other issues. And I'm amazed at the stand being taken by my colleagues on the other side as it relates to the postponement of elections. And what we need to do as Members of this House, stop making this into a political football.

Government, from time to time, postpones elections. And my colleagues need to be reminded. They speak of the importance of the Local Government system and local government elections. But they should be reminded that in the 1990s, they postponed Parish Council elections for over eight years. For over eight years! (Cross talk) But it does happen from time to time. And there are reasons for postponement. And you have two constituencies, North-Western St James and South-East St. Ann that went without Members of Parliament for two years or more. Almost two years. So we have to realize that.

But when the Member from Eastern Hanover spoke about representation and position on Electoral Commission, defending the eight million a year... (Cross talk) ...defending the eight million a year that the members of the Electoral Commission receive for doing nothing... If they...

Mr. PICKERSGILL: No, no!

(Inaudible comments by an Opposition Member)

The SPEAKER: No, Mr. Warmington. Don't go there. Don't go there.

Mr. WARMINGTON: If they were doing their job..... there are reasons whereby the Parish Council elections, parish council and KSAC elections would have to be postponed whether or not there was a concern expressed by STATIN. There would be.

Dr. DAVIES: The Guinness done?

Mr. WITTER: Boundaries...

Mr. WARMINGTON: Because the Electoral Commission breached the Municipal Act of 2003.

A MEMBER: Yes.

Mr. WARMINGTON: And therefore whether or not STATIN had written to the Minister, when the draft order comes to this House to approve the boundaries that were approved by us earlier on, the Government would have to postpone the Local Government elections... (Applause) ...because of the breach committed by the Electoral Commission that the Member from Eastern Hanover spoke about.

Mr. WARMINGTON: Hold on! Section - listen to me, Member... just listen to me first. Section 3…

Mr. DUNCAN: Mr. Speaker...

Mr. WARMINGTON: Member, listen to me first, just listen to me first.

Mr. SHAW: Sit down!

Mr. DUNCAN: Point of order.

The SPEAKER: No, no! What is the point of order?

Dr. DUNCAN: He is misleading the House. That's not true.

MEMBERS: What's not true.

Dr. DUNCAN: The boundaries...

(Cross talk)

The SPEAKER: Let us hear... let us hear the basis of the... yes.

Mr. WARMINGTON: Please hear the reasons.

Dr. DUNCAN: Parliament has already approved the boundaries.

A MEMBER: Yes.

Dr. DUNCAN: This Parliament. All they have that has to be done is for it to be gazetted.

MEMBERS: No, no!

Mr. WARMINGTON: Hold on. It has to be gazetted, yes. But Part IV subsection 67 - Part IV, Section 67, subsection (8) and subsection (9) deals with that, whereby you have to come back here with a Draft Order before it can be gazetted.

The Minister responsible…

(*Sotto voce* comment)

Mr. WARMINGTON: Just listen me, Member. The Minister responsible for Electoral matters, even though you voted on March 10th to approve that boundary, the Minister must take back here, a Draft Order for approval, so it can go to the Governor-General to be gazetted.

A MEMBER: Yes, yes!

Mr. WARMINGTON: When that comes back here…

(*Sotto voce* comment)

Mr. WARMINGTON: Listen to me... learn my brother, learn. Just learn nuh. Please, just learn.

Mr. DUNCAN: That is not, Mr. Speaker… that's not the problem of the Electoral Commission.

Mr. WARMINGTON: Just listen to me.

Dr. DUNCAN: You are imputing all kinds of motives at the ECJ.

MEMBERS: No!

(Cross talk)

Mr. WARMINGTON: You don't give me a chance... Mr. Speaker, he doesn't give me a chance to explain what I am saying. He wants to disrupt....

The SPEAKER: No, one second, Mr. Warmington. No, Dr. Duncan, my understanding is that he's right, in that if when the boundaries - the order is made on the present basis, the Act has to be adjusted.

Dr. DUNCAN: I agree with you.

The SPEAKER: Yes.

Dr. DUNCAN: What he said was that the Electoral Commission did something. I am saying, what the Electoral Commission sent to us, we passed. It is now to go back to get to the Draft Order stage to come back to us. It is now out of the hands of the Electoral Commission of Jamaica.

The SPEAKER: Yes, but...

A MEMBER: That is correct.

(Cross talk)

Dr. DUNCAN: No, no... the point is that he is imputing...

(*Sotto voce* comments by some Members)

Dr. DUNCAN: Yes. You can't hold them responsible for anything at this stage.

The SPEAKER: Okay.

MEMBER: That's right.

Mr. WARMINGTON: Mr. Speaker...

The SPEAKER: Yes, go ahead.

Mr. WARMINGTON: I don't want to say - but my good friend here, you know, has been out of the House for so long, and politics for so long that he doesn't understand what is being said.

A MEMBER: What! He should not be here?

Other MEMBER: Bandoolo.

Mr. WARMINGTON: Please, just listen to me first, nuh! I did not attack the Electoral Commission, you know. But you are protecting that $8 Million so much so nobody can speak about it.

The SPEAKER: Mr. Warmington!

(Laughter/Applause)

Please, please... don't go there.

Mr. WARMINGTON: Yes, that's the only motive. I am saying, Mr. Speaker, even though Parliament accepted that recommendation, Section 67, subsection (8) and (9) gives the Minister the authority to make certain adjustments here. Because of what was done by that Commission, they breached certain sections of the Municipality Act of 2003 on the Charter of Portmore. That must be corrected before any election can be held. It must be done. And that's what I am trying to say. So, there are reasons whereby it must be postponed because the issue is...

(*Sotto voce* comment by some Members)

Mr. WARMINGTON: No, no, section... listen to me!

A MEMBER: You can't have the new divisions... (Inaudible)

(*Sotto voce* comment by Mr. Bunting)

Mr. WARMINGTON: Section... you don't understand one word, just listen. Just listen. You don't understand nothing being said. You are protecting the $8 Million.

Mr. DUNCAN: You were talking nonsense - foolishness! Nonsense.

(Cross talk)

Mr. WARMINGTON: Section... Mr. Speaker, let me make it clear. Mr. Speaker, you are protecting the $8 Million. That's all you are doing.

The SPEAKER: Please, please, Mr. Warmington.

Mr. WARMINGTON: You are protecting the $8 Million. That's all you want to do.

Dr. PHILLIPS: Mr. Speaker, on a point of order.

Mr. WARMINGTON: Mr. Speaker...

The SPEAKER: Mr. Warmington, please...

Mr. WARMINGTON: Mr. Speaker, when...

Dr. PHILLIPS: Mr. Speaker, on a point of order...

The SPEAKER: Hold one second, one second, on a point of order.

Dr. PHILLIPS: It is the second time...

Mr. NEITA-HEADLEY: Third...

Dr. PHILLIPS: …third time that the Member has imputed motives to one or other of the representatives on this side, who sit as nominated members on the Electoral Commission.

(Cross talk)

He said they are protecting the $8 Million. It is unbecoming, and it is in breach of the Standing Orders. And it is continuing the pattern of insults...

The SPEAKER: Yes, yes...

Mr. PHILLIPS: …which is not acceptable.

The SPEAKER: Mr. Warmington, Mr. Warmington, I have asked you, you know, to - not to go there. And you keep, you keep… you need to withdraw it.

Mr. NEITA-HEADLEY: You need to apologize.

The SPEAKER: You need to withdraw it.

Mr. WARMINGTON: Mr. Speaker, Mr. Speaker... if you want me to withdraw the statement...

The SPEAKER: Yes, yes, withdraw the comment.

Mr. WARMINGTON: …that the Members are protecting the $8 Million, I withdraw that.

The SPEAKER: Yes, withdraw that. Yes, please, and you don't go there again.

Mr. WARMINGTON: But the fact exists... (Laughs)…that the Commission Members do receive $8 Million per year!

(Laughter)

Mr. MAIR: That's a fact.

MEMBERS: That's a fact.

Mr. WARMINGTON: But, what I am saying here, Mr. Speaker, Section....

(Heckling)

Mr. WARMINGTON: I withdrew the stuff; I withdrew the statement.

(Dr. Duncan stood and attempted to speak)

Government MEMBER: Sit down!

Dr. DUNCAN: You cannot tell me to sit down.

(Cross talk)

Watch yourself, you know. You say, I am back to the seventies, be careful.

MEMBERS: Whooaaa!

The SPEAKER: Dr. Duncan, Dr. Duncan…

Dr. DUNCAN: Mr. Speaker… Mr. Speaker... Mr. Speaker…

Mr. CHARLES: You can't send me to State prison again. (Laughter)

The SPEAKER: Dr. Duncan, Dr. Duncan, please...

Mr. SHAW: That is a direct threat. You are threatening the Member of the House.

The SPEAKER: I have said to - I have said to Mr. Warmington...

(*Sotto voce* comments)

The SPEAKER: Dr, Duncan, Dr. Duncan, please...

Mr. DUNCAN: Let me just explain something.

The SPEAKER: Dr. Duncan…

Dr. DUNCAN: Mr. Speaker, I do not get $8 Million from the Electoral Commission.

(Cross talk)

And that's a fact. I do not collect $8 Million from the Electoral Commission.

The SPEAKER: Yes. No, Mr. Warmington.

Mr. WARMINGTON: I withdrew the statement, Mr. Speaker. I withdraw the statement.

The SPEAKER: No, but Mr. Warmington.

Mr. WARMINGTON: Peter, take your seat. I withdraw the statement.

Dr. PHILLIPS: Mr. Speaker, on a point of order.

Mr. WARMINGTON: Mr. Speaker, I withdraw the statement that they are defending the $8 Million. I withdraw the statement.

Dr. PHILLIPS: Mr. Speaker**…**

Mr. WARMINGTON: But, I said further, the fact is nobody can deny the fact that the Electoral Commission members collect $8 Million per year as salary…

MEMBERS: No, no, no!

Mr. WARMINGTON: …and the Chairman collects $10.8 Million. The issue is

that what the Member says, he does not collect the $8 Million from the Commission.

Dr. PHILLIPS: Mr. Speaker, on a point of order.

Mr. WARMINGTON: He collects part from Parliament and the Electoral Commission make up the other. So, in fact, the money was paid.

Mrs. NEITA-HEADLEY: What does this have to do with the debate?

The SPEAKER: Can you hold, Mr. Warmington. Yes, Dr. Phillips.

Mr. WARMINGTON: Mr. Speaker, let me just conclude.

MEMBERS: No, no, no!

The SPEAKER: Yes, Dr. Phillips.

MEMBERS: Siddung, siddung!

The SPEAKER: Dr. Phillips.

Mr. WARMINGTON: He has nothing to say.

The SPEAKER: No, Mr. Warmington, please sit. Yes, Dr. Phillips.

Dr. PHILLIPS: Mr. Speaker**,** Member is to withdraw, as you have ordered, the Member should withdraw. He cannot withdraw and continue to impute motive.

The SPEAKER: No!

Dr. PHILLIPS: It is not right, Mr. Speaker.

The SPEAKER: No, no! To be fair - I mean, to be fair he withdrew, but he stated what he considers a fact. Whether that that fact is true or not can be discussed.

(*Sotto voce* comment by Mr. Warmington)

The SPEAKER: But, Mr. Warmington, please, could you let us have some decency about this debate, nuh. Please, please, just stick to the relevant debate, nuh.

Mr. JACKSON: Mr. Speaker...

Mr. WARMINGTON: Mr. Speaker, are you saying that if I said they collect $8 Million it is indecent. There is nothing indecent about that. It is a fact.

The SPEAKER: Please, let's continue man.

Mr. WARMINGTON: Anyhow, what I am saying here - but I wish that they don't - they wouldn't disrupt me because I never disrupt the Member from Eastern Hanover. But he is trying to get me off target. And you will never do it today. You will never do it.

Dr. DUNCAN: How about tomorrow.

Mr. WARMINGTON: In the 70s and 80s, you and I rambled long enough. We can't do it no more.

The SPEAKER: No, Mr. Warmington. Continue, please. Finish up; finish up.

Mr. WARMINGTON: So, don't threaten him.

(*Sotto voce* comments by Mr. Shaw)

Mr. WARMINGTON: Mr. Speaker, what I am saying here...

The SPEAKER: Finish up. Mr. Shaw…

Mr. WARMINGTON: What I am saying here is that the fact is the election would have to be postponed in any case because the Electoral Commission that he is championing here today, they breached Section 3, subsection (3) – sub subsection (a) - Section 3 subsection (3), sub subsection 5(a) - section 3, subsection (5), subsection (e).

(*Sotto voce* comments by some Members) subsection (4)... There are about six...

The SPEAKER: Mr. Warmington, Mr. Warmington...

Mr. WARMINGTON: There are about six areas of the Electoral Commission - look nuh man, there are about six areas...

The SPEAKER: Mr. Warmington...

Mr. WARMINGTON: There are about six areas of the Municipal Act that were breached by the Electoral Commission...

The SPEAKER: Mr. Warmington...

Mr. WARMINGTON: …that must be corrected before we could have an election.

The SPEAKER: Mr. Warmington...

Mr. WARMINGTON: In the sense that they will have to correct these before anything is done. So, I wish the Member would have brought it to us and advise us...

The SPEAKER: Mr. Warmington...

Mr. WARMINGTON: …that these are being breached, and because of these breaches we have to correct these before it is bended. So, it is not necessarily anything we can do because of that.

The SPEAKER: Mr. Warmington... Mr. Warmington...

Mr. WARMINGTON: So, Member, when you speak about Electoral Commission, be honest and let's talk about these things.

The SPEAKER: Mr. Warmington....

(*Sotto voce* comment by Mr. Warmington)

The SPEAKER: But most of what you said a while ago is irrelevant.

(Applause)

Mr. WARMINGTON: No, no, why don't you... why don't you...

The SPEAKER: Because that is not what...

Mr. WARMINGTON: Mr. Speaker... Mr. Speaker…

The SPEAKER: With due respect that is not what is before us today.

Mr. WARMINGTON: Mr. Speaker, I take exception - I take exception to what you just said. You have never ruled...

The SPEAKER: No, that is not what is before us today.

Mr. WARMINGTON: Mr. Speaker, I take exception to what you just said.

The SPEAKER: Yes.

Mr. WARMINGTON: With due respect, I respect the Chair and I respect you...

The SPEAKER: Yes.

Mr. WARMINGTON: …a whole lot, but I take exception to what you just said.

The SPEAKER: Yes.

Mr. WARMINGTON: I have a right to speak. And what I am saying, I came here with one of the largest number of votes in this Parliament. I came here with one of the largest majority. And I resent what you just said to me. With due respect - with due respect, you have crossed the line, Mr. Speaker. You should not have said that to me.

The SPEAKER: Mr. Warmington...

Mr. WARMINGTON: I am speaking for the people of South West St. Catherine.

The SPEAKER: Mr. Warmington…

Mr. WARMINGTON: I am speaking for the people of South West St. Catherine.

The SPEAKER: Mr. Warmington...

Mr. WARMINGTON: I am speaking for South West St. Catherine. Therefore, Mr. Speaker, I am offended at your remarks.

(Cross talk)

No, no, I am offended at Mr. Speaker's remarks.

The SPEAKER: Mr. Warmington.

Mr. SPEAKER: I am offended by your remarks, Mr. Speaker. You know you are wrong, Mr. Speaker.

The SPEAKER: Mr. Warmington…

Mr. WARMINGTON: You know you are wrong, Mr. Speaker.

The SPEAKER: Mr. Warmington...

Mr. WARMINGTON: You know you are wrong, Mr. Speaker.

The SPEAKER: Mr. Warmington.

Mr. WARMINGTON: You know you are wrong, Mr. Speaker.

The SPEAKER: Mr. Warmington.

Mr. WARMINGTON: I am offended at your remark.

(Cross talk)

The SPEAKER: Mr. Warmington, what you said... What your argument has in relation to a Bill that is not before us.

Mr. WARMINGTON: I am giving you reasons why it could be, Mr. Speaker. I am offended at that remark. You don't rule when the Opposition overstep their bounds, but when I speak on behalf of the people of South West St. Catherine you are attacking my speech.

The SPEAKER: You are speaking on a Bill that's not before us.

Mr. WARMINGTON: You didn't tell the Member from Eastern Hanover. You didn't tell the Member from East Central St. Andrew. But you are attacking me.

A MEMBER: No, no!

The SPEAKER: You are speaking on something that's not before us.

Mr. WARMINGTON: I am offended by such a rule, Mr. Speaker because you are wrong on that ruling, Mr. Speaker. You have out stepped yourself.

The SPEAKER: Enough.

Mr. WARMINGTON: And you should not have done that to me, Mr. Speaker.

(Cross talk)

Mr. HOLNESS: Mr. Speaker, I urge you to take control of the House.

The SPEAKER: Yes, but...

Mr. HOLNESS: We are now about to close the debate, Mr. Speaker.

The SPEAKER: Dr. Rhodd would like to speak.

Mr. HOLNESS: And I am sure all the Members would want us to do that now.

The SPEAKER: Dr. Rhodd.

(Cross talk)

Mr. HOLNESS: Mr. Speaker, the Member from St. Mary is ready.

The SPEAKER: Dr. Rhodd.

Dr. RHODD: Mr. Speaker, I rise to make a few brief remarks - brief remarks on the Bill introduced by the Minister with responsibility for local government. I, however, Mr. Speaker, crave your indulgence just to allow me to lament on the…

A MEMBER: State of the road.

Dr. RHODD: …state of affairs in the Parliament in respect to how we treat each other.

Mr. SHAW: Just deal with the Local Government issue.

Dr. RHODD: For the 18 years that I have attended meeting in this Chamber, I have never seen the level of disrespect and insult across the aisle.

(Applause/Cross talk)

Dr. RHODD: And I am just asking, Mr.

Speaker... Mr. Speaker I am appealing...

Mr. HOLNESS: Mr. Speaker, on a point of order - on a point of order...

Dr. RHODD: Mr. Speaker, I crave your indulgence.

Mr. HOLNESS: On a point of order, Mr. Speaker.

Dr. RHODD: Mr. Speaker, I am just appealing to your...

Mr. HOLNESS: The Member...

Dr. RHODD: Mr. Speaker, I am appealing to you.

The SPEAKER: I am allowing the point of order.

Mr. ROBERTSON: Stop the lecturing.

Mr. HOLNESS: I am appealing to you.

The SPEAKER: Yes.

Mr. HOLNESS: Whilst we all may sympathize with the comments that the Member is making, but the Member has to direct his speech to the relevance of the matter before us.

Dr. DAVIES: Well, Pearnel didn't.

A MEMBER: No, no!

Dr. RHODD: Mr. Speaker, the matter is relevant because we are representatives of the people. And when the representatives of the people on the Bill which is introduced by the Minister, it speaks about representation of the people. And the representatives of the people must be allowed to be heard, and show respect for each other as we represent the people.

Mr. Speaker, I also would like to appeal to us here that we stop using local government as a political football.

Dr. RHODD: This Bill, the whole state of local government and parish councils at the local level and the Kingston and St. Andrew Corporation, if we really are serious about empowering the people, this is one means of demonstrating in a very genuine way, that we want to empower the people.

On this side, the previous administration moved in some - took some emphatic steps in doing this by establishing community-based organisations...

Dr. BARTLETT: You mean political organisation.

Dr. RHODD: Constituency development committees, development area committees, councils and parish development committees, in an effort to engage the people in looking at challenges which they face and crafting solutions. So we have demonstrated, Mr. Speaker, that we are serious about local government.

Mr. SHAW: We who?

Dr. RHODD: I would like to ask the Minister...

Mr. SHAW: We who?

Dr. RHODD: ...as he looks at overhauling local government authorities, or local government structures, that we look seriously at completing development orders which have started.

Dr. DAVIES: Hear, hear!

Dr. RHODD: Now development orders, Mr. Speaker, are the legal documents and processes that are put in place so that proper planning of our towns and cities can go on, and our parishes by extension. Because it sets out in a very serious - in a very systematic way, where you can put infrastructure of road, water, housing, schools, hospitals *et cetera*. It therefore provides the means for investors to

look at what type of infrastructure is in place, when they are looking at areas in our country for development.

We have been delaying for too long, Mr. Speaker, this process and I'm appealing to the Minister to take - show some very strong leadership in consultation with the other Members of his government, to move to effect this.

I think, Mr. Speaker, that by continuing to postpone the elections - and two wrongs don't make a right so it doesn't make sense we point fingers at this side and say when you were there you postponed it - what we want to do is set the thing right for the future.

Dr. BARTLETT: It's a reminder.

Dr. RHODD: And therefore, we need to recognise that every time we postpone local government we are denying the people their rights to renewal of their representatives and this has been happening for too long. They are being denied their opportunity to choose who they want to represent them. And it is not fair, I think, repeatedly, for the 60 of us alone to sit in here and deny over 2½ million people this right. We need to correct this.

Mr. Speaker, we need - the people in the communities have serious issues. You've seen several demonstrations, started now in the communities right across the country. They're calling out for their local authorities for better roads; they're demanding more water; they're calling out for more streetlights; better management of their cemeteries...

Mrs. HAY-WEBSTER: Hear, hear!

(*Sotto voce* comments)

Dr. RHODD: ...better administration of the zoning laws and oversight of building permits, we see building tumbling down here and there.

Mr. Speaker, it is not a time when we should be playing football, political football - with local government, we need to respect the rights of the people to renew their representatives. (Applause) I'm asking, I'm calling upon this Parliament to send a signal to the people of Jamaica, that we are serious about empowering the people by not supporting the postponement of this business. (Applause)

Mr. SHAW: Hear, hear - Bobby, hear, hear!

Dr. RHODD: Mr. Speaker, I think we could send a signal and change the paradigm that at this time, the Parliament supports the people, not a political football from one side to the other, but the Parliament of Jamaica supports the 2½ million people in renewing their representation.

I thank you. (Applause)

(Cross talks)

The SPEAKER: Mr. Montague.

Mr. PICKERSGILL: Pearnell, yuh nuh sey nutten yet?

Mr. MONTAGUE: Mr. Speaker, I am pleased, Mr. Speaker, with the level of debate that has been generated.

(Cross talk by Members)

Mr. MONTAGUE: Mr. Speaker, a number of my colleagues contributed. The Member from South East St. Catherine, read from a document that we gave him. It spoke to the establishment of the fifteenth parish. My colleague from South West St. Catherine, dealt with that in terms of the breaches of the Municipal Act. He spoke...

(Inaudible comments by Members)

Mr. MONTAGUE: Well we can't declare a fifteenth parish until we settle the constituency and parochial boundaries...

Dr. DAVIES: Remember when you were reprimanding the Speaker?

Mr. MONTAGUE: ...that's very elementary, in my view.

Dr. DAVIES: Remember when you were reprimanding the Speaker?

Mr. MONTAGUE: ...he spoke to us establishing and strengthening the PDCs. I am pleased to inform this House that this Government is giving some $600,000 in administrative support to each PDC each year. (Applause) Administrative support. And we have also brought them on board to form a national PDC. He spoke to accountability and transparency.

Mr. FAGAN: That a secret?

Mr. MONTAGUE: Mr. Speaker, under this Administration, in October '09, we got all the parish councils to bring their financial up-to-date and we have continued to have their financials up to date. (Applause)

He spoke to the establishment of the Parish Public Accounts Committees. I am pleased to inform this House that in every parish of Jamaica, there is a Parish Public Accounts Committee chaired by the minority party except in Westmoreland, where there is no minority party.

Mr. BUCHANAN: Say that again, say that again.

(Cross talks/heckling)

Mr. MONTAGUE: He spoke to the establishment of Reform Committees.

A MEMBER: You tell the Chairman.

Mr. MONTAGUE: In every local authority there is a Reform Committee.

Mr. M. PEART: Dat come wid yu vote.

Mr. MONTAGUE: Mr. Speaker...

A MEMBER: Go deh!

Mr. MONTAGUE: ...I will go further.

A MEMBER: Go louder.

Mr. MONTAGUE: Under this Administration, we are introducing a Act of Parliament to give parish councillors the powers and authorities of a JP while they serve.

(Cross talks)

Mr. MONTAGUE: Mr. Speaker, as a matter of fact, as a result of discussions with the Minister of Labour...

Mr. PICKERSGILL: Yes?

Mr. MONTAGUE: ...and the Prime Minister, we just sent to the Parish Councils Farm Work cards for each and every councillor.

(Cross talks)

Mr. MONTAGUE: And they were distributed on the basis of their being councillors, regardless of what party.

(Cross talks)

Mr. MONTAGUE: Mr. Speaker, the Member from South St. Catherine, spoke to the Portmore Municipal experiment. I am pleased to inform the Member from South St. Catherine, that we have done that review that he is speaking about. We contracted the University of the West Indies to do that organisational review. And it is the result of that review that is driving us along.

Mr. M. PEART: Cut a long story short.

Mr. MONTAGUE: But, Mr. Speaker, let me just say, that he spoke wonderfully well about the establishment of the Portmore Municipal Council. But what he left out was the lament of the Portmore Municipal

Council, that when they established it, they did not give it the necessary funding and resources that was demanded. This Government is doing that. (Applause)

Mr. Speaker, they spoke...

(Cross talks/heckling)

Mr. MONTAGUE: ...they spoke, Mr. Speaker, and they say the past is a point of reference, not a place of...

A MEMBER: Repent.

Mr. MONTAGUE: ...residence.

Mr. PICKERSGILL: Oh, yu get it good.

Mr. MONTAGUE: A get it and a get it correctly.

So let us not reside in the past. And that is why, Mr. Speaker, we are providing the necessary funding for the Portmore Municipality, including enough money to build a municipal office.

(Applause)

Mr. Speaker, I hear the Member from Central Manchester, bemoaning the development in Mandeville.

MEMBERS: Warming? Warming?

Mr. MONTAGUE: The Member is bemoaning the fact that the National Housing Trust is building houses for poor people.

Mr. PICKERSGILL: How we nuh know bout dat.

Mr. MONTAGUE: The National Housing Trust, Mr. Speaker - let me inform him - the National Housing Trust is lending to the National Water Commission, the necessary funds to establish a new well, so that water can be brought to the new development. (Applause)

Mr. PICKERSGILL: How we nuh know bout dat?

Mr. MONTAGUE: He spoke, Mr. Speaker, about solid waste, he spoke about solid waste, Mr. Speaker. When I heard him, Mr. Speaker, I was sipping some water I nearly choke. (Laughter) When we took over Solid Waste, Mr. Speaker, scandal after scandal after scandal.

Mr. PICKERSGILL: Horace, yu did know bout dat?

Mr. MONTAGUE: Last December, the Contractor General himself, wrote to the National Solid Waste commending them of their observance to the government procurement guidelines. (Applause)

We have moved a scandal ridden agency to an agency to be emulated and patterned. (Applause)

(Cross talks)

Mr. MONTAGUE: The past is our point of reference, not a place of residence.

Dr. DAVIES: The mike is working yu nuh, the mike is working.

A MEMBER: Is two times dem cut yu constituency, two times dem cut it so top run up yu mouth.

Mr. MONTAGUE: Mr. Speaker, let us remember that it was a government found by the Jamaica Labour Party, that for the first time, paid councillors a salary and made them pensionable. (Applause)

MEMBERS: Aah!

Mr. BUCHANAN: That is not true.

Mr. MONTAGUE: Mr. Speaker, Mr. Speaker, I heard the Member from Eastern St. Andrew, when he spoke...

Mr. BUCHANAN: Mr. Speaker, Mr. Speaker...

Mr. MONTAGUE: ...Mr. Speaker, the Member...

The SPEAKER: What is your point of order?

Mr. BUCHANAN: Mr. Speaker, again the Member is misleading the House.

The SPEAKER: What's the nature of it?

Mr. BUCHANAN: By saying that it is the Jamaica Labour Party Government that was the first Government that paid councillors. That is not true, Mr. Speaker.

The SPEAKER: When was the first time they got paid?

Mr. BUCHANAN: It was the People's National Party...

The SPEAKER: When was the first time? When was the first time?

Mr. BUCHANAN: ...that was leading the council...

The SPEAKER: When was the first time?

Mr. BUCHANAN: ...but Central Government was controlled by the Jamaica Labour Party, but local government was controlled here. And as a matter of fact...

(Cross talks)

The SPEAKER: But if you can't say when...

Mr. MONTAGUE: Mr. Speaker, I am glad that the Member from South West St. Andrew has walked into the House. I am glad that the Member from South West St. Andrew is now in the House.

A MEMBER: Long before you come.

Mr. MONTAGUE: Because where was the Member from East Central St. Andrew, when she stood up in this very House, pleading for help for the Fire Brigade.

A MEMBER: Hear, hear!

Mr. MONTAGUE: Where was he? (Laughter) Where was he and his new found commitment to local government? (Laughter)

Mr. BUCHANAN: Rubbish, you are off track, get back on track.

(*Sotto voce* comments)

Mr. MONTAGUE: Mr. Speaker, when she made her passionate plea for resources for the Fire industry, it was to protect poor people and their property. (Applause)

A MEMBER: Yes.

Mr. BUCHANAN: That was the PNP.

Mr. MONTAGUE: They, they, Mr. Speaker, always threw her out, because I suspect, I suspect, Mr. Speaker, that they were pursuing other agendas.

A MEMBER: Yes!

Mr. MONTAGUE: And it played out in time. It played out in time.

The SPEAKER: Please, be careful!

Mr. MONTAGUE: And I was in shock, Mr. Speaker, when the very same Member spoke to these qualities, when at another place the country was informed, that if Miss Bertha up in Pitfour make a phone call to her grandson in Chesterfield, somebody could be listening because that right was signed away. (Applause/laughter)

That right was signed away, Mr. Speaker, not only to the Jamaican authority…
(Laughter)

Dr. PHILLIPS: Mr. Speaker! Mr. Speaker!

Mr. MONTAGUE: That right, that constitutional right, that constitutional right was secretly signed away.

Dr. PHILLIPS: The Member, the Member - Mr. Speaker…

The SPEAKER: What's the relevance? What's the relevance?

Opposition MEMBERS: Sit down! Sit down!

(Heckling)

Mr. MONTAGUE: We have a motion that respects self determination! We are patriotic citizens of Jamaica!

Dr. PHILLIPS: Mr. Speaker…

The SPEAKER: Mr. Montague, please.

Mr. MONTAGUE: Yes, sir?

The SPEAKER: What's the relevance?

Mr. MONTAGUE: What's the relevance? Let me tell you the relevance, Mr. Speaker.

The SPEAKER: What's the relevance?

Mr. MONTAGUE: The love of the people!

Dr. PHILLIPS: Mr. Speaker, the Member is misleading the House, he is irrelevant and trespassing on a matter which is already being investigated and where the facts have already been stated to be contrary to his imputations. He is out of order! (Applause)

(Cross talk)

The SPEAKER: Mr. Montague, please! Keep it to the Bill, please. Keep it to this Bill, please.

Mr. MONTAGUE: Mr. Speaker, the Member from Eastern Hanover said the journey…

Dr. PHILLIPS: He must withdraw! He must withdraw!

(Cross talk)

Government MEMBERS: No! No!

Mr. KELLIER: Mr. Speaker…

Dr. PHILLIPS: He must withdraw!

Mr. MONTAGUE: Withdraw what?

(Heckling)

Mr. KELLIER: The Member must withdraw the comment! He must withdraw the comment, Mr. Speaker! Mr. Speaker, he must withdraw the comment!

(Heckling)

(The PNP Members stood)

Government MEMBERS: Walk out! Walk out!

The SPEAKER: Please! Please! Please!

Mr. KELLIER: We not walking out. He must withdraw the comment! Mr. Speaker, the Member must withdraw and be civil.

Mr. HOLNESS: Mr. Speaker…

The SPEAKER: One second, one second.

(Cross talk/heckling)

The SPEAKER: What's your argument, Leader of the House?

(Cross talk)

Mr. MONTAGUE: Mr. Speaker, Mr. Speaker, can I continue?

(Boisterous behaviour)

Dr. PHILLIPS: Mr. Speaker, he must withdraw!

The SPEAKER: What's the contention? (Members shouting at each other across the Floor)

Mr. BUCHANAN: Out of order! A promotion fly inna yu head, but me soon cool yu!

The SPEAKER: Just a second, please.

(Cross talk)

Mr. HOLNESS: This is inappropriate for so many Members to be on their feet when the Member is speaking.

(Cross talk)

Opposition MEMBERS: Withdraw it! Withdraw it!

Government MEMBERS: Sit down! Sit down!

The SPEAKER: Mr. Montague…

Mr. KELLIER: We nah walk out neither.

Dr. PHILLIPS: Get him to withdraw!

The SPEAKER: I can't speak with so many Members on their feet!

Mr. KELLIER: Mr. Speaker, he must withdraw the comment!

(Heckling)

(Inaudible comments by Dr. Phillips)

Mr. SHAW: I don't know what ounoo stand up fah!

Government MEMBERS: Roger, get up!

(Laughter)

The SPEAKER: Can I hear Dr. Phillips. Dr. Phillips - what did he say? I need to hear what the objection is against. What did he say?

(Heckling/Laughter)

Dr. PHILLIPS: Mr. Speaker, the Member said – the objection is, he imputed that I somehow relieved Jamaicans of their constitutional rights. He is wrong, he is out of order, he is irrelevant. And I demand that it be withdrawn.

(The Opposition Members sat)

The SPEAKER: Mr. Montague! Mr. Montague!

Mr. MONTAGUE: Mr. Speaker! Mr. Speaker!

The SPEAKER: Yes.

Mr. MONTAGUE: Mr. Speaker, I am in shock that a party, Mr. Speaker, that was led by a gentleman who headed the Non-Aligned Movement, who spoke to self determination…

The SPEAKER: What is the poi - no. Mr. Montague…

Mr. MONTAGUE: Who spoke to the rights of Jamaicans…

The SPEAKER: No. But Mr. Montague…

Dr. PHILLIPS: Mr. Speaker, he must withdraw!

Mr. MONTAGUE: …and what they are doing is trampling upon the constitutional rights of Jamaicans.

(The Opposition Members rose again)

(Heckling)

The SPEAKER: Mr. Montague, one second, Mr. Montague! Mr. Montague! Mr. Montague, please! Mr. Montague! Mr. Montague! Can I be heard?

Mr. MONTAGUE: Mr. Speaker…

The SPEAKER: No, just one second. The comments you made…

(Cross talk)

The SPEAKER: Mr. Thwaites! Mr. Thwaites!

(Gavelling)

Mr. Montague, please! I want you to withdraw that comment.

Mr. MONTAGUE: What comment, Mr. Speaker?

The SPEAKER: You made some comments about the constitutional rights…

Dr. PHILLIPS: About Miss Bertha can't talk on her phone. It is wrong!

The SPEAKER: …about talking on one phone to the next. There is nothing in this debate to justify you saying that.

Mrs. HAY-WEBSTER: Thank you.

The SPEAKER: So please withdraw it now.

(Cross talk)

Mr. MONTAGUE: Mr. Speaker! Mr. Speaker…

Mrs. NEITA-HEADLEY: No, no argument! No!

(Heckling)

Mr. MONTAGUE: Mr. Speaker, I cannot speak with so many Members on their feet!

Mr. CHARLES: Sit down! Sit down!

Mr. MONTAGUE: Sit down all of you! Sit!

(The Opposition Members sat)

Mr. Speaker, I have examined my conscience, and I am not prepared, I am not prepared to withdraw.

The SPEAKER: No. Well, no, no!

(Cross talk)

(The Opposition Members rose again)

Mr. KELLIER: He is defying your ruling!

The SPEAKER: Well, no, no. No, Mr. Montague. I am instructing you to withdraw!

(Cross talk)

Mr. KELLIER: He is defying your ruling! He is defying your ruling!

Mr. MONTAGUE: Mr. Speaker, is that an instruction? Is that an instruction, Mr. Speaker?

(Cross talk)

The SPEAKER: I am instructing you to withdraw.

Mr. KELLIER: If he does not obey your ruling he must be put out.

Mr. MONTAGUE: Mr. Speaker, is that an instruction?

The SPEAKER: Yes, I am instructing you to withdraw.

(Heckling)

Mr. MONTAGUE: It is an instruction? Well, I have to abide by your instruction, Mr. Speaker.

Mr. D. SMITH: Sit down, sit down.

The SPEAKER: I am instructing you to withdraw. Please sit.

Yes, Mr. Montague.

(The Opposition Members sat)

The SPEAKER: Yes, Mr. Montague.

(Cross talk/laughter)

The SPEAKER: Mr. Montague, the comments have no relevance at this time to the debate. I am instructing you to withdraw those comments.

(Cross talk)

Mr. MONTAGUE: Mr. Speaker, I abide by your instructions. (Heckling)

The SPEAKER: And you withdraw the comments about…

Mr. MONTAGUE: Mr. Speaker, I would like to be heard in silence! (Laughter) And I demand that! I demand silence!

(Cross talk/laughter)

Mr. MONTAGUE: Mr. Speaker…

The SPEAKER: Move for the motion.

Mr. MONTAGUE: Mr. Speaker, I abide by your instruction and withdraw.

Now, Mr. Speaker…

Mr. WARMINGTON: The Speaker needs to be impeached! Impeach the Speaker! Impeach the Speaker!

MEMBERS: Warmington!

The SPEAKER: Could you please be quiet! Just be quiet!

Mr. MONTAGUE: …when you examine history…

Mr. WARMINGTON: Impeach the Speaker!

Mr. MONTAGUE: …what does the records tell me, Mr. Speaker?

Mr. WARMINGTON: Impeach the Speaker!

Mr. MONTAGUE: The records tell me that the Parish Council Elections of 1969 was not called until in 1974.

A Government MEMBER: Five years after.

Mr. MONTAGUE: Five years. In 1986 it wasn't called until 1990, four years. In 1990, Mr. Speaker, I became a Councillor...

Dr. DAVIES: Unfortunately for you.

Mr. MONTAGUE: …and I then went back to the people in 1998. In one year, one term, I became pensionable… (Laughter) …under the PNP. In 1998 there was an election, no more again until 2003…

Government MEMBER: Under the PNP!

Mr. MONTAGUE: Five years under the PNP, in 2003…

Mr. SMITH: And you coming now!

Mr. SHAW: Hypocrites!

Mr. MONTAGUE: …up to 2007! Four years!

Mr. BUCHANAN: What's your point? Mek yu point!

Mr. E. SMITH: Shut yu mouth!

Mr. MONTAGUE: The current term, Mr. Speaker that the Councillors are now serving is three years one month and three weeks. (Laughter)

Mr. BUCHANAN: And Jamaican people fed up of you and them!
(Heckling)

Mr. MONTAGUE: Mr. Speaker, the Member from…

Mr. E. SMITH: Hypocrites!

Mr. MONTAGUE: …Eastern Hanover said the journey is as good as the destination.

Mr. BUCHANAN: Him never say that, him say 'important'.

Mr. MONTAGUE: Is as important as the destination.

(*Sotto voce* comment from Mr. Buchanan)

Mr. MONTAGUE: Quiet, mi son, because the road to hell is paved with good intentions. (Laughter)

When I heard the Member from Eastern Hanover, Mr. Speaker, I started to fear for the security of the job of the Member from Central Manchester, because I heard a campaign speech. Anancyism, Mr. Speaker, is alive and well. (Laughter)

The Member went further, Mr. Speaker, to tell us that the Government is in retreat! He said the Government is in retreat! He went further, Mr. Speaker, and he issued certain comments that reminded me as a young man when I watched T.V. and saw an incident at Munmar Square in Spanish Town. I thought we had - as the Member from North West St. Catherine said, the past is a point of reference, not a place of residence.

MEMBERS: Yes. Yes!

Mr. MONTAGUE: But it is obvious that the Member from Eastern Hanover has found not only residence, but refuge. (Laughter)

How can a government be in retreat, having completed the most fundamental change to the financial system with the Jamaica Debt Exchange? (Applause)

Government MEMBERS: Aahhh! Aahhh! (Applause)

Mr. MONTAGUE: How can a government be in retreat when they had a

Minister of Finance that they told us was the greatest thing since sliced bread, that he said we couldn't lower interest rates! But this Government has lowered interest rates! (Applause)

(Heckling)

How can a government be in retreat when we have had a stable dollar!? How, Mr. Speaker, can a government be in retreat when my Minister of Finance has just completed a major loan package of US Four Million Dollars (US$4M) at a very low…

Mr. SAMUDA: Four Hundred Million (US$400M).

Mr. MONTAGUE: Four Hundred Million (US$400M), at a low rate of exchange? (Applause)

Mr. CHARLES: You tek away three ninety-six.

Mr. MONTAGUE: Four Hundred Million!

(*Sotto voce* comments by some Members)

Mr. MONTAGUE: Mr. Speaker, the only retreat I know the Government is in, must be Retreat Content in Western St. Mary… (Laughter)…which is a safe, safe place for it to be.

Opposition MEMBERS: No! No!

Mr. MONTAGUE: Mr. Speaker, the gentleman from Eastern Hanover - the Member from Eastern Hanover…

(*Sotto voce* comments)

Mr. MONTAGUE: As a matter of fact, Mr. Speaker, let me deal with the gentleman from Portland, the Member from Eastern Portland. He spoke to Development Orders, Mr. Speaker. The Member from Eastern Hanover will attest that he attended a Visioning Symposium, where the views of the people were canvassed. And we went island wide, and we are now in the process of collating those, so that they will be used as the engine to drive the Development Orders for the various parishes.

(*Sotto voce* comments)

Mr. MONTAGUE: Mr. Speaker, I am sorry that the Member from Eastern Hanover spoke to the Progressive Agenda. Because when you examine the Progressive Agenda, you only have an agenda. (Laughter) When you ask them what is in the agenda for water, you know what they tell you, Manatt! Manatt! Manatt! (Laughter) When you ask them what is in the agenda for roads they tell you Manatt! Manatt! Manatt! (Laughter) When you ask them about street lights on the Progressive Agenda…

Mr. KELLIER: Mr. – on a point of order, a point of order.

Mr. MONTAGUE: Manatt! Manatt! Manatt! (Laughter/ Heckling)

Mr. KELLIER: The Member is misleading the House! Mr. Speaker…

The SPEAKER: Yes, Mr. Kellier.

Mr. KELLIER: The Member is not only misleading the House, there is no such information coming from this side. He is misleading the House by peddling false information. He is misleading the House by peddling false information inside here. He must provide the source of that information for it to be credible.

(Cross talk/Laughter)

The SPEAKER: No, Mr. Kellier, with due respect, but he has a right, he has a right.

Mr. KELLIER: No, no, no! He can't have a right to peddle false information! He is peddling false information!

(Cross talk)

The SPEAKER: No, Mr. Kellier, he has a right.

Mr. KELLIER: To peddle false information? But Mr. Speaker, guide me here. Does the Member have a right to peddle false information?

The SPEAKER: You know it's a part of the political game.

(Cross talk)

Mr. KELLIER: To peddle false information inside here? He cannot peddle false information inside here. False information cannot be peddled in here.

(Applause by Opposition Members)

Opposition MEMBERS: Dudus! Dudus! Dudus!

Mr. MONTAGUE: Mr. Speaker....

The SPEAKER: Yes, yes, wrap up please, Mr. Montague.

Mr. MONTAGUE: ...Mr. Speaker, Mr. Speaker, I demand to be heard in silence. I listened to them and I made my notes.

The Member from Eastern Hanover, Mr. Speaker, declared, declared that we seeking revival and we have chosen four divisions, cherry-pick four divisions. But, Mr. Speaker, the good Lord, in His wisdom called home the councillors from those four divisions, gentlemen, who served this country and their community and they were called home to final rest, yet, yet their lives work is being insulted....

Opposition MEMBERS: No! No!

Mr. MONTAGUE: ....about we are cherry-picking. Mr. Speaker, if I was unkind, I could impute motive. (Laughter) If I was unkind, but I am not an unkind soul.

Mr. BUCHANAN: Since when?

Mr. MONTAGUE: I am a good St. Mary man.

(*Sotto voce* comment by Opposition Member)

Mr. MONTAGUE: You know, Mr. Speaker, the gentleman from Eastern Westmoreland keep running up his mout in here about - and the Member from Central Manchester that councillors, their allocation was taken away.

Mr. BUCHANAN: Yes!

Mr. MONTAGUE: The Councillors by resolution.....

Mr. BUCHANAN: Nuh no go so!

Mr. MONTAGUE: .....gave up their....

Opposition MEMBER: KSAC?

Mr. MONTAGUE: Yes, they have. And as a result, Mr. Speaker, we have negotiated US$100 Million to be invested in the parochial road network, the largest single investment in that network in the history of Jamaica! (Applause)

As a matter of fact, Mr. Speaker, we were to be spending US$15 Million for this the first year. We have increased that to US$21 Million, never happened under their time, accumulatively under their time.

Mr. Speaker, it was Maurice Bishop who said, that democracy is not five seconds in a polling booth, but it's an everyday ongoing process. I wonder if unno know that gentlemen? (*Sotto voce* comments by Opposition Members) And that is why we engaged the people, constantly engage the people in consultation.

Mr. Speaker, the commitment of this Government to Local Government cannot be

questioned, or those that question it are bathed in hypocrisy because the facts are there for them to see.

Mr. Speaker, much more can be said.

Opposition MEMBERS: No! No!

Mr. MONTAGUE: Much more could be said.

Mrs. NEITA-HEADLEY: Come man, come man, get on with it.

Mr. MONTAGUE: And much more will be said. But, Mr. Speaker, I close the debate on these Bills..... (Applause by Opposition Members) ....and ask that the Bills be read a second time. (Applause by Opposition Members)

Government MEMBER: All right, Bobby, touch mi han.

The SPEAKER: Members, the question before the House is that the Bills - I put both Bills - be read a second time?

Put to the House and agreed to.

Opposition MEMBERS: No!

The SPEAKER: Well, a divide we go - the first Bill.

(Heckling by both sides)

The SPEAKER: They said no.

(Heckling by both sides)

The SPEAKER: Are you dividing that second reading?

(Disturbance)

(Short Break)

Bill entitled

> "AN ACT to Postpone the holding of a General Election under the Kingston and St. Andrew Corporation Act, and for purposes connected therewith",

read a second time.

Bill entitled:

> "AN ACT to Postpone the holding of a General Election under the Parish Councils Act, and for purposes connected therewith",

read a second time.

The SPEAKER: The House will now resolve itself into a committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

The CHAIRMAN: Members, there are two Bills, there are two Bills before us.

(Mr. Thwaites was on his feet)

Mr. SHAW: You, stop walking around and making noise and go back to your seat!

The CHAIRMAN: Please, Reverend Thwaites. Reverend Thwaites, consult with your - consult please.

Mr. SHAW: Sit down! You can't do that! That's out of order!

(*Sotto voce* comments by Opposition Members)

Mr. SHAW: Out of order, go sit down!

(*Sotto voce* comments by Opposition Members)

Mr. SHAW: Disrespectful!

Government MEMBER: Ronnie, sit down.

(*Sotto voce* comment by Mr. Shaw)

The CHAIRMAN: Mr. Shaw, please. Okay, Mr. Shaw, please, please.

(Mr. Thwaites stopped and stared then vacated the Chamber)

(Applause/Laughter by Government Members)

The CHAIRMAN: Members, we are going to take the KSAC Bill first.

I put Clause 1.

(Government Members agreed)

(Opposition Members, no!)

The CHAIRMAN: You can divide on a clause, you can divide at anytime. Divide on Clause 1.

Government MEMBER: So you going to divide clause by clause?

The CHAIRMAN: Well, they are dividing on Clause 1, which is basically the naming of the Act.

A MEMBER: That don't make sense to do that.

Mr. SHAW: There is no leader over there, everybody is a leader!

Mr. GALLIMORE: Divide on the name of the Act? (Disturbance)

The CHAIRMAN: (Gavels) We need to take the vote, please, please.

(*Sotto voce* comments by both sides)

The CHAIRMAN: One second. Leader of Opposition Business, are you dividing on Clause 1?

Mr. HOLNESS: There is no divide.

The CHAIRMAN: Okay. I put it again. I put Clause 1?

(Government Members agreed)

(Opposition Members, no!)

(The vote is carried)

Clauses 2, 3 and 4 put to the Committee and agreed to.

The Title and Enacting Clauses put to the Committee and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed Committee Stage without amendment, that is the KSAC Act.

Put to the Committee and agreed to.

The CHAIRMAN: I now move to the Parish Council General Election Act. I put Clause 1?

Put to the Committee and agreed to.

Clauses 2, 3 and 4 put to the Committee and agreed to.

The Title and Enacting Clause put to the Committee and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed Committee Stage without amendment.

Put to the Committee and agreed to.

The RESUMPTION

The SPEAKER: Members, the first Bill I am putting is the PC Bill, General Election.

I do report the Bill as having passed Committee Stage without amendment?

Put to the House and agreed to.

The CHAIRMAN: In relation to the KSAC Act, I do report the Bill as having passed Committee Stage without amendment.

Put to the House and agreed to.

The SPEAKER: Could you ask for third reading.

Mr. MONTAGUE: May I ask for third reading of the Bills.

The SPEAKER: Could you ask for third reading of both Bills.

Mr. MONTAGUE: Both Bills, I said Bills.

The SPEAKER: I now put the - one at a time, I put the KSAC Bill first. The question is that the Bill be read a third time?

(Government Members agreed)

(Opposition Members: No, divide)

A Divide having been called the Members voted as follows:

Ayes	**Noes**
Mr. E. Bartlett	Mr. N. Arscott
Dr. St. A. Bartlett	Mr. L. Buchanan

Ayes	Noes
Dr. K. Baugh	Mr. P. Bunting
Mr. L. Broderick	Mr. R. Clarke
Dr. H. Chang	Dr. O. Davies
Mr. P. Charles	Dr. D. Duncan
Mrs. M. Philibert	Mr. C. Fagan
Mr. N. Gallimore	Dr. F. Ferguson
Mr. B. Golding	Dr. M. Guy
Miss B. Grange	Miss L. Hanna
Mr. M. Henry	Mr. I. Hayles
Mr. J. Hibbert	Mrs. S. Hay-Webster
Mr. A. Holness	Mr. A.Hylton
Mr. W. Hutchinson	Mr. F. Jackson
Mr. O. Lawrence	Mr. D. Kellier
Mr. D. Mair	Dr. W. McNeill
Mr. R. Montague	Mrs. N. Neita-Headley
Dr. C. Tufton	Mr. P. Paulwell
Mr. C. Mullings	Mr. M. Peart
Mr. F. Witter	Dr. P. Phillips
Mr. J. Robertson	Mr. R. Pickersgill
Mrs. S. Robinson	Dr. D. Rhodd
Mr. K. Samuda	Mrs. Simpson-Miller
Mr. A. Shaw	
Mr. D. Smith	
Mr. E. Smith	
Mr. R. Spencer	
Mr. M. Stern	
Mr. C.Warmington	

The SPEAKER: (Gavels) Members, the vote is Ayes 30, Noes 23, Absent six, that Bill is passed.

(Applause by Government Members)

Bill entitled:

AN ACT to Postpone the holding of a general election under the Kingston and St. Andrew Corporation Act and for purposes connected therewith,

read a third time and passed. **(**Applause)

The SPEAKER: I now put the Parish Councils (General Elections) Act that the Bill be read a third time.

A divide having been called the Members voted as follows:

Ayes	Noes
Mr. Bartlett	Mr. Arscott
Dr. St. A. Bartlett	Mr. Buchanan
Dr. Baugh	Mr. Bunting
Mr. Broderick	Mr. Clarke
Dr. Chang	Dr. Davies
Mr. Charles	Dr. Duncan
Mrs. M. Philibert	Mr. Fagan
Mr. Gallimore	Mrs. Simpson Miller
Mr. Witter	Dr. Ferguson
Mr. Golding	Dr. Guy
Miss Grange	Miss Hanna
Mr. Henry	Mr. Hayles
Mr. Hibbert	Mrs. Hay-Webster
Mr. Holness	Mr. Hylton
Mr. Hutchinson	Mr. Jackson
Mr. Lawrence	Mr. Kellier
Mr. Mair	Dr. McNeill
Mr. Montague	Mrs. Neita-Headley
Mr. Mullings	Mr. Paulwell
Mr. Peralto	Mr. M. Peart
Mr. Robertson	Dr. Phillips
Mrs. Robinson	Mr. Pickersgill
Mr. Samuda	Dr. Rhodd
Mr. Shaw	
Mr. D. Smith	
Mr. E. Smith	
Mr. Spencer	
Mr. Stern	
Dr. Tufton	
Mr. Warmington	

The SPEAKER: Members, while the count is being taken, you see, I just want to

point out Standing Order 46(5), if a Member states that he voted in error or that his vote has been counted wrongly, he may claim to have his vote altered but only if such claim is made as soon as the numbers have been announced, or before the result of the division has been declared. So if he has . . .

Mr. WARMINGTON: No, No! Don't instruct him what to do.

The SPEAKER: No, I didn't tell him what to do.

Mr. BUCHANAN: You want to impeach the Speaker. You want to impeach the Speaker.

(*Sotto voce* by Mrs. Hay-Webster)

The SPEAKER: He wants the job.

Mrs. HAY-WEBSTER: This man wants your job.

Mr. WARMINGTON: I think you want a new job.

Mrs. HAY-WEBSTER: Stay out of big people business.

The SPEAKER: The votes in the Parish Council General Elections, 30 ayes, 23 noes, 6 absent. The Bill is passed.

Mr. WARMINGTON: Mr. Speaker, that is incorrect. The Member voted yes and he has not disclaimed his vote. You just quoted Standing Order there, but he did not disclaim his vote, so you cannot count 30 into that. He did not disclaim his vote. You just breach the Standing Order.

The SPEAKER: My understanding from the Clerk is that he changed his vote before.

Mr. WARMINGTON: No, no, he did not.

Miss HANNA: Yes, he did.

Mr. BUCHANAN: Are you saying the Clerk is lying?

The SPEAKER: Mr. Warmington, she asked him again and he said no. Mr. Warmington, you need to behave yourself sometimes, you know.

Miss HANNA: That's the right person. Hold him.

Bill entitled:

AN ACT to Postpone the holding of a general election under the Parish Councils Act and for purposes connected therewith,

read a third time and passed.

The SPEAKER: Very well. Both Bills.

Mr. HOLNESS: Mr. Speaker.

The SPEAKER: Yes.

ADJOURNMENT

Mr. HOLNESS: Thank you, Mr. Speaker. It is not proposed to do any further business today. Mr. Speaker, I therefore move that the House do adjourn, and I am sure Members will be happy for this, until the 22nd.

Dr. DUNCAN: I want to meet tomorrow.

Miss HANNA: I want to come every day.

Mr. HOLNESS: Just for that, Mr. Speaker. Mr. Speaker, I therefore move that the House do adjourn until next Tuesday, the 22nd of February, when we will resume our business.

Mr. R. CLARKE: Mr. Speaker, before you adjourn. You remember I had asked to ask a question of the Prime Minister.

The SPEAKER: No, the position is that the Standing Orders only allow at the second sitting during the month.

Mr. R. CLARKE: The second sitting. Well, I was misdirected when I asked you the first…

The SPEAKER: Well, when we check the Standing Order it is the second sitting.

Mr. CLARKE: Okay. Thank you, sir.

The SPEAKER: The motion before the House is that this Honourable House do adjourn until Tuesday, the 22nd of February, at 2: 00 p.m.

Put to the House and agreed to.

The SPEAKER: (Gavels) This Honourable House stands adjourned.

The House adjourned at 7:32 p.m. until Tuesday, 22nd of February, at 2:00 p.m.

TUESDAY, February 22, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:23 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

DR. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

LESTER MICHAEL HENRY, CD, (JLP), Clarendon, Central, Minister of Transport and Works.

DR. CHRISTOPHER CHARLES TUFTON, (JLP), St. Elizabeth, South Western, Minister of Agriculture.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

LAURENCE GEORGE BRODERICK, (JLP), Clarendon, Northern, Minister of State in the Ministry of Mining, Energy and Telecommunications.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

MICHAEL ANTHONY STERN, (JLP), Clarendon, North Western, Minister of State in the Ministry of Industry, Commerce and Investment.

OTHER MEMBERS

MR. GEORGE DELANO ARSCOTT, (PNP), Clarendon, South Western.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. FENTON RUDYARD FERGUSON, (PNP), St. Thomas, Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MRS. MAXINE ANTOINETTE HENRY-WILSON, (PNP), St. Andrew, South Eastern.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. ANTHONY GEORGE HYLTON, (PNP), St. Andrew, Western.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. DEAN ALEXANDER PEART, (PNP), Manchester, North Western.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern.

THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition.

MR. KERN O'MAR SPENCER, (PNP), St. Elizabeth, North Eastern.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern.

PRAYERS

Prayers were offered by Mrs. Sharon Hay-Webster.

The Honourable House resumed its sitting at 2:23 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this afternon we would like to welcome from the Central High School teachers and students. Welcome to the students and teachers from Central High School. (Applause) And also to students and teachers from Meadowbrook High School, welcome this afternoon. (Applause) And also to students from the Irvine Hall Leadership Society of the University of the West Indies, welcome to the sitting of Parliament. (Applause)

(HON. ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Defence, entered and took his seat.)

We would also like to welcome to the sitting of the House, Senator George Ramocan, who is presently the Consul General in Toronto. And he is visiting with us briefly, with a number of friends and

investors. I know he will only be here for a short while. But please enjoy the sitting while you are here for the short period. (Applause)

Members, before we start the sitting of the House, I would just like to remind Members that last week we had a most unruly session in Parliament.

Dr. DAVIES: Hear, hear!

The SPEAKER: Most times the disruptions never usually last more than twenty or thirty seconds, sometimes rarely does it last for a minute, but when it is reflected in the media it appears that Parliament is always in constant interruption.

I just want to remind Members that the Speaker has the power under the Standing Orders, 42 and 43, not only to suspend Members from the House and also to name them, but I just want to remind Members, and I ask that you will tell those Members who are not here, that one of the rules that we are going to obey is that any time there is a constant or persistent interruption I must ask the Member not only to desist but if he continues, I am going to ask that Member to leave the House for such period as I decide. (Cross talk)

Dr. DAVIES: Bobbie!

The SPEAKER: Please. Moreover, I just want to tell Members, if at any time there is unruly behaviour in the House and the Speaker stands up, if the Speaker stands up in the Chair, anyone who is standing or speaks while the Speaker stands up at this spot, will be suspended from the House immediately. (Applause)

MEMBERS: Hear, hear!

Miss HANNA: I have to see it first.

The SPEAKER: So I just want to tell Members, any time there is unruly behaviour in the House and the Speaker stands up anyone who continues to speak or to stand up will be suspended from the House for such period as the Speaker decides.

Mr. HENRY: It's time.

Mr. HOLNESS: Mr. Speaker, as you are not standing in the Chair… (Laughter)

Dr. DAVIES: Well, you are standing. First apologise for your behaviour.

(MR. CLIVE ARTHUR MULLINGS, (JLP), St. James, West Central, entered and took his seat.)

Mr. HOLNESS: Mr. Speaker, we on this side endorse your pronouncements, Mr. Speaker. (Applause) And I would want to encourage you, Mr. Speaker, that whenever the House Leader stands up and says to you, Mr. Speaker, please take charge of the House, that you immediately do so.

Opposition MEMBERS: No, no, no! (Heckling)

The SPEAKER: Okay. Yes, Mr. Kellier.

Mr. KELLIER: Mr. Speaker, I wish to endorse every word of what you just said and to continue to pledge the support of the Opposition in maintaining the decorum of the House and indeed, to the adherence to the Standing Orders. We would wish to see, as we have been calling for a long time, Mr. Speaker, on this side, that the Standing Orders be enforced and I see in what you have said, a renewed vigour to pursue them to the end. I

hope it will not come to that, but you can be assured that the Opposition is in full support of the adherence, the full adherence to the Standing Orders as set out in the document that guides the business of this House. And we pledge to give you your full support in seeing to it that these things do take place.

We have been asking for it, as I said, for a long time and I am happy that you have come to the point that you will now be taking it very seriously.

The SPEAKER: Thank you, House Leader and Leader of Opposition Business May I just say that while the Speaker is here for however long or however short a period of time, it is very important that we respect the Chair. (Applause) And even if the ruling of the Chair you personally think it is wrong, you must accept it.

Opposition MEMBER: Warmie, yuh hear dat?

The SPEAKER: You have the opportunity to raise a point on a motion if you think it is wrong. But once the ruling is made you must accept the ruling and at a later time by motion you can ask for it to be reversed; and if the House reverses it there is nothing the Speaker can do. A ruling by the Speaker can be reversed by a two-thirds majority of the House. But, once the Speaker makes a ruling I beg each and every Member, please do respect, because to the public at large it does seem as if we are lacking every decorum and courtesy that this country is calling for.

(DR. ESMOND VERNAL PATRICK HARRIS, (PNP), Trelawny, North, entered and took his seat.)

STATEMENTS BY MINISTERS

Mr. HOLNESS: Mr. Speaker, I will have a Statement but I will ask for the recommittal of that item.

The SPEAKER: Very well. Thanks.

Dr. DAVIES: You don't write it yet?

(HON. KARL GEORGE SAMUDA, CD, (JLP), St. Andrew, North Central, Minister of Industry, Commerce and Investment, entered and took his seat.)

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 12**
  Annual Report and audited Financial Statements of the Rural Agricultural Development Authority for the financial year 2006/2007
- **Ministry Paper No. 13**
  Cabinet agenda issues for February 7, 2011
- The Jamaica Civil Aviation Authority Annual Report and audited Financial Statements for the year 2008/2009
- Auditor General's Performance
  Audit Report of the Ministry of Health's management of the supply of Prescription Drugs to meet the needs of the population.
- Report of the Sessional Select Committee on Infrastructure and Physical Development on its deliberations on the Private Member's Motion regarding the need for a revised code and appropriate enforcing authority for driver

education to improve the integrity of the prevailing system of vehicle inspection and to consider amendments to the Road Traffic Act

- The Electoral Divisions (Corporate Area) Order 2011 under
  The Kingston and St. Andrew Corporation Act
- The Electoral Division Parishes Order, 2011 under
  The Parish Councils Act
- Maps of the Constituencies and the Polling Divisions and the description of the Polling Divisions
  (Available from the Clerk's office)
- Office of the Children's Advocate Special Report on the Review of the OCA entitled "Five Years of Protecting and Enforcing the Rights of Children"

The SPEAKER: Just to mention, the constituency boundary and map it is in an eight hundred page document. It will be available in the Clerk of Parliament's office, but it will also be on a CD which will be circulated to every - there is one CD but we can put it on the website. But please, those persons who would like to see the map of the different constituencies can visit the Clerk and have a look at the map. It is really a big document of eight hundred pages.

BILLS BROUGHT FROM THE SENATE

The Clerk read the following message from the President of the Senate:

To the Honourable House of Representatives:

I have the honour to advise the Honourable House of Representatives that on the 18th day of February, 2011, the following Bills were passed in the Senate without amendment:

"AN ACT to Amend the National Health Fund Act",

"AN ACT to Postpone the holding of a general election under the Kingston and St. Andrew Corporation Act and for purposes connected therewith", and

"**AN ACT to Postpone the holding of a general election under the Parish Councils Act and for purposes connected therewith"**.

Signed: Oswald G. Harding,
President of the Senate."

REPORTS FROM COMMITTEES

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Mr. Speaker, on behalf of the chairman of the Infrastructure Committee I beg to lay on the Table of the House a copy of the Report of the Sessional Select Committee on Infrastructure and Physical Development on its deliberations on the Private Member's Motion regarding the need for revised code and appropriate enforcing authority for the driver education, to improve the integrity of the prevailing system of vehicle inspection and consider amendments to the Road Traffic Act.

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Mr. Speaker, on behalf of the chairman of the committee on Infrastructure and Physical Development I give notice that at the next meeting of the House he will move:

BE IT RESOLVED that the Report of the Sessional Select Committee on Infrastructure and Physical Development on its deliberations on the Private Member's Motion regarding the need for revised code and appropriate enforcing authority for driver education, to improve the integrity of the prevailing system of vehicle inspection and consider amendments to the Road Traffic Act,

which was laid on the Table of the House on the 22nd day of February, 2011, be adopted.

And, Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of the Standing Orders to enable me to take the motion.

The SPEAKER: Thank you, Mr. Kellier. Mr. Charles, you have another notice?

Mr. CHARLES: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move to introduce and have read a first time the Bill shortly entitled,

"The Foreign National and Commonwealth Citizens (Employment) (Amendment) Act 2011".

The SPEAKER: House Leader.

DISCLOSURE/EXEMPTION

Mr. HOLNESS: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move the following motions:

WHEREAS subsection (1)(g)(i) of section 41 of the Constitution of Jamaica requires a Member of this Honourable House of Representatives to vacate his seat if any firm in which he is a partner, or any company of which he is a director, or manager becomes a party to any contract with the Government of Jamaica, for or an account of the public service;

AND WHEREAS the Member from Portland Eastern is a Director of CTW Enterprises Limited and may enter into contracts with the Government of Jamaica;

BE IT RESOLVED that this Honourable House, pursuant to subsection (1)(g)(i) of section 41 of the Constitution, and in recognition of him having disclosed the nature of such contracts and his interest therein, exempt the said Member from vacating his seat for reasons of the contract as aforesaid;

AND BE IT FURTHER RESOLVED that this Motion be referred to the Ethics Committee for consideration and report.

Mr. Speaker,

INFRASTRUCTURE/PHYSICAL DEVELOPMENT COMMITTEE

WHEREAS on the 17th day of March 2010 this Honourable House of Representatives gave approval for the Sessional Select Committees, which were appointed in that session of Parliament to continue in this session with unchanged composition of membership, except where necessary by further motion, taken and approved by this Honourable House:

BE IT RESOLVED with reference to the Standing Orders

Infrastructure and Physical Development and Human Resources and Social Development Committee that the name Shahine Robinson, which was deleted, be added thereto.

Mr. Speaker, I further beg to give notice that at a later stage today I will move for suspension of Standing Order to enable me to take notices of these two motions.

The SPEAKER: Thank you, House Leader.

QUESTIONS AND ANSWERS TO QUESTIONS

GIFT FROM SINGAPORE

The SPEAKER: Mrs. Portia Simpson Miller.

Mrs. SIMPSON MILLER: Mr. Speaker, I beg to give notice that at the expiration of 21 days I will ask the Minister of Youth, Sports and Culture the following questions:

Question 1: Does the Minister recall making an announcement that the Government of Singapore will be assisting Jamaica with the laying of a new running track at the National Stadium?

Question 2: Under that Agreement, was the track to have been a gift from the Government of Singapore?

Question 3: Will the Minister give details on the financing of a trip of a delegation from Jamaica to Singapore in regard to this Agreement?

Question 4: Who were the members of that delegation?

Question 5: Will the Minister

(a) indicate the current status of that Agreement/Proposal

(b) has it been aborted?

Question 6: Will the Minister give full details on the financing and contracting arrangements for the laying of the new track?

The SPEAKER: Thank you. Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, at the expiry of 21 days I beg your leave to ask the following question of the Minister of Education:

Question: What are the arrangements for bonding those students who benefit from public funding in whole or part, for their tertiary training?

The SPEAKER: House Leader. Sorry.

Mr. HOLNESS: Mr. Speaker, we have prepared for answer, Question 30 standing in the name of the Member from Eastern Portland asked of the Minister of Water and Housing. The Minister is prepared to take the questions. We have Question 41 standing in the name of the Member from Central Kingston. Question 36 asked by the Member from Westmoreland Central, asked of the Minister of Agriculture, and that question is ready, Mr. Speaker. Question 45 asked by the Member from Central Kingston of the Prime Minister, that is ready. And we will go in that order, Mr. Speaker.

Dr. DAVIES: What about 38?

Mr. HOLNESS: Thirty-eight, we have asked for time on that one.

Dr. DAVIES: Who have you asked?

Mr. HOLNESS: The appropriate mechanism is that we ask the Clerk of the House.

The SPEAKER: With respect to questions 37, 38 and 39, the Ministers are asking for an extension of one week in each case. Thirty-seven, thirty-eight and thirty-nine, Dr. Omar Davies and Mr. Fitz Jackson, the relevant Ministers are asking for an extension of one week. Okay. We can go in order.

Dr. DAVIES: …we have to say yes.

Mr. HOLNESS: Well just to explain the Standing Order, Mr. Speaker. My understanding of the Standing Order is that in the first instance of the request it is the determination of the Speaker, after that if further extensions are required, then we have to…

Dr. DAVIES: Well, I say no in advance.

Mr. JACKSON: No, we did the first extension last week.

Dr. DAVIES: Mr. Speaker.

The SPEAKER: Yes, Dr. Davies.

Dr. DAVIES: Mr. Speaker, there was a series of questions which I had posed to Minister which had been partially answered, to put it more precisely, one of the series wasn't responded to. I received an explanation. I think it - the letter was written to you and a copy of the explanation as to why it hadn't been responded to. And subsequently the Minister has written to me with the response. But I was seeking to have the item recommitted because the question wasn't answered in the House and I needed to have some follow-up questions.

The SPEAKER: When the relevant Minister is here we will seek for recommittal.

Dr. DAVIES: Okay.

The SPEAKER: Very well.

Mr. HOLNESS: …Mr. Speaker, if the Member has given him the answer he would have to indicate that he wants to ask supplementary questions.

The SPEAKER: He had some additional questions. Yes.

Mr. HOLNESS: Okay.

The SPEAKER: Mr. Fitz Jackson, your Question Number 37, the Minister of Transport and Works is asking for an additional one week. Is that….

Mr. JACKSON: If it is definite.

The SPEAKER: Well, it's only two weeks leave, so can we approve it. Minister of Transport and Works further extension of a week to Question 37. We can start with Question 30. Dr. Rhodd.

Dr. RHODD: Mr. Speaker, I would like to ask the Minister of Water and Housing the question listed as Number 30 under my name on the Order Paper, Question Paper.

The SPEAKER: Dr. Chang, could you circulate the answers please?

Dr. CHANG: Thank you. The answers were sent to the Clerk today, this morning. I have given Dr. Rhodd a copy. Other copies are here for circulation. Thank you.

Question 1: When the work will be commenced on the Port Antonio Water Drainage and Sewage Project?

Answer: Work on the Port Antonio Water Supply Sewage and Drainage Project has been

deferred partly because of increased cost and the lack of physical space. Some provision has been made for the continuation of the water supply aspect of the project during the year 2011/2012 and is expected to continue for a three-year period.

Question 2: What are the new cost implications, having discontinued the original plan and work?

Answer: Works were not discontinued at the time, although there are some inflationary cost. Work was never discontinued.

Question 3: Whether or not the European Union will continue to be the funding partner of the Government of Jamaica?

Answer: The project was not funded by the European Union. The European Investment Bank has not indicated that they will withdraw their financial assistance namely, the loan facility from the Government of Jamaica.

Question 4: If the answer to Part 3 is in the affirmative, what will be the contribution of the Government of Jamaica and the European Union, respectively.

Answer: Four is not applicable.

Question 5: If the answer to Part 4 is in the negative, who will be the new funding partner of the Government of Jamaica and what financial contribution will be required of both the Government of Jamaica and the new partner.

Answer: The funding schedule is as follows:

45% from the European Investment Bank as a loan; 45% from the Government of Jamaica through budgetary support and 10% from the National Water Commission through its own capital expenditure. The European Investment Bank is not obligated to adjust its contribution to the project above the previous level to cater for any increased cost.

Question 6: Whether or not the Minister is aware that the discontinuation in the implementation of the project is delaying the development plan of Port Antonio and the surrounding communities?

Answer: The Minister is not aware of any specific delay on projects in Port Antonio. The current level of investments enhanced by the K-Factor Programme in water is unprecedented.

Question 7: If the answer to Part 6 is in the affirmative, whether or not this will be given priority

in the next financial year?

Answer: The project will continue to be given the due attention for implementation in accordance with fiscal space and economic realities of the time.

The SPEAKER: Yes, Dr. Rhodd.

Dr. RHODD: Allow me first to thank the Honourable Minister for his answers, Mr. Speaker. I would like to pose some follow-up questions of clarification.

Minister, in your answer to Question 1 you spoke of a three-year period during which some work will continue. Is this work related to the water aspect of the project or it's related to all aspects meaning water, sewage, drainage?

Dr. CHANG: …water and sewage. This year - the only work that will be done in the next financial year will relate to with water. In year 13/14 we expect to begin this sewage project.

Dr. RHODD: Thank you. In your answer, Minister, to Question Number 6, you spoke of not being aware of any specific delay on projects and you spoke of the unprecedented investment due to the K-Factor. I must say to you it is not my experience that this unprecedented development is taking place in Portland. And I would like to draw your attention to projects which are on hold. When I speak with investors, some of them are development partners, Government agencies, for example, Port Authority. The Navy Island is on hold. The Titchfield Hotel Project is on hold. The East Harbour Development Project is on hold. The Folly Estate, the Rio Grande Rafting, all of these projects in addition to private investors who have started housing development projects, particularly east of Zion Hill. My question is, when will we see some tangible investments because water, as you know, is an important part of any infrastructure development project, particularly in respect to investors from overseas, local investors in relation to shelter? And these are several projects, Minister, which I have drawn your attention to.

Dr. CHANG: The Minister is aware of a number of the larger projects referred to and to indicate, work on the sewage project, the designed work was only completed during the latter part of this year in terms of the overall planning for the Port Antonio Water and Sewage Project. As indicated, we will continue work on the potable water section during the course of this year and in the next financial year, well, 13/14 financial year we will look at expanding and increasing the pace at which we go there. We anticipate that should have, we should still have access to the European Union Investment Bank Loan Funds, but if we don't much of the work in Port Antonio will come under the K-Factor component of a capital budget, and we should be able to continue the project as required.

The larger projects referred to, as far as I am aware, much of those large projects, I expect some small ones normally would have had some delays, but the bigger projects like Titchfield Hotel, which was associated, if I remember with Mr. Lee Chin, has had to do more with the financial fallout in the international marketplace which, in fact, contributed to some of our own national problems and forced some rearrangement of

how we do our budgeting and the physical space available to the country.

Dr. RHODD: My final question, Mr. Speaker.

The SPEAKER: Yes, please.

Dr. RHODD: Against the background, Minister, of STATIN's recent Report of poverty indices in parishes, Portland is featuring as one of the poorest parishes, if not the poorest in the country, and it is directly related to investments and job creation. And this project, I submit to you and to the Prime Minister, I am appealing to you to put it on your priority list for next year's budget and the ensuing year's budget, so we can mitigate these poverty indices and create the employment and assist our citizens.

The SPEAKER: Okay. That's the final comments.

Dr. CHANG: Thank you. We certainly will make ourselves fully aware. We are aware of the problems associated with rural areas and the Government has, in fact, sought to restructure its financing of capital projects in water to accommodate, in particular, rural Jamaica. Because the access to potable water in rural Jamaica is still at less than 50%. We intend to take that to above 65% and certainly Portland will be a part of that. I agree with you, Member, that it's ironic that Portland which has the highest level of rainfall in the island would have a potable water problem. But we intend to correct that situation. Manchester has no rainfall at all.

The SPEAKER: Thank you, Dr. Chang.

Mr. Clarke, Question 36.

Mr. CLARKE: Would the Minister of Agriculture answer Question Number 36 listed in my name?

The SPEAKER: Dr. Tufton.

Dr. TUFTON: Thank you, Mr. Speaker.

Question 1: Would the Minister indicate the amount of sugar produced by the government-owned estates in the 2008/2009 sugar crop?

Answer: Seventy-two thousand five hundred and eight metric tonnes of raw sugar or bulk sugar.

Question 2: Would the Minister indicate the original estimate for the government-owned sugar estates?

Answer: The original estimates, 95,271 metric tonnes of raw, bulk sugar for the 2008/2009 crop.

Question 3: Would the Minister indicate what amount of sugar was committed to be sold to the Italian firm Eridania?

Answer: Seventy-nine thousand (79,000) metric tonnes of raw bulk sugar.

Question 4: Would the Minister state if the commitment to Eridania was met?

Answer: Yes.

Question 5: Would the Minister state the price paid by Eridania per metric tonne sugar bought?

Answer: Three Hundred and Sixty-Three Euros (€363.60) CIF per metric tonne of raw cane bulk sugar inclusive of polarization premium and profit share.

This price is equivalent to approximately US$473.00 or J$31,270.00, at an exchange rate of J$86.00 to US$1.

Question 6: Would the Minister state the cost per pound for producing sugar by the government-owned estates?

Answer: Thirty-four US cents per pound was realized on this particular crop.

Question 7: Would the Minister state the price of sugar sold on the local market?

Answer: The price of brown sugar sold to the local market is approximately J$71,0000.00 per metric tonne. The last increase was in November 2010. The previous price was J$67,000.00 per metric tonne.

Question 8: Would the Minister state the price for sugar sold to the United States of America for the last crop and agreed price for this crop?

Answer: For the last crop 2009/2010, the agreed price of bulk sugar sold to the US was an average of US$641.51 or J$55,170.00 per metric tonne. At an exchange rate of J$86 to US$1.

For this crop, 2010/2011, the agreed price for the sole shipment to the US in February 2011 was approximately US$820.00 or J$70,520.00 per metric tonne, at J$86 to US$1.

Question 9: Would the Minister state the price of sugar on the world market for the last crop and current rate?

Answer: World market prices, Mr. Speaker, are volatile and fluctuate daily so it depends on the point in time. For the last crop 2009/2010 price range from minimum 15.03 US cents per pound recorded in April 2010 to a high of 29.45 US cents per pound recorded in January 2010.

For the current crop 2010/2011, price ranged from a minimum 31. 80 US cents per pound recorded in January 2011 to a high of 35.62 cents per pound recorded in February 2011.

Question 10: Will the Minister state how much sugar is committed to Tate & Lyle for this crop and at what price?

Answer: One Hundred thousand (100,000) metric tonnes of raw sugar committed to Tate & Lyle.

The agreed price, Mr. Speaker, is €370.00 or US$506.30 CIF per metric tonne. To this will be added a polarization premium and a profit share per metric tonne to be determined after the sugar is exported.

Question 11: Finally, will the Minister state what the estimated production will be on the government-owned estates and the production cost?

Answer: The estimated production is approximately, and this is a revised figure, 92,500 metric tonnes of bulk sugar. While the estimated production cost is approximately $4.5 Billion, it works out to be 25 cents or so per pound.

Please note that the budgeted sugar volume was originally 102,300 metric tonnes. However, the adverse effects of Tropical Storm Nicole in October 2010 resulted in flooding of sugar cane fields thereby resulting in a decline in projections in harvestable sugar cane and consequently a reduction in expected sugar yield volume.

(MR. ROBERT DIXON PICKERSGILL, (PNP), St. Catherine, North Western entered and took his seat).

The SPEAKER: Mr. Clarke.

Mr. CLARKE: Minister, your production last crop was 58,000 tonnes and you sold 79,000 tonnes -

Mr. M. PEART: Magic shop.

(Laughter)

(Inaudible comment)

Mr. CLARKE: No, no that's the year before.

Mr. M. PEART: Oh!

Opposition MEMBER: You sell more than you mek.

(DR. ST. AUBYN BARTLETT, (JLP) St. Andrew, Eastern entered and took his seat.)

Mr. CLARKE: So you sold approximately 20, 000 tonnes of sugar from the private estate. The price you got from Eridania with profit share *et cetera* came to US$473.00/€363.00. The price paid by the US, US$641.00 last year. And the local price of sugar last year was US$779.00. Your agreed price for Tate & Lyle this year is €370.00 and US$506.00.

Mr. D. PEART: Him a geet wey.

Mr. CLARKE: The price this year for US so far is US$820.00. And the local price is $825.00. Your production cost last year was US$680.00 but you sold for $473.00. Your production cost was 34 US cents per pound so you sold not only your sugar but 20, 000 of the local production. And this year, you have made a commitment for a 100,000 tonnes. You produced 58,000 last year and you expect to produce 90,000 this year and you're okay with that.

Dr. TUFTON: So what's the question?

Mr. M. PEART: How de money part go?

(Inaudible comment by Dr. Tufton)

Mr. CLARKE: All right, okay. The question how much more of the private estates sugar that you're going to be selling for that low price this year?

Mr. M. PEART: And who paying the bill?

Dr. TUFTON: Over last year?

Mr. CLARKE: Over last year. The other thing - the final thing I'd like to ask on that, did you make a profit from your operations last year?

Dr. TUFTON: Okay, thank you. The Member gave a sort of context of cost and prices. And the common thread, Mr. Speaker, if I may be allowed, that underpins all of that is the volatility of prices in the World Market for sugar. And I outlined in the final question so far this year and during last crop that during that price ranged from a 15 US Cents per pound to up to 29 Cents - just over 29 cents. So far since January it has ranged from 31 cents to 35.

Now, I make that point to say to the Member, we fully appreciate, you and I perhaps more than anybody else here, that the nature of the marketplace particularly with the structural adjustments taking place in Europe where there's not - there's a decline in the amount of subsidized sugar combined with environmental factors like weather pattern has contributed, Mr. Speaker, to a very erratic movements in world price. When we negotiated in order to get the prefinancing arrangements, which was an important because - in fact was the only option, because the government was not prepared to and did have the resources to continue to subsidize the industry. The primary concern, Mr. Speaker, was to find a source of funds that would allow the industry to continue until we ultimately achieved divestment which was the ultimate goal. It may be a little extreme to say that profit was secondary because I don't want to send the wrong impression we didn't into the agreement not to make money if we could.

Opposition MEMBER: Oh!

Dr. TUFTON: But the truth of the matter is that the priority at that point in time and certainly over the last couple of years was to keep the government estates running until we found a suitable partner to take it over, to recapitalize it, to make it more modern and efficient and to find additional markets. To that objective, Mr. Speaker, I think we have met our targets in that the government has not subsidized the industry. The industry has not made a profit, certainly the government–owned estates. The resources that were sourced went into a combination of things hence the variation between cost and sale price. A lot of those resources went into capital expenditure within the factories themselves: boilers had to be repaired, machinery had to be repaired or replaced and so that captured a fair bit of the cost, separate and apart from planting cane and processing cane. But at the end of it all, colleague, the truth is that the government has not spent any additional sums coming from a point where they spent $5 Billion Dollars to subsidize it the year before.

Dr. DAVIES: How you finance it?

Mr. TUFTON: So I will say to you, yes…

Dr. DAVIES: How you finance

Dr. TUFTON: …the publicly–owned estates did not make any money, but we were able to achieve the objective of finding a source of funds that would have allowed the industry to continue until the divestment and we were able to do that. The pricing was determined at the point in time, but given the

volatility of the market no one could have predicted that those prices would have been adjusting in the future in the different markets as they did.

Mr. CLARKE: Taking into consideration that you do know the price of local sugar which is - or was last year US$779.00 and seeing the trajectory of the prices on the market, why did you commit 79,000 for an advance of US$15 Million? US$15 Million could not buy more than at most 40,000 tonnes of sugar but you committed 79,000 when you could have sold the balance on the local market.

(DR. KENNETH WYKEHAM MCNEILL, (PNP), Westmoreland, Western entered and took his seat.)

The PRIME MINISTER: You have to plant it.

Mr. CLARKE: No, but it's there. It's there. It's not a matter of planting it, it's there.

The PRIME MINISTER: Oh, you think so.

Mr. CLARKE: Yes, it was there. And as a matter of fact, we short supplied the U.S. we could have sold 4,000 tonnes to the U.S. at even a higher premium.

But this year, you have gone further to make a larger commitment at still those low prices and the trajectory is up, up sugar is at its highest price on the world market in 30 years. Why was not the agency that has always marketed our sugar, the Jamaica cane product sales and the private estates why they were not involved at any time, during these negotiations?

Dr. TUFTON: Mr. Speaker, hindsight is always 20/20 vision. And the Member being a cane farmer himself and a Minister at one point presiding over this industry knows better, and knows the reality of the situation that we had to confront First of all, and I will help him to remind him and audience listening on. In terms of the local market the question being asked about the price on the local market, would have had to be linked to the financing to finance the cane in the first place. There were no takers in the local market to provide the resources to plant the cane. When the Government, which was a carry-over from the previous government, your administration, took a decision to privatize the industry…

(*Sotto voce* comments by Mr. Clarke)

Dr. TUFTON: That's what I said, to privatize the industry, it was a decision to get out of the business of sugar and to stop subsidizing the industry, to find a formula so that sugar could stand on its own.

What the Member is suggesting is that we had the luxury or the option to grow the sugar, process and to sell it solely to the local market which would have given us a premium. And incidentally, Member, you know that the price of sugar on the local market has always been higher than on the world market. The truth is, the Jamaican consumer if we are to be brutally frank subsidizes the sugar and those who are involved in sugar based on those prices. But there was nobody to finance it. So it's a function of the negotiation that we went into with Eridania where we had very limited time and we had to find a way to get the working capital to keep the industry going.

Secondly, on the US issue, again hindsight is perfect vision to reason logically that we should have produced more for the US market. The Member well knows, Mr. Speaker, that the US has for a long time maintained a quota arrangement and they decide whether or not and when they want to adjust that arrangement as it relates to the amount of sugar we send to that market. When things are good with them and their farmers they keep our sugar out. When there are challenges they allow our sugar to come in. We could not, particularly given the vulnerable position that the industry was in, budget for or plan in a futuristic way on the fact and the risk involved that the US was going to allow us more quota because of the shortage in that market and hence the higher prices. And therefore, again, it is something that the Member knows would not have been logical at that point in time.

In terms of this year and the commitment, the truth again is that we have planted out much more acreages of cane. We took the position during the divestment process that we wanted to not just wait on a buyer to come and do everybody, but we wanted to try as best as possible to build the attractiveness of the industry while we engage in the divestment process. That is why we engaged in the termination exercise, the realignment of some workers into other sectors, using of some these resources including the resources from Tate & Lyle to start the process of restructuring and repair and build out for greater acreages so that we can build a more viable industry as soon as possible. And therefore, we took those resources, we have put more cane in and hence we felt, given all other considerations that we would have been able to meet the requirements that was placed on us in that agreement.

Mr. CLARKE: Based on the cost of production that I mentioned and going along with your own figures, did you make a profit, did the estate make a profit?

The SPEAKER: He had said, no, Mr. Clarke.

Mr. CLARKE: Did it lose money?

The SPEAKER: Let him answer again.

Dr. TUFTON: Mr. Speaker, as I said earlier the government did not subsidize the industry. We financed the industry with the resources that was given to us by doing a combination of two things. Capital expenditure on some of the assets; to bring the assets to a point where at least the cane could be processed and hopefully achieve some levels of efficiencies. We budgeted on greater acreages being grown out which would have given us the volumes to - remember now, the cost, the over all cost is a combination of fixed cost and variable costs and the resources that we got had to be spread over both, okay. And therefore, we achieved a situation where, we would have liked to have gotten greater volumes which we were unable to get and as a consequence there was no profits generated or excess revenue generated from the transaction.

The SPEAKER: Dr. Davies, your time.

Dr DAVIES: Now - this is - I have other questions, but I am just interested Minister, just arithmetic. The numbers you give indicate that the per pound cost of production exceeds the per pound revenue you received, regardless of the mix. Just tell me how you bridge the gap?

Dr. TUFTON: Well I thought I was explaining that, Mr. Speaker. I am not sure what else the Member wants to hear.

Dr. DAVIES: What I want to know is that, if your revenues were X and your cost of production is X plus Y where did the Y come from?

Dr TUFTON: Mr. Speaker, the point I am making is this. The resources that we took from Eridania and later on from Tate & Lyle were used for two purposes. Some of those resources were used to support the factories some were used to support the fields. In the end, Mr. Speaker, we were able to produce a certain quantity which did not require additional resources and gave us sufficient revenue to support the activity on the estate. But there were no profits that could be…

Mr. CLARKE: I am going to help the Minister.

Mr. M. PEART: You cannot help him.

Dr. DAVIES: Help me too

Mr. CLARKE: I am going to help you too. The money that you borrowed from Tate & Lyle you put it into the operating revenue and hope that this year when you achieve the one hundred thousand tons you will balance it out back. I think that is the only way you can put it.

Dr. TUFTON: Mr. Speaker, I maintain my position, I maintain my position. The truth is that, the truth is that the production process is an ongoing process, right and therefore, there is some level of carrying over between one production cycle and another. But what I am saying to you, what is most significant and the point that I think we all need to take into consideration is that, as far as subsidies to the industry is concerned, we used the resources that were provided to us by Eridania later by Tate & Lyle to ensure that the operation continued within the industry without any additional cost being provided.

The SPEAKER: Reverend Thwaites. Let Rev. Thwaites and then you can return.

Rev. THWAITES: I will yield to the Member.

The SPEAKER: Very well.

Dr. DAVIES: Minister, the reality is that in any operation there has to be some cut-off point of accounting, fiscal year or whatever. And the numbers which you provide indicate that there is - your revenues are less than your expenditure these are your numbers. So all I am asking, I am just asking - is my colleague from Central Westmoreland correct that you are using next crop's money to help to clear some of your obligations? I just need to know. But beyond that, but let me know. Two points, Sir, one is that can you get your technical people - reading the numbers in here is really a challenge, you have some figures in Euros, some in the US dollars, some in Jamaican dollars I have been trying to do my own calculations and you are right about 25 cents per pound.

But last year, Mr. Minister, you came here and announced that production costs were going to be close to 20 Cents per pound US Cents. I asked you then what miracle had occurred? Obviously none, because it turned out to be 34. What is the reason you would provide us why your 25 Cents per pound, US Cents per pound is a credible projection? Because, if it is not credible on the wrong side, then you are going to be faced with the same set of questions in terms of the deficit.

Dr. TUFTON: Thank you. Mr. Speaker, the truth is that in terms of financing the industry, there are other areas of support that the industry receives, for example, from the EU, to deal with served aspects of the operations of the industry. For example, the sale of sugar on the local market, the Member knows, there is a percentage of that that goes into supporting things like the cane roads and so on. So we can work out those details in terms of the cost *versus* the sale price. But there are other costs involved; other revenue streams involved which can balance the equation. On the issue of the production yes, we did project at the volumes that we had originally targeted a cost of about 20/21 Cents per pound. But as outlined earlier to the Member, those projections were severely impacted by the fall in volume of cane that was eventually processed for a number of reasons. First of all, there were issues related to the late start of the crop because you may recall that - firstly, when the targets were set originally, the initial targets there was subsequent to that a falling out of the arrangements with Infinity, we had to go to Eridania and it took sometime even though it was done in a relatively quick time to get those resources, the $15 Million. And so there was a delay in the starting of the crop.

Secondly, there was a transfer of cane, the Member may recall that we had a situation where we were unable to process all the cane and some volumes of cane was transferred to the private estates, I believe it was some where within the region of one hundred thousand tons, approximately, the crop before that. In terms of the last crop, we faced a severe drought. The last crop we had, we experienced the worst drought in about 27 years, and every estate, both the public and the private estates was impacted by that drought and the associated cost of water where we had to deal with irrigation infrastructure to supply and to overcome the drought. As a consequence, not only did we fall short, but all the other estates also fell short in terms of cost and volumes.

The SPEAKER: Rev Thwaites.

Rev. THWAITES: Mr. Speaker, will the Minister state whether the private estates from whom sugar was taken in order to make up the quota, did they benefit from the crop financing from Eridania or from Tate and Lyle this year. And, if not, or in any event is any compensation being given to those companies from whom sugar was taken and sold as a lower price lower than the higher price than they could have obtained and if not why not?

Dr. TUFTON: Mr. Speaker, first of all the manufacturers of sugar, are part of an entity called Jamaica Cane Products Sales Limited and they take critical decisions as it relates to where the sugar is to be sold and they benefit from a number of things including carrying capacity and so on.

I am not going to say that the arrangement, as it relates to these two transactions over the last two crops, has been perfect. The fact is that up to recently when we completed the divestment exercise, the government owned estates control the majority of the estate over all in terms of the output, in terms of factories and fields. And so the Government has maintained to a large

extent a premium position in some of the decision making processes.

The Government took a decision, a deliberate decision, Mr. Speaker, that, we had to focus primarily on the divestment exercise because that was the core mandate to keep the industry going, to place it in private hands. And so, most of the critical decisions flowed from that. And the truth is, yes, maybe some of the private entities, if they were allowed to market their own sugar could have perhaps marketed the sugar on the local market and get a better price. Maybe they would have had a difficulty because they don't have the volumes in order to ship the sugar in a form that would get to those markets because it is a function of dealing with the buyers also.

And the truth is, an important part, Member, of the marketing arrangements overseas involves their actual logistics and the volume purchases. Because as you know, the sugar that goes to Europe is actually further transformed into white sugar because that is the primary form in which that sugar is sold on that market, unlike here in Jamaica where we use brown sugar. So there were other reasons which required a collective decision, which is how JCPS is configured, represented by all these manufacturers. And from the Government perspective we felt that during this transition period it was important for us to secure activity on the estates. And that is what drove the decisions. (Applause)

Rev. THWAITES: Is the Minister saying that these private producers agreed to sell at the losses that they have incurred?

Dr. TUFTON: First of all, I never said that these private producers made a loss. No, I can't say that for sure. The truth is that the private producers, the private producers are a lot more efficient than the publicly-owned estates. And for the obvious reasons. Well, you hear figures between just under Twenty Cents to just over Twenty Cents for the private - for the Worthy Parks and so on. And the point is, they have not - I don't have any information to suggest that they have been making a loss over the years or they made a loss over the past couple of years. That's something that we can check on. But that's not my impression. Whether or not they could have made more profits, is a question that may be one could argue reasonably if they were allowed to do their own thing. The downside to that, however, is that if they were allowed to do their own thing, they would have some shortcomings in terms of the reasons advanced earlier, in terms of dealing with some of the buyers and the volumes that were important to secure transactions. And secondly, it would have impacted adversely the Government's attempts at divestment. And that for us was the overwhelming reason for pursuing this particular path.

The SPEAKER: Mr. Clarke.

Mr. CLARKE: Finally. You spoke a while ago about starting the crop late. If you remember well, you said in this House that it is the first time that you had started so early. That's right. Frome started on the 7th of December, and you really spoke about that. Another thing you must take into consideration is that the price paid from Eridania, c.i.f, the price to the US, f.o.b, so you know, there is still a much wider margin. But, the question I'd asked, and you did not answer, why was not JCPS, which has a

proven record of marketing our sugar over the years, why was it not involved in any these negotiations?

Opposition MEMBERS: What!

(Inaudible comments by a Member)

Mr. CLARKE: Nuh.

Dr. TUFTON: First of all, Member, you will know that there is a difference between starting the planting and actually processing the cane.

Mr. CLARKE: Reaping. (Inaudible)

Dr. TUFTON: Right. Well you reap based on when you plant. And so, if you plant late then you have to reap late. And so, you have to put that into context.

Secondly, I don't think it's fair to say or correct to say that JCPS was never involved in the discussions. As I said earlier, JCPS would have - The Board of JCPS, as I understand it, signed-off on the collective agreement to ship sugar to the particular marketplace, to the particular buyer. Now, maybe members of that group, representing all the manufacturers, had some issues or concerns.

However, the figure that was agreed on in the discussions involving the Government-owned estates, in consultation with others, would have been determined, based on the acreages that were agreed on to be placed. And in the instance where we fell short, that was due to some of the reasons I gave, the drought conditions and so on, which affected everybody. Because everybody was impacted by the drought. None of the estates, including the privately-owned estates, met the targets that were set for that particular year. So we are not exceptional in that respect.

(HON. RUDYARD CONRAD SPENCER, (JLP), Clarendon, South-Eastern, Minister of Health & The Environment entered and took his seat.)

(HON. OLIVIA ATAVIA GRANGE, (JLP), St. Catherine, Central, Minister of Youth and Sports, entered and took her seat.)

The SPEAKER: I thought that was a final question.

Mr. CLARKE: Your second point is not right either. Appleton met their quota and... But let me ask, who was it that negotiated the price for the sugar that we sold to Eridania?

Dr. TUFTON: The negotiations with Eridania and Tate & Lyle would have been led by the key players representing the Government-controlled estates. However, however, the final position would have been agreed to, even with some concerns, as I said earlier, by the JCPS Board which comprises all the players, including the private-owned manufacturers.

The SPEAKER: House Leader, we have Question 41 to answer, Reverend Thwaites. But Question 40 is due for answer today. What is the position in respect of...?

Mr. HOLNESS: The Member from Central Kingston had asked that question. I believe it was Question 40 that was previously answered by the Prime Minister, by way of Ministry Paper Number 9 of 2011. And based on the Standing Orders, once the information is available, brought to this House, then that question would...I would respectfully ask the Member to consider withdrawing the question.

The SPEAKER: Reverend Thwaites, in respect of Question 40, I think about two

weeks ago a Ministry Paper came that basically answered most of those questions. Is that correct?

Rev. THWAITES: It is, Mr. Speaker.

The SPEAKER: Yes.

Rev. THWAITES: I trust that questions two, or the second and third part of that question will be dealt with emerging from the deliberations of the Public Administration and Appropriations Committee. I trust so. And in the instance, if you will allow me, I would like to withdraw this question.

The SPEAKER: Members, having heard the House Leader and the Member, Reverend Thwaites, is it the wish of the House that question 40 be withdrawn?

Put to the House and agreed to.

The SPEAKER: Reverend Thwaites, Question 41.

Rev. THWAITES: May it please you, Mr. Speaker...

The SPEAKER: Just a second, Reverend Thwaites.

Mr. HOLNESS: Yes. Before Reverend Thwaites, I believe the Member from St. Ann North-South - South-East, wanted to ask the Minister of Information, Youth, Sports and Culture...

The SPEAKER: No, she laid a question.

Miss HANNA: No, no, no!

Mr. HOLNESS: Yeah, well, questions from before that were answered. But I believe the Minister will indicate when she would be able to answer those questions.

The SPEAKER: Miss Grange, could indicate the question that was asked of the Member from South-West St. Andrew when...

Miss HANNA: South-East St. Ann.

(Inaudible comments)

The SPEAKER: South-East St. Ann. I'm so very sorry. When are you in a position to answer those questions?

Miss HANNA: Mr. Speaker, just to be clear, the Minister laid the figures on the Table.

The SPEAKER: Oh, yes.

Miss HANNA: I asked for a recommittal so that I could analyze the figures to ask further questions. So if she is prepared today, I'd be prepared to ask further questions.

The SPEAKER: My recollection, Minister Grange, is that you had laid a Paper which because of the extent and numbers, the Member from South-East St. Ann had asked for some time to consider them and then at a later time would ask you questions on the figures. Would you be in a position today to answer or would you seek some time?

Miss GRANGE: I would not be in a position to answer today.

The SPEAKER: Could we put it then for the next sitting, if that is possible? Minister Grange, could it be next week, say next week Tuesday?

(Miss Grange Nods)

The SPEAKER: Very well.

Miss GRANGE: Mr. Speaker, if she could provide the questions, I will have the answers, please.

The SPEAKER: If you don't mind sending a few supplementary questions to her, so she could, if necessary, investigate some of the, ehm...

Miss HANNA: Mr. Speaker, the figures are right there. She has the figures.

The SPEAKER: Yes.

Miss HANNA: It was really just me questioning some of the figures.

The SPEAKER: No, my recollection, Miss Hanna, is that the question of the summation and so on of the, yes - could you, as a matter of courtesy, could you just drop her a line during the course of the week just indicate some of the questions so if necessary she can ask her office to check on them. Okay.

Miss HANNA: The truth is I really don't see the need for that, because the figures are there. It was one or two questions on the figures.

The SPEAKER: Yes, but just to assist her and her office if you'd just drop her a line with a few of the questions to assist her when she returns next week Tuesday. Reverend Thwaites, Auestion 41.

Rev. THWAITES: May it please you, Mr. Speaker. Will the Minister of Education please answer the questions listed in my name at Number 41?

Mr. HOLNESS: Mr. Speaker, these questions are not quite due for answer so I am asking leave of the House and permission of the Member to...

(Inaudible comments by Dr. Davies)

The SPEAKER: Yes. Members, in respect of Question 41, leave of the House is being sought for the response. If the House approves, we can go ahead.

Put to the House and agreed to.

The SPEAKER: Leave of the Members.

A MEMBER: Yes.

Mr. HOLNESS:

Question 1: What portions of Jamaican products are used in the School Feeding Programme?

Answer: It is impossible for an accurate proportion of local goods consumed in the nutrition programmes of the Ministry of Education to be tabled. There are two programmes that provide nutrition support to students.

The first programme, Mr. Speaker, is the nutritious baked snack and milk programme produced by the Nutrition Products Limited.

NPL is a Government-owned company which produces various baked products which are fortified with the necessary nutrients and vitamins in line with one-third of the recommended daily caloric needs of primary school age children.

Currently, 136,000 students daily, covering 836 schools from the early childhood level to the Primary and Junior High School level benefit from the programme.

Students are asked to make a small contribution of Two Dollars to the snacks, but no child will be denied if they cannot make the contribution. The Two Dollar contribution is well below the Thirty Dollar unit cost to produce the snacks.

This year, the Ministry of Education spent $780 Million on the operations of Nutrition Products Limited.

(Inaudible comments by Dr. Davies)

Mr. HOLNESS: Well.

Four Hundred And Sixty-Eight Million or 60% of that total budget represents raw material costs of which $402.5 Million or 86% of the raw material cost budget went into the procurement of flour, dried skimmed milk, butter oil, nutrients and additives and flavouring. These products are purchased from local suppliers.

However, from general knowledge, these products are usually imported or have a high raw material import content. The Nutrition Products Limited spent J$65.5 Million or 14% of its raw material budget on sugar. However, while the sugar is procured locally from the Sugar Industry Authority, and we are of the view that sugar is a local product, we cannot say for certain that the sugar supplied to the Nutrition Products Limited is locally produced or re-imported Jamaican sugar.

From NPL - from what we spend at Nutrition Products Limited, we can assume that the expenditure on sugar could represent local input. However, we could not rely on this with certainty.

The second programme, Mr. Speaker, under the nutrition support for schools is the Cooked Lunch Feeding Programme - PATH Programme. Under this programme, the Ministry of Education provides a direct per capita, cash feeding grant to schools, amounting to J$78.7 Million, which is generally accessible by all students in 636 schools at all levels receiving the grant.

This year 175,000 students from primary schools to secondary schools accessed the grant, and 90,000 students at the early childhood level benefitted from the general cooked lunch support. Additionally, the Ministry of Education procures commodities common to all schools in the cooked lunch programme. This year, the Ministry purchased rice, flour, cornmeal, canned fish and corned beef, totalling $276.4 Million. These commodities, again, are locally supplied through the tender process. However, by our general knowledge most of these items are imported.

Under the PATH Programme, a conditional

cash transfer of J$1.8 Billion is paid directly to schools for 220,000 targeted students whose households are registered beneficiaries. When the PATH grant is combined with the Ministry's direct cash grant for administered nutrition cooked lunch programmes, approximately $1.94 Billion would have been used to purchase items for the preparation of lunches locally in schools all over Jamaica. These items include a significant component of locally produced foods, such as: ground produce, meats, fruits and vegetables, all locally obtained. The purchase of items for the School Feeding Programme is a significant expenditure which supports local economies and communities in the agricultural and local manufacturing sector.

Certainly, Mr. Speaker, a significant portion of the cash grants would be spent on other inputs, such as cooking fuel, refrigeration; and staples, such as, additional rice, flour, cornmeal, cooking oil and sugar. These inputs would all have a very high import content.

Question 2: Mr. Speaker. What is preventing the inclusion of Jamaican eggs and juices into the School Feeding Programme?

As you would have seen from Question 1, Mr. Speaker, already with the $1.94 Billion that is spent, Jamaican eggs, and juices, and ground produce are already included in our nutrition programme. But I suspect that the Member wanted to ask specifically, why is Nutrition Products Limited which produces nutritious snacks, not using, specifically eggs, in the production of the snacks and juices as part of its provisions. So, I'll answer the question, even though the question was not specifically asked.

Answer: Every effort is being made to include Jamaican eggs and juices into the School Feeding Programme. Remember, Mr. Speaker, they are already included by virtue of the schools getting the direct cash grant and purchasing Jamaican eggs, and purchasing Jamaican juices.

The Ministry of Education and the Nutrition Products Limited are in full support of,

and have always encouraged the inclusion of locally produced goods into the Programme. The Ministry of Education committed to fund the operational costs for the inclusion of the fruit juices in what Nutrition Products supplies to schools, while the infra-structural cost would be funded by the Ministry of Agriculture and Fisheries. Nutrition Products Limited also agreed to assist with some of the infra-structural costs, including the cost to procure a standby generator which, Mr. Speaker, we have done.

A Cabinet decision regarding the introduction of natural juices to the School Feeding Programme was given priority over the introduction of other projects. It was agreed that the available resources for product development, in terms of equipment and personnel, were the same to be deployed on both products.

So, as soon as one project was completed, the other product would have been started. So, Mr. Speaker, we prioritize juices and as soon as our resources were successful in having juices introduced into Nutrition Products offering, then we would have focused on introducing eggs.

The main reasons for the delays have been: (a) the funding required for the procurement and the installation of the equipment that is needed to introduce juices, which specifically, Mr. Speaker, these equipment would be a marginizer, transfer pump and a refrigerated container.

And, just to point out again, Mr. Speaker, that those costs were not agreed on to be provided by the Ministry of Education. Those costs were to be provided by the Ministry of Agriculture and Fisheries.

The challenge posed by eggs as a product to be incorporated into the School Feeding Programme, Mr. Speaker, apart from the obvious resource constraints, there are other issues. For example, Mr. Speaker, the issue was raised by the health professionals as to whether or not we would be able to identify students who would have allergies to eggs being used in the products. That was raised as one issue.

The other issue, Mr. Speaker, is that of storage. And to put

eggs into the production, Mr. Speaker, at Nutrition Products Limited, we would have to incur the cost of putting in additional storage, particularly refrigerated storage, Mr. Speaker. And again, those costs were the agreed costs to be borne by Ministry of Agriculture and Fisheries.

Question 3: What is the timeframe for more extensive use of local agricultural output in the School Feeding Programme?

Answer: Again, Mr. Speaker, to re-emphasize, we give schools J$1.9 Billion as a direct cash grant for the purchase of items to be used in the Cooked Lunch Programme. These items include significantly, Jamaican ground produce: Fruits, vegetables, meats. So, Mr. Speaker, already we are doing that.

But I suspect the Member wants to ask what are we going to do to introduce Jamaican juices and the use of eggs in the products produced by Nutrition Products Limited.

It is the policy of the Government - and the Minister of Agriculture and myself are working to have this done. We agree that it is an important national strategic priority to ensure that agricultural produce is incorporated directly and swiftly in our local nutrition programmes.

It is the Government's policy to incorporate local products in the programme of the Nutrition Products Limited. And we are working with other ministries and agencies, Mr. Speaker, to accelerate this process.

The issues, Mr. Speaker, of lack of equipment, and consistency of supply, and the reasonableness of prices, those are issues, Mr. Speaker, that are outside of the control of the Ministry of Education. And I want to make the point that the Ministry of Education is in the business of providing knowledge and information. We have taken on as a subsidiary function, producing nutritious snacks and juices. Our budget does not allow us, Mr. Speaker, to invest in buying homogenizers, freezer trucks, and those additional infrastructure costs that would be required to have these incorporated. The infrastructure that we have invested in ten years ago would be the infrastructure

that exists today. Any changes to accommodate those would require new infrastructure which we do not have in our budget.

The Ministry of Agriculture is aware; the Ministry of Industry and Commerce is also aware. And what will happen very soon, Mr. Speaker, is that they are working on programmes within their ministries to support those suppliers of the eggs, and the juices to have them being able, Mr. Speaker, to supply to Nutrition Products, and to assist Nutrition Products with storage and the other equipment that is needed to ensure that Jamaican products, as it relates to eggs and Jamaican juices, can be incorporated.

But I want to say further on that, Mr. Speaker, that it is not the intention of the Ministry of Education to continue much longer with Nutrition Products limited. It is always the intention that that operation should have been divested. And I would want to put the House on notice that we have started the process of looking into how best we could divest ourselves...

Dr. DAVIES: Divest or close down?

Mr. HOLNESS: Divest. Whoever gets it could decide what to do with it. But, we have to, at this point, Mr. Speaker, look at the efficiency of the operation, because the capital investment that is required, certainly is not - will not be within the budget of the Ministry of Education any time soon. So, we have made the decision internally and we have started the process, Mr. Speaker, of seeking to divest the operations.

And I believe that when that occurs, it would be far easier for the local suppliers of eggs and juices, and whatever other raw materials that would be, to work with private providers to meet the capital cost to ensure that those things are incorporated.

Those are my answers, Mr. Speaker.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Will the Minister acknowledge that the...

The SPEAKER: Turn on your mike, please, Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, would the Minister acknowledge that the educational enterprise, which is the core business of his Ministry of imparting knowledge, will be entirely frustrated if those to whom the knowledge is going to be imparted do not have a reasonable modicum of nutrition in order to receive it? First.

Secondly, will the Minister acknowledge again that the tenor of his answers to my questions - to these questions is entirely out of kilter with the very laudable programme of the Government that we should: Eat what we grow and grow what we eat?

And, Mr. Speaker, will the Minister acknowledge further that the paucity of

resources that he praised, in order to better incorporate local products, is not matched by the very large portion of resources which is available for the importation of foreign goods to favour foreign farmers. And, following the instances and the studies of many local nutritionists, is in fact giving less nutritional value to our children than, in fact, local products, specifically juices and eggs, would do?

Would the Minister acknowledge further...

The SPEAKER: Is that the third...Let him answer those three.

Rev. THWAITES: He wishes to take them in banks of three, you think?

The SPEAKER: Yes, yes… before…

Rev. THWAITES: Father, Son and Holy Spirit?

The SPEAKER: No, let him answer those three first.

Mr. HOLNESS: Mr. Speaker, the Member asked me to acknowledge. And I hear the frustration of the Member, but let me respond. When the Government started the nutrition programme almost 30 years ago, it started it on the recognition that nutrition was a critical part of the learning process. Without nutrition the child simply could not learn. Indeed, the story is told of education officers visiting remote communities, and the children there had red hair, some sign of nutritional deficiency. And that sparked, of course, the need for providing an easily packaged food product to supply to students. What we have now is, we call that…

(*Sotto voce* comment by Opposition Member)

Mr. HOLNESS: …easily packaged, but fortified with nutrients. And that programme, Mr. Speaker - though sometimes we mock the programme, but it is a foundation programme for many communities in education. Indeed, the nutribuns, as we call them, is a staple of many persons. Many persons depend on them.

Now, to be clear, Government spends in excess of $2.3 Billion on nutrition.

Now 30 years ago we didn't have the very well developed private sector producers that we now have, who could take over the production of these nutritious buns and milk and whatever else we produce. So right now the statement that I have made is true, that it is not and should not be the business of the Ministry of Education to be directly involved in the production of these items. That's important.

So I don't want my statement to be interpreted, Member, as any disrespect for the importance of nutrition. It is merely a statement of economic fact that we are now in a position where we could divest ourselves and indeed be far more efficient in the provision of nutrition and get far more than we would have gotten by divesting ourselves of the operating cost of a Nutrition Products Limited and the other programmes that we presently run. So that's the intention of my statement, Mr. Speaker.

If the tenor of my statement was offensive, Member, I apologise, but I didn't mean any offence.

Rev. THWAITES: Mr. Speaker.

The SPEAKER: Yes, Reverend Thwaites.

Rev. THWAITES: Offensive never, narrow yes. The question I'd like to ask the Minister further, sir, is, there seems to be in his answer, some tension as regards the division of responsibility and investment between the Ministry of Agriculture and the

Ministry of Education. Could this please resolve that and let's get along with the provision of locally produced products for the school feeding programme. Second, if indeed, one divests the Nutrition Products, what control would the Minister wish to impose upon those who would take it over as to the ingredients of the product that they put forward?

You know, Mr. Speaker, the Ministry's involvement and the government's historical involvement in this is to be congratulated. Thirty percent of the caloric intake, which is what the programme essays to provide, that 30% is all many children get for the day you know, Mr. Speaker...

Mr. STERN: Question?

Rev. THWAITES: ...and therefore the issue...

The SPEAKER: Question, though, no the question, the question.

Rev. THWAITES: Oh, you reach the question?

(Laughter/heckling)

Rev. THWAITES: Will the Minister...

The SPEAKER: No, you're not making a presentation yu nuh? Speech.

Dr. DAVIES: I was enjoying the presentation; I would like to move for the presentation to continue.

Rev. THWAITES: Will the Minister acknowledge that the 30% is in fact inadequate for a large proportion of the school children?

The SPEAKER: Okay, Minister.

Rev. THWAITES: One more.

Will the Minister acknowledge that feeding the children this imported stuff, yes, and sugar-base diet, yes, is in fact setting their taste - their food taste, which is likely to affect the food taste of the nation and influence us adversely, in the task of supporting our own growers?

(Inaudible comments)

Mr. HOLNESS: Mr. Speaker, Mr. Speaker, there is no tension between the Ministry of Education and the Ministry of Agriculture as the Member would want to suggest. (Applause)

A MEMBER: All right, sir.

Mr. HOLNESS: I would want to advise the Member, Mr. Speaker, that both Ministries met and we decided...

Dr. DAVIES: What was the meeting about?

Mr. HOLNESS: ...and we decided how to approach this strategically. It was agreed that the Ministry of Education could not diverse any of its resources either from Provision of Education Services, or from its current operations in Nutrition Products Limited. Remember now, over 400,000 students depend daily on the provisions made by the Ministry of Education. I can't take any risk with diverting funds anywhere, that just couldn't work. So the strategic decision was made that we will do whatever is in our powers to do, for example, the acquisition of a standby generator. In any event, NPL needs to have that backup capacity for energy and we have done that. But the Ministry of Agriculture agreed to provide the freezing storage capacity and the other equipment, specifically a homogeniser. There are funding constraints. As soon as those funding constraints are relieved...

(Inaudible comment by Rev. Thwaites)

Mr. HOLNESS: Well, which is the point I made originally, that where we need to go to accelerate this is to actually divest the Nutrition Products Limited.

(Inaudible comment by Rev. Thwaites)

Mr. HOLNESS: Well I'm using divestment in the general sense, the specific as to how it is done is not yet determined.

The SPEAKER: Mr. Fagan and then Dr. Davies.

Mr. FAGAN: Mr. Speaker, my question has only come because the Minister has said that some $1.9 Million in grant is made available to schools. And it was quite a buzz last year with the basic schools as to government trying to regulate the basic schools. I'd like to find out how - is there anyway that the basic schools can access these funds to assist with their feeding programme?

Mr. HOLNESS: Yeah, two years ago basic schools were not directly a part of this programme, now they've been incorporated. As I said in my presentation, 90,000 students at the early childhood level benefit. The benefit is now guided by the Early Childhood Commission. So once they meet the regulatory requirements and they apply, they are then placed on the programme. So we are expanding and we are expanding - every year we have increased the allocation for nutrition.

The SPEAKER: Dr. Davies.

Dr. DAVIES: Thank you very much. Mr. Speaker, through you. Two short questions, one is a question proposal. I think it's so important that we the Members, have an idea as to what is the proposal post-nutrition products. Those of us on the PAC have other reasons for welcoming some transition, but I think we would like to see what you plan.

But more important, Minister, how much would it - has work been done to show how much it would take to guarantee that, say those at the lowest income groups - the children are - throughout the system, starting with basic schools - are provided with even one solid meal per day, either straight subsidy or partial subsidy? Can the $2.3 Billion do it? If not, what would do it?

I say this, Minister, you know that this is something I've worked on, even my basic schools project we realise that you could fix curriculum, you could train people, but if you have hungry young children you are virtually spitting in the wind. So how much would it take to guarantee that the children from the lowest income households are guaranteed even one proper meal per day through the school system?

Mr. HOLNESS: I thank the Member for the question and would say that the provision of nutrition has to be targeted.

Dr. DAVIES: Yes, that's why I say the lowest.

Mr. HOLNESS: It has to be targeted so you have to identify those households that are below the poverty line...

Dr. DAVIES: Right.

Mr. HOLNESS: ...and ensure that they get adequate nutrition. The present allocation would not supply all the students that need, let us be clear on that. And as we increase the numbers my own view is that we would probably need to add another billion dollars to the operations.

However, we are cognisant that as this programme grows, the administration of the programme becomes a cost. Now you have to look at it, the more administrative cost you have the less you're able to supply. And that is why it is important that a new vehicle be determined - be developed to actually deliver nutrition that would divest us of the administrative cost. And we are moving in that direction.

There is a study being funded right now, close to completion, by the IDB, that will answer all the questions that you've asked, including what a new vehicle for the service and provision of nutrition would look like and costs involved.

The SPEAKER: Mrs. Maxine Henry-Wilson.

Mrs. HENRY-WILSON: Mr. Minister, there are two - you said there are two programmes, one is the NPL programme and the other is the school provided programme. In the case of basic schools a significant study was done and you decentralised the production of the meals for those schools and as a result you were able to enhance the nutritional content for those children based on the nutrition plan that was developed. Is the idea behind the school feeding that is provided by the school, wasn't it also for the schools and the community to begin to produce some of the inputs? That's my first question. And what has happened to that programme?

The other is the issue of vending which is - although we think it's tangential to the provision of food for the children, it plays a main role in the nutritional value of what the children get. Have we now reached the stage of evolving a proper vending policy?

Mr. HOLNESS: Thank you, Member.

I probably didn't emphasize the point enough, but the school feeding programme has two components. It has the component that is directly funded from the Ministry's budget, which is about $400 Million - no $500 Million, and it has the component that comes from the PATH Programme, which is $1.8 Billion. This is all a cash grant that goes - $1.8 Billion - that goes in turn to the schools. The schools purchase the inputs - the raw materials. So they purchase the ground provision, the vegetables, the juices, the eggs from the communities. Now it...

A MEMBER: And from the school's farm.

Mr. HOLNESS: Yes. ...and the very important point it's at the schools, many schools have their farms and in fact that is now the thrust of the Ministry of Education.

We launched Jamaica Day on Friday and the thrust of Jamaica Day is **"Eating What We Grow And Growing What We Eat".** We are looking at Jamaican foods.

So I want to raise and to thank the Member for asking that question, that yes, the subsidy that the Government gives for nutrition is a significant, I would say, economic driver, particularly in remote and rural communities.

The SPEAKER: Dr. Guy.

Dr. GUY: Thank you very much.

Minister, the Member from South East St. Andrew asked a question earlier on regarding the nutrition plan that was done for the early childhood institutions. The question I'd like to ask is, how old is that plan and is it updated on a continuous basis?

Mr. HOLNESS: I couldn't tell you how old the plan is, but there is a very - the plan you speak of - but there is a recent one that was done for early childhood. And when I say recent within the last - I'd say within the last year and-a-half and that is being applied - I wouldn't say it's generally applied, but we've started the application of that nutrition plan in the early childhood institutions.

The SPEAKER: Mr. Hanna.

MEMBERS: Mr. Hanna?

Ms. HANNA: Mr. Hanna is dead.

The SPEAKER: I said Miss.

Ms. HANNA: Minister, when you speak of the subsidy, what does that translate to per child per day based on the subvention from PATH and the other areas, what is the breakdown of that cost, is it 200 per child per day? Do you have a breakdown of that cost for the...

Mr. HOLNESS: I'm sorry, Member, I could get those figures to you. I don't know what the per child cost is for PATH and I could get that for you, but the per child cost for the direct transfer from the Ministry, which is a small amount, is $450.00 per child.

Dr. DAVIES: Per what?

Mr. HOLNESS: That's for the year, that's for the year.

Dr. DAVIES: For the year?

Mr. HOLNESS: Yea, but remember now, that's a very small component, the other $1.8 Billion is there, so that acts as a subsidy for the purchase of like - they used it basically to - like pay the cooks, maintain the canteen and that kind of thing. So it's not - it supplements the 1.8 that is transferred to schools, but we have an amount in our budget that's directly cash that transfers to the schools.

Dr. DAVIES: And how much is that?

Mr. HOLNESS: That's about $100 Million, thereabout.

Dr. DAVIES: So you spend more to pay the cooks?

Mr. HOLNESS: No that $100 Million is sometimes used to do those things, pay the cook, buy the cooking gas, that kind of thing.

Miss HANNA: Mr. Speaker, quite recently in Puerto Rico, a policy was put in place, where they banned, for example, corned beef, because they thought it was too high in sodium and fat for the consumption of children, and it would, you know, hinder their nutritional development. What is the - and I realize that you are moving on a trajectory to have a nutritional plan. Have we finalized what that nutritional plan - and I want to follow on from the Member from South East St. Andrew, simply because even if we have that subvention coming in and you have a cost per child, per day - in my constituency, for instance, with the PATH, one of the things that they get for breakfast are eggs. And they say to me that the children are tired of eggs, because they get eggs every single morning. I don't know if there is something within the structure that says to persons, this is what the nutritional value should look like, and here is what the dietary supplement should look like, and here is what we should be feeding children.

Mr. HOLNESS: There is a nutrition policy, and schools are guided by it. I am not certain, and I don't like to speak when I am not certain. I know that we have developed

one recently, as I said, for the Early Childhood institutions. The one that is used for high schools may be dated, but I don't want to be quoted on that.

Dr. DAVIES: What's the policy? Hunger is prohibited?

Mr. HOLNESS: Is that the policy in your schools?

Dr. DAVIES: Yes. Hunger is prohibited.

Mr. HOLNESS: I agree with you.

As I said, we are now conducting a study of the entire nutrition programme of the Ministry, and that study would also include what we would like to call the aspirational nutritional profile that all schools should try to implement.

The question that was asked - very quickly - about vending at school gates - we are very close to finalizing the Safe Schools Legislation, and that legislation will set - will effectively create a law that will regulate vending in front of the - or in the precincts or vicinity of the school.

The SPEAKER: Mr. Arscott.

Mr. ARSCOTT: Thank you very much, Mr. Speaker.

Minister, I want to ask the Minister - well, I am trying to get the attention of the Minister. In the United States, most of the schools - in fact, the Obama regime has got a programme to try to reduce the intake of soft drinks and introduce more and more milk, for example.

Now, I don't know if we have a programme, but what percentage, for example, now, of local milk are we putting in our programme? And what plan do we have to introduce milk, for example, in the programme in the future?

The SPEAKER: But that was answered already.

Mr. HOLNESS: Mr. Speaker, I take it that this will be the last question.

The answer is that there is no - we don't use local milk presently in the products produced by Nutrition Products Limited. All of it is skimmed milk, or some form of juice.

However, I agree with you, local milk should be provided, but the cost of the infrastructure to do that is prohibitive, and that is why we would want to turn to a private sector supplier, who instead of the Ministry taking on the cost of using the milk, we would merely purchase from a local supplier. And that is where we are now, in terms of our thought process of divesting the Nutrition Products Limited.

The SPEAKER: Reverend Thwaites, Question 45 is not due for answer as yet, but will you - are you prepared to take the answer early?

(Inaudible comment by Rev. Thwaites)

The SPEAKER: Very well. Could you ask the question.

Rev. THWAITES: Mr. Speaker, will the Honourable Prime Minister please reply to the question listed at number 45, in my name?

The SPEAKER: Prime Minister.

The PRIME MINISTER: Mr. Speaker, the question is:

Question: Will the Government commit to appointing a Commission of Enquiry to investigate the circumstances under which several scores of citizens were killed in Tivoli Gardens last May?

Answer: The Government will await the Report of the Public Defender into the matter referred to, before deciding as to whether a Commission of Enquiry should be established.

The SPEAKER: Yes, Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, is the Prime Minister aware that the Public Defender has indicated that the very earliest that he expects to be in a position to report on this matter will be at the end of 2011? And does the Prime Minister think that if that is so, the issue of supreme importance having to do with the life of these many people, should await that long?

The PRIME MINISTER: Mr. Speaker, the Public Defender has been conducting very intensive investigations that are not yet completed. He has insisted on ballistic investigations, ballistic tests being done. We have certainly facilitated his efforts to do the investigations as he sees fit, including providing resources in the Supplementary Estimates and facilitating bilateral assistance for him to do that.

The Public Defender himself said in a statement that he made on the 18th of January, that he would not be in a position to assist a Commission of Enquiry before September of this year. And, therefore, if one were established at this time, the Public Defender is saying all of this considerable work that I have done, but which has not yet been completed, would not be available to the Commission before September.

I think it's important, since the Public Defender is obliged to report to Parliament, to await his Report, and we will be in a position to make a much more informed decision at that stage.

Rev. THWAITES: Mr. Speaker, will the Prime Minister state that in the event that the Public Defender recommends that a Commission of Enquiry be instituted to enquire into these deaths, will the Prime Minister in principle, make the commitment from now, that that will be done?

The PRIME MINISTER: A Commission of Enquiry, Mr. Speaker, is set up by the Governor General, on the advice of the Cabinet of Jamaica. It would not be appropriate for me to give commitments on behalf of the Cabinet, without the Cabinet having had an opportunity to consider the matter.

The SPEAKER: House Leader, can we...

PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED

The SPEAKER: Mr. Charles.

Mr. CHARLES: Mr. Speaker, I now move to introduce and have read a first time,

Bill shortly entitled:

The National Insurance (Validation and Amendment) Act, 2011.

Bill shortly entitled:

The National Insurance (Validation and Amendment) Act, 2011,

read a first time.

Mr. CHARLES: Mr. Speaker, I beg to give notice of the second reading of the Bill.

Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of the Standing Orders to enable me to take the second reading of the Bill and to take it through all its concluding stages.

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business you will recall that I gave notices of two motions. Mr. Speaker, I now move for the suspension of Standing Orders to enable me to take the motions, notice of which I gave earlier.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the House Leader to take the matter, notice of which he gave earlier.

Put to the House and agreed to.

The SPEAKER: Mr. Charles.

Mr. CHARLES: Mr. Speaker, I now move for the suspension of the Standing Orders to enable me to take the second reading of the Bill...

The SPEAKER: No, one second.

Mr. CHARLES: ...notice of which I gave earlier.

The SPEAKER: Mr. Charles, Mr. Charles, could you hold one second, please. Just hold a second. Yes.

Mr. HOLNESS: I now ask, Mr. Speaker, that the motion be approved.

The SPEAKER: Now, the motion which was just moved by the House Leader, approval is being sought.

Put to the House and agreed to.

The SPEAKER: Mr. Charles, now.

Mr. CHARLES: Mr. Speaker, I now move for the suspension of the Standing Orders to enable me to take second reading of the Bill, notice of which I gave earlier; and also to take it through all its concluding stages.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders, to allow Minister Charles to take the matter through the second reading, notice which he gave earlier.

Put to the House and agreed to.

The SPEAKER: Minister Charles.

N.I.S. INCREASED BENEFITS

Mr. CHARLES: Thank you, Mr. Speaker.

Mr. Speaker, on the 13th of July, 2010, I brought to this Honourable House, Ministerial Order which affected increase in the National Insurance benefits for eligible beneficiaries. At that time I indicated that I would bring to the House a Bill for consideration of increases in the contribution rates payable, so as to sustain the increase in benefits which were provided.

Mr. Speaker, the National Insurance (Validation and Amendment) Bill, 2011, which was tabled in this Honourable House on February 15, 2011, fulfills my commitment as stated then, as it proposes to amend the National Insurance Act, to deal with various issues which this Government believe will assist in better administration of the National Insurance Scheme.

The amendments which are proposed by the Bill are to effect the following changes in the current legislation:

1. to validate and confirm the increase of the National Insurance insurable wage ceiling from Five Hundred Thousand Dollars, ($500,000), to One Million ($1M), *per annum*, with effect from August 2, 2010;

2. to validate and confirm the increase of the National Insurance flat rate contribution from Twenty Dollars ($20) per week to Fifty Dollars ($50) per week, with effect from August 2, 2010;
3. to validate and confirm the collection of National Insurance contributions for Members of Parliament, members of the Jamaica Defence Force, by way of payroll deduction, up to the insurable wage ceiling, with effect from August 2, 2010;
4. to unify and regulate the retirement age for females under the National Insurance Scheme, from 60 to 65 years and 65 to 70 years, respectively, over a period of five years, commencing April 1, 2011;
5. to allow for a 10 per cent biannual increase of the National Insurance Scheme benefit, with effect from July 1, 2010;
6. to validate and confirm an expansion of the category of persons eligible for special pension, with effect from the 1st of April, 2008; and to make a funeral grant payable to the family or personal representatives of a deceased, special pensioner;
7. to validate and confirm increase in pension paid to special pensioners, with effect from August 18, 2008;
8. validate and confirm the increase in the half-rate and three-quarters rate of pension payable under regulation 4, Item 2, and 4, Item 3, of the National Insurance General Benefits Regulations, 1966, with effect from April 7, 2008.

Mr. Speaker, the National Insurance Act was passed in 1965, and became effective on the 4th of April, 1966, and provides legal framework for the National Insurance Scheme, known as the NIS. The NIS is a compulsory contributory funded Social Security Scheme, covering all employed persons in Jamaica.

It offers financial protection to the worker and his/her family against all old age and loss of income arising from injury on the job, sickness and/or death. At present, the scheme provide benefits for over 96,000 pensioners.

INCREASES IN THE INSURABLE WAGE CEILING AND CONTRIBUTIONS

Mr. Speaker, persons contribute to the level of income up to a maximum defined wage, known as Insurable Wage Ceiling. The Insurable Wage Ceiling was last increased in October 2003 from $250,000 to $500,000. At that time the original structure of the contribution was also revised to reflect a rate of 2% by the employee matched by 2% by the employer for the National Insurance Fund, and a contribution of ½% by the employee, matched by ½% by the employer for the National Health Fund. These contributions are payable *via* salary deductions taken from the employees and matched by a similar direct payment from the employers and are paid into the NIF, which is invested to gain maximum return to be used towards benefit payments.

In the case of self-employed persons, the Act provides for a two-tiered system of contribution. Firstly, self-employed persons

pay a flat rate contribution of $20.00 per week. Secondly, they contribute 5% of their earnings up to a maximum of $500,000 per annum, which is payable into the NIF.

It should also be noted, Mr. Speaker, that Members of Parliament, Senators, Jamaica Defence Force Soldiers, domestic workers and voluntary contributors also currently pay a flat rate contribution of $20.00 per week. In these cases, Mr. Speaker, the contribution has not changed since 1996, and is in fact inconsistent with the level of benefits paid to these categories of contributors.

Mr. Speaker, with the increase in benefits which were granted in July last year, it has become critical for these contribution levels to be increased as we were currently paying out more in benefits than we are collecting from contributions. In the last fiscal year, 2009/2010, we collected $5.5 Billion in contributions while paying out $9 Billion in benefits, a net deficit of $3.5 Billion.

As a result, we have had to depend on the investment income to close the gap, and with the July increases, Mr. Speaker, it is projected that the annual cost of benefits will increase from $9 Billion to $11 Billion. If the current trend continues, our Consulting Actuaries have projected that the NIF could be completely eroded in 20 years.

Mr. Speaker, concerns have been raised in this House by Members on both sides. At this stage I want to place on record my personal congratulations to the Civil Servant Groups administering this programme, to the Board of Management for their guiding of this programme. I am to announce that the programme, even though Members of this House were expressing concern when the debt exchange was introduced, it is now $64 Billion, and with what I am presenting this evening projected to survive more than 20 years in the future even with the projected increase.

The following are increases proposed to the various categories of persons liable to pay contributions:

> The increase in IWC for insured employed persons is effected at Clause 7 of the Bill in the Second Schedule of the Act which sets out the rates of contribution is being amended to change the current $500,000.00 to $1,000,000.00 *per annum.*

Those persons who were paying up to salary of $500,000.00 and are earning over $1,000,000.00 will now pay contribution from a million.

INCREASES FOR SELF-EMPLOYED PERSONS

Mr. Speaker, the Bill in Clause 2 increases the insurable wage ceiling for the earning of self-employed persons from a rate of 5% contribution up to a maximum of $250,000.00 *per annum* to $1,000,000.00 *per annum.* The change will be reflected in section 5(2)(a) of the Act. As it relates to the flat rate contributions for the self-employed person, the increase is from $20.00 per week to $50.00 per week, and is effected through the amendment of the Second Schedule of the Act as stated in Clause 7 of the Bill.

In consultation with some Members of this House, they would like to see the contribution go further than $50.00. The Government examined their proposal and is

putting before this House an increase from $20.00 to $50.00 and the House is free to take what action it feels.

INCREASES FOR DOMESTIC WORKERS AND VOLUNTARY CONTRIBUTORS

The increase in the flat rate contributions for domestic workers and voluntary contributors has also been effected through Clause 7 of the Bill which adjusts the contribution rates stated in the Second Schedule of the Act from $20.00 per week to $50.00 per week.

It should, however, be noted that the payment of domestic workers are formulated with the employer and the employee both paying $25.00 per week each.

INCREASES IN CONTRIBUTION RATES AND CHANGES IN MODE OF PAYMENT FOR JAMAICA DEFENCE FORCE SOLDIERS

The rate of contributions for JDF soldiers will see an effective increase as they will no longer contribute at the flat rate of $20.00 per week. The Second Schedule of the Act is being amended to change the method of contribution to that of employed persons so that the rate will be 2½% of the earning of the JDF member up to a maximum of $1,000,000.00, matched by the employer, being the Government of Jamaica. This will be effected through Clause 7 of the Bill.

Mr. Speaker, increases in contribution rates and changes in mode of payment for Members of Parliament and Senators are set out below.

Over the years there has been a disturbing trend as it relates to our very own members in this Chamber and in the Senate, who at their date of retirement are unable to receive a NIS pension because they have not made enough contributions to the scheme. This is because under the National Insurance (Classification) Regulation, 1966 for the purposes of the NIS, the President and Deputy President of the Senate, Speaker and Deputy Speaker of the House of Representatives, Ministers of Government, Parliamentary Secretaries, the Leader of the Opposition, Senators and Members of the House of Representatives were classified as self employed persons and therefore not liable to contribute as employed persons. Unfortunately, many of us have consequently not been consistent contributors since we go in and out of the House, and some don't stay here long enough. (Laughter) And so at the end of their service, Mr. Speaker, they join the line of not receiving a pension.

The amendment will therefore require that persons occupying the abovementioned positions are now to be classified as 'employed persons' and as such should contribute via salary deductions up to the maximum increased Insurable Wage Ceiling which is $1,000,000.00. Their rate of contributions will therefore see an effective increase as they will no longer contribute at the flat rate of $20.00 per week, and the additional 5% of the earnings up to the maximum IWC. This change is effected through Clause 10 of the Bill.

VALIDATION AND AMENDMENT OF INCREASES

Mr. Speaker, all the abovementioned provisions are subject to Clause 8 subsection (4) of the Bill which validates and confirms

the actions of the officers of the Ministry who have been collecting these increased contributions since August 2, 2010 as mandated by Cabinet Decision 24/2010 dated June 21, 2010. Clause 8 subsection (5) also indemnifies any of these persons who are liable to be proceeded against in legal actions against for collecting any contributions in conformity with Clause 8 subsection (4).

Mr. Speaker, the increases in contribution rates became effective on August 2, 2010, but at that time the legislative framework was not yet fully in place. It was recognized that it could very well be possible that employers would be liable for criminal prosecution for non-payment of the increased contribution during the period until this legislation is passed. This created a difficulty as the employer would not be under a legal obligation to make these payments. As such, clause 9 of the Bill is being inserted to exempt any employer who has not begun to remit the increased contributions from liability to criminal prosecution for so doing. This exemption applies to section 44 of the principal Act, and the relevant provisions of the National Insurance (Collection of Contributions) Regulations.

UNIFICATION OF THE REGULATION AND DEEMED RETIREMENT AGES FOR MEN AND WOMEN UNDER THE NATIONAL INSURANCE ACT

Mr. Speaker, under the current provision of the National Insurance Act, the regular retirement age for women is 60 years. The commensurate age for men is 65 years. In both cases this is contingent on the fact that the contributor has ceased gainful employment. If the contributor works past these prescribed ages, there is a five-year period during which he/she continues to contribute to the NIS. Thereafter, if the person continues working, they will be eligible to receive their NIS pension, even while they are working. The age is currently 65 for women and 70 for men.

Dr. DAVIES: No, you are wrong, 60 and 65 currently.

Mr. CHARLES: I'll make the correction when we get there. But it is deemed the retirement age, 65 and 70.

As I had indicated in this Honourable House in the past, we intend to address this disparity in the retirement age for females *versus* males. Mr. Speaker, this anomaly has persisted far too long and must be corrected. In many other jurisdictions across the world the adjustment of this retirement age has been an integral part of their pension reform, in light of the fact that people are living longer and even more so our women. I think I have it correct if I say that the projected life expectancy for Jamaicans is 72 years, 74 years, thereabout.

Dr. DAVIES: You give them two years of pension.

Mr. CHARLES: They can collect their pension from 65. You are not listening.

Dr. DAVIES: No, I didn't.

Mr. CHARLES: The United Kingdom, for example, is also in the process of increasing the retirement age for females from 60 to 65 to match that of males after which the qualifying age will move to 68 years for both males and females. Our CARICOM partners, Barbados, are also

currently increasing their qualifying age to 67 for both males and females.

In recognition of the increase in life expectancy rates, it is proposed that age for females and males be unified by gradually increasing the regular retirement age for females to 65 years. And this change will be phased out over a five-year period commencing April 1, 2011. I don't want to hear anybody get up and say how we wicked. It is a five-year period.

Mr. HOLNESS: Stick to your script!

Dr. DAVIES: You are making sense!

Mr. CHARLES: You don't dictate what I say here. You either listen or close your ears. The Speaker has new rules.

(*Sotto voce* remarks by some members)

Mr. CHARLES: The change will be phased out over a five-year period commencing April 1, 2011. The regular retirement age for females will therefore be increased to 65 in 2015. The deemed retirement age for females will also be increased on a phased basis over the next five years effective April 1, 2011 and will be 70 years in 2015.

I want to use this opportunity to point out that there will be a gradual adjustment in the retirement age for females each month during the period. This will ensure that women who are closer to the existing retirement age of 60 years will not be required to wait the full five years to receive their benefits - the Member from South St. Andrew would do well to listen since he questioned it - this will ensure that women who are closer to the existing retirement age of 60 years will not be required to wait five years to receive their benefits.

Mr. Speaker, in order to effect the change being proposed Clause 3 of the Bill amends section 10(2) of the principal Act by deleting the current section and inserting a provision that staggers the date of entitlement for women every year effective April 1, of each year, commencing 2011 until March 2015. This is in relation to both regular and deemed retirement age. This will effectively move the date of entitlement each year until women become eligible for regular pension at age 65 and to be deemed pensionable at age 70. This amendment will synchronize the regular and deemed retirement of both men and women.

Rev. THWAITES: Men going to 70?

Mr. PICKERSGILL: What about men?

Mr. CHARLES: Sorry I caan hear you, eh nuh.

Clause 3 also inserts a new section 10 (2)(A) which provides that regulation may stipulate that persons who are eligible for retirement under section 10(2) and who engage in employment which is not consistent with their retirement, may still consider as being retired for the purpose of receiving their benefits. In other words, if you are over the age and working you will still be able to claim your retirement. This we say is a provision which exists under the previous section 10(2).

There is some biennial increase of the National Insurance Benefits, Mr. Speaker. Over the years there have been periodic increases in the level of benefits paid to NIS contributors. During the last 19 years, 10 increases have been granted: one in 1990, one in 1991, in ‘92, ‘96, in 2001, 2003, 2006 and in 2008. The last increase was made in July 2010. Each of these increases varied in

amounts based on several factors such as the length of time between increases, the inflation rates at the time of the increase and the result of actuarial evaluation into the National Insurance Fund's viability. There is no set time to implement increase and this has resulted in uncertainty of the beneficiaries.

Therefore, Mr. Speaker, a decision has been taken *via* Clause 6 of the Bill to insert a new provision into the Act, which would make it clear when increases in the benefits are to be implemented and what the level of increases will be. This is accomplished by deleting the current section 23(A) of the Act which gives the Minister the power to increase benefits by Order subject to affirmative resolution of Parliament and replacing the section with a provision that makes it mandatory for benefits to be increased by 10% every two years with effect from July 1, 2012. This rate of increase is consistent with the advice of the actuaries that it can be sustained in a long term. However, we may need to make further timely adjustments as the insurable wage ceiling to maintain these biennial benefit increase. I want to make it clear. I don't want to hear people getting up to say, oh! we gone ahead and we are doing this and…. Adjustments have been made it's elastic enough for the Parliament to examine and to take action. Expansion in the category of persons eligible for Special Anniversary Pension. Mr. Speaker, in 1991 a new category of pension was created to cater to persons who at that time had attained age 85, having been born in 1906 or earlier, and would have been unable to contribute to NIS in 1969 when pensions first became payable, as they would have already become 60 years and over. The new benefits coincided with the 25th Anniversary of the NIS and is referred to as "Special Pension".

Since that time, Mr. Speaker, the benefit has been invaluable to this section of our elderly population. We have, however, seen that there are still some centenarians in Jamaica who have little social protection and currently do not qualify for a special pension. We have therefore decided to, via clause 8(4) of the Bill, amend section 10(A) of the Act to extend a special category of special pensioners to include persons born on or before the 1st of January, 1908. And this will mean that persons who would have been 58 years old at that time those pensions became payable, are now eligible for a special pension.

I would like to advise the House that I have asked for research on our age situation and the House would be very proud to know that we have about 800 Jamaicans who are now 100 and over living in Jamaica.

Section 10(A) . . .

Dr. DAVIES: How many are in the House?

Mr. CHARLES: I didn't hear that.

Dr. DAVIES: How many are in the House?

Mr. CHARLES: You have to speak the other way, speak on this side.

Section 10.

Mr. PICKERSGILL: How many men?

Mr. CHARLES: Surprisingly, I think that there are more men. Don't hold me to that. I will do the check, because I was very interested. But in one parish there are more

men over 100 than women and it varies. But overall I am not quite sure.

Section 10 is also being amended to increase the rate of pension payable to these persons from $750 per week to $1,000 per week with effect from April 1, 2008 and a further increase of $1,200 per week with effect from July 1, 2010.

In this regard Clause 8, subsection (1) of the Bill which deals with validation and confirmation of the action of the officers of the ministry in paying out these benefits without legislative approval is applicable. Clause 8 (3) of the Bill is also applicable as it indemnifies these officers against any legal proceedings consistent on making these payments at the time they were made.

Mr. Speaker, Clause 5 of the Bill makes an amendment to section 20(1) of the principal Act by inserting a new sub-clause (e) which provides for the family or personal representative of the deceased, special pensioner can receive a Funeral Grant to help offset their funeral expenses. Mr. Speaker, the current funeral grant is $70,000.

Increase in three-quarter rate and half rate for NIS benefits. Mr. Speaker, the National Insurance (General Benefits) Regulations, 1966 allow for payment of reduced rate of pension, namely the half rate and the three-quarter rate pensions, to contributors who do not attain the average rate of contribution required to qualify for a full rate of pension.

Mr. Speaker, Clause 8 of the Bill effects the increase in the three-quarter rate and the half rate of pension payable under Regulations 4(2) and 4(3) of the National Insurance (General Benefits) Regulations, 1966. When the increases in benefits were previously granted on April 7, 2008, inadvertently these regulations were not amended to reflect the changes. Therefore with effect to the three-quarter rate pension Regulation 4(2) is now being amended to move the rate to $1,500 per week. It is also amended to further increase the rate to $1,800 per week with effect from the last increase of July 1, 2010.

With respect to the half rate pension, Regulation 4(3) is now being amended to move the rate to One Thousand Dollars ($1000.00) per week. It also amended to further increase the rate to One Thousand Two Hundred ($1200.00) per week with effect from the last date of the increase which was the 1st of July 2010.

Mr. Speaker, since these payments are already being paid from the abovementioned date, it is necessary to also validate and confirm these increases. As such Clause 8(2) of the Bill applies and makes provision. Clause 8(3) is also applicable as it relates to the indemnification of the Ministry staff from legal proceedings in regard to any action taken in furtherance of the payment of these increases.

In conclusion, Mr. Speaker…

Dr. DAVIES: Hear, hear!

Government MEMBER: Pearnel continue.

Mr. CHARLES: …social insurance systems such as the NIS which provide a financial safety net for the elderly are under increased pressure throughout the world. The reform measures outlined in this Bill are absolutely necessary to ensure the long term sustainability of the NIS. At the same time, we are also seeking to enhance the social

safety net provided for vulnerable citizens, senior citizens in the face of the prevailing global economic conditions.

Mr. Speaker, I know that Members on both sides of this House would be happy to see more increases but I'll take the opportunity to put on record, in this House - and I would want to say, Mr. Speaker, that I had discussion with some Members on that side I think that we should this year find some way of giving recognition to L. G. NEWLAND for this master stroke of pension that he has given to this country.

(Applause by Government Members)

And I'm not going into the politics of it we all do it. The fact is it is there it is helping ninety-six thousand Jamaicans.

Mr. Speaker, I therefore commend the Bill to this House and seek its approval.

(Applause by Government Members)

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Thank you, Mr. Speaker.

Mr. Speaker, while there is general support for the amendments to the National Insurance Act, that is the NIS (Classification) Regulations, 1966, the NI (General Benefits) Regulations 1966, there are number of areas that the Opposition would want to put on record so that we can have some more clarity given by the Minister when he comes to close the debate.

Mr. PICKERSGILL: Pearnel, you hearing?

Mr. KELLIER: Memorandum (f), Mr. Speaker, which speaks to adding special pensioners to the category of persons on whose death a funeral grant becomes payable, is indeed commendable and it warrants the full support of the House. Because I think that that is something that is due, because these categories of persons were not a part of those that would have normally benefitted from a NI provision. And we're happy that that has now materialized, so that the representations that we have made over time have now borne fruit and we want to applaud that move.

(Applause by Government Member)

However, Mr. Speaker, there are many other concerns which we want to be addressed. First of all, everyone in here would know by now that the - for the ability for benefits to be increased really depends to a large measure on the intake of contributions and the sustainability and expansion of the NI Fund which now stands at about $65 Billion Dollars. We must remember, Mr. Speaker, where the fund is coming from over a number of years, and how it started and that the Minister of Labour, Social Security and Sports then, the current Leader of the Opposition, was the one who started the fund in a very dynamic way to increase the take that was available so that benefits to contributors could be increased periodically.

Mrs. NEITA-HEADLEY: Hear, hear!

Mr. KELLIER: And we need that to be on the record as to where this fund really started from and how it really came about. And we're happy that it has reached to the stage of $65 Billion and we look forward to seeing it grow even more exponentially over time. Because if the fund is managed judiciously and its growth is ensured, then it will put the actuaries in a better position when they're doing their technical work to advise on higher levels of increases to the pensioners.

However, Mr. Speaker, we had asked for it before and I'm just repeating the call now, that we would like to see a copy of the Actuary's Report laid in Parliament. So that as Members of this House, it will give us all an opportunity to really have full scrutiny because I think we're not totally apprised of all the facts as it stands. And we would like to see some more indicative data coming out of the Actuary's Report so that we can be assured for ourselves as well that these rates which are being proposed are the best that can be done, while we know they are qualified and they normally do a good job.

Mr. Speaker, I will be proposing at Committee stage an amendment to Section 23(A), it speaks to a ten percent increase every two years. And we must remember that this increase to this special, vulnerable group we would want to see it pegged to current inflation rate for the period, because we are arguing a number of things currently. We had a minimum wage debate a few weeks ago when we discussed the whole business of livable wage and we would want to—and this is part of the reason why we would want to see the figures. Because we believe that if we are pegging ourselves in law to a ten per cent increase over two years, I think we're actually giving ourselves a straight jacket. And as I said I'll speak about the amendment when we come there. But at this stage, I don't think it is useful that we should the wording of the section as it now stands. It says with effect from the 1st of July 2012, and on the 1st day of July in every two calendar years thereafter the benefits referred to in subsection (2) shall be increased by ten per cent. We're locking ourselves into this ten per cent thing from now in law and I don't think that is wise. I think we should revisit that and I'll propose that amendment as well.

The amount of persons, Mr. Speaker, that fall into this category that Section 23 speaks to in (a), (b), (c), and (d), I don't think it would do any serious damage to the way the rates are calculated if we know how many persons fall within these (a), (b), (c) and (d) categories of Section 23 (A).

Mrs. SIMPSON MILLER: Hear, hear!

Mr. KELLIER: We need to see - because that will tell us…

Mrs. SIMPSON MILLER: That's right.

Mr. KELLIER: …better how to treat with them. It's not a whole lot of persons and if we tie ourselves in to this ten per cent I think we will be doing - we may, we may be doing them a disservice at ten per cent over two years…

Mrs. NEITA-HEADLEY: Hear, hear!

Mr. KELLIER: …rather than dealing with the inflation rate. It's a small group of people and I think we need to consider how we deal with those.

(Applause by Opposition Members)

In respect of the movement of the ceiling from Five Hundred Thousand to a Million Dollars, Mr. Speaker, the House - both sides we had already agreed on that. And I'd just like when the Minister is closing to give an indication, if he can, what has been the level of response so far in respect to the remittances that have been made under this head. Because it was done specifically to ensure that we took in more collections, so that the fund remained viable. And we need the figures to tell us what has been the additional intake due to the increase in the

ceiling from Five Hundred Thousand to One Million. That should not be difficult to have and we would like the Minister to - if he has the figures he can tell us now, if not at a later stage you can always give that us.

But, Mr. Speaker, I have even a bigger concern and if you notice I mentioned that at the beginning the business of the viability of the fund. And again, I want to refer to the NI Fund itself.

Currently the NI Fund has spent One Billion Two Hundred and Thirty Million Eight Hundred and Seventy-five Thousand Two Hundred and Nineteen Dollars and Fifty-seven Cents ($1, 230,875,219.57) on the purchase of some two hundred and fifty-eight (258) residential lots in a scheme called Montego Park Estates. We need some better particulars about this purchase.

Mrs. SIMPSON MILLER: Hear, hear!

Mr. KELLIER: We want to know. And I believe that this is a long outstanding arrangement that was made with this company to onlend some money to them from the fund and apparently they did not live up to their obligations as they should. And we have ended up using the money of the contributors to buy out a deal for $1.25 plus Billion. And I think it is only fair that the House should get further and better particulars about this deal. How much is it that was owed at the time of consummating this arrangement; how much money was owed by the Montego Park Estates Company? We need to know to know how much money they had owed; and whether or not it was in the best interest of the sustainability of the fund and the development of the fund to have made such a deal with the NI Fund money with the people's contributions. What we have bought here is a whole heap of land. What we need to know is whether or not for the development and sustainability of the fund, that money would not have been better spent in purchasing land on the Kingston Waterfront for the redevelopment of Downtown, Kingston.

Ms. HANNA: Hear, hear!

Opposition MEMBER: Or in South East St. Ann.

Mr. KELLIER: Because this is an area that is taking off for investments…

Dr. DAVIES: Pearnel, don't write this down.

Mr. KELLIER: …we have great, big telecommunications company that is doing construction down there. And consequently, the prices of the land on the waterfront will be increasing. So I want to know whether or not this was the best way to go about spending that money or rather to invest it in some building there that - the government says as a matter of policy that it wants to relocate its offices to Downtown Kingston. Why not purchase and refurbish buildings that are down there that we could get for much less money, and we could start collecting back immediately from government for the use of those buildings, instead of buying this whole heap of land that is really in ruinate right now and that may not necessarily appreciate in value as fast as the lands in Downtown, Kingston. So...

(*Sotto voce* comments by Members)

Mr. KELLIER: So, I want to know, Mr. Speaker…

Dr. DAVIES: Whose land?

Mr. KELLIER: The land, Montego Park Estates.

(*Sotto voce* comments by the Prime Minister)

Mr. KELLIER: Well even so that makes it even better. So why we are buying land that we are not sure of the level of appreciation.

Let us - you see what all of us want is the best deal for this - the money that is contributed by the National Insurance persons, contributors, we want to know that the fund is administered in a way to ensure not only viability, but sustainability and development. (Applause) Right.

(*Sotto voce* comments by Members)

Mr. KELLIER: We have gold up there, we a pay off.

So you see, Mr. Speaker, I would like the Minister to - he may not be able to answer it now, because he may not have all the figures with him. But I would like to him present to this House and lay in this House the whole of that arrangement because - and I won't comment further until I see it, because I don't want to comment and go down the wrong track. But I just have a feeling that we could have done better. I just have a feeling, Minister that we could have done better with that billion plus. We never have to buy out a bad debt by buying more lands from the same man that is not good business, nowhere in the world. So I think we have to look at that and see how that one goes.

Mr. Speaker, for the protection of the most vulnerable in the society, we as a Parliament have a responsibility and we have to exercise that responsibility certainly to the best of our ability and in the interest of all those persons who contribute their little money. (Applause) And I believe that over the years, we have done a fairly creditable job and I think it is being continued, but these questions need to be answered.

Thank you. (Applause)

The SPEAKER: Dr. Davies.

Dr. DAVIES: Thank you very much, Mr. Speaker.

Mr. Speaker, I welcome the opportunity to make a brief contribution to this discussion. The whole issue of the social security, whether it be the National Insurance Fund or the National Health Fund, these are no longer issues which we see simply as social welfare and benevolence but rather, we need to take it to another level, even as we commend the Founding Fathers and those who have contributed. I think it is very - I think it is very important that we seek now, even as we make changes to ensure that these changes are not simply a reaction to the immediate problem, but in a way will provide a substantive framework within which we can make the changes going forward.

There is a need for additional data, and there is a need for - Mr. Minister, we may disagree on many things but we will agree on this - there is a need whereby contributions to the National Insurance Scheme are not seen as the exception to the rule but being a normal part of every person in Jamaica. And I think there is need therefore for a public education programme, et cetera. Because, part of the collection for the NIS goes into the National Health Fund, and I have concerns about that myself. But it cannot be that the total population, there are persons who don't

contribute but they benefit in perpetuity. We need to build the system such that it becomes a formal system where every citizen participates. And I would urge that greater attention be paid towards that public education programme, such that we can make changes consistent for the whole population.

I made this point in general, but any look at the demographic statistics, and the census which is about to take place will further confirm it, is that, contrary to the notion that this is a young society this happens also to be an aging society; and I think that is what has informed the decision to raise the retirement age, but it is an aging society. So the challenges we face now are going to increase within the context of this aging society. I think this has to be recognized.

Within that context, Mr. Speaker, let me join with the Opposition spokesman on the subject Labour and Social Security, to question the proposed amendment to 23A whereby, you are speaking about an adjustment every two years of 10%.

Mr. Speaker, this adjustment would signal the recognition by the ministry or the administration that these adjustments must be made. However, let us not just make an adjustment for the sake of making adjustment with a 10% every two years. From whence did this come? Has this benefitted from the actuarial analysis? But furthermore, as was the case - and, Mr. Speaker, let me give warning that I am not leaving the subject, in terms of the minimum wage - to simply have a number so that we can announce a number, is inadequate. So to have a 10% adjustment every two years will be meaningless if inflation is moving at 15% or whatever or 12%. These are not… (Applause) The spokesperson has said that these are not big numbers but we need to have an adjustment which means something, and to mean something it has to be - (Applause) If we decide on a figure as at July 1, 2012 and the next adjustment is in 14 of 10%, and we know that that figure which will be decided on July 1 2012 is not going to make them millionaires, they are going to be able to barely contribute to their basic needs, to simply say we will have 10% two years later that only satisfies some sense of a legislative obligation, but doesn't speak to whether or not it meaningfully affects their ability to purchase the basic set of commodities.

So Minister, let us speak to two things: first an annual adjustment, an annual adjustment. And secondly an adjustment which is linked to inflation (Applause) an annual adjustment and an adjustment which is linked to inflation. And hence, whatever the proposed changes for 23A, whatever they are, they must contain both a commitment to an annual adjustment, and secondly, an adjustment which is linked to inflation.

Mr. Speaker, these are reasonable logical proposals…

(*Sotto voce* comments by Member)

Dr. DAVIES: Exactly, well and the Member from North Central puts the caveat, but the analysis of the historical data will show that the fund has moved ahead of inflation, so it should not represent a problem.

In any event Member, the numbers we are talking about are miniscule in that regard. And so we have a member, senior member, senior underline <u>senior</u> member of the administration supporting us.

The second point and perhaps I just need clarification Minister. With regard to Clause 8 or - let me read it says. You are

"seeking the authority of the House to give retroactive validation"

to what you have been doing, which is to pay to those persons born before January 1, 1908, the payments you made to them the special pension." No quarrel. But it seems that this is that just deals with those persons. What about those who are becoming hundred as we go along. It would seem to me if you include this clause at the same time you should simply seek a clause which allows you to pay anybody who become 100 this special pension.

Mr. PICKERSGILL: I thought that was your intension.

Dr. DAVIES: That is not what this does. It gives him - it retroactively, gives validation to the payments he has been making. But it would be useful if you simultaneously got our approval for you to add any new centurions to your list of special pensioners. So can you check with your officials, but I think that this is a shortcoming. I know it cannot be that 1908 is a special date and you don't worry about any other, so can you just double check on that.

So, Mr. Speaker, those are the two points which I would like to make.

The SPEAKER: Thank you. Minister Charles.

Mr. CHARLES: I want to thank the Members who have spoken and I take note of the full support to this measure given by the Opposition and for the - and also take note… (Laughter)

(*Sotto voce* comments by Members)

Mr. CHARLES: The first Member who spoke said that the $70,000 grant for burials has the Opposition's full support.

Mr. CLARKE: The burial?

Mr. CHARLES: The $70,000 increase, the grant has the support - you want to sit down and take it, you want to take it back?

(*Sotto voce* comments by Members)

Mr. CHARLES: So you support the proposal for $70,000?

Mr. PICKERSGILL: Yes.

Mr. CHARLES: So I was correct then. And you said full support.

There are one of two of things I want to say. As a former Minister of Finance, one who operated this country when inflation was way in 50%....

Dr. DAVIES: No.

Mr. CHARLES: Never reached 50 under you?

Dr. DAVIES: No, never.

Mr. CHARLES: What it was, 70?

Dr. DAVIES: No, the first one was under eight.

Mr. CHARLES: No, I am not talking when it get under. How high it went under you. How high did inflation go under you?

Dr. DAVIES: Twenty something. Never!

Mr. CHARLES: I don't want to be in any quarrel because we are not in any quarrel.

Dr. DAVIES: You are wrong.

Mr. CHARLES: Let me make the point then, let me withdraw that and make the point.

I want to tell you that we all feel this side and that side…

Mr. PICKERSGILL: Speak for that side.

Mr. CHARLES: feel that - wish we could make it every year and make it

whatever the inflation is 3%, 10%, 15%. The actuarial reports states clearly, that…

(*Sotto voce* comments by Members)

Mr. CHARLES: You weren't listening you know. Section 23 of the Act, which gave the Minister the power to increase benefit by Order subject to an affirmative resolution in Parliament replacing the section with the provision that makes it mandatory for the benefit of the increase by 10% every two years with effect from July 1. This rate of increase is consistent with the advice of the actuaries that it can be sustained in the long term. I wanted more than that. The advisors who you, have so much respect for, said to me, the fund cannot take that gamble. But Sir, we have gone on to say, if down the line, this House examine and instruct the Minister to so examine by affirmative resolution, we will so proceed.

(*Sotto voce* comments by Mr. Davies)

Mr. CHARLES: Sir, I am sure you were at Jamaica House when a copy of it was given to you.

(*Sotto voce* comments by Dr. Davies)

Mr. CHARLES: It was given to you. You know, when you come here this is not a day to quarrel, so I am not going to quarrel. But, if you direct - this Government stated that a copy of the report should have been given to the Opposition. Considering the nature of it, it was given to you, you read it, you made suggestions from it and you have it in your possession. Now what you are saying, I will check whether or not it is in our interest to give the report, and I would have no problem in doing so. But I don't want you to say you didn't see it. You asked for it, you got it, you checked it and you made recommendation on it. This Minister saw that it happened. Let's go a little further.

Dr. DAVIES: What is the situation, are you circulating it?

Mr. CHARLES: I will seek and have discussions and I will advise you at a later stage. You have a copy. I will advise you to lay it in Parliament because a copy was given to you.

Now, Mr. Speaker, I'm concerned, as I said, about the question of locking this in with inflation. Inflation may be five per cent, may be three percent, and we are giving ten per cent. It may be forty percent and we can't give forty. So, I again don't want to take away the democratic rights from the Parliament for us to examine year by year the situation, and by affirmative resolution take this step forward. Let me say it.

(Inaudible comments by an Opposition Member)

It is not a tax you know.

Mr. PICKERSGILL: What?

Mr. CHARLES: It is an investment. It is people's money.

Dr. DAVIES: What's the point you making?

Mr. CHARLES: I'm making the point that if you put in enough you will get out enough. Now, here is a point that I want you to support me on. We are going on a massive campaign, educational campaign. And if we have to go otherwise, more people could be contributing to NIS. And we are going to bring to this House certain proposals as to how we can increase the contributions from people who are going now into retirement without any protection whatsoever, falling at the hands of the State, because either their

pension was collected and wasn't paid in, or they were not encouraged to do so. Or by the time they found out they should do so, it was late and they can only get a half or a grant. We want to make it absolutely clear that a massive campaign is being planned. And the House will be advised as to what steps we are going to take.

At the same time, Mr. Speaker, the question that the Leader of Opposition Business stated about an investment in Montego Bay. I have full confidence in the investment committee, in the Board. And when they make a proposal, it goes to the Ministry of Finance. It is examined at the Ministry of Finance. And if the Ministry of Finance does not see value in it, it turns it down. And after the Ministry of Finance gives the go ahead, it goes to Cabinet. And if the Cabinet Members don't see it, it's turned down. So there's full gauge and cage around the people's money. And I want to advise you that that project in Montego Bay, I have already to advise the Board that there is application for the purchase of that which would make much, much more money into the NIS than it is at the present.

Mr. Speaker, I just want to advise...

(Inaudible comments by Dr. Davies and Mr. Pickersgill)

Mr. CHARLES: I just want to remind you, that when you were Minister of Labour and there was nearly Fifty-odd Billion Dollars there, land was giving away down at the waterfront, giving away, begging to buy and you didn't buy it. You didn't buy it. Not even a quarter acre.

Dr. DAVIES: Stop tracing and come back to the issue.

Mr. CHARLES: Now you can't get it to buy. If you know anybody selling, come to me. If you know anybody selling at even half the price you could buy it when you were Minister of Labour, all on a sudden you eyes open.

Dr. DAVIES: You make investment?

Mr. CHARLES: But again, I will recommend to the Board that the Member from Montego Bay - from St. James has advised that so much acres of land is available and I guarantee you if it's available, we'll buy.

Mr. PICKERSGILL: Remember, your bank failed you know!

Mr. CHARLES: You say Ten Million is monkey money!

Dr. DAVIES: So we not going to hear of the investment?

Mr. CHARLES: Mr. Speaker, I close, Mr. Speaker, by asking that the Bill be read a second time.

The SPEAKER: The question is that the Bill be read a second time.

Mr. CHARLES: Excuse me, Mr. Speaker, there was one question he asked about the centurion.

Mr. PICKERSGILL: Yes, those who become one hundred....

Mr. CHARLES: People who are centurions did not contribute to the NIS. And we have brought them in and we are giving them a special grant. And what you want us to do, give them more?

Dr. DAVIES: No, can I ex...

Mr. CHARLES: Yes, could you remind me of the question.

(Inaudible comments by Mr. Gallimore)

Dr. DAVIES: Young Gallimore, listen to this, too. Mr. Speaker, this is legislation which specifically, specifically speaks to the House retroactively giving approval for what the Ministry, in good faith, is doing, that they have been paying the centurions since 2008 a special...

Mr. GALLIMORE: Centenarian.

Dr. DAVIES: Eh? Centenarian. Centurion is what, cricket?

(Cross talk)

The SPEAKER: Doctor Davies, okay, centenarian.

Dr. DAVIES: Centenarian, people who are a hundred years or more. Right. This I accept, Minister, has to be done for good order. What I'm seeking to do is that anybody, since then, who achieves the hundred years be automatically included as beneficiary of the special pension. This clause does not do it.

Mr. PICKERSGILL: At that figure.

Dr. DAVIES: Yes. This clause does not do it. And it would seem that you need to put a clause which then precludes you having to come back to seek the approval of the House.

Mr. PICKERSGILL: Is long time you should check with yuh officers and come back and you did not.

Mr. CHARLES: Why do you disturb my ear? I have heard you, sir. My officers are here. Could you give me a few minutes to have consultations. But just to advise you that anybody who now falls - becomes a century gets that special grant. So as soon as...

Dr. DAVIES: I don't want you have to come back again next year...

Mr. CHARLES: Yes, I am having some...

The SPEAKER: Can you make the recommendation at Committee stage?

Dr. DAVIES: Yes, sir.

Mr. CHARLES: Can we deal with it at the Committee stage?

MEMBERS: Yes.

The SPEAKER: (Gavelling) Okay, Members, the question is that the Bill be read a second time.

Put to the House and agreed to.

Bill entitled:

"AN ACT to Amend the National Insurance Act; to validate and confirm the payment of certain benefits made in good faith by persons acting on behalf of the National Insurance Fund, and the collection of contributions done in good faith, and to indemnify certain persons in respect of those payments and contributions; and for connected matters"

read a second time.

The SPEAKER: The House will now resolve itself into a Committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

The CHAIRMAN: Doctor Davies, you want to take up that particular section and recommendation?

Mr. CHARLES: Could I just say it, the consultation that I've had, it says that anybody born before 1908...

A MEMBER: Or in 1908.

Mr. CHARLES: ...or in 1908, and did not get the opportunity to contribute, automatically gets this.

Dr. DAVIES: Right.

Mr. CHARLES: Any body born after the contributions started and did not contribute, and becomes a hundred, can't get it, because if you couldn't get it between 70...and then - because you didn't contribute, then you'd get a hundred - can't get it.

Dr. DAVIES: Ah not following you, but...

Mr. CHARLES: In other words, the point is, anybody to get pension must be born after 1908.

Mr. GALLIMORE: No, before that.

Mr. CHARLES: Anybody to get the centenary without the contribution would have been born in a period when they could not have made the contribution. And anybody born after that and could have made the contribution but did not make the contribution is not so eligible.

Dr. DAVIES: So this represents a deliberate cut-off point?

Mr. CHARLES: That's correct. Anybody who born...

(Inaudible comments by Mr. Gallimore)

Dr. DAVIES: It's not an attempt to assist anybody who is a hundred and over? You're saying if you had an opportunity to contribute and didn't, then you are excluded?

Mr. CHARLES: That's correct. Only persons who did not have that opportunity to contribute, right, all those persons are in. And those who reach a hundred, a special centenary allocation has been given to them. Now, if you want us to examine that, then you would have to give me an opportunity to speak to the actuaries. Because I am trying to tell you...

Mr. GALLIMORE: But they have advised against it.

Mr. CHARLES: ...we have 800 persons now and thousands in the 90s. I'm not gonna take just without actuarial guide or without a knowledge of who can fall. I'm going to ask you to give us an opportunity to examine it, very important point, and get back to you.

Dr. DAVIES: Okay.

Clauses 1, 2, 3, 4 and 5 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 6.

Mr. KELLIER: Yes, Chairman, Clause 6, section 23A.

(Inaudible comments by Dr. Davies)

Mr. KELLIER: All right, you wan' go ahead? You go ahead.

Dr. DAVIES: We'd like to propose a change, and I have the proposed wording. Are you ready, sir?

The CHAIRMAN: Yes, give us the exact section.

Dr. DAVIES: Section 23A (1).

The CHAIRMAN: 2A(1), or?

Dr. DAVIES: It's 23A. It's Clause 6 section 23A(1)... "With effect...

The CHAIRMAN: Right. "With effect from the 1st day of July..."

Dr. DAVIES: You'd like me to read?

The CHAIRMAN: Yes.

Dr. DAVIES: The proposed change.

> "With effect from the 1st day of July, 2012, and on the 1st day of July every year thereafter..."

...I'm changing what's there...

> ...the benefits referred to in subsection (2) shall be increased by a percentage equal to at least the inflation rate for the previous 12 months or calendar year...

or somebody or whatever.

Karl agrees and you agree, right? Tarn agrees.

Mr. PERALTO: I'll take advice... (Inaudible)

Dr. DAVIES: No, no! You agreed, subject to that advice.

(Consultations)

The CHAIRMAN: Okay, Dr. Davies, I think the... yes, Minister.

Mr. CHARLES: As I said earlier, Mr. Speaker, we have to be guided by the experts, we have to be guided by the actuaries who have analyzed. We had made proposals to them and they have gone back - in fact, if the Member from St. Andrew South can recall, this was also presented to the actuaries when he was at the meeting.

Dr. DAVIES: Didn't say anything.

Mr. CHARLES: They came back and advised that based on their analysis, it is not recommended at this time.

Dr. DAVIES: Pearnel making up this as he go along.

A MEMBER: No!

Mr. CHARLES: No, not the… look man, I wah give them money too. But, the truth is this, I don't want the thing crash, neither under me nor anybody else. So, therefore, we must be very cautious. And I open to tell you that if down the line we discover the viability of it, that it can be done, I will take it to the House and we will do it.

Mr. PICKERSGILL: Chairman, could I just ask the Minister to explain a little more for me, the implications of...

Dr. DAVIES: No, no, let me finish the other thing first.

Mr. PICKERSGILL: Sorry.

The SPEAKER: We are at Section 6 - Clause 6.

Dr. DAVIES: I would really - what this thing is suggesting, it is a very conservative thing of assuming that five per cent per year would be an affordable increase. It is very difficult to recall - if you look at the performance of the Fund - of the investments, I can't recall when that was the norm - the sort of yield. So, I really wonder about this actuarial assessment as to whether this would damage the Fund.

Mr. CHARLES: So, Member, let me tell you, they advise us, if they didn't do it this way, it would run out.

Dr. DAVIES: It can't run out!

Mr. CHARLES: But you say - you were on record of telling us that. You have warned us. You say it gwine run out.

The CHAIRMAN: Dr. Davies, in any event, Minister, this can come back to the House in another two years if necessary.

Mr. KELLIER: Not two years. Mr. Chairman...

Mr. M. PEART: When you over here and we are over there.

Mr. KELLIER: Mr. Chairman...

The CHAIRMAN: Yes?

Mr. KELLIER: I understand the dilemma that the Minister faces.

The CHAIRMAN: He is sticking to the advice of the...

(*Sotto voce* comments)

Mr. KELLIER: We understand the dilemma. We are not trying to - but we are looking at the thing in a global way. What I think would be acceptable, Minister, if we - giving you the benefit of the doubt in this

matter - if we should say in the same - the second to last line in (2), same 23A – (2), subsection (2) …shall be increased by 10 per cent, by Order made by the Minister. I would want you to put, shall be increased by a minimum of 10 per cent. That means, it gives you the ability to move it higher.

Dr. DAVIES: The Minister?

Mr. KELLIER: Yes.

Dr. DAVIES: Not him.

Mr. KELLIER: The Order made by the Minister.

Mr. CHARLES: Increasing it by 10 per cent now does not remove the ability to move it to 20.

(*Sotto voce* comments)

A MEMBER: Eeh?

Mr. CHARLES: Increasing it by 10 per cent now, with the proviso that down the line, if this House, or you as Opposition Spokesman on Labour see that there is need to be, and bring it to attention, we will take it to the House.

Mr. KELLIER: So, why don't we take out the 10 per cent altogether?

Mr. CHARLES: Why?

Mr. KELLIER: And say, shall be increased by Order by the Minister? Why you don't take out the 10 per cent?

Mr. CHARLES: Suppose inflation is five per cent?

Dr. DAVIES: Unlikely.

Mr. CHARLES: Suppose inflation drops to three per cent?

Dr. DAVIES: Most improbable.

Mr. KELLIER: You expect that to ever happen?

(*Sotto voce* comment by members)

Mr. KELLIER: No, but it still leave you – it still would leave you with the authority to do what you want to do. I am trying to…

Mr. CHARLES: I am going to make an appeal to you.

The CHAIRMAN: One at a time.

Mr. KELLIER: I am trying to get you out of locking yourself into saying what you say in here.

Mr. CHARLES: Member, I am going to make an appeal to you.

Mr. KELLIER: Because if it goes down you must be able to determine where it is to go. If you lock yourself into this, you know, that means no matter what happens...

Mr. CHARLES: I have locked myself with two things.

Mr. KELLIER: …you will be locked in. I don't want you to lock yourself in.

Mr. CHARLES: One, any recommendation coming from you or any Members of this House will be examined, will be sent to the Board; we will report on it.

Dr. DAVIES: We don't like that; we like order.

Mr. CHARLES: Two, the actuarial report - actuaries will be required to review from time to time, this matter. If they so advise us of the ability to sustain the thing where it is and to proceed, this House will so be advised. I am appealing to you to let us... we have gone through months of study of it, months of examination, months of proposals, and I am asking you to let us hold it at that and be assured that whether that side or this side, we are investing the people's money on their behalf.

Mr. KELLIER: Well, Mr. Chairman, as I said, it is not a big quarrel…

MEMBERS: Mine is a…

Mr. KELLIER: …but it is a point that we think is important to note. However, the fact that I have asked again… the Minister said that one Member received the copy of the Report. What I have actually asked for is that it be put on the Table in the House so that all the Members can have it so that we can bring scrutiny to bear on it. It is only when we see it for ourselves that we can properly argue the case, in respect of these amendments that are to be made from time to time. We need to have it laid that all the Members of the House can see it and deal with it. So, for the time being, Minister, I accept your position…

A MEMBER: I don't.

Mr. KELLIER: ...that you will take it under advisement if there is to be, and we will go with you for that. All right.

The CHAIRMAN: Yes, with that discussion I now, once again, put Clause 6.

Clauses 6, 7, 8 and 9 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 10... yes..

Mr. PICKERSGILL: Mr. Chairman...

The CHAIRMAN: Yes, Mr. Pickersgill.

Mr. PICKERSGILL: Minister, could you...

The CHAIRMAN: Clause 10…

Mr. PICKERSGILL: Yes, could you amplify - remind me what you said about Clause 10?

The CHAIRMAN: Clause 10?

Mr. PICKERSGILL: Yes.

(*Sotto voce* comments)

Mr. PICKERSGILL: No, just… what are the implications?

Dr. DAVIES: He wants to know what it means for MPs.

Mr. PICKERSGILL: Yes. What are the implications for... yes, MPs?

Mr. M. PEART: You a go get more money.

Dr. DAVIES: No, you pay more.

(*Sotto voce* comment by Mr. M. Peart)

The CHAIRMAN: Mr. Pickersgill, my understanding what he said was basically, they would now be treated as employees, rather than self-employed persons.

Mr. PICKERSGILL: So, what does that mean?

The CHAIRMAN: So, they pay NIS contribution as employees.

Dr. DAVIES: And Parliament pays some for us.

Mr. PICKERSGILL: Is that it?

MEMBERS: Yes, yes.

Mr. CHARLES: Yes, about the Members of Parliament, and...

Mr. PICKERSGILL: Yes.

Mr. CHARLES: Members of Parliament, Senate...

Mr. PICKERSGILL: Yes, yes, all of that, yes.

Mr. GALLIMORE: All of that category; the grouping.

Mr. CHARLES: The grouping. They were treated...

Dr. DAVIES: As self-employed.

Mr. CHARLES: …as self employed.

Mr. PICKERSGILL: Yes.

Mr. CHARLES: And as such, they were not subject to pay the regular NIS, and for their employer to make a contribution. Right now, all Members of Parliament will pay the regular like they are working outside - up to $1 Million, and their employer will make the contribution.

Dr. DAVIES: They will accept that we are now employees.

(*Sotto voce* comment by Mr. Gallimore)

Mr. CHARLES: And they will be entitled to the contribution. And I made the point that some people came here for five years, didn't come back, and when they retired they didn't make the amount of contributions.

Mr. PICKERSGILL: Oh, you have to make a...

Mr. CHARLES: You have to make an amount of contributions on a value.

Mr. M. PEART: What are the new benefits?

Mr. PICKERSGILL: Are there any new benefits then?

Dr. DAVIES: No, that means you paying less.

(*Sotto voce* comments/Laughter)

Dr. DAVIES: It is something which has long been in the making, and … (Inaudible)

The CHAIRMAN: I think the concern the Clerk has raised – well, Number 10, Senator - in respect of Senators, I mean...

Mr. CHARLES: We have settled the question, so you can now put Clause 10.

Mr. HOLNESS: Are Senators paid?

The CHAIRMAN: No, you see, Senators are not paid. But they have Ministers and Parliamentary Secretary as a category.

(Consultation between Mr. Charles and Mr. Gallimore)

The CHAIRMAN: All right, I put Clause 10.

Put to the Committee and agreed to.

Clauses 10 and 11 put to the Committee and agreed to.

The CHAIRMAN: I put the Title and Enacting Clause.

Put to the Committee and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed Committee stage without amendment.

Put to the Committee and agreed to.

RESUMPTION

The SPEAKER: (Gavels) I do report the Bill as having passed Committee Stage without amendment. Minister.

Dr. DAVIES: There are a lot of things you promised to do Pearnel; write it down.

Mr. CHARLES: Passed, Mr. Speaker.

The SPEAKER: No, be read a third time.

Mr. CHARLES: Mr. Speaker, I ask that the Bill be read a third time and passed.

The SPEAKER: The question is that the Bill be read a third time.

Put to the House and agreed to.

Bill entitled:

AN ACT to Amend the National Insurance Act; to validate and confirm the payment of certain benefits made in good faith by persons acting on behalf of the National Insurance Fund, and the collection of contributions done in good faith, and to indemnify certain persons in respect of those payments and contributions; and for connected matters,

read a third time and passed.

The SPEAKER: Very well. Bill read, debated, and passed. (Applause)

House Leader.

Mr. HOLNESS: Mr. Speaker, you recall that I indicated earlier that there would be

Statements. I indicated I would have given a Statement, but with regard to the time, I believe I may have to do that next week. I would like to move, nevertheless, Mr. Speaker, for the suspension of Standing Orders to ask for the recommittal of the item Statements by Ministers, to allow the Minister of Health to make a Statement.

The SPEAKER: Members, the matter before the House is for the suspension of Standing Orders to allow the item Statement by Ministers to be recommitted.

Put to the House and agreed to.

STATEMENTS BY MINISTERS

(Recommitted)

WITHDRAWAL – HAITIAN UNDER 17 FOOTBALL TEAM

Mr. SPENCER: Thank you, Mr. Speaker.

Mr. Speaker, the Ministry of Health wishes to apprise the Parliament of the health measures implemented for the CONCACAF Under-17 Tournament, in particular, the circumstances that led to the withdrawal of the Haitian Under-17 football team from CONCACAF Tournament being staged in Montego Bay.

This culminated in a meeting of Haitian officials, led by the Deputy Prime Minister and Minister of Foreign Affairs, the Honourable Ken Baugh, Minister of Youth, Sports and Culture, Olivia Babsy Grange, and myself.

The facts are, on the arrival from Haiti, at the IM Jet Centre at the Sangster International Airport on Friday, February 3, 2011, members of the contingent were interviewed by public health personnel and provided with Health Alert Cards containing information to assist in detecting the signs and symptoms of communicable diseases, of international significance and instructions as to how to obtain medical assistance in the event of illness. This surveillance and screening practice is required by both international and local public health regulations as well as civil aviation rules, given the prevalence of malaria in Haiti, and the recent outbreak of cholera.

Two: Officials from the Ministry of Health were alerted by the Jamaica Football Federation doctors on February 14th about three members of the contingent who were displaying symptoms of malaria. In keeping with the established procedures, these persons were taken to the Cornwall Regional Hospital for medical investigations and treatment. Fever surveillance on the same day revealed that three additional members of the team were febrile and they were also referred to the Cornwall Regional Hospital for further management. All six persons left the hospital without permission of the medical team. Dialogue was held with officials of the Haitian delegation, JFF, CONCACAF and the Ministry of Youth, Sports and Culture which resulted in the admission of five persons to the Falmouth Hospital where bed space was available. One person refused admission.

On February 14, 2011, without any notification to local officials, an attempt was made to procure medication for the treatment of malaria, from a local pharmacy. This was unsuccessful as the prescription tendered, which was issued by the team's medical doctor, did not have the required registration number.

On February 15, 2011, eight other members of the contingent were also discovered with fever. Blood tests subsequently confirmed three cases of malaria. Eight other members of the contingent subsequently developed fever symptoms. As a precautionary measure, antimalarial treatment was administered to all members of the contingent.

Officials of the Ministry of Health made every effort to ensure that the members of the Haitian contingent were attended to in accordance with the health protocols in effect for Jamaica. Care was taken to provide meals for those in quarantine both at the hospital and at the hotel where they were registered.

Regrettably, there was resistance and lack of cooperation by some members of the contingent, including one who refused to allow blood sample to be taken and others who discharged themselves from the hospital before completion of their treatment.

In view of all the circumstances, including the laboratory confirmation of three cases of malaria, the Ministry of Health recommended to CONCACAF officials that in the interest of safeguarding the health of the public and other competing teams, the Haitian team should be withdrawn from the competition.

The majority of contingent returned to Haiti on February 16, by aircraft chartered by CONCACAF while the remaining members departed for other destinations on February 17.

Jamaica is obliged to maintain heightened surveillance against malaria, since the Anopheles mosquito by which it is transmitted, is endemic to Jamaica and there's a real danger of transmission of the disease, if the parasite is introduced among the population.

The Government deeply regrets the circumstances that necessitated the withdrawal of the Haitian team from the CONCACAF tournament. We appreciate the disappointment that this has caused. However, the decision was unavoidable and is necessary in order to safeguard public health.

And I daresay, that since that time and meeting with the officials from Haiti, we - the Minister of Sports and Culture asked them to send back the team for a visit to play a friendly match in which we would send our team afterwards, just to demonstrate that there's no problem, there's no animosity, there's no bitterness. The meeting yesterday was very agreeable and the team - I think - the team from Haiti is now in Montego Bay.

Mr. Speaker, may it please you.

Dr. DAVIES: The team from Haiti is where?

Mr. PICKERSGILL: What's the last part?

Mr. SPENCER: The team officials from Haiti is now in Montego Bay, they'll leave the island tomorrow.

Dr. DAVIES: They have been screened.

The SPEAKER: Dr. Ferguson.

(Inaudible comments)

Dr. FERGUSON: Mr. Speaker, based on the presentation from the Minister and the fact that he has presented as facts, what he just said, we have not heard the other side. My only concern, Minister, would be knowing that there has been an alert, in fact high risk situation in relation to cholera and also malaria in Haiti, why didn't we take any precaution before they came to Jamaica?

That is all that I'd wanted to ask in terms of great concern on the part of the Opposition.

Mr. SPENCER: The Ministry of Health could not assume that the team coming from Haiti had any disease or that they were sick. They, like anyone else, were subjected to the normal inquiry and interview that was conducted by people entering our ports.

Dr. DAVIES: No man, that's not a good answer.

(Inaudible comments)

The SPEAKER: Prime Minister.

The PRIME MINISTER: Mr. Speaker, I know maybe testing your latitude, but if I could just say, I wanted to express first of all, my own regret at the circumstances that necessitated the withdrawal of the Haitian team. Football is a passion in Haiti and I know that they were looking forward to their participation in the qualifications for World Cup, and I know the disappointment that they have felt.

The Minister of Health has reported insofar as the sequence of events. I think some of what may have caused the misunderstandings - because they have been many - there was a language challenge and in addition to that, these were youngsters and perhaps not accustomed to the kind of exposure to which the tournament had placed them.

I want to place on record my own appreciation for the intervention that was made by the Minister of Youth, Sports and Culture and perhaps some of the misunderstandings would have been avoided were it not necessary for me to actually recall her to Kingston on that particular day while she was dealing with that situation.

I want to express my regrets at the extent to which the issue was sensationalised, exaggerated in Haiti, leading - I think we all know - to a demonstration there over the weekend in which the CARICOM flag was burnt. The Minister of Foreign Affairs has been in touch with his counterpart in Haiti. There was a far better understanding at that level of the issues. It is as a result of those discussions that a Haitian delegation arrived here yesterday, met and are having further consultation.

I want to say one other word. President Preval and I spoke yesterday and President Preval understands that our procedures for dealing with issues such as malaria are substantially different from those in Haiti. In Haiti, if you're diagnosed with malaria they give you some medication and they send you home. In Jamaica, we have some very strict requirements that require that you be isolated, that you be treated and that only when we are satisfied that there is no risk of transmission, before you are again exposed. And those were the arrangements and the protocols that were activated by the Ministry of Health.

One final word why we have to be so careful. Jamaica was declared malaria free in 1965. We remained malaria free for 41 years until there was an outbreak in 2006 - in and around - actually started - the first case was detected in Sydenham and immediately, or shortly thereafter, travel advisories were issued by the United States, by Canada, by the United Kingdom, even though there was no immediate danger to the resort areas.

As the Minister has pointed out, it is transmitted by the Anopheles mosquito, which is here, has always been here and you

can never get rid of it. You can try to control it and contain it but it lives here. And it is the only mosquito that can transmit this disease. And once the parasite comes into the country and those mosquitoes hear about it and get busy you could have problems on your hand.

In 2006, between October and December of that year we had 300 cases of malaria confirmed. And it took us several more months - it took us almost 10 months - to bring it back under control. It is something that we have to be very, very vigilant about.

Last week as you probably know, we had almost 10,000 visitors arriving at the Sangster's International Airport, a record, we've never had so many people coming through the airport on any one day. And the sensitivity of that in the industry is such that we have to take every precaution.

I believe that in the communication that there could have been better management, particularly because of the language differences. When, for example, we had to insist that those who were not in hospital, we wanted them to be confined to a section of the hotel, they took offence to that perhaps because then how it was communicated to them they felt that we were discriminating against them.

I assured President Preval yesterday that Jamaica doesn't think like that. After the earthquake I was the first Head of Government after President Fernandez, who is next door in Dominican Republic, who arrived there and the Leader of the Opposition was with me. We sent our soldiers there, they did a tremendous job with health personnel. Recently when the Minister of Water and Housing told me that he had just imported 10 brand new water trucks, I said I want two of them to send back to Haiti. And we did that to help them to deal with the cholera - the outbreak of cholera - and to get clean fresh water to people. So that there is no doubt in President Preval's mind about the commitment of Jamaica to supporting Haiti at this time. And it is unfortunate that because of what steps had to be taken, and the misunderstandings that arose, that it had been sensationalised in the way that it has.

I'll be seeing President Preval this week in Grenada, for the CARICOM meeting and I will have further discussions with him to ensure that whatever damage may have been done at the people level - there is no problem at the governmental level...

A MEMBER: A lie.

The PRIME MINISTER: ...but that both of us can work. He told me yesterday when he spoke with me, that he was having a press conference yesterday and he was anxious to be able to say to them that he and I have spoken and we have reaffirmed our mutual commitment to continue to strengthen relations between Haiti and Jamaica.

The SPEAKER: Yes, Mr. Hylton.

Mr. HYLTON: Mr. Speaker, permission to speak from a desk other than my own.

The SPEAKER: Yes, go ahead.

Mr. HYLTON: Prime Minister, again it's a very unfortunate situation and we certainly, on the opposition side, were concerned that the protocols involved once there was a threat to a risk of malaria is what it is; and we have said that those precautionary measures have - every precautionary measure has to be taken to ensure that there is not any outbreak. And we

believe that all actions taken within that framework to ensure that the protocols were maintained are fully supported by the Opposition.

We were just wondering - and certainly the burning of the flag, whether it be Jamaica or CARICOM flag in Haiti, we believe is an overreaction to the situation. We were wondering on this side though, that in the same way that you and the Opposition Leader appropriately went to Haiti at the outset of the crisis, that it would have been good again in this situation, where our own disposition towards the Haitian people were being questioned, our support for them and the suggestion of discrimination was in the air, that it might have been a helpful situation if the officials who arrived here in Jamaica yesterday or the day before yesterday, that the Opposition would have had an opportunity to hear from them and to speak to them as well and to assure them in the same vein, that Jamaica stands in solidarity with them. That the act was never intended to be a discriminatory act, but at the same time, have heard from them what their concerns were and help the situation. We believe that that might have helped the situation and wondered why that was not taken advantage of?

The PRIME MINISTER: If you'd just talked to us before you talk to the press perhaps we could have worked with it. (Applause)

(Laughter/*Sotto voce* comments)

The PRIME MINISTER: I'm advised that the Haitian Delegation is still here, they're in Montego Bay, they're scheduled to leave tomorrow. Might I suggest - and I'm going to ask Minister Grange to make contact to see if it is possible for them to meet with the Opposition tomorrow. And if necessary, I'm prepared to instruct the JDF to assist in facilitating that meeting, to meet with them tomorrow before they leave.

The SPEAKER: Yes, Mr. Pickersgill.

Mr. PICKERSGILL: Mr. Speaker, when this thing first came out I heard a figure of three, but listening to the Minister, what was the size of the contingency that came? Nineteen?

(*Sotto voce* comments)

The SPEAKER: Three were tested positive. Is that what…

Mr. PICKERSGILL: That's the first thing, you know, unofficially, I heard three.

The SPEAKER: Unconfirmed.

Mr. PICKERSGILL: But I thought you said from the lab, from the lab you got only three confirmations?

(*Sotto voce* comments)

The SPEAKER: We need to hear the response, Minister.

Mr. PICKERSGILL: Three reported from the lab, confirmed by the lab, right? And fourteen...

Mr. KELLIER: How many tested?

Mr. PICKERSGILL: Yeah, how many tested?

Mr. SPENCER: All eight were tested...

The SPEAKER: No, could you use the mike, please.

Mr. PICKERSGILL: Can't hear you, can't hear.

Miss GRANGE: Mr. Speaker, the contingent was a total of twenty-nine, but nineteen came in on a charter from Haiti, and the others came by commercial aircraft, because there was - three players came in

from France, they are based in France - and the others from the U.S. And it included the coach, who is a Brazilian, but who was in Haiti for a while, and also the parent of one of the players. Initially, six were hospitalized, including the coach, and he discharged himself and went back to the hospital.

The SPEAKER: Went back to the hotel.

Miss GRANGE: He came on a commercial flight. He was tested positive. And those who were in the Falmouth Hospital were five, one, a Haitian living in Jamaica for the last year, and four players who came in on the charter from Haiti. Two of those four players were tested positive. So a total of three cases confirmed.

Mr. PICKERSGILL: How many were tested?

Miss GRANGE: Eight more members of the contingent were - they resisted having their temperature checked. Eventually, they were checked, they agreed after I intervened. Eight were found to be having a fever. Seven agreed to get their blood tested, one refused. And what I was advised by the health officials was that this would be a procedure that would take place after those three cases were identified, that they would have to monitor the group, and so they would keep doing temperature checks. And once any of the members of the contingent had a fever, then their blood had to be drawn and sent to the lab. So eventually, what happened was a total of eleven were showing symptoms, and so the - including those who eventually were tested positive, the results showed that they had Malaria.

What really happened eventually was that the others continued to resist having their temperature checked, they became boisterous, and as a result the medical team was unable to control the situation, and the hotel was - you know, the hotel started complaining.

They were not able to field a team at that point, the Haitian delegation, they were not able to field a team at that time to play. And they made the decision that they could not field a team.

Mr. PICKERSGILL: Oh. So it was they who made that decision, not as we heard I think on a radio programme, someone who I thought should know, said it was CONCACAF that withdrew them.

Miss GRANGE: No. They had a meeting with CONCACAF, and coming out of the meeting, CONCACAF issued a release. And the release stated that the decision was taken where the Haitians withdrew from the tournament because they were unable to field a team. That press release was sent out and made public.

Mr. PICKERSGILL: So it was not the Jamaican Government, then.

Miss GRANGE: The Ministry of Health issued a release. But separate and apart from what the Ministry of Health said, the CONCACAF officials had a discussion with the Haitian Football Federation President, who is the doctor also, of the team, and issued a statement to say that the team, they decided to withdraw the team because they were not able to field...

Mr. PICKERSGILL: That is to be publicized.

The SPEAKER: Okay, fine. Thanks. Further questions?

Dr. FERGUSON: I was of the belief - and I am sure the country - that it was the

Ministry of Health that had taken a decision, on the basis of the status of the team. We are now hearing another argument that is being put on the table.

Miss GRANGE: Mr. Speaker...

Dr. FERGUSON: Let me just finish.

But what I would like to say, Mr. Speaker, is that given all that has happened, I believe that we have to establish the proper protocol, in relation to countries that have shown and have established a particular history, as it relates to health status. We have - in Jamaica we have been far ahead, relative to primary health care and other things, and to that extent we are saying that the proper protocol, Minister, needs to be in place, that will prevent any recurrence of this kind of situation. We have had too long a relationship, positive relationship with Haiti to come and to damage that relationship on the basis of what has gone down. So I am just putting that on the table.

Mr. SPENCER: May I advise that the proper protocol is in place, and the proper protocol was observed...

Dr. FERGUSON: No, relative to coming into our country.

Mr. SPENCER: One sec - relative to coming in. Because our sea and port surveillance team is always at the airport. These people were issued with health-alert cards in case - more than anything else - in case anything happened to them they would know how and where to get immediate attention from the health system. So those protocols were observed.

Dr. FERGUSON: Yes, I agree. But I am talking about coming from a country.

The SPEAKER: Okay. House Leader.

Mr. HOLNESS: Mr. Speaker, the Chairman of the Infrastructure Committee wants to ask the House for an extension of time on a Report that he is to table.

Mr. PICKERSGILL: Mr. Speaker, I am moving for the suspension of the Standing Orders to enable me to take the motion, notice of which was given earlier, by…

Mr. HOLNESS: It was given by the Leader of Opposition Business.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders, to allow the Member to take the matter, notice of which was given earlier by the Leader of Opposition Business.

Put to the House and agreed to.

Mr. PICKERSGILL: Mr. Speaker, what I am really asking - your Committee, that is, the Infrastructure and Physical Development, we held one meeting to deliberate the motion. We took the decision that it was not possible to complete our deliberations on the subject matters, and submit a Report to Parliament within the fourteen days, as stipulated by 26(a), as we would need to consult with officers from the agencies that have a good working knowledge of the issues contained in the motion.

We are, therefore, Mr. Speaker, requesting suspension of the Standing Orders, in order to seek an extension of one month to complete our deliberation on the matter.

The SPEAKER: Members, before you is the request for the suspension of Standing Orders to allow the Infrastructure Committee a further one month to complete their deliberations.

Put to the House and agreed to.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business. I therefore move that the House do adjourn until next Tuesday, the 1st of February...

The SPEAKER: March, March.

Mr. HOLNESS: The 1st of March, when we will resume our sittings.

The SPEAKER: Members, before you is that this Honourable House do adjourn until Tuesday, the 1st of March, at 2:00 p.m.

Put to the House and agreed to.

The SPEAKER: This Honourable House stands adjourned.

The Honourable House of Representatives was adjourned at 6:21 p.m. to resume on Tuesday, March 1, 2011, at 2:00 p.m.

TUESDAY, March 1, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:31 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

LESTER MICHAEL HENRY, CD, (JLP), Clarendon, Central, Minister of Transport and Works.

DR. CHRISTOPHER CHARLES TUFTON, (JLP), St. Elizabeth, South Western, Minister of Agriculture.

MINISTERS OF STATE

THE HONOURABLES:

DARYL WESLEY PHILLIP VAZ, (JLP), Portland, Western, Minister without Portfolio in the Office of the Prime Minister, Minister of Information and Telecommunication.

CLIFFORD EVERALD ERROL WARMINGTON, (JLP), St. Catherine, South Western, Minister of State in the Ministry of Water and Housing.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

OTHER MEMBERS

DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern.

MR. LUTHER BARTLEY MONTEITH BUCHANAN, (PNP), Westmoreland, South Eastern.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MRS. MAXINE ANTOINETTE HENRY-WILSON, (PNP), St. Andrew, South Eastern.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. ANTHONY GEORGE HYLTON, (PNP), St. Andrew, Western.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MR. CLIVE ARTHUR MULLINGS, (JLP), St. James, West Central.

MRS. NATALIE NEITA-HEADLEY, (PNP), St. Catherine, East Central.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. DEAN ALEXANDER PEART, (PNP), Manchester, North Western.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

DR. PETER DAVID PHILLIPS, (PNP), St. Andrew, East Central.

DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern.

MR. DERRICK CHARLES SMITH, (JLP), St. Andrew, North Western.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern.

PRAYERS

Prayers were offered by Reverend Thwaites.

The Honourable House resumed its sitting at 2:31 p.m.

The SPEAKER: (Gavels) Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this evening we would like to welcome to the sitting of Parliament students and teachers and tour guides and lecturers from the St. Catherine High School, Cross Keys High School and the College of Health Science of the University of Technology. Welcome to the sitting of Parliament. (Applause)

Please, we are asking you to just check on your cellphones, make sure that it is on vibrate or off so you do not disturb the sitting of Parliament.

And also, Members of Parliament, could you please, I don't mind you answering the phone but you should not be on the phone for more than two seconds. If you have to speak on your cellphone please leave the Chamber and continue the conversation outside, but you are not to be seen with your cell phone at your ears speaking. It's one thing talking and then leaving the Chamber, but please do not continue the conversation while sitting in Parliament. Okay.

(MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern, entered and took her seat.)

STATEMENTS BY MINISTERS

Mr. HOLNESS: Mr. Speaker, the Minister of Transport and Works has a statement to make to the House.

(HON. ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Planning and Development and Defence, entered and took his seat.)

The SPEAKER: Minister Henry. Turn on your mike please.

Mr. HENRY: Mr. Speaker, Honourable Members, on the morning of Sunday, February 27, the police alerted the authorities at the Normal Manley International Airport, of information received that an explosive device was to be placed on a US bound flight. Although the report was unverified, the information was immediately conveyed to the US Transportation Security Administration (TSA) in keeping with standard operation procedures. The TSA immediately imposed a 72-hour suspension on all air cargo departing Jamaica for the US, or using US airspace to Canada and the Bahamas.

Heightened surveillance and other security precautions were activated for all outgoing flights. Normal flights from Jamaica to bound the US were subjected to extraordinary security checks both by the Jamaican authorities prior to departure, and the US authorities upon arrival. At the same time the police commenced intensive investigations into the report to determine the veracity.

Preliminary investigations conducted by the National Intelligence Bureau suggest that the report is a hoax maliciously contrived to defame an employee of an airport concessionaire. Investigations are continuing with a view to confirming beyond doubt, the preliminary finding as well as apprehended those who may be responsible for this disruption to International Civil Aviation.

A team from the US Transportation Security Administration arrived in Jamaica yesterday to consult with the Jamaica Civil Aviation Authority and review the security arrangements at both international airports. Arising out of these consultations and review, the temporary ban has been lifted in respect of flights bound for Canada and the Bahamas. The consultations are continuing and it is expected that the ban in respect of US bound flights will shortly be lifted.

Jamaica maintains a high level of security screening for both passengers and cargo, cargo on all outgoing flights. Any threat of the kind involved in this incident is taken seriously until investigations suggest otherwise. At the same time care is being taken to review our security protocols to ensure the maximum safety of aircraft and passengers using our airports.

Finally, I wish to commend the representatives of the US Transportation Security Administration and all airlines operating in Jamaica, who've cooperated fully in the matter. I commend as well the police and Civil Aviation Authority for their proactiveness and diligence in safeguarding the integrity of our airport security.

Thank you very much.

(HON. OLIVIA ATAVIA GRANGE, (JLP), St. Catherine, Central, Minister of Youth Sports and Culture, entered and took her seat.)

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Could the Minister indicate whether or not as a result of this incident, which is labelled as a mischievous or otherwise, prank, can you say whether or not any new measures have been taken, notwithstanding the fact that it was recognised that it was a malicious call in the first place, can you say whether or not any new measure has been taken to improve even further, the security measures at the airports in respect of passenger safety and otherwise?

(HON. WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture, entered and took his seat.)

Mr. HENRY: As I think I intimated in the statement, the security efforts and issues at the airport continue to retain the highest level of attention and there is nothing new to add other than perhaps heightened attention. We know security levels are sometimes raised at different levels, but everything to ensure the security and safety of passengers exist, did exist, and is being heightened to ensure any further possibility of any issues taking place.

Two minutes ago the NIB is suggesting that we finally send some further reports, but we're leaving the security forces to continue their investigation, as whoever created the hoax has to be dealt with under the normal process of law.

(MR. GEORGE DELANO ARSCOTT, (PNP), Clarendon, South Western, entered and took his seat.)

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 14**
  Cabinet Agenda Issues for February 14, 2011
- The Civil Service Establishment (General) (Amendment) Order, 2011 under The Civil Service Establishment Act
- The Financial Management Regulations, 2011 under
  The Financial Administration and Audit Act
- Corporate Plan of the Office of the Children's Advocate 2011 - 2014
- Universal Access Fund Company Limited Annual Report and Audited Financial Statements for the financial year April 1, 2005 to March 31, 2006
- Creative Production and Training Centre Limited Annual Reports and Audited Financial Statements for the years 2004 to 2010.

(DR. ESMOND VERNAL PATRICK HARRIS, (PNP), Trelawny, Northern, entered and took his seat.)

Rev. THWAITES: Mr. Speaker, the Report of the Children's Advocate is not among our pile?

The SPEAKER: The Report of the Children's Advocate, Members, is quite comprehensive and a copy is available - sorry

it's the Corporate Plan. Can we ask Reverend Thwaites or any other Member would who would like to examine it to just have a word with the Clerk?

Moreover, may I just say, Members, a number of very good documents have been put on the Parliamentary website relating to the Children's Advocate, including the assessment of the first five years of the Children's Advocate. So please you could look on the website - the Parliament website - to access some of this information from the Children's Advocate.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, I would like to recommit the item, Statements by Ministers.

The SPEAKER: Members, the request before the House is for the suspension of Standing Orders to allow for the recommittal of Statements by Ministers.

Put to the House and agreed to.

RECOMMITTAL OF STATEMENTS BY MINISTERS

The SPEAKER: Minister Grange.

Miss GRANGE: Mr. Speaker, today I update the House on matters related to the just concluded CONCACAF Under Seventeen Football Championship, which was staged in Montego Bay, St. James.

I am sure the whole House will join me...

The SPEAKER: Do you have a copy of the statement, Minister Grange, copies?

Miss GRANGE: Copies are coming, Mr. Speaker. My apologies.

The SPEAKER: Are they here now, Minister Grange?

Mr. D. SMITH: On the way.

Miss GRANGE: They are on the way. The copies are on the way. It is a difficulty getting the copies done here, and so it was a challenge. And so the copies are on the way, Mr. Speaker.

Mr. KELLIER: Mr. Speaker...

The SPEAKER: Hold it a second, Minister Grange.

Yes, Mr. Kellier.

Mr. KELLIER: Just with your indulgence, could we when the statement does arrive, could we be assured that you will recommit the item, through the House Leader, that if there are any questions that we need to ask, we could ask them at that time?

The SPEAKER: How much longer do we have to wait on the copies? They are here?

Okay, proceed Minister Grange, just in the event that you need to recommit. Okay, very well.

Miss GRANGE: Do I go ahead, Mr. Speaker?

The SPEAKER: Yes.

Miss GRANGE: Mr. Speaker, today I update the House on matters related to the just concluded CONCACAF Under Seventeen Football Championship, which was staged in Montego Bay, St. James.

I am sure the whole House will join me in congratulating the Jamaican team, which advanced to the FIFA under-Seventeen World Cup Finals in Mexico, later this year, by finishing as one of the four top teams in the

CONCACAF Tournament.

(Applause)

Indeed, Mr. Speaker, I offer congratulations to the other teams that

qualified for the World Cup Finals from this tournament, that is, the United States, Canada and Panama.

Again, I offer the sympathies of the Government and people of Jamaica, to the Government and people of Haiti, whose team's participation in the tournament was cut short by Malaria. We regret that illness forced the Haitian team out of the tournament and affected their World Cup aspirations. Please note, Mr. Speaker, I said affected. I said affected instead of ended, because I am aware that the Haitian Government is making overtures to FIFA and CONCACAF, to give special consideration to the Haitian team to compete at the Under-Seventeen World Cup Finals.

The Prime Minister of Jamaica, the Honourable Bruce Golding, has already given the assurance of Jamaica's support to the President of Haiti, His Excellency Renee Preval. And I now inform the House of the Government of Jamaica's full support of the Haitian government's proposal to FIFA and CONCACAF for special consideration.

(DR. THE HON. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing, entered and took his seat.)

The news of Haiti's withdrawal from the tournament in Montego Bay, has been the subject of controversy, especially in Port au Prince, where there were street protests, based on misrepresentations and misinformation.

The Ministry of Youth, Sports and Culture, has been involved in the dialogue as both governments moved to end the protest

and to preserve and strengthen the centuries old bond of friendship between both countries.

The Government of Haiti sent a special delegation to Jamaica on a fact finding mission, between the 21st and the 23rd of February. The delegation included the Director General of the Haitian Ministry of Youth, Sports Youth and Sports, DANIEL PIERRE CHARLES, the Director General of the Haitian Ministry of Public Health and Population, GABRIEL THYMOTE, the President of the Haitian Olympic Committee, PATRICK BLANCHET, independent journalist, MARCUS GARCIA, and the Honorary Consul of Jamaica to Haiti, DANIEL GERARD ROUZIER.

The delegation had meetings in Kingston, involving myself, the Deputy Prime Minister and Minister of Foreign Affairs, the HONOURABLE DR. KEN BAUGH, the Minister of Health and Environment, the HONOURABLE RUDYARD SPENCER, as well as officials of the Ministries of Foreign Affairs and Health. The delegation also had meetings in Montego Bay, with the President of the Jamaica Football Federation, CAPTAIN HORACE BURRELL and his team, and also with the Mayor of Montego Bay, His Worship COUNCILLOR CHARLES SINCLAIR. The delegation was given access to the Cornwall Regional Hospital, to view the facilities and interview the staff. And also viewed the facilities at the hotel where the football contingent resided, and met with the manager of the property. Through those meetings and inspections, Mr. Speaker, the

delegation was able to get a full understanding of the events as they really happened.

Based on the report of the Special Delegation, President Preval of Haiti gave Prime Minister Golding the assurance at the CARICOM Heads of Government meeting in Grenada, that the matter was now closed.

Mr. Speaker, I would just like to give Parliament an update and to correct some inaccuracies that have been reported about the treatment of the Haitian delegation, especially over the 72 hour period, beginning February 14.

1. Jamaica did not single out the Haitian delegation for screenings at the airports. As a routine, passengers from Latin America, South East Asia, Africa, Republic of Haiti, and the Dominican Republic, are asked to fill out questionnaires and report about any abnormal symptoms on their arrival in Jamaica.
2. There were no armed guards or armed thugs intimidating or restraining any member of the Haitian football contingent. Two women police officers, a senior Superintendent and an assistant were present at the hotel for a maximum of 45 minutes on Tuesday, February 15, 2011. They wore civilian attire. They were not armed, and at no time did they interact with any of the players. No one was ever handcuffed.
3. It was not a restrictive quarantine. Each member of the delegation was provided with food and had access to medicine, both at the hospital and in the hotel where most of the affected members of the delegation remained.
4. The Government of Jamaica did not expel the Haitian football team. The decision for the Haitian football team to withdraw was taken by the President of the Haitian Football Federation, in consul-tation with CONCACAF. Indeed, Mr. Speaker, the media release from CONCACAF, dated Wednesday, February 16, 2011, stated, and I quote:

   "The Haitian Football Federation informed CONCACAF Tuesday evening that it can no longer field a team at the Confederation's Under Seventeen Championship in Montego Bay, Jamaica, due to an illness that has struck members of its delegation."

Mr. Speaker, I would like to repeat that, as I have said in a release which I sent out just after this decision was taken, that the Government deeply regrets the circumstances that necessitated the withdrawal of the Haitian team from the CONCACAF tournament. I understand the pain felt by the Haitian delegation and the people of Haiti, particularly the young players.

At this time, Mr. Speaker, we are pleased that the matter has been resolved, and the misunderstandings with our Haitian colleagues have been cleared up.

Mr. MONTAGUE: Hear! Hear! Very good!

Miss GRANGE: We are now moving to arrange football matches between both

countries, as we continue efforts to preserve and strengthen our relationship. I will give more details as soon as the arrangements have been finalized, and those details will be announced very soon.

And so, Mr. Speaker, I will say that it was unfortunate that there was misunderstanding and misrepresentation.

But what I am pleased to say at this time is that all is well that ends well.

Thank you.

Government MEMBERS: Hear! Hear! (Applause)

The SPEAKER: Mr. Hylton.

Mr. HYLTON: Mr. Speaker, the Opposition welcomes the statement by the Minister, with respect to, one, the closure of the investigation on a note of understanding and clarity about what was widely reported in the media, on the circumstances surrounding the withdrawal of the Haitian team from the CONCACAF tournament.

We said at the time, in this Honourable House, that the Opposition supported any reasonable measures taken by the Government to protect and to enforce the protocols that are very critical to the safety, the health, the wellbeing of the Jamaican people, and critically to our economic wellbeing as well.

We also would want to join the Government in supporting the special request from the Haitian Government with respect to CONCACAF giving special consideration for the participation of the Haitian football team in the final. And in the circumstance, we believe that all of the above should go a long way in clearing up whatever misunderstanding that may have existed between the Haitian people and Government. Because the Opposition appreciates the critical importance at this point, for having the relationship between Haiti and Jamaica on very firm footing, for reasons that are obvious to the Jamaican people, certainly to this Parliament, namely, Jamaica's role and that of CARICOM in the critical exercise of representing Haiti's interest to the international community, in the reconstruction of Haiti in the post-earthquake environment.

We do hope that the presence of the Haitian delegation here, the investigation, access to the individuals and entities involved, the clarity and the comfort that they would have taken from those investigations, will mean a final and full settlement of the issue. It is critically important, as I have said, that this be the case for the good report, the good relations between our two countries. It is vital to our interest, and to the interest of the Caribbean and the Haitian people. And we support the efforts, we welcome the statement by the Minister, and the conclusion of this exercise.

Thank you.

The SPEAKER: Thank you, Mr. Hylton. Dr. Davies.

Dr. DAVIES: Very short question, through you, Mr. Speaker.

Minister, if I heard you correctly, you indicated that the Government of Jamaica has contacted FIFA indicating its support. I hope I didn't hear you correctly. I prefer if this indication of support is transmitted through the JFF rather than the Government.

Miss GRANGE: No, all the initiatives to have the CONCACAF consider having the Haitian team play in the finals is being done through CARICOM directly to CONCACAF. The Jamaica Government, the Prime Minister has expressed his support for the initiative but we are not involved in making direct contact.

Dr. DAVIES: Mr. Speaker, I would have prefer if this were handled through the sports, the relevant sporting organization. The Government can - we can operate internally, but I would prefer if this were done through the relevant sporting organization.

The SPEAKER: Dr. Davies, I think the Prime Minister would like to clarify.

The PRIME MINISTER: No it's not so much a Government matter. The Haitian Ambassador to CARICOM, on the instructions of President Preval who had to leave the meeting earlier on Saturday, sought the support of CARICOM for an application to be made to FIFA for special consideration to be given to the Haitian Under-17 Team. CARICOM agreed to support such a request, such an application and Jamaica endorsed it. So it is not a Government initiative so much as it was a request to CARICOM, CARICOM accepted the request and Jamaica endorsed it.

And while I am on my feet can I just indicate, just to confirm what the Minister said. That President Preval made it very clear to me over the weekend that having received the report of the fact-finding team that was here last week, he is satisfied that the initial report that was presented to him was inaccurate, and he is satisfied that Jamaica did not act in any way hostile to the Haitian team. And as the Minister has said, he said that as far as the Haitian Government is concerned, this matter is now at an end.

(Applause)

The SPEAKER: Yes, Mr. Hylton.

Mr. HYLTON: Thank you, Mr. Speaker. On the Prime Minister's intervention I just recall that there was an understanding and there is an understanding between the Opposition and the Government that the report of which both the Minister and the Prime Minister alluded to, that was done by the investigating team, that that report (a), would be submitted to the Government and (b), that on receipt of that, that that would be shared with the Opposition. I am still operating on that assumption.

The SPEAKER: Very well. Dr. Davies, you wanted to follow up.

Dr. DAVIES: No, I just want to ask the Prime Minister if the Haitian President, what he has communicated to you is this going to be publicly announced?

The PRIME MINISTER: Mr. Speaker, I can't say, and I can't say because I happen to be aware of the pressure that this has brought on the Haitian Government.

The truth is, Mr. Speaker, that when the contingent left here and returned to Haiti they faced a hostile population. And I believe that in reporting on what transpired, whether deliberately or not, an attempt was made to deflect blame to the Jamaican authorities. It probably can be done by way of an exchange of letters, but in the discussions I had with President Preval, I was mindful, given the stress that he is already under, the fact that he very carefully said farewell to CARICOM because this was his last meeting, I did not

think it was appropriate, notwithstanding how much it would be useful for us, I didn't think it was appropriate to add any further to his stress.

The SPEAKER: House Leader, you - a second statement? Minister Grange.

BLACK HISTORY MONTH

Miss GRANGE: Mr. Speaker, we have just seen the end of Black History Month, the observance of Black History Month. In Jamaica, we do not officially.....

The SPEAKER: Minister Grange, again, you have a copy of the Statement now?

Miss GRANGE: Mr. Speaker, it's - I do not have copies in the House, but I know copies are being done to be handed out.

The SPEAKER: But remember, Minister Grange, we are to get copies at the time you are making the statement. We now have the one on the FIFA, but the next one you are saying is on its way or it's here?

Miss GRANGE: It should be here, sir, I am expecting the Orderlies to collect them and hand them out.

The SPEAKER: Okay, proceed then and we hope it will come shortly.

Miss GRANGE: In 2004, the Jamaica National Heritage Trust under the impetus of PROFESSOR VERENE SHEPHERD, who at that time was a member of the Board, initiated a project of obtaining the transcripts from the trial of the RT. EXCELLENT MARCUS MOSIAH GARVEY. This was a trial that led to his conviction for mail fraud in the USA in 1923. The exercise had as its primary objective, the facilitation of dialogue geared towards expunging the criminal record of the National Hero. Through the assistance of Professor Veronica Gregg of Hunter College in New York, Professor Shepherd was able to locate the transcripts at the National Archives and Records Administration in New York.

The JNHT with the assistance of then Trustee, MISS NADINE MOLLOY, who on her vacation photocopied all 2,000 pages of the transcript and brought them home to Jamaica in 2005, making them available for the first time ever to Jamaicans here. The transcripts were copied and the first set sent to the Attorney General's Chamber as part of the review process.

Professor Shepherd, who also chaired the Bi-Centenary Committee in 2007, recommended the establishment of a legal sub-committee of the National Committee to spearhead the discussion relating to the expunging of the records. Unfortunately, this has not yet been realized.

It is a fact, Mr. Speaker, that of our history, many of our leaders have gone through great personal and political persecution in their quest for justice. None moreso than our first National Hero, THE RT. EXCELLENT MARCUS MOSIAH GARVEY. Born in 1887, at a time when being black meant you had no voice, limited possibilities of social mobility, limited access to education and little political power, Garvey became a leader.

He fought for the principles of self-reliance, black pride and unity among his people. For his advocacy, he was convicted in Jamaica for sedition and imprisoned at the St. Catherine Adult Correctional Centre for three months. He went to the United States to

spread his message on a much larger platform, preaching economic independence and self-reliance for blacks. The United States officials also disapproved of his teachings and imprisoned him for mail fraud and then deported him.

Mr. Speaker, the trial tarnished Garvey's reputation, slowed his global movement but did little to diminish the impact of his message, which struck a chord in the hearts and minds of black people worldwide. For his contributions to the upliftment of his race, Garvey was named a National Hero, but in the court records, he is still a criminal.

- In 1983, then Jamaican Prime Minister, Edward Seaga, asked President Ronald Reagan to grant a full pardon to Marcus Garvey on the 1923 charge of mail fraud.
- In 1987, US Congressman Charles Rangel introduced House Resolution No. 84 to the House Sub-committee on Criminal Justice in the US. The Resolution called for the exoneration of Garvey on mail fraud charges. To date, Marcus Garvey has not been exonerated.
- And last year, our own Senator, TOM TAVARES-FINSON, during his budget presentation called for the names of our National Heroes, including Marcus Garvey, to be expungeD from Jamaica's criminal records.

The good Senator noted that and I quote:

> "The acts they committed were not criminal acts, the acts were of liberation with abundant, moral justification".

(Applause)

Mr. Speaker, today I wholeheartedly agree with those before me to have Marcus Garvey's name cleared. And it is my pleasure to present to you, Mr. Speaker - and I'll ask the Orderly to just..... The transcripts from the trial of the RT. EXCELLENT MARCUS MOSIAH GARVEY - I am presenting to you with pleasure, sir, copies of the transcript, four volumes, (Applause) and I ask that those be kept in the Library in Parliament. (Applause) And I also have a set for the Prime Minister and a set for the Leader of the Opposition. And I ask that you join me in the advocacy to have the name of Marcus Garvey cleared, both in the United States and in Jamaica.

Thanking you, Mr. Speaker.

(Applause)

The SPEAKER: Mr. Hylton.

Mr. HYLTON: Mr. Speaker, this particular action by the Minister in presenting - in having the transcripts of the trial bounded and submitted to the Parliament and to both sides of the House, I think is a gesture and a commendable gesture. It carries forward though a bipartisan, what now is a bipartisan effort to have the name of the RT. EXCELLENT MARCUS MOSIAH GARVEY cleared of criminal charges.

The records are clear that when we sat on that side of the House this effort was joined by the Opposition Leader in her effort to move that process along. I know for a fact that I was instructed, given a mandate to enjoin and to have discussion with Congressman Rangel and other members in the US establishment to move this effort and to ensure that the records are expunged of what we consider on this side to be - and I share the description by

the Congressman that these are moral acts, acts of justification and these in no way, in the context of today's understanding and a post-1923 environment, that these would not and should not have been considered criminal acts. And we support the effort of the Government to continue that struggle to ensure that the name of our first National Hero be cleared.

(Applause by both sides)

The SPEAKER: Miss Lisa Hanna.

Miss HANNA: Thank you, Mr. Speaker. I want to just air my own commendation on the part of this noble gesture.

Marcus Garvey, not only is our National Hero, he is a global national hero certainly, in the Pan African Movement and for a number of other persons who have been following his work and his vision and his mission. And I believe that those of us who have read Marcus, and have followed his life, certainly the younger ones of us, recognize that he was a man before his time. And he really took the words of, liberation self-esteem, hard work, ambition, freeing yourself from mental slavery, productivity, to levels to the four corners of the world. And sometimes I still don't believe that we really pay him the kind of service that we ought to pay him as a country and as a people. And I believe that this gesture, this reality that is now before us, put squarely on the table whether or not we will move in a manner that will prove to the rest of the world that we will definitely embrace him and pay him the kind of commendation that he truly, truly deserves. It is that time. I want to assure the current administration that this side has been working to try and make that a reality. Certainly, we will do our part to make sure that his legacy and his name be exonerated from criminal charges.

Thank you, Mr. Speaker.

The SPEAKER: Thank you, Miss Hanna. Leader of the Opposition, Mrs. Portia Simpson Miller, you had intimated . . .

Mrs. SIMPSON MILLER: I will yield.

The SPEAKER: She will yield. Mr. Mullings then.

Mr. MULLINGS: Thank you, Mr. Speaker. Mr. Speaker, firstly, this is long overdue. I want to commend the Minister and, of course, the Opposition; because what we are seeing now is the need firstly to exonerate him locally. We have to do that.

(*Sotto voce* remarks by Rev. Thwaites)

Mr. MULLINGS: We have to do that. And so we are going to do that. And I am sure we are going to do that to exonerate the name of MARCUS MOSIAH GARVEY locally. But, you know, Mr. Speaker, how history can come to be an indictment on the present. It is so sad that in 2011 so many of our people are convinced that they must lighten the shade of their skin to be recognized. (Applause) And I dare say that what we need to do is to reinforce now the understanding of our heritage, of our blackness, which was done so many years ago but somehow we have gotten lost in the shuffle to find those things that define us. And you know, Mr. Speaker, what we find now is that so many of our young people are seeing the material well-being, the bling as defining them. We have fallen short because we no longer see, some of us, as intellectual pursuit or hard work as defining

you as a success. And so what we find is that our ancestors are being denied their rightful place by the actions of some of us in the present.

Mr. Speaker, let us move now to clear that record, move now. If the United States wants to drag their feet, well then that is an indictment on them. And I dare say it might very well stand, as indeed a medal of honour, if they fail to clear his name in the United States in that era. (Applause) But let it be said that we dragged our feet in doing what is right.

Thank you, Mr. Speaker.

The SPEAKER: Thank you, Mr. Mullings. Rev. Thwaites.

Rev. THWAITES: Mr. Speaker, the former speaker made substantially the point that I wanted to. But I would like to add, Garvey is not the only National Hero with outstanding convictions which need to be attended to. Both Paul Bogle and George William Gordon were convicted by trumped-up charges of court marshal and indeed sentenced to death, and we should look toward that too and indeed examine all of the records of our national heroes to make sure that we take that simple deed of righting the history, according to what we now know to be true, rather than allowing the official records to misrepresent the valour and honour of those men. (Applause)

The SPEAKER: Mrs. Simpson Miller.

Mrs. SIMPSON MILLER: Thank you, Mr. Speaker. Let me thank the Honourable Minister and I am sure that all of us on this side will be eager to read the transcripts of Marcus Mosiah Garvey.

I would like to recognize the work of Congressman Rangel in the United States of America, who has been trying for a long time now to have the name of Marcus Mosiah Garvey, our first national hero cleared in the United States of America. (Applause) I think it is good. It is noble. I think that Marcus Mosiah Garvey, for a number of us, his work, his role, and the fact that he tried to lift the self-esteem of the masses of the people of this country and challenged us to be aware, all of us, of our history and of the role our ancestors played so that we all can be sitting here as free men and women. (Applause) It's important and it's critical. And no wonder he said "that a people without knowledge of their history is like a tree without root." I think that it is important and if anything we should be pushing earlier, not later, for something to be done to clear the name of our first national hero, Marcus Mosiah Garvey.

And so I would like to say to the Minister, the Opposition is on board. I had discussions with Congressman Rangel when I met with the Black Caucus and raised the issue again with him. And I want to commend you on getting the transcript so that we all can go through. And I hope that both Government and Opposition will push seriously for Marcus Mosiah Garvey's name to be cleared in the United States of America. And thank you very much. And I think that we should make another move in terms of the people of Jamaica understanding the role he played.

And I do not believe that in terms of our National Heroes we are teaching enough about them in the schools, in the education

system. (Applause) And if as a people we don't know where we are coming from we will never be prepared to know where we want to go. And I really believe we should take it seriously. I think it was Heroes Day and they were asking on one of the radio programmes about the national heroes and very few could say anything about them. And one person said the only thing I know about Nanny is that *dem seh she tek* her bottom and catch shot. (Laughter) I am very serious about it. We cannot have our people living in ignorance of our past and those who played a very important role and paved the path for us, even as legislators, to sit here this evening with pride as proud Jamaicans being able to lead our country. And so I want to commend the Government and to give the assurance that the Opposition is in full support; and anything we can do as an Opposition we will do to clear Marcus Garvey's name.

But I want to make an appeal to you, Minister of Education, for us to ensure that Marcus Garvey be taught in schools (Applause) and that students, it must be compulsory that they know about and understand the role our national heroes play to the development of this country and also slavery, where we are coming from and where we are today, and why we are where we are today as freed men and women.

Thank you.

(Applause)

The SPEAKER: Thank you, Leader of the Opposition. Yes, Miss Grange.

Miss GRANGE: Mr. Speaker, I just want to thank all the speakers for the support that they have given to the two statements I have made. They are not controversial. They are matters that we should be united on. And I look forward to their continued support when I come back to Parliament with the resolution to make sure that from Jamaica's standpoint we clear the name of our national hero.

Thank you, Mr. Speaker.

The SPEAKER: Good! Thank you, Minister Grange. Minister Holness. Could you circulate it, unless you want to circulate your iPod. (Referring to the Minister Holness' statements)

Mr. HOLNESS: Very soon, Mr. Speaker, all Members of Parliament will buy their own iPods and then we will merely just email it to them. We will save a lot of paper. I have statements here, Mr. Speaker. I am going to ask for the indulgence of Members here today. The statement is not very lengthy but…

Dr. DAVIES: Not very what, not very substantive?

Mr HOLNESS: But it is a matter of some importance. You know, Marcus Garvey, Mr. Speaker, wrote quite a bit about literacy and the black race and the importance of the acquisition of knowledge as a means of liberation of the mind. That is a lofty philosophical ideal. I agree with the Leader of the Opposition that Garveyism as a school of thought for nationhood should be specifically and independently dealt with in the curriculum in schools. It is not so done today. But that is not to say, Mr. Speaker, that it is not addressed in various windows in the curriculum. Certainly, it is addressed in social studies and in history, West Indian

history, but it is not specifically treated with.

But to actually take that lofty ideal and to implement that in a practical sense, governments have to focus on the cognitive development of their society or, put another way, on literacy. And I speak on this more than I speak on any other topic. But I don't think that the nation should forget that Jamaica is not a fully literate society and that there are other societies within our region that have, in the last 30 years, advanced very close to full universal literacy or have achieved universal literacy. Certainly, Cuba has done so 50 years ago, Barbados is close to, if not there already, Trinidad is very very close to that. Jamaica, we have varying statistics, and I am not going to quote what they are, but they range from anywhere from 67% to 90%. It's very difficult to say what it is.

We have started an engagement with UNESCO to do a national adult literacy survey under a programme called LAMP. And for the first time, Mr. Speaker, we will have a very good measure of adult literacy in the population. There was one recently done by **the Survey of Living Conditions** which placed the literacy levels very high. But the truth is, Mr. Speaker, that you have to first of all establish what are the literacy standards needed for people in your society to be able to access information, manage data and to be, as we described it in education terms, functionally literate.

Mr. Speaker, it is with this background in mind and before I proceed, Mr. Speaker, you will allow me to acknowledge my *alma mater*. It is the largest single shift school in the Caribbean and you can see, Mr. Speaker, that they have filled the House today.

Mrs. NEITA-HEADLEY: St. Jago.

(Applause by Members)

Mrs. NEITA-HEADLEY: St. Catherine High School, St. Catherine High. Mr. Speaker, this month….

Mr. JACKSON: You haven't given the name, you know.

Mr. HOLNESS: St. Catherine High.

Mr. JACKSON: Okay.

Mr. MAIR: You feel good, Fitz.

Mr. HOLNESS: This month thousands of Jamaican children will take the most important test of their lives. Over fifty thousand Jamaican students will compete against each other for thirty-nine thousand two hundred and twenty-one high school places. Over fifty thousand Jamaican students, Mr. Speaker, will compete for thirty-nine thousand two hundred and twenty-one high school places. Of this number, approximately thirty-five thousand five hundred will compete for nine thousand two hundred places in Traditional High Schools. Clearly, the competition for space is intense and the competition for preferred places is fierce.

Mr. Speaker, approximately ten thousand students will not make it directly to the path of full five years High School education, something which all of us in here benefited from. Given the limited available physical space in high schools some students will be excluded. However, exclusion from full secondary education is not merely an

infrastructure issue. Quality and achievement plays a significant role in the Jamaican competitive systems of determining how scarce high school places are rationed. Even if there were enough school places a significant number of students would not benefit from high school placement because they're simply not ready to access a secondary curriculum. Illiteracy is the main barrier to access at the secondary level.

I want to bring again, and I did so before, to the nation's attention a passage that was written by UNESCO in a Report on education in Jamaica twenty-eight years ago. And I'll quote the passage, Mr. Speaker, it says,

> "primary education is where the basic aptitudes and knowledge are supposed to be acquired laying the basis for all that follows after. The fact that about one in every two primary school leavers is considered illiterate is alarming".

That was twenty-eight areas ago. I've seen statistics being bandied about saying that one in every primary school leaver today is illiterate, that is not the case.

(HON. LAURENCE GEORGE BRODERICK, (JLP) Clarendon, Northern, Minister of State in the Ministry of Energy and Mining entered and took his seat.)

Dr. DAVIES: One in what?

Mr. HOLNESS: One in every two. I've seen that statistic being banded about. That is not correct.

Dr. PHILLIPS: So what is the figure?

Mr. HOLNESS: It's now one in five; it's now one in five. One in five. Twenty-eight years ago that was true when the UNESCO Report on Education in Jamaica which I'm sure the former Minister of Education would be familiar with, a profound statement. It says it suggests massive inefficiencies in the delivery of primary education that have serious ramifications for secondary education, vocational training and the labour market. The root of the problems we're seeing starts at primary. It also means that a good deal of effort as well as public funds invested in primary education have gone for naught. I mean if your turning out half of the students, clearly you're not getting value for money, if half of your students not literate, at the time.

Through the remedial efforts in secondary schools the students, in effect, are learning what they should have learned in primary school. But this represents a duplication of effort as well as serious time delays in teaching schedules. Much of what should have acquired in Grades 7 and 8 has to be put off until the student has reached basic literacy and numeracy - has acquired the basic literacy and numeracy skills or it may never be learnt. That's the challenge we face in education, Mr. Speaker.

The challenge is, and the sentiments that were expressed twenty-eight years ago, Mr. Speaker, remains true today. Inevitably the secondary schools in which these students, these challenged students are placed, will end up diverting from the secondary curriculum to conduct remedial teaching. Where illiterate and low-literate students comprise the bulk of the school population then that secondary school will be nothing more than an advanced primary school. If at the end of secondary school, these students without the requisite skills in place to keep up with the curriculum, and then they are required to sit the same exit

examinations as we see at CSEC/CXC exams, then there will be a huge performance gap when compared to students who are able to keep on track with the curriculum from the start. This is the root of the two-tiered secondary education system.

The Ministry since 2008, Mr. Speaker, has been sensitizing the education system, our stakeholders, and the general public of the move away from automatic promotion. And I want to emphasize that point; that there is a policy shift in the Ministry of Education away from automatically promoting students to a new policy called Competence Based Transitions. This is a fundamental shift in education policy, and literacy is now a requirement for accessing secondary schools. The Grade 4 Literacy Test is the main standardized measure of literacy and now the critical test for transition from primary to secondary schools.

A MEMBER: Hear, hear!

Mr. HOLNESS: The test comprises three sections: word recognition, reading comprehension, and a writing task. Student's performance is categorized at three levels: mastery, near mastery and non-mastery. Now, I noted in the newspapers recently, Mr. Speaker, where one writer was saying that the bulk of the students who did not master were in the category near mastery and therefore, we should allow those students to sit the GSAT Exams.

Rev. THWAITES: The mastery is too low.

Mr. HOLNESS: Just to explain, Mr. Speaker.

Rev. THWAITES: The mastery is too low.

Miss HANNA: Hear, hear!

Mr. HOLNESS: To attain mastery, you have to master each sub-test of the test. A student who is in the category near mastery would have mastered either one or two. And a student in non-mastery didn't master any of the subtests at all. So we couldn't very well make a conclusion that a student that is in the category near mastery, Mr. Speaker, would be literate. The student must master all three. Students at that age, age eight, should be able, Mr. Speaker, to recognize words, should be able to put the words together in a sentence, read them, and comprehend what is being said. And that student should be able to write what they comprehend, at age eight. That's the basic minimum level of literacy. And once we establish that a child at age eight can do these three simple tasks, then you don't have to worry about the literacy development of that child, that child is automatically on course to becoming an independent learner. So that is the basic measurement, Mr. Speaker.

Mastery of the test indicates that the student is functionally literate and has developed all critical skills necessary to acquire knowledge. That's what mastery indicates. It effectively shows that the student would not be at risk of being illiterate at Grade 6. All students are now required to register at grade 4 for the Grade 4 Literacy Test which was nationally administered for the first time in June 2009. National administration of the test standardizes the marking process, removes variations in assessment, and increases confidence in the integrity of the results.

Mr. Speaker, at this point I want to point something out. Last week, and this week as well, I was able to circulate to Members of the House, Members of the Honourable House a profile of the schools in their constituencies and their literacy performance over the last five years. Very important, Mr. Speaker. Because now the Ministry has adopted a position that we are individually tracking the literacy development of each student; we're not leaving it up to the schools and we are trying now, Mr. Speaker, to bring in the stakeholders to engage them in the process of tracking the literacy performance of their schools. So the Ministry is tracking schools but we're also now tracking students. And we are encouraging the Members of Parliament to assist in tracking the literacy development of their school. Work with your principal and your Board Chairman, encourage you teachers, assist them with resources as you can. The greatest investment you can make in your constituency is to educate your people.

(Applause by Members)

Mr. HOLNESS: Mr. Speaker…

(*Sotto voce* comments by Dr. Davies)

Mr. HOLNESS: They will see the light.

Mr. Speaker, recently we launched the new programme called the National Students Registry, it is a new programme where we are registering all students nationally, starting from Grade 1 at primary schools. So those of you here who would have kids at primary school would see that from come home from the Ministry of Education and you would be required to give all the details about that child. It is very important so that we can track. Because what we are discovering is that, there is an unaccounted for number of students that we know nothing of, so we can't plan properly for their nutrition benefits, when it comes to exams we don't know how many scripts really to print, it is very difficult to order books because there is a number of students there who we simply cannot track, cannot identify. And we are picking up this now with the Grade 4 Literacy Test that we started in 2009, with 50,000 students - private schools as well are being tracked, so private schools are a part of the National Schools Registry - but we are discovering this because at GSAT, all students have to register nationally. So we would register this year, approximately 50,000 students at G SAT. But on the day of G SAT, you will find students turning up to sit the exam who did not register at all and it always creates a problem.

So, Mr. Speaker, we are now trying to capture all our students so that we adequately plan for them and track their progress in the society.

Mr. Speaker, it is now compulsory that all children in Grade 4 must be registered and sit the Grade 4 Literacy Test administered by the Ministry of Education in June each year, screening is not an option. Before, Mr. Speaker, principals and parents would make a determination that a child isn't ready and therefore, the child is withheld from the exam. Now, screening is not an option. All children must go through the Grade 4 test and the Test will give us an accurate picture of what literacy is in the entire population cohort at Grade 4.

(Applause)

All children in Grade 5 who are not certified, Mr. Speaker, well - they would sit this in Grade 4, we don't, Mr. Speaker, hold them back at Grade 4, if their level of literacy is such that they fall in the category of near mastery, they are allowed to go to Grade 5. But they go to Grade 5 with a level of intensive support, pull out and intervention which allows them to use the curriculum that they are exposed to at Grade 5 to develop their literacy skills.

Mr. Speaker, students have four chances at the Grade 4 Literacy Test to attain mastery, four chances. The Government has said, Mr. Speaker, 100% literacy, as the goal for primary school. And let me explain what this goal is. Some persons have said it is overly ambitious, it is not attainable. I must say, Mr. Speaker, one of my greatest disappointment so far, was to have a conversation with a principal whose view it was, that 100% literacy, universal literacy, literacy of the educable population is not possible. To me, Mr. Speaker, that was a defeat for me…

(*Sotto voce* comments by Members)

Mr. HOLNESS: Because, there is all kind of views as to why it is not possible. But other countries have achieved it, Mr. Speaker, where the educable population that is, your population that is not stricken by severe learning needs or severe physical impairment, people who are normal people, are able to learn normally. But there are people who believe that not everyone can learn and they are in the education system, they are in the education system. So there is this kind of philosophical conflict in ideals as to whether or not education is for everyone. And of course, Mr. Speaker, I take the view and it is very important to note that that was the tag line coming from the previous administration which we maintain. Every child can learn, every child must learn. That is an important message that the nation must buy into and understand. Every child can learn, and every child must learn.

(Applause)

Mr. Speaker, let me just give a quick up date as to where we are. When we sat the test first in 2009, Mr. Speaker, 70% of students attained mastery. When that cohort of non-mastery sat again 4% attained mastery. And by the end of the fourth sitting for that cohort, Mr. Speaker, cumulatively they attained 80%. So where we are now, Mr. Speaker is that the cohort who sat it in 2009 and then they sat it again, and sat it again, and sat it again, so they are now at the point of sitting G SAT; 80% of that cohort mastered the Grade 4 Literacy Test, started at 67%, right.

So really where we are now, Mr. Speaker, you are seeing now clearly that you have now identified your problem cohort, your cohort that needs special attention.

(*Sotto voce* comments by Members)

Mr. HOLNESS: Precisely, your hard core that needs attention.

But, Mr. Speaker, for the cohort that sat it in 2010, and this is very good news, even though the first sitting results was 67%, on the second sitting, Mr. Speaker, we are now already at 80% with two sittings left to go. So I am strongly of the belief that with the two additional sittings, this cohort when they are ready to exit primary school we could safely say that between 85% and 90% of that

cohort would be literate at the Grade 4 level, age 8 at least.

So if you follow this…

(*Sotto voce* comments by Members)

Mr. HOLNESS: Yes, they get remediation.

So if you follow this trend, Mr. Speaker, by 2015 we should be able to say to the Jamaican society that the primary education system, is not turning out illiterates, and if we maintain that for the next 100 years, Mr. Speaker, then clearly the Jamaican well not even a hundred years, well if we maintained that for the next 30 years, you would eliminated adult illiteracy in your working age population. That is to me, Mr. Speaker, fundamental achievement, we are not there yet, but I am confident that we are very close to achieving that specific goal.

Mr. Speaker, what of students who, after sitting the test four times they are now at Grade 6, they have not attained mastery what of those students? We have designed, Mr. Speaker, a programme called, well call the Alternative Secondary Transition Education Programme…

(*Sotto voce* comments by Mr. M. Peart)

Mr. HOLNESS: Well, if you don't like it, it is too long, just simply say ASTEP, ASTEP Programme, the Alternative Secondary Transition Education Programme (ASTEP).

Mr. Speaker, there are 6,000 students, 6,200 students I don't have the exact figures here with me; 6,200 students there about that would have taken the Grade 4 literacy test four times and are now at Grade 6 in primary schools. These are the students, Mr. Speaker, who clearly have issues relating to either environmental issues meaning problems in

their households, problems in their communities, students with moderate to severe learning disabilities and then students with self-esteem and motivation issues. That is your core that you have to focus on. And these students, Mr. Speaker, will be addressed, their needs will be addressed in the ASTEP programme.

The ASTEP programme will basically identify under-utilized centres in various geographical areas. So for example, a primary school that is under populated will become an ASTEP centre. That is where we will move the excess capacity of students who have not mastered and we will better utilize, the under-utilized capacity in those areas. Then, Mr. Speaker - so there will be those students would immediately have a change of environment. Then, Mr. Speaker, we would now focus our literacy coaches in those centres. So they will be working with the teachers, showing them the special methods of dealing with students who are slow learners as we call them in the Jamaican context, or who have certain learning challenges that require special pedagogical strategies. Then, Mr. Speaker, those students will be accommodated in a class size that is smaller than the class size in general education. No more than one to 25 it probably will be smaller, but one to 25 will be the maximum for the ASTEP centres.

Mr. Speaker, we would be better able to focus on the environmental factors that affect those students, so the counseling resources will be made available to them for those who

parental problems, those who have all kinds of other social problems that affect them.

Mr. Speaker, they will spend two years in the ASTEP Programme. They will be assessed at regular intervals. The curriculum will focus on Math and English. They will be exposed to other areas, but the other areas will be used to reinforce the principles and concepts that they need to learn in Math and English. Once they have attained a level of mastery based on the assessment that would justify their transitioning into a high school, they will be manually placed, Mr. Speaker, in a secondary education institution.

The benefit of this, Mr. Speaker, is that presently, students who don't master - and we don't know if they don't master because we haven't test them, but students who certainly get an average of 30% or lower on G SAT they are placed in the all age schools. Students who get an average of between 30% and 40% they more than likely would end up in a junior high school. Some Junior High Schools get higher grades even up to 60% average on G SAT. But the truth is, Mr. Speaker, that when you end up in the all age school and the Junior High School you are only guaranteed three years of secondary education. There is the Grade 9 Achievement Test which transitions you into a full five year high school but you transition at Grade 9, if you do; and sometimes if you enter into these school you don't get a chance to get to go up to CXC because that curriculum is very broad and you were only being focused narrowly.

With this new strategy, Mr. Speaker, we now able to guarantee students a longer time in secondary education by; (a) focusing on them early, focusing on them in an intensive

fashion and then transitioning them earlier in the high school period so that they get that 7, 8 and 9 Junior High School education that will prepare them to take on the CXC syllabus.

So, Mr. Speaker, all in all, we believe that this strategy is a fair strategy. We believe that it will redound in many ways for the benefit of the education system. Certainly high schools will not have to contemplate getting students who are below the curriculum that they are required to teach and which is the problem. The high schools have to take students that they have to redirect their resources to deal with remediation issues and therefore they start to fall behind the curriculum. By the time they reach to Grade 11 for CSEC they are certainly no where near CSEC. So we would have solved that problem.

Mr. Speaker, there are concerns of course. Some parents may feel that they are being denied the opportunity to sit GSAT. My advice to such parent, Mr. Speaker, is that the only reason why we have a GSAT exam is because we don't have enough spaces and we need to find a way to ration the spaces.

(*Sotto voce* comments by Members)

Mr. HOLNESS: Well, that is the only reason why we have it. And the problem with the society, Mr. Speaker - and I am going to make this general statement, it is not written here but I am sure **Hansard** will record it - is that the structure of the Jamaican society reflects our rationing of education. The structure of the Jamaican society in other

words, the social hierarchical structure of the society reflects the rationing of education.

And we have re-enforced…

(*Sotto voce* comments by Members)

Mr. HOLNESS: Well, it could be the other way around, it could be the structure that - but what I am saying is, that if we are going to change the social hierarchy…

(*Sotto voce* comments by Members)

Mr. HOLNESS: They have far to go. Mr. Speaker, there is much to be said on how we ration education in Jamaica. The idea behind this is to eventually make all students do well at GSAT. If all students do well at GSAT then GSAT as a rationing mechanism would fail. In other words, you couldn't use it to rank students because the grades are so close together, and we are seeing that happening already, Mr. Speaker, that the national average keeps moving up and up and what is required to get into a preferred place, the competition is getting more intense.

The solution, Mr. Speaker, is yes, we need to improve quality and we have started to improve quality at the primary level, but more so, Mr. Speaker, we need to build more secondary schools. We must build more secondary schools. And I will be coming to the House shortly, Mr. Speaker, with a plan for our 50th anniversary as to how we can increase the number of spaces.

I close as I started, there are 50,000 Jamaican students, there are only 39,221, secondary school places, 35,000 of that 50,000 want to be fitted in, into 46 traditional schools that only have 9,200 places. That is the nature of the problem. So whilst we are improving quality, we are improving literacy which will give them a right to access secondary, on the same hand, Mr. Speaker, we must build more schools. I close with that, Mr. Speaker.

The SPEAKER: Thank you. Mrs. Maxine Henry-Wilson, then Mr. Peart, then Doctor Phillips.

Mrs. HENRY-WILSON: Minister, I don't think any of us in our right minds would oppose the literacy goals and would not have the level of concern about the levels of literacy. But I think there's no gainsaying that the societies that have achieved literacy, they have not only emphasized - or literacy is not just a function of the classroom. It is a function of the wider society. The Centres for Excellence for Teacher-Training Programme demonstrated that. And we have not sustained that programme. And one of the issues would be, what is the plan to sustain that kind of literacy environment so that students are not just learning in schools and by the time they reach home, I mean, all of that has been eroded. So the question of literacy as a national effort is an issue that I would like us to speak to.

Secondly, you made the point about every child can learn. I think we all fervently believe in that. But have we taken account of the fact that in every population, 20% of the children have learning challenges. And I'm not here talking about learning difficulties. I just want to give an example. There's a student who got First-Class Honours at the University of the West Indies. When we were taking her into the Graduate Programme, she pointed out to us that she's an auditory learner. So she cannot learn in the ordinary way. And we had to find special facilities for her. We had to do that with some GSAT students who are auditory learners.

Our system has never taken account of the fact that children learn in different ways and in different environments. Those children who have not mastered, have we done any tests to find out what their learning abilities or disabilities are? And if not, are we not just then shunting them aside rather than looking at the root cause of the issues. So the issue of special ed interventions you only have one institution, Mico, that deals with that. And we were supposed to have set up other counterpart institutions throughout the island. So what is the strategy for acknowledging that children learn in different ways and that we therefore have to have classrooms that are organized in different ways.

My third issue would relate to the fact that when we built the primary schools initially, we had provided there several what we call, windows, where we could take out children from an early age and deal with them in terms of whatever special education needs they have. Are we putting back these windows in the classrooms - in the schools - with the appropriate resource persons so that we can catch that from Grades 1 and 2, rather than waiting until Grade 4?

And my final issue will have to do with my concern about creating another dual system where some children who may have very legitimate learning challenges are being put in one system and other children are going the other system, bearing in mind that there's also a social issue that either engenders or retards literacy.

Mr. HOLNESS: Member, all your questions are very pertinent. And you will acknowledge that were I to come here with a comprehensive...

Mrs. HENRY-WILSON: May I say, sir, this is what I want...This is such an important thing. I am surprised that we have gotten forty-five minutes in which...I mean, this is a fundamental shift in the way in which we are trying to structure and organize this thing. And I think - we need to have a debate on this and to look at if the MPs are to be involved in trying to solve this problem, look at really how it is going to work. I mean I must say I was very amazed that we got five pages to look at in such a short period of time with what is really a fundamental shift.

Mr. HOLNESS: Just to be clear, Member, that I had presented this in Parliament before...

Mrs. HENRY-WILSON: No, no, no!

Mr. HOLNESS: Yes, I have, in my Sectoral presentation. And last statement, I handed out a document...

Mrs. HENRY-WILSON: Yes.

Mr. HOLNESS: ...and that document was the National Literacy Strategy.

Mrs. HENRY-WILSON: Yes.

Mr. HOLNESS: Very comprehensive document which would answer most of your questions. But let me just go back again because I've been doing this in bite size chunks so that we can get the attention, get the focus out. Now, within that literacy strategy - within the literacy strategy, you will see that there are two problems and you could describe the problem as a flow of illiteracy and a stock of illiteracy. This strategy is to curb the stock, to just address this, the stock of illiteracy. There is another strategy, which I will come with again, that deals with the flow. And just quickly, the first part of tracking that flow is to give them unique

identifiers, early assessment. This year - well it starts... Three years now, we have conducted - and you know about this, Member, the Grade 1 Individual Learning Profile. It is not a test.

(Inaudible comments by Mrs. Henry-Wilson)

It brings to the table information on the child's ability. Where they are when they enter the system. It helps you to plan your teaching strategy for each child.

Then, Mr. Speaker, we do the Grade 3 Diagnostic. And that is where you really get information of the child at risk and you try to correct. Grade 4, Mr. Speaker, is the point of accountability where we expect the teachers in the school to use the information from the test - those are the three sub-tests to focus their teaching strategies on the students' weaknesses. So it is not that we are trying to correct it after the fact. After the fact, is the stock that we have there now which we are trying to deal with and this is the strategy to deal with that. But we are preventing the flow by managing literacy from the start. Several things we have done. We have just taken the policy decision and we are starting the implementation that all Grade 1 and Grade 2 classes should be organized for corporative learning. That takes a little time because it means we are going to have to now buy new furniture, organize the classrooms differently.

Mrs. HENRY-WILSON: Bigger classrooms.

Mr. HOLNESS: And you may have to go...Not necessarily bigger classrooms. But those things take time. So the learning - the decisions...

Mrs. HENRY-WILSON: Yes.

Mr. HOLNESS: ...about making sure that those early years which are really early childhood years, that they are actually treated in that way to increase the stimulation of the child, that's a decision taken already. It will take a year or so to actually hit the ground in the classroom because it requires changing furniture and the like.

We have also, Mr. Speaker, taken a decision for those students... The Member asked the question. Are we going to assess the students on the ASTEP Yes. They are assessed constantly. The Member from St. Andrew South has a programme called. The Basics Initiative. And I must congratulate the Member because he spends quite a bit of time...

(Applause)

(Inaudible comments by Dr. Davies)

Mr. HOLNESS: No, I've read the programme. I've read the programme. Yeah, we've taken...In other words, you know, whatever makes sense. That's my philosophy. So we have taken the programme, we have read the programme and that programme... And your better half is probably who advised you on that programme.

Mr. MULLINGS: Better three-quarters.

(Laughter)

Mr. HOLNESS: Better three-quarters. Now, that programme, Mr. Speaker, emphasizes the whole business of consistent assessment. So we are....

[POWER OUTAGE]

...just declaring that we are not putting aside any student. The whole purpose is to indicate transition as soon as they are ready, not to

keep them there. The idea is to empower them so they get an early start to the secondary.

The SPEAKER: Can **Hansard** hear? May we suspend, Members, until the power returns.

The House accordingly suspended its sitting at 4:10 p.m. due to a power outage.

RESUMPTION

The House resumed its sitting at approximately 4:12 p.m.

The SPEAKER: (Gavelling) Okay, Members, the sitting of Parliament has resumed. Mr. Peart was due next, but, Doctor Phillips, would you like to ask a question?

Dr. PHILLIPS: Thank you, Mr. Speaker.

I think all of us, as has been said before, all of us can come together, not only in this House, but I believe in the country, to support any effort to achieve universal literacy and any effort to improve the quality of education given in our school system. (Applause) And certainly, I appreciate the pattern of regular reports that are being offered. Though I would lend my support to the suggestion from my colleague and friend from South-East St. Andrew, that we could benefit from a full debate, not in a contentious way, but in a way that would provide more opportunity for us to explore a lot of the issues that are involved.

In that regard, I have a particular question for the Minister in that what the document...what your Report suggests to us is that there are a series of measures which are really administrative measures that are being put in place to ensure that people don't go through without meeting the standards. But the risk thereby entails, just left to itself, is that the penalty is applied - if penalty is the right word - but on the students, eh, who at each point may be short-served by the system

in various ways but is going to be held back, is going to not get an education in the worst case. And my question really is, do you have an analysis in the Ministry as to the factors which account for the lower levels of performance, particularly in this 20% who don't achieve mastery?

Because there can be a number of factors: the absence of adequate teaching contact hours, the absence of learning materials or teaching materials, the problems in relation to nutrition, or it may be that there is no reinforcing domestic environment at the home encouraging the students to develop a positive attitude towards learning.

The first question is, do you have an analysis as to the factors accounting for the low performance levels? And then secondly, apart from the administrative measures, can you tell us more about the actual remedial effort at the level of teaching and operations in the school, if you have it available to you, that are being undertaken. Because that would help both things would help the Members of Parliament and other stakeholders in the community being able to try and influence in a positive way what is happening.

A final point, Mr. Speaker and Minister. I know today is not the day when you are going to tell us when we will get sufficient secondary school places...

Mr. M. PEART: And primary.

Dr. PHILLIPS: ...and primary school places in the country. I share with you the

view that this is an urgent task. And in listening to your telling us that you are going to make a report about a 50th Anniversary of

Independence effort, there is an element which I believe I would certainly want to underscore here…

[POWER OUTAGE]

…what we have been doing over many, many years, administrations drawn from both sides. I am not making it political right now. We have been augmenting the size, expanding existing secondary schools and we have gone to the point in many of them where the schools are simply too big to provide an effective learning environment. And I would hope, in whatever measure is being undertaken, we don't go to the point of schools of 2,000, 1600 plus in those institutions. Too many students fall through the crack at the secondary school level. It exacerbates the discipline problems and you don't have the kind of personal interaction between student and teachers, which is so necessary for an effective education. So I would implore you that in making the provision, make us …. build more schools, despite the cost, rather than simply adding to the size of the already unmanageable secondary institutions.

Mr. HOLNESS: Mr. Speaker... such as microphones and amplifiers...

I was making the point, Mr. Speaker, that the amenities that attend our modern existence were not always here and our forefathers would have conducted business in the General Assembly, or the Legislative Assembly at the time without.

But, Mr. Speaker, the Member has raised some important questions. Just to be clear, Mr. Speaker, we do have an analysis of the causes I don't have it here with me and I

wouldn't venture to give you statistics. But one of the major problems for literacy which goes back to the point of from the Member, the former Minister of Education made, is this whole business of psychosocial nature of literacy development. By that I mean that certainly I know when I was growing up my grandmother and my mother and my father was there, a, b, c, d, talking to you, helping you to read; the family played a part and said to you subliminally, learning to read is important, education is important. Nowadays we make an assumption that if a child can speak then the child can read. And that's a fatal assumption. So many parents don't bother to go through this very difficult process of learning to read. They hear the child speaking and they say, oh, that's fine. But we are not born as readers, we have to learn to read. And it is how the society organises itself to promote this as a social value, the psychosocial importance of literacy.

So one of the important things is, as you have said, the parallel re-enforcement of the household with education. And that is the greatest failure that many parents don't have the time, some are not literate, some just don't understand. That to me is the greatest problem.

The second greatest problem is of resource. And the resource constraints come mainly in your class size, your teaching material and in the competence of teaching at that level. Those are the three main resource

constraints, because you would have to go now and retrain the entire teaching cohort to be able to teach according to how the child

learns. The Jamaican teaching philosophy, though it is changing, and I must say that, that it is changing, but the prevailing philosophy is that the child has to learn according to the mainstream teaching. Teaching is changing now to be more inclusive and to focus on the individual need of the students. So the new teachers and some of our teachers who are already in the system, they have been sensitised to the need that they have to identify the special learning needs of the child and teach to that learning need.

Very difficult to do when you have forty children to consider, major problem. So those are the real issues that cause the problems for us as it relates to literacy. And we are trying to deal with them as best as we can. You are right we have taken the administrative steps. That's very important, because there has to be accountability in education.

For too long students just pass through the schools, get into high school, leave high school and then after they leave high school they discover they can't read. Then what were we paying for?

Now accountability - and you will recall, Member, that earlier this year I came to Parliament with the National Education Inspectorate, and we explained that this system of literacy management has a built in accountability phase. A part of generating this whole national discourse is the publishing of the results, the setting of targets and holding the principals accountable for the targets. I can't hold principals accountable, I hold Board Chairmen accountable and the Board Chairmen have to hold their principals accountable

So one of the things we judge principals at the primary level on is their literacy performance. So the first year we said is the year of target setting. We set the benchmark and we set your national targets. The second year is the year of assessment: What did we do wrong why we did not attain our targets. The third year is the year of action, which is next year, where I will be writing to Board Chairmen to say the principal and teachers in your school did not attain their targets. Start the process of finding out whether or not the nonattainment was due to negligence, due to improper teaching strategy. In other words, that is the accountability process. Within that process you will begin to identify your issues. I will have a better understanding when they are fed back to the Ministry as to where and how to direct resources. But will also help us in identifying where there are efficiencies that can be eliminated from the system.

So I want to assure the Member that is not just administrative thought: That there is some teeth to this. And I have been following it. I have been trying to keep in line with what the law requires and I have been trying to keep the nation abreast at every step. But my determination, my own will in terms of ensuring that Jamaica reaches universal literacy can only be described as steel.

The SPEAKER: Mr. Peart first, then Mr. Vaz, then Dr. Rhodd, then Mr. Fitz Jackson. I'll come again shortly.

Mr. M. PEART: Mr. Speaker, I have

been listening to the Minister very keenly.

There are 50,000 spaces...

Mr. HOLNESS: Students.

Mr. M. PEART: Fifty thousand students to go into 39,000 spaces. When I was going to school 50,000 couldn't go into 39,000, so...

Mr. HOLNESS: Still can't.

Mr. M. PEART: I don't know how it's going to manage. But to assist the Minister in making the system work efficiently, I am going to insist again, Mr. Speaker, every opportunity I get I am going to make the point. We need to begin the process of phasing in a system where you zone the schools, the high schools.

We went through the process to get Porus High School, Winston Jones High School, Cross Keys High School to facilitate students in the outer parts of Manchester. And unfortunately now we find ourselves in a position because it is not a traditional high school, these schools are not traditional high schools, they become the schools where those students that the traditional schools don't want they are sent there. So as I said before in this Parliament, when I am in my office in Newport in the afternoons I see busloads of students coming from Cross Keys, coming from Pratville, taking students to Mandeville and beyond. And then I see bus loads coming from Mandeville now taking those that went to school in Mandeville back down to Cross Keys and Pratville in the area. And what we have found, Mr. Speaker, is that the records of the Manchester High School, DeCarteret College and Bishop are impressive because they get the cream of the crop. You don't even have to teach them. Just give them the books and them do the work.

Now the students that you have difficulty with now and these schools refuse to take and this is where I have a problem they are shunted down to Cross Keys, Porus, Winston Jones High schools. When I speak to the Minister the Minister says the parents must exercise choice, they must be given the opportunity to choose which schools they want to. But I say, Minister, many of these parents and students some of them are going to be in this same 39,000 here, don't know where Winston Jones High School is, you know. When they get a little slip of paper come July that your students have been successful and will be going to Winston Jones High School, they have to find out where Winston Jones High School is; they don't know where it is. They never chose it.

So we want some assistance in these schools where students that live next door to the school let them get an opportunity to walk to school. Because, Mr. Speaker, arising from this recession that we are going through now, one of the problems in these same schools in my constituency is the attendance dropping like a lead sinker, because the parents cannot afford to pay the transportation cost from Mandeville and beyond down to south Manchester and back home again, plus lunch money. So they attend school, some attend two days a week, some attend three days a week; so they are not learning. Moving on, Mr. Speaker, to the primary schools now.

The SPEAKER: Remember it's questions, you know, it's not commentary.

Mr. M. PEART: Yes, questions.

Dr. DAVIES: This is the run up.

(*Sotto voce* comment by Dr. Tufton)

Mr. M. PEART: Yes, and I am going to re emphasise it until I get some traction.
You have a school the size and this is no exaggeration, Mr. Speaker. You have a school the size of this space here (indicating Chamber floor) divided by blackboards and two hundred ninety students are in it, the size of this area. I have been there, I have tried to communicate with the students, I have tried to communicate with the teachers, but the buzz in the classroom makes it almost impossible to hear yourself speak, let alone for them to hear you. So what the teachers have to do is selectively take them out of the classroom under the mango tree to get some chance of hearing. We have to get to the stage where each class has a classroom for itself.

The Minister came up with this beautiful registration programme for basic schools. Now, if you add up the cost of satisfying each criterion on that list for the average school that doesn't have it, it runs into hundreds of thousands dollars. What we have set up now, Mr. Minister, is that the school the three little basic school teachers, half of the time now, they are not teaching no students anymore, dem trying to get a fire extinguisher, or get a little stove, or something like that.

A MEMBER: Question!

Mr. M. PEART: The question is, what can the Minister do to help, rather than just giving us the registration list criteria, what resources you are going to lend to these schools to help fill it?

Mr. CLARKE: Hear, hear!

Mr. M. PEART: Coming back now, Mr. Speaker, finally, to the ASTEP Programme...

Dr. TUFTON: I use my CDF to register all my basic schools.

Mr. CLARKE: Look like you get money otherwise.

(Laughter)

Mr. M. PEART: Coming to the ASTEP programme, Mr. Speaker, we have a branch of it could I say branch in South Manchester. I was involved in the build up to it, and participated in encouraging the parents and the schools to participate. And when everything was agreed, date set, signed off, good to go, I was contacted by the principal of the school that what was promised to be delivered by the Ministry has not been delivered. Students come from as far as fifteen miles away. One bus was hired to transport the students to the school by picking up all the other students on the road.

And, apart from putting the system in place, the resources weren't there. I had to finance the transportation of these students to get to the school. Now, if you don't get the resources, and they cannot afford the transportation, then the programme is going to fail, Mr. Minister. And I am asking you to look into the details. The concept is beautiful. You put it in place, but the details of making it work need some follow up. I have made my contribution; I will be willing to help because I understand the importance of it, but I am saying, it is not my programme I am just helping.

The SPEAKER: You have some comments... or should we move...?

(*Sotto voce* comments from some Members)

Mr. KELLIER: Mr. Speaker, I would

wish to, based on the sentiments being expressed on this side, and generally, and recognizing the very important nature of this subject matter, I would propose to the House Leader and the Minister, that he considers the proposal to schedule a debate a full debate as early as possible, so that we can really go in an in depth manner in sorting out and fleshing out the matters here because really, it stretches far and wide, and I think he would be averse, to assist him.

Mr. HOLNESS: Mr. Speaker, I am certainly not averse to that. We had, in fact, planned for a debate. There are three motions on the Order Paper, private members motions, and the Member from Central Kingston which would adequately, I believe, give an opportunity for each Member to deal with almost 90 per cent of the Education matters that need to be... we will schedule those were we will schedule those for debate, just so that you close this close this in the... (Inaudible)

The SPEAKER: Before you finish up. A number of persons have intimated that they wanted some questions. Can we then leave everything until the debate?

(*Sotto voce* comments by some Members)

The SPEAKER: No? Dr. Guy, you don't agree; you have a specific question.

Dr. GUY: Thank you, Mr. Speaker.

The SPEAKER: A specific question.

Dr. GUY: Thank you, sir.

Minister, you indicated that, in response to the question from the Member from East Central St. Andrew, the Ministry is aware of the main causes for the under performance in that 20 per cent. Studies have been done at the Ministry but you do not have the information to give to us here today. My question is, inasmuch as we are aware of the reasons for that, do we have the necessary personnel to do the assessment of these children in the system as it exists now, or even in the proposed system?

The Member from South St. Andrew South East, mentioned that Mico Care is the only institution that we have in this country that does the assessment. Because we recognize too, that it is not only the assessment, or the intervention, but the two of them are necessary, both the assessment, then the intervention. Do we have that?

And the second question I want to ask, have we considered the possibility of the fact that even though we are going to be pooling those students in the alternate secondary programme transition programme, that we are going to be teaching reading and Mathematics, primarily, but we are also going to be looking at the learning problems and the low self-esteem, whether we are not reinforcing the low self-esteem when you put them in another system because of the lack of motivation, or to de-motivate them by putting them in a system that seemingly, is different from what is expected, or…

Mr. HOLNESS: Mr. Speaker, in keeping with our agreement, I will answer the question raised by the Member, and then we move to schedule a debate.

To be clear, Member, whilst there will be a stigma attached and it makes no sense to try and skirt around that issue - the truth is that were we to leave them in main stream, they would be left behind. This is an opportunity for them to get a second chance. They will be in a better environment where they have focused teaching resources, smaller

class sizes, and the Ministry would be able to focus its attention on them.

I don't believe, Mr. Speaker that we should sacrifice the development of the child because we fear that a stigma is going to be attached. I think it is in the learning process within the ASTEP programme that these children will come to understand, and finally see. You, know, there is a saying that was said as it related to JAMAL - I believe it was said by Michael Manley. The theme of JAMAL: *Step out of the darkness and into the light.* And this is how the ASTEP programme will assist those students who would have been lost in mainstream, lost in General Ed, that they can now be attended to, and their special needs serviced. With that, Mr. Speaker... (Inaudible)

The SPEAKER: Thank you, thank you. Mr. Vaz.

(*Sotto voce* comments by Members)

Mr. VAZ: Thank you.

The SPEAKER: Members, just an update from, Minister Vaz.

Mr. VAZ: Thank you, Mr. Speaker. In the absence of the Honourable Minister of Transport who made a statement earlier, I would just like to permission to speak from a seat other than my own.

The SPEAKER: Granted.

Mr. VAZ: I would just like to update the House, and by extension, the country, that I have, just in the last few moments, received word that the administrator of the TCA has agreed to remove the TSA – sorry - to remove the measures that were applied to cargo and duty free items based on a due diligence that has been applied by the Jamaican authorities in relation to the threat to civil aviation.

The movement of cargo and duty free items may be resumed with immediate effect. So, just to update the House and all those who are... (Inaudible)

(Applause)

Mr. VAZ: In closing, just to congratulate all the agencies that worked tirelessly over the last 36 hours in having this matter resolved amicably. And I am sure that everybody will hope and wish that the matter will be pursued. And, of course, those brought to justice in due course.

The SPEAKER: Thank you, Minister Vaz.

(Applause)

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Minister Holness.

Mr. HOLNESS: Mr. Speaker, I beg to give notice and this is on behalf of the Minister of Finance. I beg to give notice that at the next meeting of the House, I will move, 'The Civil Service Establishment Act, the Civil Service Establishment (General) (Amendment) Order 2011, Resolution.'

> WHEREAS section 3(1) of the Civil Service Establishment Act (hereinafter referred to as the Act) provides that subject to the provisions of the Constitution of Jamaica relating to the holders of public office and the Act, the power to constitute or abolish offices in the public service shall be exercised by the Minister, by order;

AND WHEREAS the Civil Service Establishment (General) Order 2010 was affirmed by the House of Representatives on the 14th day of September 2010;

AND WHEREAS the Minister considers it necessary or expedient to amend the Civil Service Establishment (General) Order 2010, and made the Civil Service Establishment (General) (Amendment) Order 2011, on the 2nd day of February 2011;

AND WHEREAS Section 3(2) of the Act provides that an order made under the section may, from time to time, make such incidental, consequential, and supplemental provisions as the Minister thinks necessary or expedient to give full effects to the order, and that any such order may include provisions amending any enactment relating to the appointment, powers, duties, rights or liabilities of any officer holding any office specified in an order or being the same style and title as an officer appointed by any office specified in the order;

AND WHEREAS Section 3(4) of the Act provides that an order made under that section shall be subject to affirmative resolution of the House of Representatives:

AND WHEREAS it is desirable that the Civil Service Establishment (General) (Amendment) Order 2011 be affirmed:

NOW, THEREFORE, BE IT RESOLVED by this Honourable House as follows:-

1. This Resolution may be cited as Civil Service Establishment (General) (Amendment) Order 2011, Resolution, and;
2. The Civil Service Establishment (General) (Amendment) Order, 2011,

which was laid on the Table of the House on the 1st day of March, 2011, is hereby affirmed.

Mr. Speaker, I also beg to give notice again on behalf of the Minister of Finance. I beg to give notice that at the next meeting of the House I will move:

The Financial Administration and Audit Act, the Financial Management (Regulations) 2011 Resolution.

WHEREAS by virtue of Section 8, 14(3), 35, 39, 40 and 50(1) of the Financial Administration and Audit Act (hereinafter referred to as the Act), the Minister may make Regulations generally for the purpose of giving effect to the provisions of the Act;

AND WHEREAS on the 17th day of February 2011, the Minister made the Financial Management Regulations, 2011;

AND WHEREAS it is provided by subsection (4) of Section 8 of the Act that regulations made under that section shall be subject to affirmative resolution;

AND WHEREAS it is desirable that the Financial Management Regulations, 2011, be affirmed:

NOW THEREFORE, BE IT RESOLVED by this Honourable House as follows:

1. This Resolution may be cited as the Financial Management Regulations, 2011, and,
2. The Financial Management Regulations, 2011,

which were laid on the Table of the House on the 1st day of March 2011, are hereby affirmed.

The SPEAKER: Thank you, Minister Holness.

Mr. Hylton.

Mr. HYLTON: Mr. Speaker, I give notice of a motion to be taken as a matter of urgency, having regard to the nature of the motion, and it is...

Mr. HOLNESS: Mr. Speaker, on a point of order. On a matter of urgency...?

The SPEAKER: What is that...? What is it?

Mr. HYLTON: Mr. Speaker, the motion is in the following terms:

WHEREAS the Jamaica Public Service commenced the Automated Metering Infrastructure Programme in the Seaview Gardens community over a year ago as part of the effort to stem the system losses to the company by the theft of electricity;

AND WHEREAS the AMI Programme was preceded by consultation and cooperation by the community in an effort to educate and thereby enlist community support, and that of its representatives at the community, Parish Council and Parliamentary levels;

AND WHEREAS fulsome support was, and continues to be provided by the leadership at all levels, for the success of the programme, certain issues and concerns relating to the roll-out and implementation of the programme has given rise to the necessity for several community meetings involving JPS through its representatives;

AND WHEREAS attempts have been made to have these issues resolved at both individual and community levels without success;

AND WHEREAS the community continues to be dissatisfied with, and have expressed continuing concerns regarding the following:

- unexplained high billing,
- the unaffordable cost of electricity,
- the poor customer service provided by JPS customer relations officers,
- non-functioning or mal-functioning of installed meters,
- cross-wiring of individual homes,
- undue delay in reconnection of electricity,
- undue delay in investigating concerns relating to the service;.

AND WHEREAS, the AMI programme has been implemented in certain other communities in and

outside of the Corporate Area, and is intended to be implemented in selected other communities across Jamaica;

AND WHEREAS there are indications of similar concerns being expressed in those communities, other than Seaview Gardens, in which AMI has already been implemented;

AND WHEREAS the AMI is being implemented in the context of a stagnant economy characterized by increased poverty levels, high unemployment, increase in food prices, increase in oil prices, wage freeze, high crime rate, particularly in inner city communities like Seaview Gardens;

AND WHEREAS Government policies and actions resulting from imposition of a cess on energy and energy products as well as imposition of GCT on electricity bills, together with regulatory requirements by the OUR are contributory factors:

BE IT RESOLVED that this Honourable House directs an investigation into the manner and method of the implementation of the AMI programme and examine alternative approaches to ensure access to reliable, safe and affordable electricity for the working poor, pensioners, and the unemployed throughout Jamaica, and particularly the inner city communities;

BE IT FURTHER RESOLVED that, given the increasing unaffordability of electricity by the persons so affected, and the increased security and health risk, that the matter be debated as a matter of urgency and that the Committee on Economy and Production be mandated to investigate the matter further.

QUESTIONS AND ANSWERS TO QUESTIONS

The SPEAKER: House Leader.

Mr. HOLNESS: There are four questions due for answer, Mr. Speaker.

Dr. DAVIES: Overdue.

Mr. HOLNESS: Well one due three - are really not technically overdue because we've asked for an extension.

Mr. JACKSON: No, no, overdue with permission.

Mr. HOLNESS: Mr. Speaker - with provision - Question 37 standing in the name of the Member from St. Catherine Southern, and Question 38 in the name of the Member from St. Andrew Southern, and Question 42 in the name of the Member from Central Kingston, we've asked, Mr. Speaker, for a further extension and...

(Inaudible comments by Mrs. Neita-Headley)

Mr. HOLNESS: No, I've asked the Speaker, who will then ask the Members.

Then, Mr. Speaker, Question 39 asked by the Member from East Central St. Andrew. The Member is in the House, but I had words with the Member before to suggest that the question was asked of the wrong Minister. It was asked of the Prime Minister, but it really

should have been asked of the Minister of Finance. And we are not objecting to having the name change rather than a withdrawal, because we have answers prepared, but they are not yet delivered here, the Minister of Finance is not here to provide that answer.

So, Mr. Speaker, we have no questions ready for answer at present.

The SPEAKER: The issue really is - with the permission of the...

Dr. DAVIES: Mr. Speaker, I've struggled hard to just get answers to some basic questions, then they are delayed - I asked a question about the package for the BOJ Governor on the 7th of December...

Mr. PICKERSGILL: That's from 09.

A MEMBER: Wait until the Member is here.

Dr. DAVIES: ...and I don't know what to do. I'm told that you're to protect the...

(Inaudible comments by Members)

Dr. DAVIES: ...but I must plead with you, sir, what can we expect?

The SPEAKER: The position, to be fair, these questions are just due perhaps two weeks - two/three weeks - so let's ...

Dr. DAVIES: With all due respect look at the one with regard to the package for the Governor of the Bank?

The SPEAKER: I know.

Dr. DAVIES: I posed it in the first week of December...

The SPEAKER: Yes, and...

Dr. DAVIES: ...I received partial answers.

The SPEAKER: ...and the other questions were to be answered...

Dr. DAVIES: Yes.

The SPEAKER: ...but the Minister is not here so we can't get an immediate response.

Dr. DAVIES: What do you mean by immediate?

The SPEAKER: No what I'm asking, Dr. Davies...

Minister Holness, could you please ask the Minister of Finance in relation to some remaining questions, which the Member had passed on copied to me, if we could get some response the latest next week Tuesday.

Mr. HOLNESS: Mr. Speaker, outside of your own dictate of next week Tuesday - and I put it as a dictate because you have the authority under the Standing Orders to advise the Member strongly of the time when he should deliver his answers - I will pass that on to him. But as House Leader myself, Mr. Speaker, I will speak with the Minister of Finance to ensure that the Member from St. Andrew Southern, gets his answers.

But to be clear, I'd want to draw the Member's attention from South St. Andrew - St. Andrew Southern - that the Order Paper is fairly light, Mr. Speaker, it doesn't have a ...

The SPEAKER: Fair enough.

Mr. HOLNESS: ...quite a bit on it and when we answer those four questions next week...

The SPEAKER: No, well the position...

Mr. HOLNESS: ...the Order Paper will effectively be clear.

The SPEAKER: Can we then, Minister Holness, both Minister Henry and Minister Shaw and Mr. Bartlett, for next week we deal with those four questions?

Mr. JACKSON: But, Mr. Speaker, with due respect, sir, before you invite the

comment of the House Leader on my question, I understand that Standing Order requires permission from the mover of the question.

The SPEAKER: And that's what I'm going to ask you. You see, I'm asking the permission firstly...

Dr. DAVIES: And what happen if I say no?

The SPEAKER: Then the Speaker can just use his discretion and ask...

Dr. DAVIES: I read the Standing Orders and you don't have that right.

The SPEAKER: Well the position is that...

Mr. HOLNESS: No but, Mr. Speaker, to be clear. In the event that the Member who asked the question is not prepared to agree to an extension, then the discretion is yours, Mr. Speaker to...

The SPEAKER: Yes, yes absolutely.

Dr. DAVIES: Under the Standing Orders that doesn't exist.

The SPEAKER: No.

Mr. JACKSON: I wish to respond to the question posed to me.

Mr. Speaker, the question I posed was not for mere information. They speak to some exigencies that exist in my constituency; they speak to the repair of roads throughout my constituency. One of those roads collapsed during the rain in November - the Nicole rain - hundreds, thousands of residents in my constituency cannot access the main municipal area of Spanish Town because the road is cut off. As a result of that, taxi drivers are charging enormously higher fares to people who can't afford...

Mr. HOLNESS: No, Mr. Speaker, with due respect, this is Question Time. There is no question on the floor and the Member is trying to use the opportunity to make a speech.

The SPEAKER: Yes.

Mrs. NEITA-HEADLEY: No!

Mr. HOLNESS: Mr. Speaker, I urge you to...

Mrs. HAY-WEBSTER: No, no!

Mr. HOLNESS: I will give the Member the assurance, I have seen that answers are prepared. The answers would have been presented had the Minister of Finance been here and the Minister of Transport and Works. Because I believe the question has implications and both Ministers have to vet the answers.

The SPEAKER: Yes!

Mr. HOLNESS: So the reason why you don't have your answer is not out of malice, it is merely as the circumstances are.
But to be clear, Mr. Speaker...

The SPEAKER: Yes.

Mr. HOLNESS: ...as the Member from South St. Andrew or St. Andrew Southern...

The SPEAKER: But to be fair though, Minister Holness, the Member is speaking from two weeks, which really makes it...

Mr. HOLNESS: No I agree, but then he goes on, Mr. Speaker, to make a speech which...

Mr. JACKSON: Mr. Speaker, Mr. Speaker, I crave your indulgence. As was indicated, the answers were due two weeks ago, the question was posed three weeks prior to then; so that's five weeks altogether. During that period I have written to the

Minister about that particular road and I've not yet even got the courtesy of an acknowledgement or a reply. And during this time my constituents are raising hell on me about the roads.

(Applause)

The SPEAKER: Mr. Fitz Jackson, we're trying...

Here again, Minister Holness, could you ask the Minister of Transport and Works at the latest - at Question 37, needs to be answered. Okay. And in relation to...

Dr. DAVIES: Mr. Speaker, could I see a copy of the written request which you have agreed to?

The SPEAKER: This is a request from the Minister.

Dr. DAVIES: Of what?

The SPEAKER: No from Mr. Holness - the Leader of the House, for the request for additional time for both four questions.

Dr. DAVIES: So you don't think I should see it too?

(Inaudible comments)

Mr. HOLNESS: Just to be clear, Mr. Speaker, the Member from St. Andrew Southern...

The SPEAKER: Yes!

Mr. HOLNESS: ...said that you did not have the discretion as Speaker to provide if there were...

The SPEAKER: I do, I do!

Mr. HOLNESS: ...no, but I would want to point him to the Standing Order 17/(a)(2).

The SPEAKER: No, no! I do, I do! But it is a courtesy to ask the Members to agree to the extension.

Mr. JACKSON: So is it, Mr. Speaker, that when the question is asked out of courtesy I must just say yea nor nay?

The SPEAKER: No, to be fair you have a discretion to show your objection, but you have none.

Mr. JACKSON: Mr. Speaker, my comments that were interrupted by the House Leader, was an attempt to lay the basis on which I will consider...

The SPEAKER: Sure.

Mr. JACKSON: ...any extension, but I was being denied that opportunity.

The SPEAKER: But to the fair the Minister is not here. I think the point though, Mr. Fitz Jackson, is that the urgency of the answer requires that it be answered next week, okay. So we're...

Mr. JACKSON: Based on your comments, sir, I will acquiesce to that request...

The SPEAKER: Yes.

Mr. JACKSON: ...and faithfully hope...

The SPEAKER: That it will be done next week Tuesday.

Mr. JACKSON: ...that the Minister will come with a comprehensive answer.

The SPEAKER: And in relation, Minister Holness, to the other two questions could you urge Minister Shaw, please let us have the answers next week. That being so, we can move on.

PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED

The SPEAKER: Minister Charles.

Dr. DAVIES: Tell us the reason for the request.

Mr. CHARLES: Mr. Speaker, I now move to have introduced and have read a first time a Bill shortly entitled: The Foreign Nationals and Commonwealth Citizens (Employment) (Amendment) Act, 2011.

Dr. DAVIES: (Inaudible)

Bill shortly entitled:

The Foreign Nationals and Commonwealth Citizens (Employment) (Amendment Act), 2011

read a first time.

(Inaudible comment by Dr. Davies)

Mr. CHARLES: Mr. Speaker, I beg to give notice of the second reading of the Bill. Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of the Standing Orders to enable me to take the second reading of the Bill and to take it through all its concluding stages.

The SPEAKER: Thank you, Minister Charles.

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business today the Minister of Labour and Social Security will introduce the matter he just raised at Presentation of Bills Without Leave of the House First Obtained, which is the Foreign Nationals and Commonwealth Citizens (Employment) (Amendment) Act, 2011.

Mr. Speaker, we would then take the closing of the debate on the Electoral Commission of Jamaica Report on Continuing Legal Reforms; and that will end our business for the day, Mr. Speaker.

Opposition MEMBER: Where is Warmie? (Laughter)

The SPEAKER: Minister Charles.

MEMBERS: He spoke already.

A MEMBER: You would be surprised.

Mr. CHARLES: Mr. Speaker, I now move the suspension of the Standing Orders to enable me to take the second reading of the Bill, notice of which I gave earlier, and also to take it through all its concluding stages.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the Minister to take the matter, notice of which he gave earlier, and to enable him to take second reading of the Bill and to take it through all its concluding stages.

Put to the House and agreed to.

The SPEAKER: Minister Charles.

FOREIGN NATIONALS/COMMONWEALTH CITIZENS

Mr. CHARLES: Thank you, Mr. Speaker.

Mr. Speaker, Parliament is being asked to approve The Foreign Nationals and Commonwealth Citizens (Employment) (Amendment) Bill, 2011.

Mr. Speaker, The Foreign Nationals and Commonwealth Citizens Employment Act, 1964 regulates the granting and exemption from Work Permit, with respect to nationals, including Commonwealth citizens. Whereas, Foreign Nationals and Commonwealth Citizens (Employment) (Exemptions) Regulations, sets out categories of workers exempt from the requirement to obtain Work Permit.

The Act and Regulation, Mr. Speaker, are now being amended to give effect to Jamaica's obligation as a signatory to the Revised Treaty of Chaguaramas, which established the CARICOM Single Market and Economy, and which are entrenched in our laws by virtue of the Caribbean Community Act, 2005. The Bill therefore makes an amendment to grant an exemption from Work Permit requirements to designated categories of workers from CARICOM, in accordance with Chapter 3 of the Treaty.

Mr. Speaker, the opportunity has been taken to increase fines and penalties under the Act, to a more realistic level, and to allow for future increases by Ministerial Order, subject to affirmative resolution of Parliament.

The purpose of the amendments to the regulations is to remove requirement for exemption certificates to be issued to persons who wish to ytansact short-term business related to activities within the island. It is also intended to tidy up the parts of the Schedule, by the insertion of appropriate sub-headings, as to the categories of persons to which exemptions apply.

With regard to amendments regarding CARICOM nationals, Mr. Speaker, this Honourable House will recall that in December, 2004, the Act was amended to allow the country to fulfill its commitment to early implementation of the CARICOM Single Market Economy, as of January 1, 2005. The amendment to the Act was signed by the Governor-General on December 29, 2004, but required Notice of an appointed day to come into effect. Such Notice has been gazette, Mr. Speaker, as it was subsequently appreciated that the manner in which the amendment was drafted failed to effectively remedy the mischief which it was intended to address. Specifically, Mr. Speaker, the amendment purported to remove the Work Permit requirement for CARICOM nationals seeking to work in Jamaica, in exercising rights under the CSME.

Mr. Speaker, there are apparently two situations in which this issue would arise. Firstly, where CARICOM nationals seek to exercise the right to freedom of movements in wage-earning activities. These categories of persons are already covered by the Caribbean Community (Free Movement of Skilled Persons) Act, of 1997. At the time of the 2004 amendment, Mr. Speaker, it was quite rightly appreciated that the categories of CARICOM nationals who will have the right to enter member States without Work Permit, would indeed be expanded over time. This is in keeping with the decision taken by the Conference of Heads of Government, under Article 46 of the Revised Treaty. As such, Mr. Speaker, further amendments of the Skilled Persons Act will be necessary in order to ensure that decisions of the conference are implemented in an orderly and timely manner. The Ministry is currently working on these amendments.

Secondly, Mr. Speaker, it involves category Trades in Service under Chapter 3 of the Revised Treaty. Here there would be no work permit requirement for CARICOM nationals seeking to enable or to establish business, move capital or to provide service. Similarly, Mr. Speaker, there will be no work permit requirements for the technical

management and supervisory personnel and their dependents, needed to support the business established or the service provided by the CARICOM national. This right is provided for by the CARICOM Community Establishment Service Capital and Movement of Community Nationals Act, 2004.

Mr. Speaker, the above-mentioned 2004 amendment purported to amend section 2 of the principal Act as follows:

> A definition of Caribbean Community was inserted. The definition of Commonwealth citizens was amended to exclude nationals of member States of the Caribbean Community. Nationals of member States of the Caribbean Community were excluded from the definition of foreign nationals.

Mr. Speaker, the existing section 2 was also renumbered as subsection (1), and a definition for a national of a member State of the Caribbean, being a citizen of the State, or a belonger, native or resident, in keeping with that State's immigration law, inserted as subsection (2).

Mr. Speaker, against the background of the aforementioned shortcomings and the resulting failure to give effect to those amendment, the entire section 2 of the Act is being repealed and replaced to bring within its scope definitions of "Caribbean Community", which means the Caribbean Community established by Article 2 of the Revised Treaty, "CARICOM National", which means a person who is a citizen of a member State, has a connection with a member State of a kind which entitles him to be regarded as belonging to or, if it is being so expressed, as being a native or resident of a member State, for the purpose of laws thereof relating to immigration.

"Member State" refers to a member State of a Caribbean Community in accordance with Article 3 of the Revised Treaty, excluding an associated member within the meaning of Article 2 (3)(1).

"Revised Treaty", Mr. Speaker, is a reference to Revised Treaty of Chaguaramas established in the Caribbean Community, including the CARICOM Single Market and Economy, signed at Nassau Commonwealth of Bahamas, on the 5th day of July, 2001.

Mr. Speaker, the existing definition of the following terms under the section, are also being amended to integrate same into the regime of the No-Work Permit for CARICOM nationals.

The definition of "Foreign National" is being amended to include CARICOM nationals, and the definition of "work permit" will no longer include a person who falls under paragraph (b) and section 6 of the Alien Act. The definition of "Commonwealth Citizens" remain unchanged.

Mr. Speaker, section 3 of the principal Act is being amended to abolish work permit requirements for defined categories of CARICOM nationals. This is being done by specifically excluding a CARICOM national falling within the category specified in the Schedule from the class of foreign nationals and Commonwealth citizens who are prohibited from working in Jamaica without a valid work permit.

Ro give effect to this amendment, a new Schedule to the Act is being inserted to set

out such persons in the category to which the exemption applies. The relevant categories have been defined in the Schedule as being CARICOM nationals who, in accordance with the Caribbean Community (Establishment, Service, Capital and Movement of the Community Nationals) Act, are already in or coming to Jamaica to exercise rights of establishment, providing service or move capital.

Additionally, Mr. Speaker, section 3 of the principal legislation to which this new Schedule relates, is being amended to include a new subsection (7), which gives the Minister the power to further amend the inserted Schedule by Order, subject to the affirmative resolution.

Next, Mr. Speaker, the adjustment of fines and penalties. Since the Act is the subject of amendment, we think it is prudent to seize the opportunity to align the various fines and penalties which currently – economic level, and to ensure it remains an effective deterrent to breaches of the legislation.

The amendments before this Honourable House today, Mr. Speaker, are as follows:

Section 3 (2) (a) and (b), which create an offence where foreign nationals work without a valid work permit, and where an employer has such a person in his employment in contravention of the Act, the applicable fine, Mr. Speaker, is a sum of Two Hundred Dollars ($200.00). This, Mr. Speaker, is being increased to a sum of Five Hundred Thousand Dollars ($500,000.00). The provision relating to continuining offence under that section will also be deleted in line with current legislative conventions.

Mr. Speaker, section 6 (3) of the Act provides that a person having in his possession a work permit appearing to have been issued under the Act, creates an offence if he fails, without reasonable excuse, or refuses to produce a permit, or submit to his fingerprint being taken upon being so required by an authorized person or constable. Currently, Mr. Speaker, such a person is liable to pay a fine not exceeding Fifty Dollars ($50.00), which is now being increased to a sum of Two Hundred and Fifty Thousand Dollars ($250,000.00).

Mr. Speaker, under section 9, any person who knowingly makes a false statement so as to produce a work permit for himself or a third party, or unlawfully uses a work permit issued to him, or so allows or obstructs, hinders or opposes any authorized person or constable in the execution of his duty under the Act, or contravenes any condition imposed by the Minister on the basis of an exemption, will now be liable on summary conviction to a fine not exceeding Five Hundred Thousand Dollars ($500,000.00), up from Two Hundred Dollars ($200.00), Mr. Speaker.

Further, section 10 provides that Regulations made under this section may prescribe a maximum penalty of imprisonment with hard labour for a term of six months or a fine of $200.00. Mr. Speaker, that term of imprisonment is being increased to 12 months and an applicable fine to a sum of $1,000,000.00.

Finally, Mr. Speaker, with respect to the

adjustments to the applicable fines and penalties, presently the Minister must seek the approval of Parliament using a long and arduous process in order to increase these fines and penalties. The Act, Mr. Speaker, is now being amended to give the Minister the power to adjust the fines and penalties by Ministerial Order subject to an affirmative resolution of this Parliament. This amendment is being effected by the inclusion in the Act of a new section 2, which will enable that fines and penalties are charged whenever the need arises within a reasonable time, in order to make them sufficiently punitive, thus achieving the desired effect while subjecting the increases to the scrutiny of Parliament.

Mr. Speaker, on the question of Work Permit Exemptions: Foreign Nationals and Commonwealth Citizens (Exemptions Regulations). Mr. Speaker, the Exemption Regulations is being amended at Clause 4(b) to require that persons who fall within the exemption under section 3(3) and in the categories described in the Schedule to the Exemptions Regulations, apply to the Minister for a certificate stating the nature of the exemption. This provision is especially important, Mr. Speaker, in addressing the current gap in the law which allows it clearly provides for exemptions certificate in specified cases, does not mandate that the relevant categories of persons apply to the Minister to access such exemption.

Mr. Speaker, the Schedule to the Foreign Nationals and Commonwealth Citizens (Employment) Exemptions Regulation is being amended to insert appropriate headings as to the categories of persons to whom exemptions apply, and is to read as Part I as follows: Family members and students requiring Exemption Certificate.

Additionally, Mr. Speaker, the existing paragraph 2 of that part of the Schedule is to be replaced by a much broader category of persons to whom the exemption will apply. These are "persons registered as full-time students and who are pursuing courses of study approved by the University Council of Jamaica at such institutions providing tertiary education as the Minister may, pursuant to section 2 of the University Council of Jamaica Act by Order, determine and the husbands and wives of persons so registered." The existing paragraph 3 under Part I is therefore being renumbered.

Mr. Speaker, in a further tidying up, the Schedule is being amended at Part II to include the title "Other categories requiring exemption certificates".

I now deal with the removal of need to apply for exemption certificate for short-term business activities. The Minister of Commerce has been pushing for this.

Mr. Speaker, Jamaica attracts a large number of foreign nationals who travel to the island to conduct business activities on a short-term basis, which includes but is not limited to the pursuing of business opportunities, undertaking fact-finding missions, consult with the local business community, attend meetings or conferences and carrying out audits or equipment maintenance.

Mr. Speaker, as I mentioned earlier, the Act provides that neither foreign nationals nor

commonwealth citizens may be engaged in any occupation for reward or profit, or be employed in Jamaica without a valid Work Permit. By virtue of section 8 of the Act, Mr. Speaker, the Minister is empowered to exempt any person or class of persons from any provisions of this Act.

In this regard, Mr. Speaker, certain relevant exemptions are contained in the Exemptions Regulations empowering the Minister of Labour to grant exemption where:

(a) Directors, inspectors, auditors of any company, association, organization or body (incorporated or established in Jamaica or elsewhere) which either:
    (i) operates in Jamaica or controls any company, association, organization or body (incorporate or establish whether in Jamaica or elsewhere) which operates in Jamaica.
(b) Persons visit Jamaica on behalf of a principal abroad in connection with the appointing of, or for the purpose of having business consultations with local agents or local distributors.
(c) Persons visit to inspect the plant, machinery or equipment of any factory or other industrial works or to give technical advice on the operation of any local undertaking, business or enterprise of whatever kind.

These exempt categories, Mr. Speaker, are to be found at paragraphs 15, 20 and 21 respectively of the Schedule to Exemptions Regulations. However, these exemptions expire upon 14 days being spent in the island by such persons whether continuously or not, in any calendar year.

The current procedure for a person coming to further business interests, Mr. Speaker, is that an application to the Ministry for exemption from the work permit requirement is to be made prior to arrival in the island. If granted, the exemption is generated and transmitted to the applicant before he enters the country. Documents required to be produced at the port of entry are therefore a valid travel document with appropriate entry visa, evidence of this work permit exemption and a return airline ticket.

Based on consultations with stakeholders and especially the business community, it was discovered that the entry process is perceived as unnecessary, inconvenient and arduous to investors and other persons seeking to conduct business in Jamaica. As such, Mr. Speaker, the abolition of the requirement for an exemption certificate is desirable at this time, in the interest of creating an environment that is more attractive to the business interests, and pursue the Minister's wish for business development.

As such, Mr. Speaker, Clause 15, 20 and 21 of the Exemptions Regulations are deleted and singled out for treatment under a new Part III of the Schedule which is being introduced. The new title will be "Officials and Technical Experts not requiring Exemption Certificates."

This aspect of the amendment will exempt persons conducting short-term business activities, is given effect to by the inclusion of a new Clause 4A of the Exemptions Regulations. This insertion provides that the exemption will apply, Mr.

Speaker, to situations where the visit if on one occasion is under 30 days or if more than one visit per year, not exceeding 30 days on each occasion and six months in the aggregate.

Accordingly, paragraph 5 of the Regulations, Mr. Speaker, the references to paragraph 4 of regulation 3 and in paragraph (b) of regulation 4 have been deleted and are being replaced by a reference to regulations 3(b), 4(b) and 4A.

Mr. Speaker, consultation was made with the business community and the Minister to have us carry out those amendments.

In conclusion, Mr. Speaker, I would just like to state for the records that I am very pleased to be advancing these amendments for several reasons, two of which I will share with this Honourable House.

With respect to the amendment to remove work permit requirements in relation to the named categories of CARICOM nationals, this, Mr. Speaker, takes us another rung up the ladder towards the ideal of full, free movement among member states. My choice of the word 'ideal', Mr. Speaker, is deliberate as that *status quo* will encourage the movement of workers with various skill sets across the region, and no doubt redound to the collective good in terms of increased competitiveness and productivity.

I am also pleased, Mr. Speaker, with the move towards being more facilitative of persons who are advancing commercial interests; and I am sure the business sector in particular and the nation as a whole is poised to reap the benefits by way of foreign investments in the not too distant future.

Mr. Speaker, I therefore invite this Honourable House to consider with a view of passing into law the provisions of the Foreign Nationals and Commonwealth Citizens (Employment) (Amendment) Bill, 2011.

Thank you, Mr. Speaker.

(Applause)

The SPEAKER: Thank you Minister Charles. Mr. Hylton.

Mr. HYLTON: Mr. Speaker, the amendments that are being debated here today and the Bill that is presented, which seeks to amend the existing requirements for work permit with respect to foreign nationals and certain Commonwealth national is generally not a controversial Bill. However, there are certain aspects of it that raise some concern that I would like the Minister to give some attention to and to make very clear some aspects of it.

Generally, the scheme exempts - well, it provides an injunction against the employment of certain categories of foreign nationals and Commonwealth persons. The Minister is correct in that, in the previous Bill it did not take account of the development in the integration effort, particularly with respect to the CSME and the free movement of labour and, therefore, was due and in need of amendment.

This is being done. It is being supported by the Opposition. However, there is one area of concern I would - in this regard with respect to CARICOM nationals. The Bill is unclear in the proposed Schedule, the new Schedule titled - this is on page 4 of the Bill, the amendment - Schedule titled "Category of CARICOM Nationals exempt from Work Permit requirement."

The exemptions from work permit is fairly clear, what is unclear is whether there is a further exemption from the requirement for the certificate, which is another measure of control that is being liberalized in aspects of this Bill which I will come to. But, with respect to CARICOM Nationals, in the stated categories that are being exempted from the work permit, the question arises as to whether there is now the need for a further exemption from the Certificate of Exemption from the Minister.

This is unclear. And, as you stated, Minister, if one of the objectives is that we move closer to hassle-free travel and free movement, then there needs to be some clarity as to whether that exemption for Certificate of Exemption is applicable to those CARICOM nationals in the categories for which provision is being made. That's an important - and we need some clarity.

The other aspect of it, Minister, more generally is, as you said, there are some tidying up amendments in the regulations. And as I look through the regulations I just want to clarify and to satisfy myself that - does there now exist in paragraph 13 of the regulation on page vi, where it requires that specific provision is being made for persons employed to the Jamaica Planter and the Jamaica Producer. These are two named ships. Are these ships still around after all these years or is this part of the tidying up exercise?

Rev. THWAITES: No longer exist!

Mr. HYLTON: Well this one specifies the Jamaica Planter and the Jamaica Producer as ships.

(The Speaker left the Chair at 5:32 p.m. and the Deputy Speaker presides)

Mr. HYLTON: Perhaps more concerning though - first of all I acknowledge the effort on the part of the Minister of Investment and Commerce in attempting to liberalize or to reduce the red tape insofar as our business investors, our investors are concerned. That's generally to be commended. However, in doing so we need to take care that we do not so exempt - because you remove firstly the requirement for a work permit then the requirement for a certificate of exemption. So those two levels of controls are being removed by this legislation. And even though there is a condition for 14 days, because you now don't have the exemption under which you could condition or stipulate the specific condition, the question arises as to what then is the mechanism for enforcement? How does this aid and assist enforcement of a category of persons in Jamaica that - other than the stamp in their passport, there is no certificate of exemption stipulating what the conditions are.

I think we have to be very careful there because I think persons can be in Jamaica for extended periods of time without there being any enforcement capabilities. But more important, there is a category of persons that has brought the attention of the unwarranted and unwanted attention of foreign governments to the Jamaican situation, which is this trade in the trafficking in persons. This category of persons has raised signfiicant concern by the US and other governments who have accused Jamaica of laxed

enforcement in the trafficking in persons.

Now in a regime that is liberalized, as is being suggested, where persons can come in under the guise of providing any number of these services and there being no control, either by way of a certificate - I am not now talking about the work permit exemption, I am talk about the exemption for the second tier of control, which is the certificate of exemption, then it make enforcement very, very difficult, if not impossible. And I don't know that that was a consideration as we looked at liberalizing or exercising some laxity.

(*Sotto voce* remarks by Government Member)

Mr. HYLTON: CARICOM is the first one and that's the most concerning one because here we are under a treaty obligation. And you mentioned the ideal of moving toward liberalized and a hassle-free travel with respect to certain named categories of persons with which the Opposition agrees. My point is with respect to that category of person, CARICOM nationals who are exempt, the legislation does not make it clear. There is still some uncertainty as to whether or not those persons so qualified would still need to have a certificate of exemption. The certificate of exemption. If you follow me. There are two levels of control, an exemption from the work permit, even where that applies and that clearly applies to CARICOM nationals falling under the Skills Nationals Act, and the Establishment of Services Act.

But the further question is whether the second tier of control, which is the certificate of exemption, applies to these categories? You have made it very clear with respect to foreign direct investment and this is where the anomaly comes in. Because with respect to non-CARICOM nationals and, particularly foreign direct, persons engaged in foreign direct investment that you have classified in the amendment in clauses 15 through 22 or 23, as you have indicated, you have waived that other level of control which is the certificate of exemption. So there is a lacuna there, Minister, where there is lack of clarity on the part of the CARICOM nationals as to whether they have to apply for the second tier of a certificate. But it is very clear, you are making it very clear with respect to foreign nationals that are not CARICOM nationals, that they do not require the certificate of exemption, at least for 14 days. How you are going to enforce that conditionality is unclear to me because the person would neither have a certificate stating what the conditions are and so when the enforcement officer, whether an authorized officer or a Constable stops this person and says, and for whatever reasons inquires as to his reason for being in Jamaica and he shows them his passport and he says, well, I am here and I can remain here for the next 60 days. And he says what are you doing, what are you engaged in? He states the business that he is engaged in.

In the Act there are specific conditions applying to specific types of activities. That still remain in the Act. But how does the Constable now know what Act or what are the conditions applying to the specific Act? There is no means. So I am saying, Minister, there is a control, there is an issue of enforcement here. There is an issue of the

need for clarity with respect to what the Act attempts to do, which is to give clarity to the situation (a), as regards CARICOM nationals that are exempted, and (b) foreign nationals that are given a further exemption with respect to the certificate. There is need for clarity around these areas. (Applause)

Mr. SAMUDA: Madam Speaker, it is good that we have come to this point in our attempts to achieve that elusive goal of establishing a CSME. I still have my doubts as to whether it will be achieved in my life time. That is the portion dealing with a common economy. Because there are certain harmonization processes that have to be gone into, that to my certain knowledge have not even commenced in other Member States. Jamaica should be commended for its strides in attempting to achieve the objectives set out under the Revised Treaty of Chaguaramas.

Jamaica in the Memorandum of Objects and Reasons in the establishment of this provision under the Revised Treaty of Chaguaramas, one of the memoranda objectives is Jamaica is obliged to enact legislation affectng the removal of the work permit required for certain CARICOM nationals. The same requirement that commits us to ensuring that applies to every Member State. And quite frankly, I can't help but feel a sense of disappointment that many other Member States have failed to take it sufficiently serious and have failed to act on a timely basis to move the process forward, but have never hesitated to express the desire to have this provision enacted. And so I think it is commendable that we have taken this additional step to towards that objective. It's a noble objective and one whose time had come but might very well pass because collectively, we have failed to express that sense of commitment to what were the objectives under the Revised Treaty of Chaguaramas.

Madam Speaker, turning specifically to the exemptions. It is encouraging that we have sought to move the stage forward where certain categories of workers can enter for the purpose of doing business. But these are the high end, these are directors owners, sophisticated members of the business communities. But still languishing in the shadows are those persons who could benefit from the exchange, who could travel throughout the CARICOM and enjoy the, what you might say cross fertilization of the business experience, and to able to share in the respective benefits that have been accummulated in each of our Member States. Because the whole idea of a CARICOM and a common market is the question of sharing. If we look at this purely as a question of trading goods that's one consideration. But if we look at it in its noblest objectives, that is, of sharing our common experiences, our participating in the introduction of applied technology that originates in our respective Member States, then in order to do that effectively then we must expose members of our working community sufficiently to those improvement so that they can return home and add to the skill bank or the skills bank of their respective countries, or to contribute meaningfully to those of their chosen area.

Because, Madam Speaker, the CARICOM is nothing more than an extended

local market. Fundamentally, too many of us ignore the fact that there is fundamentally no difference between being a member of the community residing in Trinidad than being a member of the community residing in Sav-la-Mar. It is an extended local community. And the faster we get to that stage where we are experiencing a freedom of movement of all categories, is the better the community will be and the richer it will be for the sharing of the wealth of culture, our cultural heritage, our levels of development and the extent to which we can assist each other in the developmental process. This is but the commencement of that process. And it is heartening to note that we are removing exemptions for the requirement for specific needs to have ministerial authority to move.

It is my understanding, Madam Speaker, that it's no longer mandatory for an application to be made in terms of the certificate. But I take the Honourable Member's view that there has to be a monitoring mechanism, and the only way that you are going to monitor the movement of a foreign national is to have some documentation, is to have some trail. Failing which, we will have a situation where entry is given and you don't know where they are, how long they have been here and there is no mechanism to ensure that it protects the spirit of the amendment that we are seeking and this legislation before us today. So I support the view of the Member.

I do not think in the absence of that that we should proceed with it. That is quite frankly my view. There is not enough care to ensure that we can monitor the movement in the absence of all these exemptions without a monitoring mechanism.

Thank you, Madam Speaker.

(Applause)

Mr. KELLIER: Madam Speaker, the Member from Western St. Andrew has given the general position that the Opposition supports in regard to this proposed amendment. However, there are some areas, so I won't go over what has been said because I support fully everything that he has said and the comments also made by the Member from North Central St. Andrew. However, Madam Speaker, there are a number of areas in the proposed new amendment that, I think, have been short changed somewhat. And while at Committee Stage I will point out those particular amendments, I need to refer at this stage to some of them.

In respect of what the *Memorandum of Objects and Reasons* state, a lot of weight of this whole amendment has to do with the fines that have been upgraded. Because, of course, some of them really were—at this stage of the game, are really useless and are more or less outdated. But I find that in the amendment to Section 6 subsection (3) in the new (4) that has been proposed, when you look at what the section was that is being amended, you will see, Madam Speaker, that we are now moving the fines by deleting $50 and substituting $250,000.00. But it does not say, in this new regulation, this new amendment it does not say anything about what gives in terms of the period of time. Because it says here in the original Bill

> "shall be liable to the summary conviction before a Resident Magistrate

to a fine not exceeding $50 or to imprisonment with or without hard labour for a term not exceeding three months". That's what the old Bill said.

Now, if we are moving from $50 to $250,000.00, but we have not gone on to say anything about whether or not there will be a term of imprisonment with or without hard labour for a term exceeding how many months. It just says for a new fine moving from $50 to $250,000.00. So I think that in truth and in fact:

(a) would state that, and;
(b) would have to state the period of time for which…

As is stated in others because it is an inconsistency. There are others that have stated the period of time for which a person would be incarcerated or that the Magistrate would be able to impose a fine for.

Section 9, which is the new Section 5, follows the same principle. It says here, Section 9 of the principal Act is amended by deleting the words *"two hundred dollars"* and substituting the words *"five hundred thousand dollars"*, but it says nothing more about what the rest of the fine ought to be if the person refuses or is unable to pay. There has to be a corresponding section that speaks to that.

In respect to Section 6, the new Section 6 which speaks to the former Section 10 subsection 2, it says in:

(a) the word *"six"* and substituting the word *"twelve";* and in
(b) the words *"two hundred dollars"* and substituting the words *"one million dollars".*

Now you moving from Two Hundred Dollars to One Million Dollars. But again even in this section, Madam Speaker, it does not say anything about where we're going in respect of time. The old one says:

"notwithstanding the provision of Section 29 of the Interpretation Act made under this section may prescribe greater penalties than those specified in the said Section 29. So, however, that the maximum penalty that may be imposed shall be imprisonment with hard labour for a term of six months or a fine of Two Hundred Dollars"

It does not say here what the terms of imprisonment will be now that you have moved the fines from Two Hundred Dollars to One Million Dollars. So, again, clearly it is the omission that needs to be rectified in respect of tidying these three (3) sections within the Bill. And the Bill would not be complete without those amendments being instituted.

I would suggest to the Minister that he consults his - if he does not already have the answers to those possible amendments that he consults his legal people and see where we go from there. Because we cannot leave the Bill open, it's an open-ended - these three clauses are open-ended because they do not have the relevant subsections to complement the sections that have been put here.

So, as I said, Madam Speaker the Member from Western St. Andrew has spoken on the rest of the issues so I won't go any further on those.

However, it will be useful if the Minister - now that the exemptions are being made, it

would be useful if at this stage he would be able to nonetheless give us some indication, if he can, as to how many persons over the past year or three years, if he has the information, have been granted permits to go overseas within the CARICOM region that have given exemption status and how many have come; and whether or not, as the Member said, we don't want this thing to open a flood gate in any respect. Because while want to ensure that within the Caribbean region there is free movement, we want to make sure there are adequate safeguards in respect of the persons who do come here. So that there can be proper monitoring and people don't use the occasion of this new law to undermine what is a good proposal. So I am also suggesting and strengthening the point made by the Member from North Central that we should look at some safeguard clause to ensure that we protect the - we safeguard the system, so it is not abused.

Thank you, Madam Speaker.

Mr. CHARLES: Madam Speaker, there are some very important observations made by Members from both sides. I would like to ask the House to give me an opportunity to look at it and to come next week with a total presentation that will answer much of the observations on both sides.

(The Speaker returns to the Chair at 5:55 o'clock)

I'm going to ask that the discussion be suspended, and if Members have any further observations that they could let us have it and we come back to continue the debate some time next week.

Mr. Speaker, I ask that the Bill be suspended - the debate be suspended on the Bill until further notice be given from the Leader of Government Business.

The SPEAKER: Members, is it the wish that the debate be suspended until a further date.

Put to the House and agreed to.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, we are not at the point where we say no further business. But there's one matter left, which is an outstanding matter we will be continuing the report, Mr. Speaker, from the ECJ, the Electoral Commission of Jamaica, on continuing legal reform. I believe that the Member from Manchester Central will be contributing to the debate, and maybe Hanover.

REPORT OF THE ELECTORAL COMMISSION

Mr. BUNTING: Mr. Speaker, permission to speak from a seat other than my own.

The SPEAKER: Permission granted, Mr. Bunting.

Mr. BUNTING: Mr. Speaker, Members of this Honourable House will recall that the debate on the Report of the Electoral Commission on continuing legal reform was suspended at the instance of the Prime Minister a few weeks ago, and further consultations took place, and the Government and Opposition have agreed to proceed to complete the debate now.

Mr. Speaker, some of the previous contributions to this debate were, to speak euphemistically, controversial, but I

personally thought some of the statements made were actually offensive and just plain inaccurate. And I think it is incumbent on those of us who are speaking before the completion to attempt to set the record straight.

Mr. Speaker, just by way of background, the Electoral Commissioner of Jamaica - and when I speak of the electoral commission this evening I am also including predecessor, the EAC, the Electoral Advisory Committee - has served this country well, Mr. Speaker. We have moved from a situation in the 70s where it was felt necessary to invent some mechanism, that was the EAC, to intervene in a process and at a time when it was felt that we were almost heading to a civil war. It was felt it was important that this mechanism insulated the administration of elections from direct political control.

Mr. Speaker, this body has worked well enough that we are now at a point today, where the Electoral Commission of Jamaica is cited as a regional leader in the conduct administration of election. (Applause) Mr. Speaker, we have selected Commissioners of a caliber, competence and credibility who command respect, both within the political parties and the wider society. This successful invention of our independent Jamaica is one that we should not only guard carefully but indeed, is one that we should cherish.

Mr. Speaker, the Electoral Commissioners are given the role to make decisions that can adversely affect parliamentarians, especially those who take errant paths with respect to the electoral process or are affected by improvements in the electoral system, or even changes made to electoral boundaries. Commissioners are protected, in that, their salaries are set in law and therefore, are not negotiated. Their remuneration cannot be altered to their disadvantage and selected Commissioners have seven year term of office, and they can only be removed by a two-thirds majority, of the both the House and the Senate.

Now, Mr. Speaker, I want to really turn to the two contentious issues, because the Report covers a number of issues, some of which are removing the restriction on electoral vehicles, banning the use of…

(*Sotto voce* comments by Members)

Mr. BUNTING: Which is good, which is really anachronism today.

Banning the use of cellphones, which you know so many cellphones have cameras today so banning the use their use in the polling stations, these are not controversial issues. The two issues which seem to attract criticism had to do with the compensation of Commissioners and the circumstances in which the Governor-General may postpone elections and who would advise the Governor-General in the different circumstances.

So I want to start first with the issue of the compensation of commissioners. And you know, really a number of inaccuracies were stated or implied in the debate. And I want to just speak to two of them.

The first was that Commissioners, only work about four hours per month. Mr. Speaker, that is far from the truth. In fact, the work of the Commission is not that of a desk job type of 40 hour week. The Commission

does its work before standing committees, legal, finance and administration, political party and campaign financing, and the boundaries committee. The committees meet once per month typically in additional to the two meetings of the entire Commission. The duration of commission and committee meetings range from two to five hours, depending on their agenda with an average of about three hours. All meetings of the Commission and almost all meetings of committees conclude with actions that Commissioners are assigned to undertake and on which they are required to report at the next meeting. All Commissioners are engaged in activities such as, the oversight of the work of the Electoral Office with respect to voter registration, the preparation of two voters list each year, the delivery of voter ID cards, reviewing the minutes of the monthly constituency meetings of political representatives and Returning Officers, agreeing on polling station locations and other such matters. They are involved in policy formulation and documentation of electoral reform, an example of which is this very Report that we are discussing. They are responsible for adjudicating disputes from the constituency level. They are responsible for preparing and making Annual Reports to Parliament, keeping abreast on electoral matters world-wide through review and research on the relevant issues; and also representing the Commission and Jamaica on electoral matters regionally and internationally.

Mr. Speaker, in addition to those activities, selected Commissioners serve on the constituted authority. At a minimum, their services are required for 16 to 23 days between Nomination Day and Election Day and for 14 days following Election Day. The constituted authority is empanelled for all general and local government elections, as well as by-elections in constituencies and electoral divisions. Prior to any general election, selected commissioners hold town meetings with Election Day workers, Ministers fraternal and candidates across the island. So, Mr. Speaker, the suggestion that Members/Commissioners only work four hours per months is patently inaccurate.

So let me turn to the matter now of salary. And really the only salary dealt with in the Report was that of the Chairman and its recommended equating the remuneration of the Chairman of the post of Chairman to that of a Senior Puisne Judge. And I think it is important again, to look at history, Mr. Speaker.

From its inception, when it was EAC in 1979, the Chairman received a responsibility allowance. It was at that time set as a percentage sorry it was set as a fixed amount of a Thousand Dollars which I imagine in 1979 was more or less 10% of the remuneration of a Puisne Judge. When the ECJ came into being, in 2005, I believe it was, this responsibility allowance was set as a percentage of the remuneration of the Puisne Judge, it was set as 10% of the basic salary of the Puisne Judge. Bear in mind, Mr. Speaker, the allowances between a Puisne Judge and a Senior Puisne Judge are the same so the only difference would be in salary.

The basic salary of the Puisne Judge as

set out in the Judiciary Salary Order of 2008, issued by the Ministry of Justice, is Five Million Seven Hundred and Eighteen Thousand Nine Hundred and Fourteen and that of the Senior Puisne Judge is Six Million and Fifteen Thousand and Thirty Nine. So what you see here, Mr. Speaker, is that the Chairman currently gets a responsibility allowance of 10% of five point seven million, which is Five Hundred and Seventy Thousand approximately. And, what he is now asking is that it be benchmarked to the Senior Puisne Judge and the difference there is less than Three Hundred Thousand. So far from giving himself a salary increase as was suggested in this House, he is moving or the Report is recommending that replace that 10% responsibility allowance which is currently approximately five hundred and seventy thousand and substitute by benchmarking against a Senior Puisne Judge and the difference between the compensation of the Puisne Judge and the Senior Puisne Judge is less than Three Hundred Thousand Dollars *per annum.*

So it really just debunks the suggestion that that recommendation in the Report was suggesting that, you know, the Chairman was trying to give himself a salary increase, in fact, it is quite the opposite.

So, Mr. Speaker, having - just to close on this area of compensation. This House, always has the right to review compensation in this manner and if it is felt that we want to relook, given the passage of time, albeit that the benchmarking against judicial positions had very good reason at the time it was done, and I think those reasons are still valid today. If we are going to review, let's do it, but let's do it in a dignified way without attacking the incumbents who have served this country with distinction over a long period of time. (Applause)

Now, Mr. Speaker, I want to turn to the circumstances in which the Governor General may postpone elections.

Mr. Speaker, Section 20 of the Representation of the Peoples Act, as it now stands, lists five circumstances in which the Governor General - or I should say which the Governor General in Council may postpone elections after a writ has been issued for the conduct of the poll. These five circumstances are:-

(a) the declaration of war by Her Majesty's Government,
(b) the occurrence of earthquake, hurricane, fire, flood or outbreak of pestilence or infectious diseases,
(c) the procuration of a state of emergency under the Emergency Powers Act,
(d) where the electoral machine is not ready,
(e) riot, open violence or other civil disturbance that would prejudice the holding of fair elections.

Currently, (a) through (e) are the prerogative of the Governor-General in Council. That is, the Governor-General advised by Cabinet. The recommendations in the Report, is that, in (d) and (e), the Governor General act, on the advice of the constituted authority so, (a), (b), (c) declaration of war, the occurrence of natural disaster, state of emergency, the Governor-

General would be advised by Cabinet; (d) and (e), where the electoral machinery is not ready or there is riot, open violence or civil disturbance that would prejudice the holding of fear elections the Governor-General would be advised by the constituted authority.

Now, Mr. Speaker, subsections (a) to (d) were included in the original formulation of the Representation of the Peoples Act in 1944. Subsection (e) was added later by way of amendment. So we are really going back to a time when the power to adjourn a poll, arising from one of these emergencies resided with the Governor in Council that is, the Governor, this is the Colonial Governor acting in his executive council.

The term Governor in Council was the terminology for final authority in a wide range of matters in the colonial era. After Independence, Mr. Speaker, the Interpretation Act defines Governor-General in Council to mean Governor-General advised by the Cabinet.

In 1997 by way of amendment of section 44 of the ROPA, the power to halt an election day - sorry to halt an election, on Election Day was created. You could halt it in any polling station in the polling division or constituency in which poling stations remained closed after five hours *et cetera*. The power to take such action was assigned to the constituted authority created by the same Section 44 of ROPA. And may be here, Mr. Speaker, I should just state as a reminder to some perhaps, that what the constituted authority is or how it is comprised is presided over by a retired judge of the high court and includes in its composition a member of the Privy Council, and the selected members originally of the EAC, and now of the Electoral Commission of Jamaica.

Where the constituted authority halts an election, it is given the power to set a new date for the poll within 28 days.

Likewise in 1997, Mr. Speaker, by way of amendments to the Election Petitions Act, the Election Court was created with the power to void an election subsequent to the conduct of the poll.

Again, speaking to the composition, the Election Court is comprised of three Judges of the Supreme Court and presided over by the Chief Justice. There are five grounds for voiding an election, one of which is violence and intimidation. Also in 1997, by way of amendment to section 52 of the ROPA, the application to void an election by the Election Court, or, it's stipulated that the application to void an election by the Election Court must be made by the constituted authority acting on behalf of a candidate or in its own motion. When the Election Court decides that an election should be voided and run over, the power to set the new date within 28 days rests with the constituted authority.

In summary, therefore, Mr. Speaker, the pertinent laws related to elections in Jamaica, allow for elections to be postponed before election day, to be halted on election day and to be voided after election day. The power to postpone and set a new date rests with the Governor-General in Council, which is a retention of the colonial formulation. The power to halt and set a new date rests with the constituted authority, a creation in the period of Independence. The power to void rests

with the Election Court, another creation since Independence. But setting of the new date rests with the constituted authority.

Mr. Speaker, I think it is important for us in looking at this issue to understand the history and the background. And now, I want to turn to the arguments of why we should make this shift, given the history, why we should amend section 20 (d) and (e) to let the Governor-General act on the advice of the constituted authority.

Mr. Speaker, the movement in electoral law and practice since 1979 in Jamaica has been a way from concentrating decision-making authority in the hands of the incumbent government. That authority is exercised… Member from North-East, could you help me with your… (Inaudible) That authority is either exercised by Parliament or by Cabinet. But this trend away from concentrating authority in the hands of the… This trend away from investing all authority in the hands of the elected government is not unique to Jamaica.

Mr. Speaker, I had the opportunity last year to go on the election observer mission to Costa Rica when they were having the Presidential Elections in Costa Rica. And what was very interesting for us to learn there, Mr. Speaker, is that from memory, I believe it's five days before the elections, the authority over the security forces in Costa Rica is transferred from the government to their supreme electoral authority which is the equivalent of the Electoral Commission. They have gone that far where actual control of the security forces is shifted in the week coming up to elections to the supreme electoral authority. So this direction of trying to create an honest broker is a trend that is growing right across the region.

Mr. Speaker, in a game of cricket or football, the umpire or the referee is an independent actor. Not taken from one of the team, and for obvious reasons. Similarly, in the democratic contest of a general election, the refereeing should not be undertaken by one of the team. The constituted authority is not an unelected body that has sought to usurp the rightful role of the elected representatives of the people. Mr. Speaker, if the Member from North-West…. I really wanted him to appreciate this point…

(Inaudible comments by Mr. M. Peart)

The Member from North-West St. Catherine, Mr. Speaker, the constituted authority…

Mr. PICKERSGILL: Him wasn't troubling anybody.

Mr. BUNTING: No, I just thought it was a point he might wish to appreciate.

Mr. PICKERSGILL: Yeah, which point? The point drop.

Mr. BUNTING: The constituted authority has sought to usurp the rightful role of the elected representatives of the people. Rather, it is a quasi-judicial mechanism set up by the elected representatives and codified in law to ensure apparent and real impartiality in matters relating to the halting and voiding of elections.

(Inaudible comments)

Opposition MEMBER: Correct, he's correct.

Mr. BUNTING: You may ask, Mr. Speaker, what is the mischief we are trying to prevent with these?

(Inaudible comments)

Mr. BUNTING: And I know you'd appreciate this. First, let me look at the matter of the electoral machinery.

Mr. Speaker, the risk of having to conduct a general election with the machinery not being properly in place is real and should not be underestimated. This is especially so where any general election is called outide of the year in which it is constitutionally due. Four principal reasons account for this risk. And I know the Member from South-East St. Mary will appreciate this. He, of all people, with his pedigree, his antecedents would appreciate it.

Here are the four principal reasons for this risk. First, the budget of the Commission does not include any provisions for elections outside of the year in which general election and local government elections are legally due. No provision. And it can't be accommodated within the normal.

Second, the release of the funds to the Commission is determined by the Ministry of Finance based on the availability of funds at the time. Third, the Commission is obliged to comply with the procedures of the Contracts Commission. And suppliers need reasonable time in which to provide the purchase material. And fourth, time is needed to recruit and train election day workers and technicians that are required to operate the approximately 6,300 polling stations in approximately 2,400 locations.

Mr. Speaker, an election call in spite of those constraints outlined would not only be less than optimal, it would be chaotic and the results would be tainted.

Mr. Speaker, moving now to Section 20 (e). There can be no gainsaying if there is a close general election and election in one or more constituency has been postponed, a great deal of uncertainty could follow. What should not be ignored is that if violence goes unchecked, based on section 20 (e) as it now stands, the constituted authority has the power to make applications to void the elections.

In a close election where there is violence in some constituencies and there are grounds to void elections in one or more constituencies, the period of uncertainty would be longer and untoward outcomes would be greater. An election that is postponed by the constituted authority must be run within 28 days. The rerun of an election that is voided would take no less than two months, given the current specifications. These are, 14 days for the request to be made to the constituted authority; 14 days within which the constituted authority can file its application to the Election Court; the time taken by the Court to make its ruling plus 28 days after within which to run an election. So you're looking at two to three months which is really – would be very undesirable to have uncertainty….

(Inaudible comments)

Mr. BUNTING: That is exactly consistent…. In fact it had to be rerun twice, as I recall. But two or three such constituencies would have affected the outcome in the last general elections.

Mr. Speaker, against all of this, is the fact that the threat to postpone would probably be a deterrent to having that sort of activity taking place at all.

So, Mr. Speaker, in conclusion, the recommendations in this Report are consistent with the over three decade effort to develop a more perfect electoral system.

A MEMBER: Hear, hear!

Mr. BUNTING: The Electoral Commission is one of the finest creations of our governance since Independence. (Applause) And finally, the recommendations are consistent with best practice developed in the region to insulate electoral organizations from direct political control and therefore improve the fairness and impartiality of our elections.

Mr. Speaker, I wholeheartedly recommend we support these recommendations.

(Applause)

The SPEAKER: Mr. Mullings.

Mr. MULLINGS: Mr. Speaker, I firstly, must express my appreciation to the Member from Central Manchester in...

(*Sotto voce* comments by some Members)

Mr. MULLINGS: …in providing the historical perspective which has informed this Report. Indeed, the Electoral Commission would seek, through it's constituted authority, to take on to itself the power to postpone elections under at least two bases. One, the likelihood of the official list not being ready; the other being riots and open violence. But, Mr. Speaker, there is a glaring omission in this Report, because the constituted authority will be seeking to take on to itself a power which the Constitution does not give it.

What do I mean by that? Under Section 32 of the Constitution, the Governor-General in Council, and as in the Interpretation Act indicates and as the Member has quite accurately shown, the Governor-General is acting/shall act on the advice of the Cabinet. In other words, the Governor-General has no choice. He has to act on the advice of the Cabinet.

But the Constitution also makes the point. And subsection (3) of Section 32 says:

> Where the Governor-General is directed to exercise any function after consultation with any person or authority, he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

So, what you might unwittingly have is a situation where the Governor General, who is not obliged to act on the advice of the constituted authority, may very well find himself or herself at the forefront and centre of an issue which is controversial. Put within that mix, a Government that would wish to have a postponement or not have one for whatever purpose would, no doubt, advert to this reality in the Constitution.

So, might I suggest that if it is that the constituted authority would like to have this power similar to the Governor-General in Council, then a constitutional amendment has to hold sway, firstly, to take away that lacunae, or that possibility of your Governor-General being asked to make a decision which may be contrary to the view of the constituted authority.

A MEMBER: Hear, hear!

Mr. MULLINGS: Or, if that is not done, what we might very well find is that the...

Mr. PICKERSGILL: It is a sensible... (Inaudible)

Mr. MULLINGS: …role of the Governor-General being the - above the fray, if you will, might very well find him or herself in the very middle of that concern. So, we understand the intent. We understand that. And there is no issue with that, but we are to be very careful in making these amendments, not just to look at the Representation of the People's Act, but you have to look at the Constitution which confers authority.

And while there is a historical perspective of a Governor General in Council, under the Interpretation Act, that Governor General in Council is acting on the advice of the Cabinet, mandatory. So, I ask that you look at that very carefully and see how we can rectify that lacunae.

Thank you, Mr. Speaker.

(Applause)

A MEMBER: Back bencher!

Mr. PICKERSGILL: Well done, well done.

(Applause/*Sotto voce* comments)

(Dr. Duncan indicated that he wanted to speak)

The SPEAKER: Did you speak already, Dr. Duncan, or you…?

Dr. DUNCAN: I rose on a point of clarification.

The SPEAKER: Oh, you are clarifying matters.

A MEMBER: Withdraw this thing.

Mr. PICKERSGILL: It must be sent back. This can't go through.

Mrs. HAY-WEBSTER: We can't close today in the spirit with which we have the discussion.

(*Sotto voce* comments)

Mr. BUNTING: This is the Report, this is not the Bill, so the research can be done when we get to the Bill.

Mr. PICKERSGILL: Send it back.

Dr. DUNCAN: Mr. Speaker...

A MEMBER: Send it back.

Dr. DUNCAN: No. Mr. Speaker, as you recall I had an intervention but it was just on a point of clarification, so I rise just for a few short to make a few short comments.

The SPEAKER: Not to clarify, to make your presentation?

Dr. DUNCAN: Just to make my presentation now. But the presentation by the Member from Central Manchester, the Commissioner, has been very extensive. I don't need to repeat any of that.

(*Sotto voce* comments by some Members)

Dr. DUNCAN: In relation to the point made by the I know the House Leader will refer to it – but, in relation to the point made by the Member from West Central St. James, what we have to remind ourselves is that this is a report to Parliament of the recommendations of the Commission. They are not yet this has not been put into any legal framework. The Parliamentary Counsel has not been brought into the picture yet to say whether or not you would need this particular type of treatment or not. You are being asked to agree in principle on a process and an objective.

A MEMBER: Fair enough.

Dr. DUNCAN: That's what the Parliament is being asked to… And then, it then goes to the Parliamentary Counsel to return here, which would then satisfy the misgivings or the observations made by the

Member from West Central St. James. So, I think we can pass this Report - accept it, adopt it, and pass this Report today. And it then goes to the people who then can interpret the law, and say if what we are proposing here can then be done in this particular way, one.

Two, this legal reform this document here came out of the sub committee of the Electoral Commission which is chaired by the Justice Clarence Walker, who himself, as you know, is a…

A MEMBER: High Court Judge.

Dr. DUNCAN: …a learned Judge. And he would have taken counsel, as well as Members of the Committee over which... and then it was then passed into the full meeting of the ECJ.

And my only other point, Mr. Speaker, is that I would like to take this opportunity to commend two of the Commissioners who are no longer on the Commission for the work done in helping to prepare a number of other recommendations, but in particular, the legal reform documents. And those two Commissioners are the deceased Commissioner, Mr. Donald Buchanan, and also the Member from North Central St. Andrew, who did yeoman work on that Committee….

(Applause)

Dr. DUNCAN: …to ensure that the process of making the Electoral Commission of Jamaica being continued to be a model institution for the supervision, holding, and the carrying out of elections in pursuit of the finest democratic traditions, that those two Commissioners, from the reports that I have had in my short stint there have been their services have been exemplary and appreciated by the Commission. And I recommend to this Parliament that we do so. (Applause)

Dr. DUNCAN: So with those two comments, Mr. Speaker, I support that this Report be accepted and adopted by this House.

The SPEAKER: Thank you, Dr. Duncan. I think Miss Sharon Hay Webster would like to brief comment she indicated.

Mrs. HAY-WEBSTER: I know you are anxious to complete at this time. However, just a short note. I would like to endorse the observations made by the Member from West Central St. James. And in...

(*Sotto voce* comment by Mr. Bunting)

Mrs. HAY-WEBSTER: Say again.

(*Sotto voce* comment by some Members)

Mrs. HAY-WEBSTER: Yes, I understand that, sir. I have been into this House as long as you, if not longer.

(Cross talk/Laughter)

No, I am not being mischievous.

Fun and joke aside, however. I think, in endorsing the comments by the Member from Hanover, himself a Member of the Commission, we must not forget that the role and function of the Commission itself has to take consideration of the practitioners in the field. And in that case then, the comments that we have made, and the observations, in respect of the proposal for the legal reform, must take due account of the considerations of the Member from West Central St. James as put. And I would ask that there is proper consideration of that in the drafting instructions that are given to the Chief

Parliamentary Counsel.

(Applause)

That, I think, would then allay the fears that many of us have been mumbling and muttering about over the last couple of weeks, and which has also delay the completion of the debate on the Report itself.

Thank you, Mr. Speaker.

The SPEAKER: Thank you, Mrs. Sharon Hay Webster.

House Leader.

Mr. BUCHANAN: That was a good intervention.

Mr. HOLNESS: Mr. Speaker, it is not intended to further prolong the debate. I believe all the issues have been thoroughly aired. And I believe that both sides of the House would have done their own internal consultations to ensure that the positions reached here today are positions to which we may not be all comfortable with, but we have accepted them. And I think that's very important, Mr. Speaker.

There was a certain amount of strident concern displayed in the House (Laughs) during the debate, but it is all within the realm of good Parliamentary debate.

(Cross talk/Laughter)

Mr. PICKERSGILL: No, sir; no, sir, where is Warmington?

A MEMBER: He went to bathroom.

Mr. PICKERSGILL: Where is he?

(*Sotto voce* comments/Laughter)

Mr. PICKERSGILL: Well, must be really was constipated...

(Laughter)

Mr. HOLNESS: Mr. Speaker, Members of this House are here, both as representatives, ambassadors of their constituents but they are also here, in their own rights, as stewards of the national interest. And their own perspective as to how to execute that stewardship would sometimes lead them to express their views which may run counter to views held, either by party or by government. But, at the end of the day, Mr. Speaker, we all have to come together to decide what is in the best interest of the country. It is clear that the ECJ has served us well and supporting an independent, strengthened, and empowered ECJ is in the national good.

The question regarding Cabinet…

(*Sotto voce* comment)

Mr. HOLNESS: The question regarding Cabinet relinquishing full authority over the determination of postponement...

(*Sotto voce* comment)

Mr. HOLNESS: Right, it's partial, you are right. Partial relinquishing is one that I too, had my concerns over. But on reflection, the constituted authority, potentially already has the power as was made by the point potentially already has the power to postpone an election. I, Mr. Speaker, I...

(*Sotto voce* comment)

Mr. HOLNESS: No, potentially, by virtue of their ability to declare an election null and void, and to halt an election during its course and to halt an election if there is threat of violence before the election occurs.

(*Sotto voce* comment by Mr. Pickersgill)

Mr. HOLNESS: Yes, so it has the potential already to postpone an election.

Mr. PICKERSGILL: ...alter and void, not postpone.

Mr. HOLNESS: But the sum effect of that is to postpone an election. What I am saying is, I share your...

Mr. PICKERSGILL: For a limited time.

Mr. HOLNESS: I share your concern, but on reflection, we have already gone down the path, and it makes, in my mind, good sense to concretize the position in this way.

So, I personally support it, Mr. Speaker, the Government supports it, and it is clear that the Parliament is of mind to support... (Laughs)

Mr. PICKERSGILL: How you arrive at that?

Mr. HOLNESS: You had your chance, Member.

A MEMBER: Hear, hear!

Dr. DUNCAN: The ayes have it.

Mr. HOLNESS: You have had your chance, Member. So, Mr. Speaker, at the risk of opening up old wounds...

(*Sotto voce* comments/Laughter)

Mr. HOLNESS: …I put the Report to the House for its acceptance.

A MEMBER: Hear, hear!

The SPEAKER: Members, the Resolution is before you for the adoption of this Report, and in the circumstances, I need to put it to you.

Put to the House and agreed to.

(*Sotto voce* comments)

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business. I therefore, move that the House do adjourn until Tuesday, 8th of March when we will resume our business.

The SPEAKER: (Gavels) Members, the motion before the House is that this Honourable House do adjourn until Tuesday March... sorry... yes, Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, I notice that the resolve of the House to get through the Private Members Motions stated by the Leaders of the Parliament has obviously been changed. And I really ask you to agree with me that it is utter disrespect for the membership of this House that when we put up serious issues for consideration, that they are bypassed in this fashion. It is now going to be almost impossible for them to be dealt with before the proroguing of Parliament, and it is a matter of distress and disorder that you should deal with.

The SPEAKER: Well, Reverend Thwaites, may I make the point that I spoke to the House Leader on this. My understanding is that he has great difficulty getting a quorum on Wednesdays. He has a great difficulty, and in fact, the few Wednesdays that we have sat we have had to start late because we literally had to beg Members to come to the House.

(*Sotto voce* comment by Members)

The SPEAKER: Both sides. So that, it is a concern Reverend Thwaites which I have expressed to the House Leader and it is a matter which he should have discussed with the Leader of Opposition Business.

Rev. THWAITES: Let us understand each other then, Mr. Speaker. What it means is that Parliament is unable to bestir itself to do any but a rationed quota of the business that comes before it. That is an intolerable situation.

(*Sotto voce* comment by Members)

Mr. HOLNESS: Mr. Speaker, we are we find ourselves, Mr. Speaker, in a serious dilemma. And I want to share with the Member, some of my thoughts on the matter in contemplating the speed at which the House is able to dispatch the matters before it, given the limited time and structures that we have. The consideration, Mr. Speaker, is for us to start meeting at 10:00 a. m. for a full day. That's the consideration, Mr. Speaker, because I too, share the concern...

(*Sotto voce* comment by Members)

Mr. HOLNESS: It could be on a Tuesday or on another day, but right now we meet on a Tuesday. So, it may very well be that we may have to make some adjustments, Mr. Speaker, in terms of having sitting for a full day instead of at 2:00. Because with the volume of work that we have to do, plus the tolerance that you would have to give for answering questions and taking extended debates, unless we are going to contemplate…

The SPEAKER: (Gavels) Members, Members...

Mr. HOLNESS: Unless we are going to contemplate, Mr. Speaker, limiting the speaking time allotted to Members...

The SPEAKER: That was agreed.

Mr. HOLNESS: So, that's what I am saying. We have a dilemma. If we are going to do more business in the day, then it is either we limit the speaking time or sit for longer. So, those are the two things.

Now, Mr. Speaker, in terms of sitting an additional day, Members have complained to me that they have committees. Never before in the history of the Parliament have so many committees been established and meet at the same time.

Mr. BUCHANAN: Because Opposition Members chairing them.

(Applause/*Sotto voce* comment)

Mr. HOLNESS: Well, that may very well be the case.

Mr. STERN: Change of the system.

Mr. HOLNESS: Mr. Speaker, these are some practical consideration that we must speak to.

Mr. STERN: Parliament working.

A MEMBER: Finally, finally.

(Cross talk)

The SPEAKER: (Gavels) Okay, all right. House Leader, may I ask you to discuss the matter with the Leader of Opposition Business so that we can work out a practical solution.

Mr. HOLNESS: Just to inform you, Mr. Speaker, that I am...

(*Sotto voce* comments by Members)

Mr. HOLNESS: …that I am preparing, as we speak, Mr. Speaker, a document for discussion, which will outline the options available to the Parliament to manage the workload that it is being asked to accomplish. That I will finish within another week, and will be circulated to the Leader of Opposition Business for his preliminary comments. When that is finalized, then we circulate it to Members.

The SPEAKER: Thank you. Yes...

Rev. THWAITES: So, the net effect, then, Mr. Speaker, is that there will be no effort to accommodate the matters on the Order Paper. We have provided a problem for every possible solution.

Mr. Speaker, you know that the Standing Orders Committee has already adopted, so it has discussed in this House, limitations in respect of the time of speaking. Mr. Speaker, if you were to convene the Parliament as you desire to at 2:00 o'clock at every sitting, we could have done one or two of those motions, yes; we could have done that.

(Cross talk)

Rev. THWAITES: If we were to avoid some of the prolix comments and some of the waste of time that we do in crosstalk here, we could similarly have achieved it. Mr. Speaker, with much affection and respect I lay it at your feet.

The SPEAKER: No, you are right… Leader of Opposition Business, may I ask you to, please, get together with the Leader of the House and see if we can definitely work through some of these motions before Parliament prorogue. Okay. Having said that, thank you, Reverend Thwaites.

Mr. KELLIER: Mr. Speaker, certainly.

The SPEAKER: The motion before the House is that this Honourable House do adjourn until Tuesday March 8th at 2:00 p m.

Put to the House and agreed to.

The SPEAKER: (Gavels) This Honourable House stands adjourned.

The House accordingly adjourmed at 6.48 p.m.

TUESDAY, March 8, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:19 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

DR. KENNETH LEIGH O'NEIL BAUGH, (JLP), St. Catherine, West Central, Deputy Prime Minister and Minister of Foreign Affairs and Trade.

AUDLEY FITZ ALBERT SHAW, (JLP), Manchester, North Eastern, Finance and the Public Service.

DR. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

LESTER MICHAEL HENRY, CD, (JLP), Clarendon, Central, Minister of Transport and Works.

DR. CHRISTOPHER CHARLES TUFTON, (JLP), St. Elizabeth, South Western, Minister of Agriculture.

JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy.

MINISTERS OF STATE

THE HONOURABLES:

DARYL WESLEY PHILLIP VAZ, (JLP), Portland, Western, Minister without Portfolio in the Office of the Prime Minister, Minister of Information and Telecommunication.

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

OTHER MEMBERS

MR. GEORGE DELANO ARSCOTT, (PNP), Clarendon, South Western.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MRS. NATALIE NEITA-HEADLEY, (PNP), St. Catherine, East Central.

MR. DEAN ALEXANDER PEART, (PNP), Manchester, North Western.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern.

THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

PRAYERS

Prayers were offered by Reverend Ronald Thwaites.

The House resumed its sitting at 2:19 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this afternoon we would like to welcome from the Wolmers Preparatory School fifty students, four teachers and a tour guide. Welcome to the sitting of Parliament. (Applause)

Members, yesterday I received a letter addressed to me as Speaker of House of Representatives and it reads as follows:

> "This is to advise that because of the stipulation of Chapter V, Part I, section 42 of the Constitution of Jamaica, I resign the position of Member of Parliament.
>
> Signed: Clifford EveraldWarmington."

Mr. ARSCOTT: Stay too long.

(*Sotto voce* comments)

Mr. PERALTO: Yes, you have two over there. Where are they?

Mrs. NEITA-HEADLEY: They are here.

Dr. DAVIES: My favourite labourite.

(Cross talk)

(THE HON. ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister and Minister of Defence, entered and took his seat.)

ANNOUNCEMENTS

The Deputy Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 15**
  Cabinet agenda issues for February 21, 2011
- **Ministry Paper No. 16**
  Publication entitled National Parenting Support Policy
- Tourism Product Development Company

Annual Report for the financial year 2008/2009

- Special Report by Children's Advocate on the children in conflict with the law pursuant to paragraph 21 (2) and (3) of Part IV of the First Schedule of the Child Care and Protection Act
- Report of the Ethics Committee of the House of Representatives

The SPEAKER: Yes, Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, the Report on the Tourism Product Company is not before us, nor do I see the Ethics Committee.

The SPEAKER: As per usual, Reverend Thwaites, copies are available. If you need a hard copy one could be made available. But my understanding is that - Miss Curtis - we have a number of copies so if you need one it could be made available to you now.

(DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern, entered and took his seat.)

Rev. THWAITES: Mr. Speaker, this is the only opportunity that the House of Representatives has to monitor the performance of very expensive public bodies; and in addition, the second item has to do with a committee of the House. However straightened our circumstances, I am sure that we can afford copies of that for each Member.

The SPEAKER: I think, Reverend Thwaites, we have agreed that a number of documents, in fact virtually all of the documents would be put on the Parliamentary website so persons who require hard copy would get one. But it would be on the Parliamentary website to avoid the paper chase. So that…

Rev. THWAITES: Mr. Speaker, could I take the liberty of correcting you, sir. What you decided was that all of the documents would be noted as to their whereabouts either in hard copy or on the website or available in the library; and once when the Clerk is announcing what is laid on the Table we are directed, then there will be no complaint. But where it is announced to be laid and we don't know where it is to be found because it is not with us, it is confusing.

(MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central, entered and took her seat.)

(MRS. MAXINE ANTOINETTE HENRY-WILSON, (PNP), St. Andrew, South Eastern, entered and took her seat.)

The SPEAKER: Well - Miss Curtis - we have copies available, Reverend Thwaites. We always have copies available. So if you need a copy, please speak with the Clerk and you can get a copy.

Rev. THWAITES: Mr. Speaker, you don't think my explanation of what you said is correct, sir?

The SPEAKER: No, no, it's correct.

Rev. THWAITES: Well then, when the announcement is made we could - we need to know where it is available.

The SPEAKER: But, Reverend Thwaites, we have said repeatedly that once documents are laid in the House, if it is not laid before you, we have at least a dozen copies that will be placed in the library or available from the Clerk of the House.

Rev. THWAITES: Without any reference we just go and find it ourselves.

The SPEAKER: No, no. In other words, if it is not in front of you, a copy is available from the Clerk of the House.

Rev. THWAITES: Speaker, I despair of making my point to you. May I just ask that generally speaking, I would like to have copies of whatever is being laid on the Table of the House.

The SPEAKER: But the problem, Reverend Thwaites, is that a lot of these copies tend to be very big copies, fifty or a hundred pages; and what we are trying to avoid is the photocopying and the waste of doing sixty copies. So we make available at least a dozen copies so Members who would like a hard copy can get one. Copies are available in the library, copies are on the website. And you know, I think I have announced this many times.

Mr. HOLNESS: Mr. Speaker, if - the routine that we have become accustomed to is that all documents are tabled for each Member, those that are announced. It is clear, Mr. Speaker, that a new practice is emerging where documents that are considered to be bulky - and we have seen where the documents are increasing in the number of pages - that those documents are provided in digital format, we should say then, Mr. Speaker, that where we intend to do that that we provide for every Member and that at Announcements possibly, that it could be indicated that the documents are available at a particular website for.

Rev. THWAITES: That's all I am asking.

The SPEAKER: Fair enough. I think, Miss Curtis, in the future when we have announcements if it is not provided in front of the Member we should indicate that it is available in the library, on the website or at the Clerk's desk. Okay?

(MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern, entered and took his seat.)

BILLS BROUGHT FROM THE SENATE

The Deputy Clerk read the following message from the President of the Senate:

To the Honourable House of Representatives:

I have the honour to advise the Honourable House of Representatives that on the 4th day of March, 2011 a Bill entitled **"AN ACT to Establish a body to be known as the Jamaica International Financial Services Authority for the promotion and development of Jamaica as a centre for international financial services; and for related matters"**, was passed in the Senate without amendment.

Signed: Oswald G. Harding
President of the Senate

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Dr. Rhodd.

Dr. RHODD: Mr. Speaker, I beg to give

notice that at the next meeting of the House I will move:

WHEREAS transportation is one of the main facilitators of development;

AND WHEREAS the Government has embarked on a programme to develop a northern coastal highway;

AND WHEREAS construction of this highway presently extends from Negril in the west to Port Antonio in the east;

AND WHEREAS there is the need to continue this highway to Port Morant, the most easterly point in Jamaica, and construct a new highway from Port Morant to Harbour View in Kingston;

AND WHEREAS economic development of the parishes of Portland and St. Thomas is severely affected by the absence of these highways;

AND WHEREAS visitors to our island who enter at the Norman Manley Airport find it extremely difficult to visit St. Thomas and Portland in order to have a vacation at resorts in these parishes;

AND WHEREAS the safety of nationals and foreigners are at risk whenever they travel along this corridor due to the deplorable state of the road in several sections:

BE IT RESOLVED that the Government embark on a programme to complete the Northern Coastal Highway by extending it to Port Morant in St. Thomas;

AND BE IT FURTHER RESOLVED that the Government also embark on a programme to construct another highway from Port Morant to Kingston.

May it please you.

(Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern, entered and took his seat.)

The SPEAKER: Mr. Mair.

Mr. MAIR: Mr. Speaker, I beg to give notice that in twenty-one days I will move:

WHEREAS under section 69 of the Constitution, Cabinet, led by the Prime Minister, is charged with the general direction and control of the Government of Jamaica and is collectively responsible to Parliament;

AND WHEREAS a member of Cabinet has a duty and responsibility to seek the approval and endorsement of Cabinet on any matter of policy, especially if it is to have critical importance and consequence to the lives of the people of Jamaica;

AND WHEREAS one of the primary duties of the Government is to uphold the fundamental rights and freedoms of the people of Jamaica as declared in our Constitution;

AND WHEREAS it has been brought to the attention of our nation that the Member for East Central St. Andrew in his then capacity as Minister of National Security...

Opposition MEMBERS: No, no, no!.

Mr. MAIR: ...did not seek the endorsement or approval of the Prime Minister and/or Cabinet to commit the Government to an agreement with a foreign State that was of great consequence to our people and infringe their constitutional rights as citizens of Jamaica:

BE IT RESOLVED that the Member for East Central St. Andrew be censured by this Honourable House;

AND BE IT FURTHER RESOLVED that this Honourable House agrees that all members of Cabinet upon demitting office, as a consequence of a change of administration or otherwise, give under oath, a statement on all matters of critical importance to our nation concerning their office to the incoming minister and by extension to the Prime Minister. (Applause)

(HON. ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister, entered and took his seat.)

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, I beg to give notice that at the next meeting of the House that I will move:

BE IT RESOLVED that Ministry Paper No. 16 of 2011, regarding the National Parenting Support Policy and the National Parenting Support Policy which were laid on the Table of the House on the 8th day of March, 2011, be approved.

QUESTIONS AND ANSWERS TO QUESTIONS

The SPEAKER: Reverend Thwaites.

MANATT/DUDUS ENQUIRY

Rev. THWAITES: Mr. Speaker, with your leave at the expiry of the required time, I beg to ask the following questions, two sets, to the Honourable Prime Minister and a further set to the Minister of Transport and Works.

Question 1: What money is being spent by the public purse to pay Lawyers and Commissioners for the Manatt/Dudus Enquiry?

Question 2: How does government reconcile its announced support of the tobacco industry with its obligations under the Framework Commission on Tobacco Control?

The SPEAKER: Thank You, Reverend Thwaites. House Leader, we have at least four questions - five, six questions at least today. Can we have an update?

Mr. HOLNESS: Mr. Speaker, the Minister of Transport and Works is prepared to answer the question asked of him by the Member from St. Catherine. I have provided the Clerk of the House with the necessary requests for extensions for the other questions that are due for answer.

The SPEAKER: Mr. Fitz Jackson, could we deal with 37.

Mr. JACKSON: Mr. Speaker, I ask that the question standing in my name, at 37 on the Question Paper be answered.

The SPEAKER: Mr. Henry.

Mr. HENRY: Thank you very much, Mr. Speaker.

Answers to questions asked by Member of Parliament Mr. Fitz Jackson of the Minister of Transport and Works. Question 1.

Mr. JACKSON: Is there a written?

Mr. HENRY: I'll send a file/folder up there.

J.D.I.P – ST. CATHERINE

Question 1: Has the programme and schedule of road repairs under the Government's Jamaica Infrastructure Development Programme for the parish of St. Catherine and other parishes changed?

Answer: Yes, there have been minor changes.

Question 2: If the answer is in the affirmative, can the Minister state what these changes are for St. Catherine and South St. Catherine, in particular?

Answer: Changes related to the proposed start date. Road works started later than originally intended. The Members of Parliament will be advised by way of ministerial letter on the revised start date for the projects. The Port Henderson South St. Catherine breakaway was added to the programme.

(MR. ANTHONY GEORGE HYLTON, (PNP), St. Andrew, Western entered and took his seat).

Question 3: Can the Minister say whether the projected US$60 million budgeted for the 2010/2011 fiscal year is on target for completion within the period?

Answer: Yes. To date we committed US$60 Million through signed work orders issued to China Harbour Engineering Company for actual expenditure to the end of January was in excess of US$30 Million.

Question 4: Can the Minister confirm whether required revenue flows to support the repayment obligations under financing agreement with the China Export and Import Bank are in place?

Answer: All the financial requirements for 2010/11 were met. The revenue inflows to support other financial years are in place. The Ministry of Finance and the Public Service has instructed that the shortfall in the required revenues to support 11/12 and onwards will be dealt with on an annual basis.

Question 5: Can the Minister state what the current and projected revenue streams, and what are the corresponding amounts to be expended over the duration of the

programme and the financing?

Answer: The current and project revenue streams for the Special Consumption Tax on fuel and loan proceeds from the China Ex-Im Bank expenditures are as follows:

- 2010/11 Road Maintenance Fund 15 per cent, US$9 Million; China Ex-Im 85 per cent $59 Million. Expenditure $60 Million.
- 2011/12 US$22.5 Million Road Maintenance Fund 15 per cent $127.5 Million. China Ex-Im Bank 85 per cent, the total $150 Million.
- 2012/2013 US$18 Million. Road Maintenance Fund 15 per cent. China Ex-Im US$102 Million Expenditure $120 Million.
- 2013/14 US$10.5 Million, RMF Fund 15 per cent. China Ex-Im Bank 85 per cent $59.5 Million totalling $70 Million for that year.

Mr. JACKSON: Through you, Mr. Speaker.

The SPEAKER: Yes, Mr. Fitz Jackson.

Mr. JACKSON: Minister, at Question One you indicated that there has been some change, though minor. And you further went on to speak to the - referred to the commencement dates. Could you Minister, indicate apart from commencement dates, is there any change in the scope of the work? And to put in context, there are some roads in South St. Catherine that were listed for different kinds of works such as some for patching, some for rehabilitation and asphalt overlay.

In at least two cases in South St. Catherine, there are roads, notably one the Hellshire main road that was slated for overlay, that one has only been partially patched. And if I could get some direction as to whether or not the patching is an interim exercise and the overlay is to be done as the case with other such roads? And in respect of the timeframe, though you have indicated that, yes, there is a commencement in - change in the commencement time, could you advise me, and I think other Members too, what the protocol is, apart from a letter from you in respect of the new schedule? Because we are placed in the difficult position of can't communicate effectively to our constituents as to what will happen in their respective areas where they have severe inconveniencies.

Mr. HENRY: As all Members would be aware I have to await the physical space to move forward with the programme and I have to report on it annually. To answer your question, for instance, may not be minor, may not be the total change for we added the Port Henderson road which was not there in the original plan. And that's a major amount of money; I think it's over JA$3 Million.

You're talking about patching, the process of rehabilitation of the roads is you patch the weak areas and then you spread

across the overall asphalt concrete layer. So what you're seeing and calling partially patched is the beginning of the process of the rehabilitation of the road in the programme. And, therefore, it will be what is called sheet patched during the process.

Mr. JACKSON: Minister, I really want to be as clear as possible, so I can in turn advise my constituents. When I dialogue with the parish manager, they are unable to advise me of any schedule of any of the work. So even in the example, you cited, I have had no notification and I sought to have clarification from the parish manager and they are not in position. So I just wonder who can ….?

Mr. HENRY: I said in answer that Members of Parliament will be advised by ministerial letter on the revised start dates. All of that is being prepared for you now that I am clear in terms of the physical space. So hopefully, next week you will have your letter which will tell you where everything will start and is going.

Mr. JACKSON: Through you, Mr. - I'm a bit - you mentioned that the financing is, in fact, in place. So the question of physical space would have been resolved for the financing to be in place. So I take it that physical space is not a pertinent point at this stage.

Mr. HENRY: Well, that precisely why I'm saying that next week you will have your letters which will tell you what is being done.

Mr. JACKSON: Mr. Speaker.

The SPEAKER: Very, well. Members - yes, Mr. Bunting.

Mr. BUNTING: Mr. Speaker, through you I'd just like to ask the Minister. In his response where he speaks to Members of Parliament being advised by way of a ministerial letter of the revised start dates, does this apply to all parishes? Does it apply generally, Minister, or is it only to St. Catherine?

Mr. HENRY: Although the question was confined to a parish, it will apply to the country worldwide.

The SPEAKER: Members, the questions due for answer up to this point, the relevant Minister in relation to Question 38, Mr. Shaw is asking for a further one week to the question Dr. Davies. Question 39 from Dr. Phillips, another one week is being requested. From Reverend Thwaites to Minister Bartlett he is out of the island so he is asking for a further two weeks. And from Mrs. Simpson Miller to Minister Olivia Grange a further one week and from Dr. Davies to Minister Charles a further one week.

I hope Members will agree to the extension and we can move on.

Dr. Rhodd - Ms. Hanna, you had - sorry you wanted to deal with this. Go ahead Dr. Davies.

Dr. DAVIES: No, there is an unfinished question and I could help the Minister by lending him my copy of the letter he wrote to me, so he could finish answering the question. This was a question he inadvertently, I don't know what went wrong but his office didn't receive one of the questions and he has written to me, but I want to ask.

The SPEAKER: Are you in a position, Minister Shaw, to respond to that letter?

Dr. DAVIES: He wrote me. I can lend him.

Mr. SHAW: I don't know what the question is, so I can't answer it right now.

Dr. DAVIES: No, you have answered it. I would like you to read it because I have some follow-up questions.

Mr. SHAW: Okay.

The SPEAKER: So would like to pass this answer so he could -

Dr. DAVIES: I could lend him his answers. Oh, you have it.

The SPEAKER: You have it. Well, Minister Shaw would you like to.

Mr. SHAW: Mr. Speaker, let me first indicate that unfortunately that in sending the questions to my staff apparently the Order Paper had on two pages and the question was inadvertently left off in the communication from the House to the office. So we regret that. And because I knew that I would not be in the House the following sitting, I did write a letter and the question says—it relates to the compensation of the Governor of the Bank of Jamaica.

Question 7: Will the Minister indicate the tax treatment for the various components of the compensation package of the present Governor.

Answer: Salary - income is taxed in accordance with the provisions of the Income Tax Act as amended in 2010. Income tax rates applicable are in accordance with the income bands then established. Gratuity - income is taxed in accordance with the provisions of the Income Tax Act and the Superannuation and Retirement Act, 2004. Housing Accommodation— income tax is charged in accordance with the provisions of the Income Tax Act.Utilities - income tax is charged on the cost incurred by the bank for the delivery of the services. Household Staff - each member of staff is taxed as an employee of the Bank of Jamaica. The Governor will incur a tax liability for the benefit in kind received. The value of the income benefit and the tax thereon will be accounted to in his personal income tax return.

Security Expense - this expenditure has been deemed in prior discussion with the tax authority as bona fide expenditure of the bank, not chargeable as income on incumbent Governors. It is expected that this designation will continue to be applicable.

Related Maintenance Expenses - no taxable income is attributable to this type of expenditure as the cost is that of the lessee, the Bank of Jamaica.

Dr. DAVIES: Mr. Speaker.

The SPEAKER: Yes.

Dr. DAVIES: The Minister had sent me a copy of the actual contract which for understandable reasons, wasn't given to everyone, but I have some concerns.

In this letter sending me the contract, he sent a comparison of the projected annual cost for 2011 for the new Governor and the actual expenditure for the previous Governor in 2009. And I asked the question about tax purposes, in that, the table which he gives me, there are some questions I would like to ask.

One is gratuity which the contract indicates to be 25% of the base salary is not included in the annual cost for the incumbent. And my question is whether this is an error or there is a specific reason for its omission. I would like to know that. I have three other questions, but I don't know whether I should put them all.

Mr. SHAW: Go ahead.

Dr. DAVIES: Okay, my second question relates to the Education grant. As stated in the contract which was given to me, this is open ended. In subsequent discussions or in this House the Minister has indicated that he would seek to cap this amount and I would like to know whether this cap has been formalized.

The third question I would pose is that, in looking at the contract, the new Governor - the Bank will take up payments for two medical insurance. One is the standard medical insurance enjoyed by the previous Governor, but there is an additional - this is an addition to the previous contract, this is an expansion to the previous contract of an existing, I am quoting, "BUPA Medical Insurance policy." I don't know from whence this came, nor is there any reference to it in the table presented by the Minister.

And finally, in terms of the comparison, the Minister, the table includes an amount for the previous Governor for property insurance and valuation, and there is no corresponding figure for the incumbent; and understandable you don't value every year, but within that context, is it a fair comparison to include a figure for valuation since it won't be an annual occurrence?

So there are four (4) things, Mr. Speaker:-

- One is the omission of the gratuity payment. And is there a good reason for that?
- Second the Education grant.
- Third, what is this additional medical insurance, the BUPA, and how much does it cost?
- And fourth, is it fair to include in this comparison an amount for valuation?

The SPEAKER: Minister Shaw.

Mr. SHAW: Thank you. Mr. Speaker, let me indicate that I will have to get back on the question of the gratuity. It is established in terms of contracts that gratuity - gratuities are normally paid, I think, at the end of the contract period. But, if it is not in there then I agree that for comparative purposes it should be prorated over the period of the contract; so that I will get back to the Member on.

In terms of the Education grant that has been formalized in writing by me to the Governor. In terms of the Medical Insurance policy, Mr. Speaker, I would have to get details on that. I must indicate, however, that this was a situation that, having regard to the Governor's previous posting overseas that it

was a transitional arrangement that was entered into, but the actual cost of it I will have to get back to the Member on.

In terms of the final - the issue on the property insurance, that was for the previous Governor. Mr. Speaker, the fact is that, under the arrangement for the new Governor these issues of property insurance become for the account of the landlord and not the Governor or the Bank of Jamaica.

Dr. DAVIES: Mr. Speaker, for a host of reasons we need to get this issue behind us. But we need to get the answers and I would urge you to use the influence and power of your high office to just have a divergence from the normal pattern of several months. But, I would also request and you should guide me as to whether I need to formally state it - I would like the matrix, the table to be recomputed now that the Minister has the additional information, including the information on the additional medical scheme. The information on the gratuity, which by the way, Minister, the Governor is at liberty to seek to be paid at the end of each year as per contract. So I would, therefore, Mr. Speaker, can you guide me. Do I need to pose formally new questions or will the Minister provide us with that comparison?

The SPEAKER: I get the impression that the Minister will provide you in due course. Very well.

Dr. DAVIES: No, that is Part I. I would also wish for you to use the power and influence of your high office to have a response within an acceptable time-frame.

The SPEAKER: Minister, can we have it during the course of this month? Okay. During the course of this month, Dr. Davies.

Miss Lisa Hanna.

Dr. DAVIES: Well I might as well pose it as a normal question.

The SPEAKER: No, no, but Minister Davies, we have about two more sittings so if you get over the next two sittings that should be.

Miss HANNA: Thank you, Mr. Speaker. At the expiration - I beg to give notice that at the expiration of 21 days I will ask the Minister of Youth Culture and Sport the question standing in my name.

Question: What is the status of the National Youth Service?

The SPEAKER: Thank you, Miss Hanna.

MOTIONS RELATING TO SITTINGS OF THE HOUSE

Rev. THWAITES: Mr. Speaker…

The SPEAKER: Yes.

Rev. THWAITES: …having regarded to the - this is to do with motions relating to sittings of the House. Having regard to your *orbiter dicta* that we have perhaps two sittings remaining, would you be able to tell me when the motions standing in my name and others, which resolutions was promised at the last meeting, will be dealt with?

The SPEAKER: I was guessing, you know, that there might be two more sittings. I don't know, because my reckoning is that the new fiscal year will begin in April.

Rev. THWAITES: But, Mr. Speaker, you have all the power.

The SPEAKER: Maybe the House Leader can advise us. House Leader.

Mr. HOLNESS: Mr. Speaker, we may very well have four (4) more sittings before the Parliamentary year is out. We will have to sit next Tuesday and Wednesday and then the following Tuesday and Wednesday.

(*Sotto voce* comments By Dr. Davies)

Mr. HOLNESS: No. But, Mr. Speaker, there are two very important pieces of legislation which we will have to consider over those four (4) sittings. We will, Mr. Speaker, give accommodation for some of the many resolutions standing in the name of the Member from Central Kingston.

The SPEAKER: Very well thank you. Okay, Reverend Thwaites.

Rev. THWAITES: Not, okay at all.

The SPEAKER**:** The House Leader has indicated that we have maybe four more sittings.

Rev. THWAITES: From what I gather from the House Leader despite his generous last sentence, the majority of time on those sittings is committed to these very important Bills that he speaks of. In addition it is likely, as I gather from the crosstalk, that there will be further items of Supplementary Estimates. And, Mr. Speaker I really ask that this Honourable House deal with the question of getting through its business. It is not only my motions, there are many other Members who have business too. And it can't just dribble on, it must be decided how the House is going to complete its business.

The SPEAKER: Reverend Thwaites, I have asked the House Leader and the Leader of Opposition Business to try to settle for the next few sittings how many of these can be done. It is obvious that we can't do all of them, but the priority ones we should try to get through over the next four sittings.

Rev. THWAITES: So I need to ask your guidance, Mr. Speaker?

The SPEAKER: No, no, I asked the House Leader and the Leader of Opposition Business to really try and see which ones can be done.

Rev. THWAITES: But this is being treated as a hit or miss thing. First of all, we have no advice except the last as I repeat generous statements by the House Leader that some may be accommodated or will be accommodated. But when will the rest be done, and is it of any importance? Or is this the tail end of the whole thing? How do you square this, Mr. Speaker, with the change in the Standing Orders which apply to these matters and which are pending? And why is it that when certain people raise certain issues in this House they can't get time to be heard?

The SPEAKER: No, but the question, Reverend Thwaites, those that are not completed be carried over to the next sitting.

Rev. THWAITES: Some of these issues are in fact being carried over for the third sitting, Mr. Speaker. Is that alright, is there an end to this?

The SPEAKER: Yes, Mrs. Sharon Hay-Webster.

Mrs. HAY-WEBSTER: There is another outstanding matter House Leader, through you, Mr. Speaker that is the issue of the Crime Report, which should have been tabled first to be able to have the discussions. We had indication from the House Leader from the last time I raised this that the matter would have been placed before the legislative

year was completed. I have seen nor heard nothing of this. Am I to assume, House Leader, through you, Mr. Speaker that this will happen, and then we can pick it up in the next year? How is this going to be treated?

The SPEAKER: Can we have an update on that House Leader?

Mr. HOLNESS: Mr. Speaker, the reality is that the volume of work that we have to do relative to the time that we have set for the business of Parliament requires some prioritization, no doubt.

Mr. Speaker, the Member from - there is an order of precedence clearly, Public Business takes precedence.

But, Mr. Speaker, the Member from Central Kingston has 22 resolutions on the Order Paper. Unless the House is prepared - and I have attempted on many occasions, Mr. Speaker, to have the House sit twice weekly, it is not an easy task. And so, whilst the Member raises objections and they might very well be valid, but the Member must also consider the extreme difficulties that we have had in having increased sittings including the attendance and the Members staying for the length of the session. And those are practical considerations that the House - in planning the business of the House, we have to consider. As it relates to what the Member from St. Catherine pointed out which was the….

A MEMBER: Which Member that?

Mr. HOLNESS: Your constituency is St. Catherine South Central. The commitment was that we would table in the House a Crime Report. Mr. Speaker, that is being prepared. I would not want to give a further commitment that we could accommodate it within the tight agenda that we have for the remaining four sittings. Which, Mr. Speaker, I may just point out that, the Special Prosecutor Bill will be taken next week, that may very well require the two sittings schedule for next week to complete. And the Bills for the amendment of the Constitution regarding the Bill of Rights and connected matters, those will be taken at the sitting of the 22nd and that may very well, too, have to be dealt with on the 23rd.

So Mr. Speaker, with those Bills being priority, I wouldn't want to give any further commitment; but certainly, Mr. Speaker, within the new legislative year that would be accommodated.

The SPEAKER: Thank you. Yes, Mr. Kellier.

Mr. KELLIER: Mr. Speaker, indeed I think if we, as Members of the House decide to give this thing a serious - take a serious attempt of trying to complete some of these motions that have been languishing for some while now, albeit some attempts have been made. But I think it is only fair to the Member and indeed all the other Members who have motions on the Paper, that we should work as diligently as possible to have them cleared up. The truth of the matter is, when we are doing the business of the finance - the finance Committee of the whole House to examine the Estimates of Expenditure, we stay here for the whole night until the next day, because the issue of finance is so important to the running of the country for us to pass those estimates and have them debated. I see no reason why we can't extent the time to some

of those hours, not necessarily for the whole night. But I believe if we are - if we on both sides decide that the business of the House is really serious, we will stay here and complete them.

(Applause)

So I am suggesting, Mr. Speaker, that we utilize the time much more efficiently in terms of the time allotted for people to speak and so on, so that we can complete them in the two Wednesdays that we have before the end of March.

The SPEAKER: Mr. Kellier, I have suggested repeatedly, if you and the House Leader can put together with the proposals... most of the motions are from the Member from Central Kingston, and we debate a number of them...It's possible, we can't do all, but as many of them as we can over the next four sittings, I'm prepared to accommodate. But just work it out with the House Leader and the Member from Central Kingston.

Mr. KELLIER: Mr. Speaker, we are prepared to do that. But you must remember that this thing can't work with one side of the House...

The SPEAKER: But just make sure.

Mr. KELLIER: ...so we need the cooperation of the Members. These motions are not for any side you know. These motions are general motions for the benefit of the country...

The SPEAKER: And to be fair...

Mr. KELLIER: So we want the support of both sides to stay here. You have seen, Mr. Speaker, time and time again when it reaches 6.00 o'clock, somehow people just start to disappear - On both sides!

The SPEAKER: On both sides.

Mr. KELLIER: Yes, yes. I'm saying that. It is a fact. Nonetheless, I think we should just decide as Honourable Members to honour the things that are on this paper and dealing with them.

The SPEAKER: Absolutely. Thank you. So work it out for me please.

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business, we will continue the debate which we started last week on AN ACT to Amend the Foreign Nationals and Commonwealth Citizens Employment Act, and that debate is being taken by the Minister of Labour and Social Security. And then, Mr. Speaker, the Minister of Finance has two matters that he will take - The Financial Administration and Audit Act, Regulations 2011, the Resolution, and the Civil Service Establishment (General Amendment) Order, 2011.

The SPEAKER: Well, which you propose to go with first?

Mr. HOLNESS: Well, before we go...

The SPEAKER: The Ministry of Finance seems to be very short.

Mr. HOLNESS: Yes, but before we do that, Mr. Speaker, I'm told that I have to ask for the recommittal of the Item, Reports from Committees...

The SPEAKER: Okay.

Mr. HOLNESS: And Notices of Motions.

The SPEAKER: Members, the motion before you is for the suspension of Standing

Orders to allow for the recommittal of the Items, Reports from Committees and Notices of Motions Given Orally.

Put to the House and agreed to.

RECOMMITTAL OF REPORTS FROM COMMITTEES

The SPEAKER: Mr. Hibbert

Mr. HIBBERT: Thank you, Mr. Speaker.

Mr. Speaker, I beg to lay on the Table of the House a copy of the Report of the Ethics Committee of the House of Representatives.

The SPEAKER: Thank you, Mr. Hibbert.

RECOMMITTAL OF NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Mr. Hibbert.

Mr. HIBBERT: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

> BE IT RESOLVED that the Report of the Ethics Committee of the House of Representatives which was laid on the Table of the House on the 8th day of March, 2011, be adopted.

The SPEAKER: Thank you.

Mr. HIBBERT: Mr. Speaker, I further beg to give notice that at a later stage today, I'll move for the suspension of the Standing Orders to enable me to take the motion.

PUBLIC BUSINESS

Mr. HOLNESS: Mr. Speaker, again, another house-keeping matter.

Today, Mr. Speaker, is International Women's Day. And the Minister with responsibility for Gender Affairs would want to make a statement to the House. So I'm going to ask, Mr. Speaker, that we recommit the Item, 'Statements by Ministers'.

Put to the House and agreed to.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow for the recommittal of the Item, 'Statements by Ministers'.

Put to the House and agreed to.

RECOMMITTAL OF STATEMENTS BY MINISTERS

Mr. PICKERSGILL: Andrew, you doan' have any flowers for the ladies?

The SPEAKER: Miss Grange.

Miss GRANGE: Mr. Speaker, this year, International Women's Day celebrates its one hundredth year of observance.

The SPEAKER: Could you circulate, Miss Grange, the... Don't tell me you don't have copies.

Opposition MEMBER: Not on a day like today!

Miss GRANGE: They're printing the copies. They're printing the copies. They're printing the copies.

(Inaudible comments)

Miss GRANGE: Yes. Mr. Speaker, we have our challenges in doing copies here you know. And so, as a result it's usually a little delayed. And in fact, it's good when a Member speaks, that there is focus and attention rather than everybody reading the presentation at the same time.

(Inaudible comments by Members)

Miss GRANGE: Mr. Speaker, International Women's Day is being

recognized today. And we celebrate one hundred years of observance of this day.

As Minister with responsibility for Women Affairs and Gender Issues, I am honoured to pay tribute to all women across the world. Of course, I must specifically acknowledge the contributions made by Jamaican women to the social, cultural, economic and political development of the nation.

International Women's Day reminds us that women play an integral role in the development of a country. And when we ensure that our women are empowered, we are moving toward the achievement of gender equality. While we take note of the hardships and struggles that this nation has faced as a people, we must also highlight the achievements and progress that have been made so far.

The theme for this year, Mr. Speaker, is, and I quote: **"Education and Training: Decent Work for Women".** Most recent statistics from *the Economic and Social Survey* of Jamaica highlight that although Jamaican women matriculate and graduate from tertiary institutions at higher rates than men, they are twice as likely to be unemployed and are employed in sectors that are low paying.

In many instances women are breadwinners and primary care-givers. They also contend with issues of sexual harassment and discrimination in the workplace. This year's theme highlights the continued struggle of Jamaican women to participate equally and productively in society.

Mr. Speaker, at this time, I'm extremely pleased to say that the National Policy for Gender Equality has just been approved by Cabinet. This will improve the participation of women in all sectors of the society and facilitate greater coordination and sustainability in the gender mainstreaming process.

Indeed, the National Policy for Gender Equality will seek to facilitate a national strategy towards addressing the specific needs of both men and women.

The implementation of the policy is crucial to the attainment of Jamaica's development goals, to regional goals, as well as the Millennium Development Goals and other commitments to gender equality and women's empowerment. A major aim of the policy is to make national policy-making and implementation more gender aware. This will take into account the different barriers which inhibit both sexes from realizing their full potential.

Mr. Speaker, again, today, I take great pleasure in announcing what we have labelled, *'The Way Out Project'*, which is being implemented through the Bureau of Women's Affairs in partnership with the Dispute Resolution Foundation. The full title is: *'Jamaican Women's Political Empowerment: The Way Out Project'* . This is being done with assistance from the United Nations Entity for Gender Equality and the Empowerment of Women, that's UN Women, through its fund for gender equality.

The programme is being conducted over a period of 32 months. It will offer leadership training and development to women from all walks of life. It will increase their capacity and knowledge, and encourage participation

in the decision-making spheres of the country. *The Way Out Project,* Mr. Speaker, is also designed to support and promote the implementation of the recently approved national policy for gender equality and its gender main-streaming goals. People at all levels of the public service will receive training in gender main streaming, collecting sex disaggregated data, gender responsive budgeting, gender responsive planning and mediation. It will also target key entities in the private sector to promote gender awareness, and train individuals in those entities to use gender mainstreaming as a tool. These would include, non-governmental organizations, faith-based organizations, community-based organizations, political organizations, labour unions and other such entities.

Our women, Mr. Speaker, are change agents. And as we celebrate the 100th Anniversary of International Women's Day, we must ensure that more, and more, and more of our women are given opportunities to be active agents of change in this society.

Moving forward, I invite all sectors of society partner with us so that the goal of empowerment of women and gender equality will be achieved. I specially invite all concerned women and men to work with me in mobilizing the support from all sectors. And I continue to recognize the support and the work of women from the People's National Party and from the Jamaica Labour Party, and specifically the work of the Leader of the Opposition in giving support and also in laying the foundation in women being empowered and continue to being empowered.

In commemorating the centenary of International Women's Day, we also recognize that 2011, Mr. Speaker, has been declared the International Year for People of African descent.

(Applause)

And so, I'm appropriately dressed.

Mr. PICKERSGILL: Pearnel!

Miss GRANGE: I want to acknowledge the contribution of women of African descent to the development of not only the African Continent and the diaspora, but to the world.

Miss HANNA: Hear, hear!

Miss GRANGE: Let us pay tribute to these women, both past and present, who have overcome many hurdles to achieve much success.

So today, I call upon Jamaicans from all walks of life. Women and men, boys and girls, old and young, rich and poor, inner-city and outer-city, to celebrate not only the centenary of International Women's Day, but the achievement of Jamaican women, and the strides we have made as a proud nation.

Our celebration today, Mr. Speaker, is not only about celebrating women. But it is about the way moving forward as we move from women and development to gender and development.

It's about a partnership, it's about men and women. And as we boast the motto: **Out of Many One People,** I celebrate the women and the men of the world, moving forward with great pride towards a common goal of equity for all.

I thank you, Mr. Speaker.

(Applause)

The SPEAKER: Thank you, Minister Grange.

Mrs. Simpson Miller.

Mrs. SIMPSON MILLER: Thank you, Mr. Speaker.

Let me begin by commending the Minister for the project that she announced that will benefit the women of Jamaica.

Mr. Speaker, International Women's Day is one day each year when we are encouraged to celebrate what we have achieved and to highlight what still needs to be done.

On this 8th day of March 2011, women in every corner of the world have gathered and are gathering in a variety of venues to celebrate and observe 100 years in the struggle of generations of their grandmothers, mothers, sisters and aunties to find a just, equal and peaceful world for women and girls.

During this short span of human history, women of every race, cast, class, religion and culture have experienced significant changes in the social, political and economic realities of the generations that preceded them. The incremental gains made by the women of the world were celebrated and given more in depth direction by - many world conferences convened by the United Nations, in the different continents. On all of these occasions, Jamaica's delegations were bipartisan groupings of both non-governmental and governmental representatives, as was said by the Minister, earlier. The cross-fertilization of progressive ideas and strategies for women's equality and rights have resulted in dramatic changes in the lives of significant numbers of Jamaican women.

Ms. HANNA: Hear, hear!

Mrs. SIMPSON MILLER: As a country, Mr. Speaker, we acknowledge the significant body of legislation that is in place to ensure justice and dignity for women and girls. While we acknowledge these solid gains, we are mindful of the fact that far too many of our women and girls, are represented amongst the poor, the marginalised and the socially neglected. The issue of feminisation of poverty and its impact on the family, and by extension the wider society, is a matter that needs the urgent attention of those of us in this Honourable House and the society at large, if we are serious about the development and advancement of our country.

Mr. Speaker, by the same token, gender-based violence and human trafficking of women and girls, is an issue that warrants urgent and decisive action from the State. Today is an appropriate time for us to commit ourselves to eradicate this modern-day slavery and to establish or strengthen the appropriate institution dedicated to free our society of these two evils. And I'm sure the Minister is continuing the work in this area.

Mr. Speaker, when human rights are fully respected, women feel safe and secure and are able to participate fully in the development of society. (Applause) And while we have come a long way along this road, much remains to be achieved.

Ms. HANNA: Hear, hear!

Mrs. SIMPSON MILLER: We now have some advancement in the areas of education, healthcare and economic involvement of women and girls in both urban and rural centres.

Mr. Speaker, even as we celebrate the centenary of advocacy and achievements, we now are challenged to start this new century of women's struggles in an organised, determined and collaborative way.

I pause to recognise what the Minister said earlier, and that's why she is adorned with a piece of mother - symbolising mother

Africa and here I would like to ask whether the Government will be doing something to celebrate our heritage, the fact that the majority of Jamaicans are of African descent. And I think it is important because part of the challenge we're having in the country is that there is a large number of Jamaicans who do not understand our history and recognise the contribution of our ancestors, that we're here as freed men and women, and our National Heroes, that we can be part of a movement, taking charge of our own destiny and electing our own leaders. I think it is important. (Applause)

A MEMBER: Hear, hear!

Mrs. SIMPSON MILLER: And I see the Minister nodding with consent that something is going to be planned and I'm very happy about that.

Mr. Speaker, this moment is an important journey to the brave new world in which Jamaica can achieve the Millennium Development Goal of gender equality, gender development and equality - the empowerment of our women. And I think that all of us will agree that when you empower women you empower families ... (Applause) ... because the women are caregivers.

The gender imbalance, Mr. Speaker, in this House is an example of the work that remains to be done to remove all systemic barriers that hold women back. And so in this historic International Women's Day - and I'm sure the female - and I pause to salute the female members here and to say to them much respect is due.

(Applause)

MEMBERS: Hear, hear!

Mrs. SIMPSON MILLER: We're

always held to a different standard and a higher standard than our male counterparts are judged. We're under more scrutiny than our male counterpart. We have to be at all times, as parliamentarians, attired in a way, and while the men can change their shirts and ties...

Mrs. NEITA-HEADLEY: Yes.

Mrs. SIMPSON MILLER: ...wear the same suits, if we ever continue to wear the same dress every week, then we're going to hear about it. (Laughter) So we face different challenges. And Minister, I join with you - this side, the Opposition and the women - for us to come up with something, because you know the challenges we face, even including in terms of elections, why we are not attracting more women. Because while…

Mrs. NEITA-HEADLEY: The mudslinging.

Mrs. SIMPSON MILLER: Not only - yes, the mudslinging is a bad part of it where we criticise each other and I'm proud of the behaviour of the women in this Parliament and commend the women. (Applause)

Miss HANNA: Hear, hear!

The PRIME MINISTER: All of them?

Mrs. NEITA-HEADLEY: Including this one.

Mrs. SIMPSON MILLER: All the women on that side and this side, I'm proud of the women. Proud of the women and their contribution. (Applause)

The SPEAKER: Yes, yes!

Mrs. SIMPSON MILLER: And we want to commend the men who support women and love women.

A MEMBER: Hear, hear, hear, hear!

Mrs. NEITA-HEADLEY: Clap them!

Mrs. SIMPSON MILLER: From both sides.

(Applause)

Mrs. NEITA-HEADLEY: A financial support we want. (Laughter)

Mrs. SIMPSON MILLER: But we also recognise that...

A MEMBER: Go a Family Court fi dat.

Mrs. SIMPSON MILLER: ...when women are involved, or wanting to get involved in the politics, they do not have the same kind of network...

Mrs. NEITA-HEADLEY: Financial constraints.

Mrs. SIMPSON MILLER: ...for the financial support...

Mrs. NEITA-HEADLEY: True, true!

Mrs. SIMPSON MILLER: ...that their male counterpart can. And we need to examine all of these things and then we present to the leaders of both political parties, as we struggle to ensure the involvement of more women at all levels of the political process.

Mr. Speaker, on this historical International Women's Day, I call on the women of Jamaica and women of this Honourable House, let us move forward in unity and confidence, because our cause is not only just, it is politically possible ...

MEMBERS: Yes, yes!

Mrs. SIMPSON MILLER: ...economical feasible...

MEMBERS: Hear, hear!

Mrs. SIMPSON MILLER: ...and morally necessary.

(Applause)

A MEMBER: Hear, hear!

Mrs. SIMPSON MILLER: I salute every woman in Jamaica for their strength and their tenacity in these challenging times.

Mrs. NEITA-HEADLEY: Women.

Mrs. SIMPSON MILLER: And I'm sure the men here will join with me in saluting the women of Jamaica, bearing in mind that when things are difficult and the men do not even know how the children will be fed, mama will find a way to ensure that both man and children are fed. (Applause)

MEMBERS: Hear, hear! A true. Thank you very much.

Mrs. SIMPSON MILLER: And so the strength and the tenacity of our women must be recognised. And we can only achieve the kind of empowerment of our women if we have the full support of our men as well. And I want to commend the men who are always very supportive of their women. (Applause)

MEMBERS: Amen. Hear, hear!

Mrs. SIMPSON MILLER: And those who are not, I would like to tell them...

A MEMBER: Yu hear sah?

Mrs. SIMPSON MILLER: ...that when both love each other it is so nice and what a happy family. Let us all unite, so we can live together in love and in peace. (Applause)

To the women of Jamaica, God bless you all, God bless you. Let us continue the fight and unite.

(Applause)

The SPEAKER: Thank you very much, Mrs. Simpson Miller.

Miss Lisa Hanna.

Miss HANNA: Thank you, Mr. Speaker. I too want to join with my female colleagues in the House, on recognising the outstanding contribution of women, not only globally but certainly locally. And,. Mr. Speaker, certainly, if I may be permitted to single out the Leader of the Opposition...

A MEMBER: Hear, hear!

Miss HANNA: ...for seven (7) terms of service... (Applause)

MEMBERS: Hear, hear, hear, hear!

Miss HANNA: ...to this House. Many persons - I am standing in the number of years that she has been sitting in this House and it really is a testament to her tenacity and certainly her ambition and fortitude, because it is not easy being a female politician I believe, in any country. And, Mr. Speaker, that is what I really just want to touch on for a couple minutes.

A MEMBER: Okay!

Miss HANNA: Because one of the facts is that the United Nations says that in order for more things to happen in terms of women, is that you need more female representation across the board. And if you want to have a tipping point, you need 30% of female representation in any parliamentary system. (Applause)

What is interesting is that of the 195 countries in the world, only about 8% of them have female leaders, which is really woefully inadequate if you really consider it. Because in Jamaica, certainly at the lower - in the Lower House it is 8% of women and in the Upper House it is 12%.

And so, if we really want to have certain things and certain legislative processes – and I commend the Minister for the Gender Policy that was recently presented and accepted to Cabinet. But while we have those Gender

Policies, what is critical is that we have the female representation and more persons actively seeking to engage themselves in representational politics to effect those kinds of legislative changes. Because you are not going to see the majority of them coming forward if you really don't have those kinds of things on the table.

And so, today, Mr. Speaker, I really want to commend those persons who have gone before us in this arena. And I want to just say to the rest of us who are doing a valiant job representing our people on the ground and both sides of the House, that I salute you and I commend you. And anyone who is in female leadership, whether it is in the household, certainly in the school, in your community, certainly in business, we salute you today, as women.

Thank you, Mr. Speaker.

(Applause)

The SPEAKER: Thank you very much, Miss Lisa Hanna.

PUBLIC BUSINESS
(Resumption)

The SPEAKER: Mr. Hibbert.

Mr. HIBBERT: Mr. Speaker, I now

move for the suspension of the Standing Orders to enable me to take the motion, notice of which I gave earlier.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the Member from East Rural St. Andrew to take the motion, notice of which he gave earlier.

Put to the House and agreed to.

The SPEAKER: Mr. Hibbert.

Mr. HIBBERT: Mr. Speaker, I now move that the motion be approved.

The SPEAKER: Members, before you is the Report – the Motion and the Report of the Ethics Committee.

Put to the House and agreed to.

The SPEAKER: Mr. Shaw, the matter under Public Business, Financial Management Regulations, and the Civil Service Establishment, you will proceed, Mr. Shaw?

Mr. SHAW: Thank you, Mr. Speaker. Mr. Speaker, the matter before us is the Financial Management Regulations, 2011. The FAA Act establishes the legal parameters and provides the basic principle for government's financial management. And sections 8, 14(3), 24(a)(3), 35, 39, 40 and 50 subsection (1) of the Act, empower the Minister to make regulations for the purpose of giving effect to the provisions of the Act. These regulations are therefore presented to the House today for affirmative resolution. And the House is also asked to repeal the existing Financial Management Ministries and Departments (Regulations), 1996.

The existing FAA regulations, Mr. Speaker, were developed and passed in February of 1996. Since that time, Government's financial operations have undergone many changes and reforms, which required corresponding amendment to the principal Act. The revised regulations were developed to incorporate amendments made to the Act since that time, and in particular, to section 33 of the Act which was amended in August, 2009, to enhance the internal audit functions in ministries and departments. The opportunity was used to have a general revision of the 1996 regulations.

The revised Financial Management Regulations encompasses the following subject areas:

- There is a preliminary area, Management of the Consolidated Fund;
- Preparation and submission of the Annual Estimates;
- Administration;
- Financial Reports;
- Use of electronic devices;
- Loss of public property;
- Surcharge;
- Government property audit;
- Central treasury management;

and a general section.

The revised regulations embody the entire Act, Mr. Speaker. However, the regulations are being presented to the House of Representatives, in accordance with section 8 subsection (4) of the Act, which requires that regulations made under this section be subject to affirmative resolution.

The regulations that are directly related to this section are 16 and 38 to 42, which address the following policy directives:

- Regulation number 16, Appropriations in Aid:
- The Minister may direct that revenues, fees, penalties, proceeds from sale, received by accounting officers, to be included as Appropriation-in-Aid, in the Estimates of Expenditure.
- Regulation 40 relates to the need for the Financial Secretary, on the approval of the Minister, that he may grant approval for Appropriation in Aid.
- Regulation 38. The Financial Secretary must give prior approval for authorized refunds and drawbacks.
- Regulation 39. The Financial Secretary will issue instructions to principal receivers of revenue, in regard to refunds and drawbacks.
- Regulations 41. Principal receivers of revenue and accounting officers, must collect and account for all revenues received.
- And Regulation 42. Principal receivers of revenue must keep such records as prescribed by the Financial Secretary, to account for all revenues collected.

Accordingly, the Financial Administration and Audit Act, Financial Management Regulations, Mr. Speaker, are presented to the House for its affirmation.

The SPEAKER: Members, before you is the Financial Administration and Audit Act, on a resolution moved by the Minister of Finance – it's Order 6 on your paper, and it seeks approval of this resolution.

Put to the House and agreed to.

The SPEAKER: Resolution approved. Minister Shaw.

CIVIL SERVICE ESTABLISHMENT ACT – ORDER 2011

Mr. SHAW: Thank you, Mr. Speaker. Mr. Speaker, the next matter before us is the Civil Service Establishment (General) (Amendment) Order, 2011.

Mr. Speaker, in accordance with the Civil Service Establishment Act of 1975, the Civil Service Establishment (General) (Amendment) Order, 2011, has been prepared, and is presented to indicate changes to the Civil Service Establishment (General) Order, 2010.

The amendment order reflects changes in two areas. Part 1, established posts or offices, Part III, abolished posts or offices.

In Part 1, the section shows changes in the complement of posts in ministries and departments. It reflects changes in posts, which include reclassification of posts, new posts created, upgrading of posts and re-titling of posts, and the effective date for these changes. In this section of the order, Mr. Speaker, there have been 260 new posts created, 130 posts were upgraded, 98 posts were reclassified, and 260 posts were re-titled.

In Part III, Mr. Speaker, it shows that 153 posts were abolished from the establishment of several ministries and departments. The dates on which the abolition should take effect are also shown in this section. And

this, of course, is this document which was tabled in the House.

The Affirmative Resolution is therefore sought for the Civil Service Establishment (General)(Amendment) Order, 2011.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, will the Minister say whether it is the intention of Government to reduce the numbers in the Civil Service, and therefore, ease the extreme burden of the cost of the size of the Civil Service on the taxpayer? And where 216

posts are created, and a number of others reorganized and only 153 abolished, does this reflect any policy of contraction, which I thought was – would have to happen because of our circumstances?

Mr. SHAW: Mr. Speaker, as the Honourable Member and the Honourable House is aware, the Government is at this time examining the Report of the Public Sector Transformation Unit, which was established by the Honourable Prime Minister some time ago, and which has been the subject of a Green Paper that has been tabled in Parliament.

I just want to indicate, Mr. Speaker, that there isn't a direct stated policy that we are going to reduce the size of the Civil Service. The stated policy is that we are going to transform the public sector, to ensure that it is more efficient and more responsive in the delivery of services. That is the objective of that transformation which is at this time being considered by the Honourable Prime Minister and by Cabinet.

The SPEAKER: Dr. Davies, normally you must speak before the Minister completes. You should speak after Reverend Thwaites, but go ahead.

Dr. DAVIES: Well, I signalled to you, Mr. Speaker, so it's just that I am an insignificant person in this system.

Mr. – through you – thank you very much for your indulgence, Mr. Speaker.

Minister, I must confess that I am very glad that you made that clarification to Reverend Thwaite's question. Because I think that certainly from some of the pronouncements made by the Prime Minister,

much of the country was under the impression that you were speaking about a reduction. But can you say where we are with this transformation project?

With all due respect, Mr. Minister, the document which has been presented, it certainly doesn't suggest that this is a transformation, there are some mergers and some transfers of agencies to different ministries. Some don't make sense, but I do not see that as bringing about any significant change in either the structure or performance. So where exactly are we with regard to that transformation exercise?

At the same time, Mr. Minister, speaking on behalf of the members of the PAC, we have brought before us – and I genuinely mean all members - we have brought before us each week clear examples of overlap, inefficiencies, *et cetera*… (Applause) …and some are quite - demanding urgent attention. And I cite one. The whole mixture of the Island Traffic Authority, the Inland Revenue which collects, the Police Department which is supposed to monitor both the fitness of vehicles, and the fitness of drivers, that is just

one totally confusing, and we are tempted to believe corrupt set of institutions. It would seem to me that within the whole project for transformation, we should be able to identify areas where there can be both greater coordination and saving of resources.

I differ in one point from my colleague Member from Central Kingston, and there are certain areas where, paradoxically, you could save money by expanding the staff.

We had before us today, the Customs Department – and I don't know whether you

are aware of some of the numbers. There was one person – they get paid overtime, and there was one Customs Officer who clocked in and received payment for working fifty-one (51) hours non-stop.

The Deputy Prime Minister would have sent her home just to protect her health. But this is.....

(Inaudible comment by a Member)

Dr. DAVIES: (Laughter) That's one. And there was another, there was another who worked overtime every day for a month and collected $750,000. Now it seems to me that somebody has to do - I am not suggesting that these were general results, but it seems that even as we contemplate this massive transformation, which won't happen this fiscal year, there are things which can be done looking at the results from the PAC, *et cetera*, there are things which can be done to streamline the Government organization. And the truth is, that the public has a sense that this is just - in several instances - just a blow to the bureaucracy, which isn't providing service.

So I would suggest that even as we await the great transformation day, there are things which can be done now to improve the efficiency of the public sector.

The SPEAKER: Minister Shaw.

Mr. SHAW: Thank you, Mr. Speaker, and I thank the Member.

Let me just say that, once again, not to belabour the point, Mr. Speaker, but that the objective of transformation in the public sector is not *per se* to set about looking at numbers and saying you are either going to increase the size of the establishment or you

are going to decrease the size of the establishment. That becomes the final product and output, becomes the - is the result of the kind of deliberation that is now taking place, Mr. Speaker.

And as I said, the objective is to increase efficiency, increase service delivery, cut out corruption because certainly, what the Chairman of the PAC has made reference to in the examples he has put forward, would indicate a level of corrupt practices there.

And so, Mr. Speaker, let me say that the Cabinet at this time is doing the necessary deliberation, very careful deliberation, and we recognize that, like tax reform which we are also working on, it's going to be a process. It's not a single event to come to Parliament and say well now, this is the old system and this is the new system, it's going to have to be a process. And it's the same thing that tax reform will be all about when we present it to Parliament.

But, Mr. Speaker, what I can say is that, there are low hanging fruit. And even as we have not made formal pronouncements on a total plan, I know that in some areas where

the recommendations are pretty straightforward, and in fact are quite practical, work is already being done to begin the process.

In my own Ministry, Mr. Speaker, I have named and had made a submission to Cabinet for a team, an enterprise team to look at the business of merging the Jamaica Racing Commission with the Betting, Gaming and Lotteries Commission as one of the logical areas that we think we can improve efficiency while cutting down on the number of agencies that we have.

And so I just want to report, Mr. Speaker, that I don't want to pre-empt the work of the Cabinet, but to indicate that both because we believe it is important and equally, it is also a part of our commitment within the context of the Standby arrangements with the International Monetary Fund, that the review of the public sector is very much a critical part of our priorities at this time, and Parliament will shortly be advised of some of the further developments in that area.

The SPEAKER: Thank you, Minister Shaw. Members, before you is the Civil Service Establishment (General) (Amendment) Order 2011 Resolution, coming under the Civil Service Establishment Act, and it is No. 7 on your Order Paper, a resolution for your approval.

Put to the House and agreed to.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, as I had indicated earlier, that we will be continuing debate on the Foreign Nationals Employment Bill.

The SPEAKER: Okay, so Minister Baugh will speak on this. Very well, Minister Baugh.

Mr. HOLNESS: Yes, the Minister and the Prime Minister will participate in this debate.

FOREIGN NATIONAL EMPLOYMENT ACT

Dr. BAUGH: Mr. Speaker, thank you very much, and I thank Members of this Honourable House. I appreciate this opportunity to speak on this Bill that is before us and piloted by the Minister of Labour and Social Security.

The Bill before us, Mr. Speaker, is an ACT to Amend the Foreign Nationals and Commonwealth Citizens (Employment) Act as well as the Foreign Nationals and Commonwealth Citizens (Exemptions) Regulations, 1964.

This Act of course, as you know, Mr. Speaker, if I can just repeat for clarity sake, is designed to regulate the employment of non-Jamaicans in Jamaica. As far as the Regulations are concerned the Schedule as is printed in the Bill before us now, the Schedule covers a long list of people who would be entitled to Work Permits. People such as heads of Missions in Jamaica, Consular officers, people who enjoy different diplomatic immunity and privileges, Ministers of Government, wives, widows, University of the West Indies students, *et cetera, et cetera*, a long list of Schedule that is in the Bill before us.

Both the Act and the Regulations are

being amended. And, Mr. Speaker, this is commensurate with and in conformity with the Caribbean Community Act of 2005, an Act which established and put into domestic law the Treaty of Chaguaramas establishing the Caribbean Single Market and Economy.

This Bill - this amendment before us now removes and abolishes the requirement for work permits and exemption certificates for Caribbean nationals, that is, nationals of Caribbean Member States. And these are such persons who are listed in certain categories of workers. And those categories of workers, Mr. Speaker, has already been approved in the free movement of Skilled Persons Act of 1997, and the Caribbean Community Establishment Services Capital and Movement of Community National Act. Mr. Speaker, this Bill before us now regularizes what has in effect been in practice for some time, but at the level of administrative activities.

The amendment also abolishes the need for the cumbersome approval process for exemption certificates, for people who come to Jamaica for short-stay business, consultants, managers, other employees, usually for 30 days or less or cumulatively six months. And the process for them is that they have to have these exemption certificates available to them on entry at Immigration, so that is now abolished.

The amendment also provides for the Minister to amend by Order, subject to affirmative resolution, these Schedules, and also the fines and punishment. Those fines and punishment, Mr. Speaker, are very explicit in the Bill, and I don't think there is any controversy where that is concerned. The fines have been escalated in relation to inflation that has taken place over the years, and I am fully in support.

I want to take the opportunity of commending the Minister of Labour and Social Security, the team in his Ministry for the work that they have been doing to provide these certificates and to give approval for work permits for people to enter the country. It's a lot of work and they have been doing it expeditiously in all circumstances.

It also indicates, Mr. Speaker, that we are indeed making progress, progress in consolidating the Caribbean Single Market and Economy. And as pointed out by the Minister of Industry when he spoke on the last meeting, it creates this one economic space, one domestic space. In terms of the free movement of capital, goods, services and people, the factors of production and further step in making certain that we achieve the objective and the goals that had been set for the Caribbean people in creating one economic space

Mr. Speaker, several issues have been raised, the issue of monitoring raised by the spokesman on Foreign Affairs and Foreign Trade of the Opposition, as to how are such persons monitored. And it is a very good question, very important issue, as we realize that when we travel in any country you go to, there has to be some sort of a system of keeping in touch, of knowing.

In terms of entry and monitoring in particular, and I know the Minister of Labour is going to address this issue, but speaking about it from the perspective of the Ministry

of Foreign Affairs and Foreign Trade, particularly in respect of CARICOM Nationals. PICA which is situated in the Ministry of National Security has substantive responsibility for this area.

As I understand it, they would be required to present relevant documents on entry to support their claim of entry for business consultancy or for short-term purposes. There will also be relevant compulsory data collected on entry by the entry and departure forms. If necessary, this data collected could be used to track the person if there is a concern.

Understandably, it is difficult for any one country to track each person's entering, but once the data is in the system, then this could

provide any leads that is necessary. A mechanism for enforcement would have to be based on the information collected on entry, and an agreement between the relevant agencies to follow up.

It is my understanding that there is an arrangement between the Ministry of Labour and PICA. At any rate, Immigration Officers, Mr. Speaker, would have been sensitized to any suspicious circumstances governing to the entry of an individual or individuals. And clearly, Mr. Speaker, what that means is that it depends on the system. I have been to many countries that have different degrees of monitoring this. Some countries, you feel so much at ease when you enter and in particular Switzerland, so easy to enter but at the workplace, in your hotels, there is a mechanism for knowing if a person enters and overstays the period for which they are permitted to stay. And it is something that there is a system for that it is quite easy to monitor.

Mr. Speaker, the other issue that has come up, about questions asked concerning the passage of this Bill, is whether other countries in the Caribbean are doing what Jamaica is doing in being forthright in fulfilling the objectives of the CSME.

It is no doubt about it that in Jamaica there is a widespread sentiment, a view is held that Jamaica is forthright, but other countries are not doing the same. And sometimes we have difficulty with reciprocating the measures that we take, that we take the measures but in terms of the movement of persons, in terms of the movement of goods, products, exports, and even services, Mr. Speaker, that there are sometimes non-tariff barriers, sometimes just

administrative difficulties, sometimes our people, especially the entertainers are turned back. It's very important for us to understand that it is not something that is left to chance. It is quite complex, it is taking time, it is a work-in-progress and will always be, there will always be issues, but it is something that has been assessed.

The appraisal of 2009 was undertaken across the twelve (12) CSME Member States. In terms of a comparative look at the compliance rate with our CARICOM sister states in all countries, the Caribbean Community Act, the revised Treaty, Mr. Speaker, has been enacted into domestic law. All countries have designated a competent authority under the Treaty. In only two Members States has the Treaty not entered into force.

Compliance with the CSME regime in the twelve (12) CSME Member States, has also been constrained, Mr. Speaker, by capacity issues. There are certain specific areas where there are some difficulties, not in many of them, it varies from country to country - and I don't want to bore the House with details, Mr. Speaker, but just to mention a few of them.

In competition rules, three (3) countries including Jamaica have fully functional competition laws. Two of these, including Jamaica, have competition regulations and a national Commission.

In terms of Customs Tariffs, CET issues, all Member States have implemented the CET Act and Regulations. And this is an issue that comes up regularly at COTED. Trade Defence Measures: Only two Member States, including Jamaica, have implemented subsidies and anti-dumping laws. And this one is very important as we will see a little later.

In terms of - I am just selecting the important ones, Mr. Speaker - Free Movement Infrastructure, Jamaica, like most Member States, has a six-month definite entry for CARICOM nationals. This is currently being applied administratively.

Right of Establishment is another area where, again, there are related issues, especially when it comes on to contingent rights, that is, the rights of someone who has establishes a business; the rights of the spouses, or members of his family, not only to be able to take on a job in the country in which they are resident, but have access to all the services - support services: education, health.

One of the areas that has given some problems, and is an outstanding issue for negotiations is the treatment of common law unions. Whereas Jamaica recognizes this in law, and it is not negotiable, this is not so in some other countries. And because of that difference in law, it creates some difficulties.

The right to secondary education, and the right to primary health care, all of these will form part of negotiations on contingent rights when the Inter-Government Task Force, which is now re-constituted, when it starts to do its job - I believe that they have had one meeting, Mr. Speaker, but they will continue having these meetings.

So, policies need to be finalized on issues such as contingent rights, government procurement, E-commerce, free circulation on movement of goods. Overall, the limiting factors to the CSME implementation across the Member States are genuine constraints because of the governmental operational and administrative capacity. They are capacity constraints in some states. In some states there are supplied cite capacity constraints. Constraints to the capacity of Member States to absorb potential in coming worker and provide services for them.

And those are the main issues around which controversy still prevail in many of our discussions. But these are subject to discussions at many of our meetings, at COTED, and at the Heads meetings. And although they are not solutions, it is indeed a work in progress.

Mr. Speaker, one of the areas, as I said before, is the question of the free movement of goods, and of people. And I know in

particular, entertainers have complained. As a matter of fact, I am due to meet with a number of entertainers who were refused entry to conduct concerts for which they had contracts in countries.

As a matter of fact, Mr. Speaker, it is something that we have put on the agenda of the last COTED, and was a subject of discussion. Because although a territory has a right - and entertainers is one of those categories that have been approved for free movement in the Caribbean - and countries have a right that if the lyrics offend their moral protocols, then in fact, that country has a right to deny entry. But indeed, there must be notification. And it is something that has to be discussed at the level of COTED. We put it on the agenda because, in fact, these things happen sometimes without any warning. But

the country has to be notified - the country from which they come has to be notified - if action is to be taken.

And, Mr. Speaker, the issue of trade with Trinidad and Tobago has come under a lot of criticisms, and I just want to make a statement concerning this. Following the visit of the Prime Minister of Trinidad, KAMLA PERSAD BISSESSAR and her two Ministers, the Minister of Industry and Trade, and Minister of Finance - Industry and Trade was Minister Cadiz, and Minister Rambachan, Minister - not of Finance, of Foreign Affairs.

Shortly after that visit, I wrote letters - well, I wrote a letter to the Minister of Foreign Affairs and copied it to the Minister of Trade and Industry, to raise the issues - and this was an agreement before they left - that we will write to raise the issues that are contentious in Jamaica, and issues that are unresolved, in terms of our relations, especially as regards trade and the movement of goods and services. Our Minister of Industry had a personal meeting with Minister Cadiz and also had preliminary discussions, based on which there is a commitment for meetings to take place.

Following my letter to the Ministers, a delegation from Trinidad and Tobago was led to Jamaica by the Permanent Secretary in the Ministry of Trade and Industry, and a meeting was held at the Ministry of foreign Affairs and Foreign Trade, led by the Permanent Secretary in the Ministry of Foreign Affairs and included the Minister of Industry, Investment and Commerce, and the PS from the Ministry of Agriculture and Fisheries. I have been advised, Mr. Speaker, that this meeting was an excellent action oriented meeting in which there were frank discussions concerning all these issues. The issues addressed included dual energy pricing, which is a very contentious issue, non-tariff barriers, support for the use of raw materials from domestic and regional agricultural sectors, and the movement of skilled Jamaican nationals into Trinidad and Tobago.

An important outcome of this meeting is the strong recommendation that a technical level trade mission from Jamaica should travel to Trinidad and Tobago as soon as possible. Prior preparation should focus on those primary agricultural products which Jamaica can supply to the Trinidad and Tobago manufacturing sector and should aim to link the agricultural sector with the manufacturing sector.

The issue of dual energy pricing was discussed and a proposal was made by Jamaica to undertake an informal enquiry, and that this should take place soon. These consultations will be followed by a ministerial meeting.

Our Minister of Industry, Investment and Commerce, MR. KARL SAMUDA, in fact, will be visiting Trinidad and Tobago at the end of March at the invitation of the Trinidad and Tobago Manufacture's Association. On this visit, the opportunity will be taken to engage in discussions on further strengthening trade and investments links between Trinidad and Jamaica. This visit will also focus on strengthening links between both private sectors.

The two delegations, Mr. Speaker, have agreed that bilateral consultations of this nature need to be held more frequently at the technical, as well as political level. It is also very important that the private sectors meet to resolve differences, and to determine how to collaborate effectively in the interest of the countries of the region. I believe if Trinidad and Tobago, and Jamaica, take this lead then we can set the stage and set the tone for the Caribbean to follow.

I have used this as an example, Mr. Speaker, to show that in the context of what we are discussing now, progress is being made to consolidate our relationships within the Caribbean. And despite what we hear in the media all the time, the work has to take place a the level where there can be negotiations and discussions. Many, many options are available to us in the Treaty. As a matter of fact several articles deal with the question of subsidies, with dumping, countervailing measures that can be taken, with arbitration, with mediation, but we have not turned to the Treaty for this. We have decided on informal negotiations and consultations so that we can maintain the dialogue at a level where solutions can be designed and applied.

So, in general, Mr. Speaker, I have given - put within the context of the Caribbean Single Market and Economy that what is before us now is a Bill which takes it a further step to make sure that we are compliant, and to regularize what is already taking place at an administrative level to make sure that we understand that progress is being made to facilitate the movement of people among our territories, and to facilitate investment and the movement of capital and development of business.

Mr. Speaker, I speak in support of the Bill before us.

Thank you very much.

The SPEAKER: Thank you, Minister Baugh. Mr. Hylton.

Mr. HYLTON: Thank you, Mr. Speaker. Mr. Speaker, thank you for your indulgence, Mr. Speaker. I think that, in light of what has been a wide-ranging statement by the Foreign Minister, welcome as it is, I think I just need to make a few observations.

Firstly, I believe the Foreign Minister is correct in that among the several options available to us, the bilateral discussions must take place between Jamaica and Trinidad. It is something that we started. When I was Foreign Minister, we started those discussions; and those discussions we had, I think, one or two meetings on a bilateral basis

to drive those discussions because the problems existing between Jamaica and Trinidad are real. And I commend the course of action of engaging on a bilateral level. However - and that is in respect of a range of issues.

The SPEAKER: Mr. Hylton, remember you spoke before so, just for clarification, we have to limit your clarification points.

Mr. HYLTON: Mr. Speaker, let me say, I think the Minister made some points. He was very wide and fulsome in his - and I was keeping my remarks to that - to those very points. I was going to the second point.

(*Sotto voce* comments)

The SPEAKER: No, no, finish the clarification points.

Mr. HYLTON: I am making the second point which is on the matter…

(*Sotto voce* comment)

Mr. HYLTON: …on the matter of energy. I will say on the matter of energy, that that particular matter is a matter requiring the most careful of consideration because, on dual pricing, or any other pricing, or discriminatory pricing, I would urge the Minister not - the energy policy that - discussion on energy policy that has been started, I would urge that we be very careful because the Treaty speaks to that issue. I think, ultimately, that is a matter for the CCJ to resolve.

The SPEAKER: Thank you, Mr. Hylton. Minister Charles.

Mr. CHARLES: Thank you, Mr. Speaker. Let me thank all those who have contributed and state clearly that some very important points have been made which I intend to address.

Last week when I opened the debate, Mr. Speaker, certain concerns were raised. As I said earlier, I would like to, first of all, thank the Members and I will now address some of those that were raised.

The general purpose of this amendment, Mr. Speaker, if I may backtrack a bit, is to provide context in moving forward. The Bill proposes to amend the Foreign Nationals and Commonwealth Citizens (Employment) Act, and the Foreign Nationals and Commonwealth Citizen (Employment) (Exemptions) Regulations to *inter alia*:

(a) recognize the category of CARICOM nationals exempt from requiring work permit by virtue of Chapter 3 of the revised Treaty of Chaguaramas;

(b) to remove the requirements for exemption certificate to enter Jamaica to a certain named category of persons, in respect of visits to carry out business-related activities, not exceeding 30 days on any one occasion, or six months per calendar year;

(c) to increase the applicable fines and penalties for breaches of this Act.

I must say, I am sorry that we are concluding this, with all these important points, without the presence of the Press, because I think it is a very important matter.

(*Sotto voce* comment)

Mr. CHARLES: At this time, I am reminded, Mr. Speaker, of your advertisement, and say thanks, that there is public broadcasting.

With regard to exemption, CARICOM nationals from requiring work permit, Mr. Speaker, the policy statement regarding the

free movement of CARICOM nationals is located in Article 45 and 46 of Chapter 3 of the revised Treaty. These articles recognize the fact that in the long-term there will be full, free movement and integration of CARICOM nationals within the National Labour Market of Member States.

However, this goal of attaining a single labour market is being brought about on a progressive basis, with select categories within the labour force being approved by the Conference of Heads of Government to participate in the CARICOM single market. These categories are currently dealt with under various pieces of domestic legislation under which the regime operates as follows.

Mr. Speaker, persons moving under the regime as wage earners/skilled nationals being persons coming to be employed by someone in Jamaica for a salary, are governed by the CARICOM Community (Free Movement and Skilled Persons) Act, 2004 and most fall in one of the following 10 categories: University graduates, media workers, artistes, musicians, sport persons, nurses, teachers, holders of associate degrees and diplomas or equivalent qualification, artisans with vocational qualifications, household domestics.

Dr. DAVIES: Who is excluded?

Mr. CHARLES: Who is exempted?

Dr. DAVIES: Who are excluded?

Mr. CHARLES: Who are excluded? I will address that at a later stage.

Mr. Speaker, the first five (5) categories are listed under the Caribbean Community (Free Movement of Skilled Persons) Act, 2004 which is to be amended to reflect the latter five (5) categories which were agreed by successive decisions of Conferences of Heads of Government. In the interim, Mr. Speaker, the latter five categories are being facilitated administratively.

Self-employed persons coming to provide a service being non-wage earners, are facilitated by the Caribbean Community (Establishment, Service, Capital and example, Mr. Speaker, a craftsman from Trinidad can sell his craft at our local jazz festival as a service provider under this regime.

A third category of persons, Mr. Speaker, being persons seeking to establish a business presence in Jamaica, are also facilitated by the Caribbean Community (Establishment, Service, Capital and Movement of Community Nationals) Act, 2004. Such

persons, Mr. Speaker, would be exercising Rights of Establishment which speaks to the right to engage in any non-wage earning activities of a commercial, industrial, agricultural, professional or artisan nature. Managerial, technical and supervisory staff are treated in same manner as the principal who is establishing commercial presence.

Mr. Speaker, as a signatory to the Revised Treaty of Chaguaramas which forms part of our laws as the Caribbean Community Act, 2005, Jamaica is required to establish appropriate legislation arrangements to remove from our laws the work permit as a pre-condition to employment of these select categories of CARICOM nationals in our national labour market by amending the Foreign Nationals and Commonwealth Citizens Act and Exemptions Regulations.

Mr. Speaker, immigrating CARICOM

nationals are currently able to access this exemption administratively, by applying for a Skilled National or Service Provider Certificate in their country of origin or from the ministry. The certificate would, of course, indicate under which aspect of the regime, free moment is being facilitated, example, whether the national is moving as a skilled person, service provider on a short term basis, or to establish business presence under the Rights of Establishment

Mr. Speaker, the certificate is valid, is verified by a verification panel within the ministry, a process which takes four to six weeks and it's facilitated by automatic landing of CARICOM nationals at the airport of entry for six weeks. When the verification process is completed, Mr. Speaker, and it is

favourable, the national is then granted indefinite stay by the immigration department.

Therefore, Mr. Speaker, and especially in light of the concern of the Member from St. Andrew Western, only one skilled national certificate is required to be presented by the person who qualifies under the regime as evidence of the work permit exemption. No other exemption certificate or additional document is required.

Mr. Speaker, in case of CARICOM nationals exercising Rights of Establishment, the principal applicant, as well as supporting staff, are facilitated by exemption letters being of two years in duration, which are presented to the immigration department for the appropriate endorsement in their passports. The purpose of limited duration of this particular exemption, Mr. Speaker, is to ensure that the national only benefits from this exemption to the extent that the business remains a going concern. Therefore, Mr. Speaker, the legislation is being amended to give effect to this within the legislative framework.

Mr. Speaker, I would like to emphasize for the benefit of this Honourable House that CARICOM nationals who do not fall within the classification of the limited categories of skilled nationals, service providers or persons seeking to exercise Rights of Establishment, must get a work permit or exemption from the ministry, if they intend to seek employment in Jamaica.

Further, and importantly, Mr. Speaker, it is to be noted that similar rights are accorded to Jamaican nationals in all Member States

who are signatories to the Treaty. This as the Treaty provides for a general undertaking on the part of all members to take all appropriate measures in attaining the objectives of the Treaty.

On the question of security concern regarding short-term business activity, Mr. Speaker, the Minister of Foreign Affairs touched on it but I would like to repeat. The Member from St. Andrew Western has raised the concern, the proposal to abolish the requirement for foreign nationals conducting short term business activities to first obtain a work permit or exemption certificate. This, the Member says, presents an issue of enforcement, and could potentially present a difficulty in terms of the monitoring of foreign labour. It was suggested further that this presents an opportunity for human trafficking. This concern was also shared by

a Member from this side of the House.

Mr. Speaker, the amendment proposes to abolish the need for a select category of preferred business travellers pursuing commercial interests on a short term basis, to seek a work permit or exemption from the ministry.

Mr. Speaker, border security is the remit of the Immigration Department, which is able to track immigrants electronically. I would like to assure this Honourable House that the Passport Immigration and Citizenship Agency, (PICA), has been an integral stakeholder from the development of this policy until now. In fact, Mr. Speaker, the Cabinet submission which first brought this matter before this House was the result of a joint effort of the Ministries of Labour, Foreign Affairs and National Security.

That submission, Mr. Speaker, showed a clear appreciation for the concerns which have now been raised by the Honourable Members of this House. In addressing this concern, reference was made to a Capacity Building in Migration Management Programme, an initiative of PICA. This programme, Mr. Speaker, programme has improved the ability of that agency to monitor the entry and exit of immigrants.

Importantly, Mr. Speaker, PICA has been enabled by the electronic capturing of data which facilitates the tracking of persons and the compilation of 'watch list' with respect to offenders. Further, Mr. Speaker, all immigrants are required to state the purpose of their visit upon entry. There is a further requirement for persons who intend to conduct business activities on a short-term basis, present documentary proof of this upon their entry. For this reason we are satisfied that, contrary to the Member's contention that having a document such as a work permit or an exemption certificate, is not the only means by which the movement of foreign nationals can or will be monitored.

Mr. Speaker, further and importantly, both PICA and this Ministry enjoy a longstanding partnership as we work closely with that agency with respect to putting in place an effective administrative framework for the regulation of foreign labour from an immigration standpoint.

Mr. Speaker, very importantly manifestation of this relationship is in the form of a Memorandum of Understanding which addresses the various concerns by

providing for administrative requirements. This is ensuring that the respective mandates of border control and the regulation of foreign labour are maintained.

With respect to repealing of Clause 13 of the Foreign Nationals and Commonwealth Citizens (Employment) (Exemptions) Regulations, Mr. Speaker, a further concern raised by the said Member from St. Andrew Western pertains to paragraph 13 of the Exemptions Regulations, which the Member highlighted for treatment as part of our attempts to further tidy up the Schedule. That clause refers to exemptions being granted to crew members of *'Jamaica Planter'* and the ‘*Jamaica Producer'* ships which, it was suggested, no longer exist.

Mr. Speaker, the ministry's technocrats have consulted with the Marine Authority of Jamaica, and I now confirm the suggestion

that the Member made was correct, and thank him for having brought this oversight to the attention of the ministry and this House. (Applause)

Mr. Speaker, subsequent upon the ministry's consideration and examination of this provision, we are satisfied that it is indeed outdated. We have also consulted with the Office of the Parliamentary Counsel in addressing this situation. As such, I therefore propose to insert in the Bill a paragraph 4 and a Part II of Exemptions Regulation, paragraph 13 as one of the paragraphs to be deleted from the Schedule. The Bill will therefore now read as Clause 4 under Part II as follows:

"4. Delete from Part 11 paragraphs 13, 15, 20, 21 and 24."

On the question of adjustment in fines which was brought to this House's attention by the Member from St. James Southern, noted that the Bill does not refer to custodial sentences which correspond with the respective fines which are being increased. The suggestion, Mr. Speaker, is that this failure leaves the Bill open-ended and effectively incomplete.

Mr. Speaker, the policy being effected at this time is to streamline the applicable monetary penalties and respective custodial sentences for contraventions of the Act, to levels which are more in line with current day economic activities or realities.

Mr. Speaker, in the interest of avoidance of doubt, I now outline the proposed amendments to the applicable fines and penalties as follows: Section 3(2)(a) and (b) create an offence where Foreign Nationals work without a valid work permit and where an employer who has such a person in his employment in contravention of this Act, the applicable fine, Mr. Speaker, is a sum of $200 at present. This, Mr. Speaker, is being increased to a sum of $500,000 and the custodial sentence will remain at six months as proposed earlier or in the original Bill.

Mr. Speaker, Section 6(3) of the Act provides that a person having in his position a work permit appearing to have been issued under the Act, creates an offence if he fails without reasonable excuse to refuse to produce a permit and submit to his fingerprint

being taken upon being so required by an authorized person or a Constable. Currently, Mr. Speaker, such a person is liable to pay a fine not exceeding fifty dollars, which is now being increased to a sum of two hundred and fifty thousand dollars; the existing sentence of three months is proposed to remain.

Mr. Speaker, under Section 9 any person who knowingly makes a false statement so as to procure a work permit for himself or a third party or unlawfully use a work permit issued to him or so allow, or obstruct, hinders or oppose any authorized person or Constable in the execution of his duty under the Act or contravene any condition imposed by the Minister on the basis of an exemption will now be liable on summary conviction to a fine not exceeding Five Hundred Thousand Dollars, up from Two Hundred Dollars.

Dr. DAVIES: Five hundred what?

Government MEMBER: Five Hundred Thousand.

Mrs. NEITA-HEADLEY: It needs to be Five Million.

Government MEMBER: No different Act, different Act.

(Laughter)

Mr. CHARLES: The existing custodial sentence of six months is proposed to remain. Further, Mr. Speaker, Section 10 provides that the regulation made under that section may prescribe a maximum penalty of imprisonment with hard labour for a term of six months or a fine of Two Hundred Dollars. This, Mr. Speaker, that term of imprisonment is being increased to twelve months, and the applicable fine to a sum of One Million Dollars. Mr. Speaker, the custodial sentence is proposed to be increased in this regard in keeping with the significant increase in the monetary penalty.

Mr. Speaker, again I want to thank Members from both sides of the House who made contributions. And I now move that the Bill be read a second time.

The SPEAKER: Members, the question is that the Bill be read a second time.

Put to the House and agreed to.

The SPEAKER: Could we do it at the Committee Stage? Let's do it at the Committee Stage, Mr. Hylton.

The CHAIRMAN: Once again, the question is that the Bill be read a second time.

Put to the House and agreed to.

Bill entitled:

"AN ACT to Amend the Foreign Nationals and Commonwealth Citizens (Employment) Act".

read a second time.

The SPEAKER: The House will now resolve itself into a Committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

The CHAIRMAN: Yes, Mr. Hylton.

Mr. HYLTON: Thank you, Mr. Chairman.

Minister, I read your statement but I know that as a matter of policy it is being proposed that the Certificate of Exemption would not obtain having regard to the reliance on a certificate under any of the three regimes. Where is it - are you proposing to amend the Act to put something - to make it something explicit in the Act; and if so, where are you proposing to put it in the Act, the amendment?

Minister, may I suggest, I agree that that is the correct approach, that reliance be had under any of the three regimes. However, I would like to suggest in the Bill, the Bill that is being proposed, at page four under the Schedule, Section 3. After you have -

Mr. CHARLES: Hold on a minute.

The CHAIRMAN: What's your proposal, Mr. Hylton?

Mr. HYLTON: I'm about to suggest we

Mr. CHARLES: You want us to wait until we reach there then you make the proposal?

Mr. HYLTON: Well, first of all I think it should be made explicit, one. The next point is, in this regime reliance is placed - you mentioned that the border controls would be critical in this regard. I agree that has to play a role, but may I suggest that insofar as information that is being relied on with respect to the purpose and the reason for the work permit or that which will grant the exemption is also the same information shared with the immigration persons. I want

to suggest that a violation of that a fine. And now the question follows from that in St. James, the custodial sentence that at the end of that consideration be given for deportation in the same way that if you were to go to the United States or most other places you violate their law you're arrested that at the end of the service of that - when you finish serving the sentence you are, the immigration, you are picked up by the immigration and automatically deported. I believe that a deportation consideration should be considered and all that that will require is to include a reference to the Alien Act to do that, and I would want to commend that for consideration.

Mr. CHARLES: I would like to say, Member, that there are several pieces of legislation that cover this and I'm absolutely sure that under other legislation in the National Security Section, anybody who serves a sentence for violation is deported on the day that they leave prison. There is legislation there covering that.

Mr. HYLTON: For work-related violation?

Mr. CHARLES: Any person…

Mr. HYLTON: I'm unaware I've looked it, but if you are confident that is so I will not insist. But I'm suggesting that in this piece of legislation that relies in as much on the Immigration Act as you've indicated.

Mr. CHARLES: Member, I can assure you that if somebody comes to Jamaica and didn't get a work permit and is found with a work permit that is false and gets a year in prison, he wouldn't be permitted to come and apply for a work permit.

Mr. HYLTON: No, not apply for a permit. The question is…

Mr. CHARLES: No, no! He would be deported on the day that he leaves like any other country and I don't even have to question that. Right now, as is people…

Mr. HYLTON: Okay.

Mr. CHARLES: …who violate the rules, are deported.

Mr. HYLTON: That's a friendly suggestion, Minister, but you seem to be fairly clear on that.

The CHAIRMAN: Okay. Are you happy - satisfied or at least the query has been touched on?

Mr. HYLTON: I had four I mentioned three; I was going to go on to the final one.

The CHAIRMAN: Okay, go ahead then, Mr. Hylton.

Mr. CHARLES: I have been advised that your concern, which is very important, is covered under the Alien Act.

Mr. HYLTON: That's why I said make reference to the Alien Act in this, that's all I was suggesting.

Mr. CHARLES: Well, I don't think you need to make because being operated by the Ministry of National Security.

Mr. HYLTON: All right, the final point is Minister that importantly you said that there is collaboration between PICA and the Ministry of Labour in this regard.

Mr. CHARLES: That's correct; electronically.

Mr. HYLTON: And that provisions that under some work that is being done to strengthen to PICA, to build capacity in PICA that you're looking at ways and means of verifying the certificates.

Mr. CHARLES: That's correct.

Mr. HYLTON: Does that include a stamp in the passport which, again, serves as just one easy verification when somebody is stopped and you can see all the violations, if there be any, and it's a simple way to do that. Is that part of the consideration by PICA, do you know?

Mr. CHARLES: The person who comes into the country with such a certificate and is passed by the Immigration Department to come here and have a stamp in their passport, I cannot certify right now what it will read, but I will say that once you get that stamp it will mean that you have covered all of those requirements. I could get - I have been advised that I am very bright by the lawyers, that it is so.

Mr. HYLTON: Okay, Minister, I'm glad to hear that you are on top of it.

The CHAIRMAN: Very well. Members, can I now move to the Bill.

Clause 1, 2 and 3 put to the House and agreed to.

The CHAIRMAN: I put Clause 4.

Mr. CHARLES: One minute, Mr. Chairman, I'm not sure that I followed you up to there. But let me say there is an amendment.

The CHAIRMAN: To Clause 4?

Mr. CHARLES: Page 7, I think. Is it Clause 4 to delete in Part II paragraph 15?

The CHAIRMAN: Now, just a second, Minister, Clause 4. Are you sure it's Clause 4 or Regulation 4 in the Schedule?

Mr. CHARLES: I think I am…

The CHAIRMAN: We're dealing with Clause 4. Your change is in the Schedule.

Mr. CHARLES: Oh, all right.

The CHAIRMAN: Okay, so once again I put Clause 4.

Put to the House and agreed to.

Clause 5 and 6 put to the House and agreed to.

The CHAIRMAN: I put Clause 7. Yes, Mr. Hylton.

Mr. HYLTON: This is where I was making the suggestion to the Minister, that at the Schedule and Section 3 after the words "*provide services or remove capital*" that the amendment that reads "*and shall not be required to apply for certificate stating the nature of the exemption*"; I think would make very clear what you clearly stated as policy in the document, but is not very clear from a reading of the provision. I believe such an addition would make pellucidly clear that no requirement, no such certificate of exemption is required. I want to commend that for consideration.

. **The CHAIRMAN:** The brief from the legal draft's people, Mr. Hylton, is that it is not necessary, is that so, that is not necessary?

Mr. HYLTON: Okay, alright.

The CHAIRMAN: Very well.

Clauses 7 and 8 put to the Committee and agreed to.

The CHAIRMAN: I put the Schedule. Minister Charles, you had a change to…

Mr. CHARLES: Oh, yes, Sir. Number 4 page 7, it says delete from Part II paragraph 15…

The CHAIRMAN: Just a second, let me just get this right. Number 4…

Mr. CHARLES: On page 7 of the Bill. Delete from Part II paragraph 15 and insert

paragraph 13 as stated in the presentation.

The CHAIRMAN: Members, we are on page 7, paragraph 4 we are adding 13 is that clear to Members?

Mr. CHARLES: Yes, and delete paragraph 15.

The CHAIRMAN: And we are deleting 15 and inserting. No, no…

Mr. CHARLES: Sorry.

The CHAIRMAN: We are keeping 15 Minister, so we have 13 added but 15 remain Minister. So it is 13, 15, 20, 21 and 24, is that okay?

Mr. CHARLES: That is correct, Sir.

The CHAIRMAN: I therefore put the amendment.

Motion put to the Committee and agreed to.

The Schedule as amended put to the Committee and agreed to.

The Title and the Enacting clause put to the Committee and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed Committee Stage with one (1) amendment.

Motion put to the Committee and agreed to.

RESUMPTION

The SPEAKER: I do report the Bill as having passed Committee Stage with one (1) amendment.

Minister.

Mr. CHARLES: Mr. Speaker, I now move that the Bill be read a third time.

The SPEAKER: The question is that the Bill be read a third time.

Motion put to the House and agreed to.

Bill entitled:-

"AN ACT to Amend the Foreign Nationals and Commonwealth Citizens (Employment) Act"

read a third time and passed.

The SPEAKER: Very well. Bill debated and passed.

House Leader.

Mr. HOLNESS: Mr. Speaker, after consultation with the Leader of Opposition Business in relation to the complaint of the

Member from Central Kingston, regarding the resolution that stand in his name, we have come to an understanding whereby the Member has been given the opportunity to determine the resolutions that are his priority. He has found eight (8) such resolutions to

merit debate. I am not saying at this point – he has found eight (8) that he would be willing to give the priority for a debate. I am not here saying, Mr. Speaker, that we will take all eight (8), we will have to look on the Order Paper because they are other Members who have resolutions to debate. In fact, the Member from St Catherine – St Catherine South East, he should have had his debate taken today, unfortunately he was not prepared to take it today.

So Mr. Speaker, I am pleased to report that we seem to have a resolution as to how we will proceed for the next four sittings. I am using the opportunity, Mr. Speaker, to implore Members that the debates ought not to draw out for any extended period and that Members should get to the point in their participation in the debate.

Mr. Speaker, it is not proposed…

The SPEAKER: Before you go the motion. The point, House Leader and Leader

of Opposition Business, and I think we have agreed on that. We can get through not only these eight motions but maybe more, if we agree that the proposer speaks for fifteen minutes and participants don't speak for more than ten minutes. We can get through all eight in the - over the next few sessions. So at the next sitting let us try and get through at least two per sessions at least, maybe three. Very well, House Leader.

Mr. HOLNESS: Mr. Speaker, before we adjourn I have to ask for the recommittal of a small matter, the Notices of Motions given orally to allow the Minister of Finance to read a motion referring the matter to the regulation.

The SPEAKER: Members the motion before the House is for the suspension of Standing Order to allow for the recommittal of the item Notices of Motions Given Orally.

Motion put to the House and agreed to.

RECOMMITTAL OF NOTICES OF MOTION GIVEN ORALLY

The SPEAKER: Minister Shaw.

Mr. SHAW: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:-

> BE IT RESOLVED that the Financial Management Regulations 2011 under the Financial Administration Audit Act which was laid on the Table of the House on the 1st day of March 2011 be referred to the Regulations Committee for consideration and report.
>
> AND I FURTHER BEG TO GIVE NOTICE THAT at a later stage today I will move for the suspension of the Standing Orders to enable me to take this motion.

The SPEAKER: Thank you, Minister Shaw.

PUBLIC BUSINESS
(Continued)

Mr. SHAW: Mr. Speaker, I now move for the suspension of the Standing Orders to enable me to take the motion notice of which I gave earlier.

The SPEAKER: Members the motion before the House is for the suspension of Standing Order to allow the Minister to take the motion, notice of which he gave earlier.

Motion put to the House and agreed to.

The SPEAKER: Minister Shaw.

Mr. SHAW: Mr. Speaker, the matter involves certain aspects of the regulation which it is required that the Regulations Committee examined. So on that basis I now move that the motion be approved.

The SPEAKER: Members, before you is the motion as moved by the Minister.

Motion put to the House and agreed to.

Mr. HOLNESS: Mr. Speaker, I am about to move for the motion for adjournment. However, I think it is necessary – I think it is necessary to point out, Mr. Speaker, that at the next sitting we will be taking the Special Prosecutor Bill. At the last debate of the Bill there were several concerns that were raised regarding certain provisions in the Bill. For ease of the legislative process, I am asking that Members that have concerns that they have felt so strongly about to frame them in the form of amendments, that they

should make those amendments available to me as quickly as possible so that we could pass them on to the CPC to have them properly drafted in legal terms. Not that they will all be accepted, but certainly that they are considered, just to make the process….

The SPEAKER: House Leader have you asked the Leader of Opposition Business to at least…

Mr. HOLNESS: I have communicated in the new method, Mr. Speaker. I have sent an e-mail…

The SPEAKER: So that he can consult his Members to get it to you by Friday hopefully, the proposed amendments.

Leader of Opposition Business the Special Prosecutor Bill, any amendments are being proposed?

Mr. KELLIER: Yes, Sir.

The SPEAKER: Very well.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business, therefore, I move that the House do adjourn, until next week Tuesday the 15th when we will resume our business.

The SPEAKER: Members, the motion before the House is that this Honourable House do adjourn until Tuesday, March the 15th at 2:00 p.m.

Motion put to the House and agreed to.

The SPEAKER: This Honourable House stands adjourned.

Adjournment taken at 5:05 p.m. until Tuesday, March 15, 2011 at 2:00 p.m.

TUESDAY, March 15, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:22 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Planning and Development and Defence.

AUDLEY FITZ ALBERT SHAW, (JLP), Manchester, North Eastern, Finance and the Public Service.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

RUDYARD CONRAD SPENCER, (JLP), Clarendon, South Eastern, Minister of Health and the Environment.

JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy.

MINISTERS OF STATE

THE HONOURABLES:

DARYL WESLEY PHILLIP VAZ, (JLP), Portland, Western, Minister without Portfolio in the Office of the Prime Minister, Minister of Information and Telecommunication.

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

LAURENCE GEORGE BRODERICK, (JLP), Clarendon, Northern, Minister of State in the Ministry of Mining, Energy and Telecommunications.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

OTHER MEMBERS

MR. GEORGE DELANO ARSCOTT, (PNP), Clarendon, South Western.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. FENTON RUDYARD FERGUSON, (PNP), St. Thomas, Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MRS. MAXINE ANTOINETTE HENRY-WILSON, (PNP), St. Andrew, South Eastern.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

DR. PETER DAVID PHILLIPS, (PNP), St. Andrew, East Central.

DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern.

THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition.

MR. DERRICK CHARLES SMITH, (JLP), St. Andrew, North Western.

MR. KERN O'MAR SPENCER, (PNP), St. Elizabeth, North Eastern.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern.

PRAYERS

Prayers were offered by Mrs. Sharon Hay-Webster.

The House resumed its sitting at 2:22 p.m.

The SPEAKER: Please be seated.

This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this afternoon we would like to welcome to the sitting of the House fifteen students and two professors from Howard University. Welcome to the sitting of the House. (Applause) We would also like to welcome from the University of Technology in the Communication, Arts and Technology programme fifteen (15) students and one (1) lecturer. Welcome to the sitting. (Applause)

Please, just check your cell phone to make sure it is either off or on vibrate so that the sitting of Parliament will not be disturbed.

STATEMENTS BY MINISTERS

Mr. HOLNESS: Mr. Speaker, the Minister of Social Security and Labour has a Statement.

The SPEAKER: Minister Charles. Mr. Charles, how many copies you have? You should have at least four copies.

OVERSEAS EMPLOYMENT PROGRAMME

Mr. CHARLES: Mr. Speaker, recently two articles appeared in *the Sunday Herald* about the Canadian Overseas Employment Programme. The first dated February 27, 2011 made reference to an extract of the Auditor General's Report for the year 2011, 2010 and 2009. Let me go again: for the year

2009/2010. The second, which was dated the 13th of March, 2011, gave the impression that some of the overseas employers were refusing Jamaican workers because they were not suitable.

In both instances, Mr. Speaker, no contract was made - no contact was made with the Ministry of Labour to verify or make clarification on these reports. I find this strange because professional journalists generally seek clarification or further information about subjects being reported unless, in my opinion, there are some ulterior motives. I now wish to state the facts.

Mr. SHAW: Professional.

Mr. CHARLES: I now wish to state the facts.

At the outset let me state categorically and unequivocally that the Jamaican Liaison Service in Canada is there to protect the workers' interest and to ensure that employers get value for the engagement of these workers. The Liaison Service was established and used by all the governments of the past and all Ministers of Labour. There are two former ministers, there are three over that side.

Four per cent is deducted from the workers' earnings to meet administrative costs and service provided: medical, legal and social welfare. The four per cent (4%) deduction is managed by a management committee appointed by the Cabinet. This committee includes representatives from the Trade Union movement, Ministry of Finance, and the Attorney General's Department - and I want to use this opportunity through this medium to commend them for the tremendous work they have done in sustaining and keeping the programme growing.

Additionally Mr. Speaker, every two years officers from the Auditor General's Department spend two weeks in the Canadian province auditing the programme. No major issue has arisen over the years, as the Auditor General's Report will attest, regarding the financial state of the programme.

The concern raised in the Auditor General's Report for 2009/2010 is that there is a reduction in the surplus that is usually added to the accumulated fund. For example, in 2007/2008 the excess of income over expenditure was $326,000 Canadian. In 2008/2009, this amount increased to $821,000; in 2009/2010 the surplus was $149,000, Canadian.

The reduction of the surplus in 2009/2010 is largely due to the fact that we have established two offices in British Columbia and Nova Scotia. The subject is to take - the object is to take advantage of new job opportunities which have been exposed in these areas. The establishment of these two offices obviously incurred some initial outlay. But over time, Mr. Speaker, we expect to surpass even current employment figures. Indeed, Mr. Speaker, we have diversified the programme and are now dispatching workers to the health care, auto mechanics and hospitality sector in Canada.

One can't be shortsighted in the matter of employment creation and the initiatives to develop our human resources. Growth does

not occur automatically. It requires both financial and human investment.

I would suggest that whenever persons are writing they should try and get the facts. It only takes one phone call to get the Ministry of Labour or the Minister to respond. I do not know of any other Minister that is more accessible than the Minister of Labour at this time. (Applause)

(*Sotto voce* comment by Dr. Davies)

Mr. CHARLES: Well, I should say all of us are accessible.

These mischievous and unwarranted comments can only harm the programme which we have had for over sixty (60) years, in which we have developed a reputation as the most structured migrant workers' programme, and which both political parties forming the Government of Jamaica has run with great success.

Presently we are in receipt of two invitations to assist other countries to develop their administrative and other systems as labour-sending countries to Canada.

Mr. Speaker, in the said article reference was made to $17 Million being owed to 445 farm workers. Thet are workers who were engaged in the US and Canadian overseas programmes. The impression is given that the Ministry is not making any effort to disburse these funds to workers.

Again, Mr. Speaker, this is mischievous; and one phone call to either this side or former ministers, who were Ministers of Labour, they would be able to find out where that money is from, who it belongs to. Every effort is being made to contact these workers. These are workers, Mr. Speaker, who are not in Jamaica. They have absconded from the programme over many, many years.

Based on our contact we have with them the funds cannot be paid over to anyone else unless there is proper authorisation. These funds are in safe custody and whenever the workers return it will be disbursed. We have had instances where workers were not found for several years and have returned and have collected their savings.

Mr. Speaker, let me assure you that all the necessary arrangements are in place to account for these funds, so that whenever the workers make demand for their money it will be available.

The second article speaks to a section of workers being dispatched to Canada, and I think it is so unfair, Mr. Speaker. Before this Government, several years no workers were recruited from the Urban or Corporate Area. I was instructed that the workers in Corporate Area, many of them are from rural areas, and therefore all Jamaicans should participate and I am sure that the urban representatives...

Dr. DAVIES: Me no get any yet.

Mr. CHARLES: …can assure that they are participating.

The recruitment process is very structured. Employers either visit Jamaica to make their own selection or give specific criteria for the recruitment of workers whom they require. This would include height, weight, age and previous experience.

It is unfair and untrue that workers from the Corporate Area are being sent to Canada over other workers and that they are not performing. It's an insult to the workers. Contrary to what the writer has conveyed,

where workers are repatriated due to illness or injury, the cost of their return to Jamaica is

borne by the Liaison Service and not the employer. In respect of the employer cited in the article, there were fourteen replacements due to workers who have disappeared, who are in breach of this contract. Some had domestic problems and had to come home; some had domestic emergencies, family emergencies.

To the contrary, Mr. Speaker, this particular employer cited in the newspaper, where twenty (20) workers were originally employed, the number has increased to 80 workers in 2010 and in 2011, Mr. Speaker, I have a request from that employer for 130 workers.

I want to commend this and all other Canadian employers showing such confidence in the Jamaican workers.

(DR. THE HON. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing, entered and took his seat.)

We are not intimidated by the competition from Mexico or other countries, because of the structured nature of our programme, the quality of our workers, the history of our relationship with the employers. The Ministry is proud of its recruitment record and takes very seriously its responsibility to the works and to their employers. I would also like to assure the country that the programme is sound, not only as a viable venue for employment opportunities but also in terms of its financial standing, contribution to the families of Jamaican workers and to the country's revenue and development.

Thank you, Mr. Speaker.

(DR. ST. AUBYN BARTLETT, (JLP), St. Andrew, Eastern, entered and took his seat.)

The SPEAKER: Leader of the Opposition. Sorry, I thought you wanted to ask. Mr. Kellier.

Mr. KELLIER: Thank you, Mr. Speaker.

First of all Minister, in seeking some clarification from you we just want to add that on this side we wish also to thank the Canadian Government and indeed the employers of Canada, who have employed our people over these many, many years of the programme, and we are very happy that it is continuing to grow from strength to strength.

In respect of the $17 Million that the article refers to that you have reference here, can you say whether or not that figure of $17 Million is the actual figure that is owed or it is a figure that was picked out of the hat by the person who wrote the article. And whether or not the 445 workers to which it attaches the $17 Million owing, whether it is actually 445 people, because I do not know that the $17 Million is the actual figure. But you would be in a position to say. This is what the article says, but we don't know if it is correct.

And the second point I wanted to address at this stage. The interest that is generated on this $17 Million.... First of all, is this money in an interest-bearing account? And if it is in

an interest-bearing account, how is the interest on this $17 Million prorated to the workers, or does it go to the Ministry or to the liaison service? That's the first question.

The SPEAKER: Mr. Charles.

Mr. CHARLES: Mr. Speaker, I have been advised by those who have been authorised to so advise me that 445 workers are owed $17 Million, and that $17 Million is in safe hands. I would believe that it is in an account. I have not questioned that, I don't think I would need to ask that it would be in an account, in an interest-bearing account, or whether it is in the Consolidated Fund or the Ministry, I would have to get some advice on that. But I am sure they have advised me it is in an account and it is in safe hands, and it belongs to the workers. And it was more, as the workers come, they would get it and it would be reduced.

The SPEAKER: Yes, Mr. Kellier.

Mr. KELLIER: The answer is a little short, Mr. Speaker, because it doesn't really answer in full what I was asking. I don't know at what stage we will be able to get that information, Minister, I know you won't get it today, but I am certain you will be able to get it and let us know what is the state of the account that this $17 Million is in and what happens to the interest. Because this is the worker's money.

The SPEAKER: Mr. Kellier, I think you will appreciate, the Minister may need, maybe, at least a week to.....

Mr. KELLIER: No, I am saying he may not have it now, so I am not pressing him on it for today, but I am expecting him to make it available to us at a later stage. We want to know whether or not it is in an interest-bearing account and how is the interest

disbursed? Whether it goes to the Consolidated Fund, we want to know. Or whether it goes back to the Liaison Service to continue the work we just want to know, so that we all are on the same page.

The second thing is, Minister, in respect of the - attached to this point of these workers, have you done an analysis over the last two years as to - because I remember asking the question before, but I didn't get an answer then, the persons who have gone AWOL, have you done an analysis to see from what areas they come from over the last two to three years, or five years for that matter? Do you have a breakdown as to where they come from. Because I remember asking this question before, because it would impact on how you deal with your selection process. So I want to know whether you have done an analysis. If you have done it, what has the analysis shown?

Mr. CHARLES: Mr. Speaker, we have done it. We have discovered that it's not the geographic location as much as the family. Where many of these workers have families abroad, they seem to go to their families, either taken or go, I am not sure how. But it's more family related than say, Kingston workers run away or Montego Bay workers run away. They are from all over the island. No specific area is responsible for the workers.

The SPEAKER: Leader of the Opposition.

Mrs. SIMPSON MILLER: Thank you very much, Mr. Speaker. I want to make two comments and then to ask some questions.

We have an excellent Liaison Chief heading the programme in Canada and I would like to thank and commend the Canadian Government. And we have a wonderful team of Canadian employers who are very loyal to Jamaica. But Minister, I want to ask you how many persons went AWOL. Because I remember when we nearly lost the programme on two grounds, I won't mention one, one was dangerous, but one also was about workers going AWOL. And once workers begin to go AWOL, it can put the programme in danger, into trouble. And it is something that we need to really follow.

The other thing is that, any Minister of Labour will know, there is always a pattern of the parishes and the areas from which majority of the people who go AWOL, they go AWOL from.

And I just want to say to you, Minister, I was a Minister, Minister of Labour, and I knew the time when I had to take a serious position and inform the Members of Parliament that for those areas, where we were getting the large band of AWOLs, that we would penalize and that's how we cut the AWOL from the programme.

So, Minister, I would like to hear from you, how many persons you have on your AWOL list when and the areas you are getting the AWOLs coming from in Jamaica, and to say to you that - they are from all over. They are from all over. And when we did not send workers from the Corporate Area was that the employers themselves said that when they got the workers coming from the urban centres, that the attitude was different, the performance was different from those who are real agricultural workers or farmers, or small farmers.

And so, we need to pay particular attention because this is a very important programme where we have most of the workers from the Caribbean, and it was done out of hard work by successive governments in this country. And I know when I had to work very hard to save this programme. I would hate to know that we could fall back into any challenge with the employers because of our side, not keeping our side of the bargain or really paying attention to our responsibility to ensure that we do not lose work, we do not lose jobs, if anything, we will expand.

Thank you, Minister.

Mr. CHARLES: Mr. Speaker, the two vital questions asked by the Leader of the Opposition, how many workers have gone AWOL, and where are they from? Those are answers that I would seek and let her know. But this $17 Million and this 450 workers were not generated over the last three years, quite a long time that this has been happening, probably from you were there.

We are using the selection process to clean up the programme. A person from Kingston who was asked, how do you plant tomatoes? And they say, dig the hole and throw one-one seed in there. That person wouldn't get a chance to go. They are identified and they are selected on the basis of their knowledge of agriculture and proof that they were farmers.

Mrs. SIMPSON MILLER: Minister, are

you aware that - perhaps anybody can say how you plant tomatoes, but if you are not - if you were never engaged in agriculture, on a farm, or you are a small farmer and you do your own thing, when you get out there and having to work for an entire day, it's a different thing totally.

And all I am saying to you - because everyone of us here, would love for you to get as many workers as possible from our constituencies, but we must be concerned also, Minister, about the people we recruit and the people we send. Because if we do not do the right thing, we could lose an entire programme.

We are not the only country from the region that is engaged in this programme. For example, Barbados, you know, they are also very assertive in trying to get workers there. They are very aggressive in that way. We have developed a close working relationship with the employers and so we have been able to hold and to continue to be ahead of any other country in the region. But if we are not careful, we could lose what we have.

I am just saying to you, Minister, a word of caution. You came from the Trade Union background. I also have a little of it. We know what it is for people to get jobs and both of us are at one in it. At the same time, we need to expand, not lose.

Thank you, Minister.

Mr. CHARLES: Mr. Speaker, the words of the Leader of the Opposition should be listened to by all Members of Parliament. I have requested all Members of Parliament to do the recruitment on the basis of their knowledge of the particular worker, that the worker is healthy, that has no criminal background, that they are aware of agriculture. And I have so been advised by Members on that side and this side that they are doing that.

And I am going to answer the question by looking over the past few years, how many workers have gone, where they are from and I'll advise this House.

The SPEAKER: Mr. Fagan.

Mr. FAGAN: Thank you, Mr. Speaker. Mr. Speaker, I would like to ask the Minister. The data that has been presented has not reflected anything about those companies that are recruiting privately. I want to know if that will have any bearing on the statistics. And secondly, Mr. Speaker, I would like to find out if there is any area of this programme that is divested or subcontracted to any private company?

Mr. CHARLES: Mr. Speaker, we have not contracted any part of the Government's programme to any contractor. There are private contractors who have licence to participate in employment programme, not so much in the Farm Workers Programme, but in other areas of employment.

We have had to call in all agents, read the Riot Act to them. We have had to suspend licences and we have had to arrest some of them who are not following the procedure. And we will keep a very strong hand on the programme to keep it viable and in the interest of the people of Jamaica.

The SPEAKER: Yes, Mr. Kellier.

Mr. KELLIER: Minister, in respect of the setting up of the British Columbia office and the one in Nova Scotia, could you tell us

what exactly was the cost of setting up each of these offices and what is the staff complement that you have in each of these areas? The one in BC, the office that you set up in Kelowna or wherever it is in BC and the one in Nova Scotia that you have set up, what was the actual cost of the setting up of those offices? Because I want to relate it back to what the surplus is that you've stated here in respect of what the surplus says for the years gone by. And if you look and see, it has fallen from CAN$821,000 to CAN$149,000. I don't know that it cost nearly $700,000 to set up these offices; I don't know if that's what you're saying. So I want to know if that is - if you have the figures as to what it cost to set up the office in British Columbia and the one in Nova Scotia?

Mr. CHARLES: Mr. Speaker, I wouldn't have those figures here, but I will get them and communicate them to the Member.

Mr. KELLIER: Finally, Minister, in respect of the 4% that is - that the Management Committee handles, which is - what runs the service I understand that in the United States there is the current plan to remove your ability to collect the 4%. Are we taking any preemptive action in respect of the Canadian programme, to ensure that delays on service can continue to survive? Because if this 4% is removed then it will create some difficulties for us to manage the service properly. So there currently is - based on my understanding - a difficulty developing in the United States, but I want to know if we are taking any preemptive action in Canada, to try and head off the situation there.

Mr. CHARLES: We have no problem so far in Canada. We are in close association with the Canadian Government and it has been working as it has been under your - and we are keeping an eye on it.

The SPEAKER: Very well.

Mr. KELLIER: Yes, but could you say, very quickly Minister, whether or not - since we're on the same ball - whether or not the situation in the United States is settled, in respect of the 4%?

Mr. CHARLES: Mr. Speaker, I was in the United States a few days ago and at an appropriate time I'll have a statement for this House on the United States Programme. As you have been advised by me, there were some difficulty, we are working on it and this House will be advised at an appropriate time.

The SPEAKER: Thank you, Minister Charles.

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 17**
  Performance of the Petroleum Corporation of Jamaica for the financial year 2006/2007 and focus for the financial year 2007/2008 and audited Financial Statements and Report for 2007
- **Ministry Paper No. 18**
  Performance of the Petroleum Corporation of Jamaica For the financial year 2007/2008 and focus

for financial year 2008/2009
and 2008 Annual Report and Audited Financial Statements

- **Ministry Paper No. 19**
  Vote-on-Account 2011/2012
- Toll Authority Annual Report and Audited Financial Statements for the financial year 2008/2009
- Auditor General's Report on the Special Audit of the All-Island Jamaica Cane Farmers' Association
- **Certified Appropriation Accounts**
  Ministry of Finance & the Public Service - 2009/2010
  Forestry Department - 2009/2010
  Office of the Public Defender - 2009/2010
  Houses of Parliament - 2008/2009
  National Environment & Planning Agency - 2004/2005 & 2007/2008
  National Land Agency - 2002/2003
- Draft of the Constituencies (Boundaries) Order, 2011
  Under The Constitution of Jamaica

(MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern, entered and took his seat.)

Mr. SHAW: Mr. Speaker?

The SPEAKER: Yes.

Mr. SHAW: I beg to lay on the Table of the House, a copy of the Second Supplementary Estimates for the year ending March 31, 2011.

The SPEAKER: Is that the Second Supplementary?

Mr. SHAW: Yes.

The SPEAKER: Very well.

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Mr. Shaw.

Mr. SHAW: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

WHEREAS section 9 subsection (4)& (5) of the Financial Administration Audit Act authorises the Minister of Finance and the Public Service to issue warrants for the withdrawal of such sums from the Consolidated Fund as the House of Representatives may, by resolution approved in anticipation of grants of Parliament in an Appropriation Act for financial year in which the sums were issued;

AND WHEREAS upon commencement upon that Act the said warrant shall cease to have effect and issues thereunder shall be deemed to have been made for the purposes of the Act and shall be accounted for in accordance with the provisions thereof;

AND WHEREAS it is necessary to make provision before the 31st of March, 2011 for the carrying on of the business of the Government from the 1st of April, 2011 until such time as the estimates for the year ending the 31st of March, 2012 are approved, provided that such provision shall not include any increase in any officer's salary or allowances other than approved increments and increases agreed by the Government in 2010/2011, to be paid in the 2011/2012 financial year, any increase in establishment over that approved in 2010/2011, or any new

service or work for which no provision was made in the Estimates of Expenditure for 2010/2011, or which has not otherwise received the approval of the House; and provided also that no payment shall be made by virtue of the resolution after the 31st of July, 2011:

BE IT RESOLVED that this Honourable House hereby approve the expenditure of a sum of Seventy Eight Billion Nine Hundred and Forty-two point Nine Million Dollars, being charges upon the Consolidated Fund to defray the charges of the several heads of expenditure specified in the attached Schedule until such time as the Appropriation Act 2011, shall have been passed.

And, Mr. Speaker,

BE IT RESOLVED also that the Second Supplementary Estimate of Expenditure for the financial year ending March 31, 2011, which was laid on the Table of the House on the 15th day of March, 2011, be referred to the Public Administration and Appropriations Committee for consideration and Report;

AND BE IT FURTHER RESOLVED that this Report be submitted to the Honourable House no later than March 22, 2011.

Mr. Speaker, I further beg to give notice, that at a later stage today I'll move for the suspension of the Standing Orders to enable me to take the motions.

The SPEAKER: Thank you, Minister Shaw.

Mr. Holness.

Mr. HOLNESS: Mr. Speaker, I beg to give notice that at the next meeting of the House I'll move:

BE IT RESOLVED that the Draft Constituency Boundaries Order 2011, made under the Constitution of Jamaica, which was laid on the Table of the House the 15th day of March, 2011 be approved.

Mr. Speaker, I further beg to give notice that at a later stage today, I will move for suspension of Standing Orders to enable me to take notice of this motion.

(HON. LESTER MICHAEL HENRY, CD (JLP), Clarendon, Central, Minister of Transport and Works, entered and took his seat.)

The SPEAKER: Thank you, Minister Holness.

QUESTIONS AND ANSWERS TO QUESTIONS

The SPEAKER: Minister Holness.

Mr. HOLNESS: Mr. Speaker, we have two questions for answer today.

A MEMBER: It's four.

Mr. HOLNESS: We have two questions ready for answer.

The SPEAKER: Could you let us have the two which are ready?

Mr. HOLNESS: Mr. Speaker, I have a question posed to me by the Member from Central Kingston.

The SPEAKER: What's the number there?

Mr. HOLNESS: That would be - I don't have that in front of me, Mr. Speaker, but - 46, I gather, Mr. Speaker. And then the

Minister of Labour and Social Security.

The SPEAKER: What is that question's number, Minister?

Mr. HOLNESS: That's 44, that's from the Member from South St. Ann. Questions 39, 42 - Question 39, standing in the name of the Member St. Andrew East Central, the answers are prepared for that question, Mr. Speaker, but for good order, that question ought to have been posed to the Minister of Finance. The Member, I gather, has agreed that he will withdraw and retable and we will take it in short order.

Dr. PHILLIPS: Mr. Speaker.

The SPEAKER: Yes, Dr. Phillips.

Dr. PHILLIPS: I have no objection to the procedure that is being recommended, but I would suggest, Mr. Speaker, that the questions remain and I have no objection to them being answered by the Minister of Finance, if that is what you are proposing. Because, Mr. Speaker, these questions at least have implications both for law enforcement as well as for the specific financial entity that is named here. So it was in consideration of the law and order components that I had directed them to the Honourable Prime Minister. I have no objection to the course there, but what I'm asking for is that the notice here remains and it can be amended by the Clerk, to be...

Mr. HOLNESS: The suggestion that the Member is making, it couldn't work that way, Mr. Speaker, what would have to happen is that he would withdraw, bring the question...

Dr. PHILLIPS: No, no!

Mr. HOLNESS: ...and then the Minister could answer before the 21 days' notice is required.

Dr. PHILLIPS: No, no!

The SPEAKER: But my understanding, Leader of the House, is that he having indicated the redirection, that the Minister of Finance could answer at an appropriate time.

Mr. SHAW: Next week is an appropriate time.

The SPEAKER: Yes, is that...

Dr. PHILLIPS: But the Member - I find it strange, Mr. Speaker, the Leader of the House said the answers were prepared, so it wouldn't be a problem, we're not being difficult.

(Inaudible comments by Mr. Shaw)

The SPEAKER: Well what would happen now, Dr. Phillips...

Dr. PHILLIPS: No, at least we need to permit a reasonable time for the answers...

The SPEAKER: Yes.

Dr. PHILLIPS: ...I have no problem.

The SPEAKER: No, what you then ask the House to do is that the question be redirected to the Minister of Finance and therefore if it is the wish of the House, that this question be redirected to the Minister of Finance instead of the Prime Minister - is that the wish of the House?

Put to the House and agreed to.

The SPEAKER: So we'll have the question redirected to the Minister of Finance.

Mr. HOLNESS: Mr. Speaker, questions 42, 43 and 47, the Ministers who should have those answers are not in the House with us today.

The SPEAKER: But let us go with those that we have now.

Mr. HOLNESS: Yes.

The SPEAKER: Can we go then with...

Mr. KELLIER: But, Mr. Speaker...

The SPEAKER: Yes, Mr. Kellier.

Mr. KELLIER: ...but just in respect of those same three questions, and particularly those standing in the name of the Leader of the Opposition, we would wish to know - the Members are not here at this particular time, but should they arrive beyond the period allotted for Question Time...

The SPEAKER: Then we will rule...

Mr. KELLIER: ...will be able to recommit the questions so that we can get some answers?

The SPEAKER: We'll get some response. Yes, Mr. Kellier.

Mr. JACKSON: Are they ready?

Mr. HOLNESS: Mr. Speaker, as long as the Members are here and the answers are prepared we are willing to accommodate the answers. I too want to see a very light answer paper.

Dr. DAVIES: What you mean by accommodate?

Mrs. SIMPSON MILLER: Mr. Speaker, if you'll just permit me. The answers that I asked, the Minister can...

A MEMBER: Questions.

Mrs. SIMPSON MILLER: ...the questions I asked, the Minister can respond to those questions, she doesn't need to ask her office anything.

The SPEAKER: Well...

Mrs. SIMPSON MILLER: The questions that I have on the Order Paper here, if the Minister cannot answer these questions, have all of these information, from I've asked the questions until now then something is seriously wrong and I need answers to my questions.

The SPEAKER: Well, let us see what happens before the end of the day, Leader of the Opposition.

Can we go firstly then, you will answer Question 44?

Mr. HOLNESS: I'll go first, Mr. Speaker.

The SPEAKER: No, no which one - that's question...

Mr. HOLNESS: My question would be 46, Mr. Speaker, but I would...

The SPEAKER: ...46. Could we ask... Reverend Thwaites, could you - Question 46.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, at the expiry of the usual customary time, I wish to ask the following questions of the Minister of Finance, the Minister of Health and the Minister of Mining, may it please you.

Questions to the Minister of Finance:

1. What revenue did the Government derive from the tobacco industry during each of the last three financial years?
2. What is the projected intake from this industry for the financial year 2011-12?
3. Is the Government indebted to Carreras or any other tobacco interest?

Questions to the Minister of Health:

1. What is the approximate annual cost to the Government health care system of illnesses related to tobacco use?
2. Please state the details of any health promotion measures now underway or projected, intended to inform the

public of the death threat occasioned by tobacco use.

3. When will the Jamaican Government be fully compliant with its obligations under the Framework Convention of Control of tobacco use?

Questions to the Minister of Mining:

1. How many inches of top soil are required to be replaced on mined-out bauxite lands?
2. Have all mined-out bauxite lands been restored in compliance with law?
3. If the answer to question two is negative, what are the sanctions and are they being imposed?

The SPEAKER: Very well**.** And then…

Rev. THWAITES: Mr. Speaker, would the Minister of Education be kind enough to answer the questions listed at Number 46, in my name?

The SPEAKER: Question 46, Minister Holness. Have they been circulated?

Mr. HOLNESS: They are being circulated now, Mr. Speaker.

(*Sotto voce* comment from Mr. Shaw)

Mr. Speaker, as the former Minister of Finance was very quick to observe, that the question posed by the Member from Central Kingston, ought rightfully have been posed to the Minister of Finance and the Public Service. Matters that have to do with students loans, students scholarships, bursaries, or any form of funding for education for the public service, those matters are the remit of the Ministry of Finance.

Nevertheless, Mr. Speaker, the question speaks to bonding. And the responsibility for bonding is a shared one. The Ministry of Finance has responsibilities, but the line Ministries also have responsibilities in ensuring that the bond is observed and respected.

So, Mr. Speaker, I am just going to give as best an answer as I can give, with those constraints in mind.

Question: What are the arrangements for bonding those students who benefit from public funding, in whole or part, for their tertiary training?

Anwer: Students benefit from funding from – students who benefit from public funding for tertiary training – and that funding, Mr. Speaker, could be through bursaries, scholarships or direct grants, those individuals could also, Mr. Speaker, benefit from the facility which is called Study Leave. The bonding arrangements are the responsibility of the Ministry of Finance and the Public Service, for the most part, and individual ministries collaborate with the Ministry of Finance to ensure that the activity is executed.

The different types of programmes that can be assessed, and the bonding arrangements, I will now outline them.

Scholarships and Bursaries:

Once the student accepts the award, a copy of the award letter and the relevant fees are forwarded to the Bonding

Unit in the Ministry of Finance and the Public Service. It's also forwarded to the Students Loan Bureau, the Registrar or the Bursar of the various institutions that the student may attend.

If the student is a beneficiary of a scholarship, then we should note that that student would not then qualify for a loan through the Student Loan Bureau. The student is required to go to the Ministry of Finance and complete the Bond Agreement. And the Bond Agreement carries with it, Mr. Speaker, also a Guarantor's Agreement. So they have to go with their guarantors as well, to sign the Bond Agreement. They have to then complete a letter stating that they have fulfilled all the requirements for the bond, and that letter has to be taken to the Ministry of Education to certify that they have actually signed a Bond Agreement with the Ministry of Finance.

Each student is required to submit original copies of their reports, their progress report, to the Tertiary Unit of the Ministry of Education at the end of each semester. Students who maintain a 'B' average, at least a 'B' average, are then paid their various tranches of funding, while those who do not maintain at least a 'B' average, they are placed on probation, in the first instance, and then, if their grades do not improve, then a determination is made as to whether or not the scholarship or the grant funding is continued. And in that instance they would become liable for the funding already paid over for them.

Upon completion of study, students are required to submit to the Ministry of Education, a letter from their employer, indicating their place of employment. And usually those students who get scholarships are usually required to work within the public sector, if they are not already employed in the public sector.

In the case of teachers, the Ministry of Education has two special initiatives to attract teachers to pursue special studies. One is a double-option in Science and Mathematics, and the other is the Primary Spanish Programme – the Primary Spanish Teacher Programme, which is executed through selected Teachers Colleges. And the process is the same for these teachers, as I had described earlier.

In terms of Study Leave, public sector workers – all

public sector workers who benefit from study leave with pay, or any training programme fully or partially financed by the Government, are bonded.

And I think this is where the member from Central Kingston wanted to go with this question, to find out whether or not we have a general bonding programme. So if these students work with the Government, and they access study leave benefits, they are automatically bonded to the Government.

Persons are bonded for the value of the salary, and the cost of the programme to be pursued, less any vacation leave accruing to them.

Persons are required, along with their guarantors, to sign the bond forms at the Ministry of Finance, as I had explained before. The length of period for the bond is dependent on the cost and the duration of the programme of study to be pursued.

All Teachers employed to the Ministry of Education, who have received study leave with pay, to pursue programmes both locally and overseas, are bonded. So the Ministry of Education bonds all its teachers.

The salary accorded to the teacher is regarded as a loan during that period of study leave. Teachers who are afforded this facility, are bonded for the value of the salary paid for the duration of study leave, including the value of any scholarship received, less the vacation leave due to them.

In order to proceed on study leave, the teacher is required to sign the loan agreement with the Ministry of Finance, and they also have to sign an agreement with the Ministry of Education, Mr. Speaker, along with the guarantors' affidavits.

So, Mr. Speaker, the Government does have in place a very robust structure for bonding students, and indeed bonding its workers. It is, from my understanding, Mr. Speaker, that the teachers, in particular, take advantage of the study leave programme, and generally, within the public sector.

The SPEAKER: Mrs. Maxine Henry-Wilson.

Mrs. HENRY-WILSON: Minister, I want to ask you something, specifically about teachers who are recruited for overseas employment, and the difficulties that were encountered in trying to reconcile their bonding arrangements with the provision of the employment visas. Can you say whether that has now been – that it has been egularized, and that the bonding arrangements are being observed as they should be?

Mr. HOLNESS: I am not understanding your question, Member. For overseas employment? So they are bonded by the Jamaican Government?

Mrs. HENRY-WILSON: These are persons who are recruited.What has happened is that persons would be recruited to teach

overseas on the Teacher Migration Programme. They would find themselves over there, and then they would write to ask for the bond to be waived. But it cannot be waived, and so they would have to provide full payment. Do you know if that has now been regularized?

Mr. HOLNESS: No such circumstance has come to my attention. But you are right, Member, in that where requests have been made for the waiver of a bond, we have not granted any waiver. We would have had to get very good reasons, probably reasons to do with health, mostly. We have not waived the bonds at all.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, will the Minister acknowledge that anyone in tertiary education who hasn't paid the full economic cost, owes a debt to the nation, and ought to be bonded for a period of public service?

Mr. HOLNESS: Mr. Speaker, I think the general principle is one that we could agree with. But the Member is asking a question of – which speaks to policy implications, not – where would not be able to debate those policy implications right now.

But, generally, Mr. Speaker, I agree with the principle that we ought to have a general bonding mechanism for students who benefit from public funds to achieve their tertiary education.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, if the Minister accepts that this is an appropriate policy, will he state what steps will be taken in order to actuate it?

Mr. HOLNESS: Mr. Speaker, just to be specific, we have not accepted it as a policy, but the principle is accepted. The policy, now, would have to speak in more specific terms to how we would execute that. Once we start to talk of bonding, then we would have to find the appropriate mechanisms to bond them, which would include bonding them to a job, or to some form of service. That mechanism would have to be thoroughly thought out.

Mr. THWAITES: Mr. Speaker, would the Minister consider the extraordinary benefit that could take place in the overcrowded school rooms of this country, for example, where class sizes are inordinately high, if persons who have so benefited from the taxpayers largesse, to the benefit to themselves and also the nation, were at least called upon to do a measure of service as teachers' assistants or such needed posts, in order to improve the overall education and pay something back for the extraordinary privilege that many of us, and they, are benefiting from?

Mr. HOLNESS: Mr. Speaker, I am grateful for the Member – to the Member for bringing this matter into national, public debate.

The question that the Member is asking is whether or not it is sufficient to say that merely having university education in itself is a public good, if whether or not the Government ought to take steps to secure the public good that is inherent in tertiary education. And, again, as a general principle, that is an unassailable point, that it is not sufficient to say that by merely educating

persons at the tertiary level, that there is this public good. That we need to go further to secure the public good through some kind of national service, bonding, as it may be.

The Ministry is contemplating a programme patterned off the **Teach for America Programme**. We have just completed the design of the programme. We are talking with funding agencies as to how it could be funded. And I would say that in short order that programme would be brought here for public debate.

Rev. THWAITES: Mr. Speaker, will the Minister and the Government, pay particular attention to the situation in the health sector, where for example, a number of students benefit from millions of dollars of investment in order to gain medical qualification, but are free afterwards, to leave Jamaica without any obligation, to engage in private pursuits, again, without any obligation, while the health sector remains generally reduced to a bare minimum of personnel?

Mr. HOLNESS: Again, Mr. Speaker, the principle that the Member is expressing is one that is unassailable. As whether or not we are at the point where we could institute it as a policy, I think there is further debate that should be had on the matter.

The SPEAKER: Thank you. The next question is Question 44. Dr. Davies.

Dr. DAVIES: Through you, Mr. Speaker, I wish to have the Minister of Labour and Social Security, answer Question 44, standing in my name on the Question Paper.

Mr. CHARLES: Mr. Speaker, the Member from St. Andrew, South, asked the following question:

Question: Does the Minister recall informing Parliament of his intention to establish a Committee which would advise him on an appropriate "livable wage"?

Answer: Mr. Speaker, in my Sectoral presentation in October, 2010, I informed this Honourable House that the Minimum Wage Advisory Commission recommended that a study be undertaken to determine what constitutes a livable wage. This recommendation was made based on the fact that many of the participants in the consultations to determine a new minimum wage, raised the issue.

In light of this I commissioned a study to determine what constitutes a liveable wage. At no time did I inform the House that a committee would be established to advise on what is an appropriate liveable wage. Mr. Speaker, I had also advised that the study would be completed at the end of March 2011. However, the question of determining a liveable wage is far more involved than was first envisioned. A lot of exploratory work had to be carried out and the work is now on-going.

(*Sotto voce* remarks by Dr. Davies)

Mr. CHARLES:

Question 2: If the answer to Question 1

is in the affirmative, would the Minister state or indicate whether the committee has been established?

Answer: As indicated in answer to Question 1, I did not advise that a committee would be established.

Question 3: If the answer to Question 2 is in the affirmative, would the Minister provide details on the membership, terms of reference and expected output from the committee?

Answer: There are no details to be disclosed, since a committee has not been established.

Question 4: If the answer to two is the negative, will the Minister indicate why?

Answer: As previously advised, I did not indicate that a committee would be established.

Question 5: Would the Minister indicate the manner in which the committee will solicit inputs from interested individuals and institutions?

Answer: Mr. Speaker, in answering these questions, I will address how the study which I have commissioned will be undertaken. So far research has been conducted as to the manner in which the current minimum wage is determined and what is the recognized poverty line in Jamaica. There has also been research done to determine what the internationally accepted concept of the liveable wage is, and how it has been calculated and instituted in other countries.

This information will guide the determination of a liveable wage for the Jamaican people. There will be detailed research done relating to the conditions under which poor people work, the conditions under which their employment permits them to live and the minimum conditions under which people ought to live.

The study will seek input from the Statistical Institute of Jamaica and the Planning Institute of Jamaica and take into account existing work in *the Survey of Living Conditions*. Consultations will also be carried out with experts and stakeholders.

Question 6: Would the Minister indicate whether there are provisions for Members of Parliament to have an input into the deliberations of the committee, prior to submission to Parliament?

Answer: As soon as the study is completed the Report will be tabled in this Honourable House.

Thereafter Members can make their contributions when the matter is debated. The objective is to have the fullest involvement of all stakeholders in the finalization of what is a liveable wage.

Members of Parliament, organizations and everyone, will be asked to contribute to this matter.

Thank you.

Dr. DAVIES: Mr. Speaker.

The SPEAKER: Yes, Dr. Davies.

Dr. DAVIES: Mr. Speaker, through you, let me thank the Minister for this Report. Having said that the only way to describe his responses is that they are content-free. There is nothing we have learnt here.

Mr. M. PEART: Yeh man!

Dr. DAVIES: The Minister in October, nearly six months ago, committed himself - and let's not get through the semantics as to whether you want a committee or commission. You said a study will be commissioned and the Report would be ready at the end of March 2011. Now, Mr. Speaker, this is a very serious issue. I have had occasion to speak to the fact that we need to get beyond the notion of benevolence in terms of dealing with the issue of minimum wage and a liveable wage. And therefore I would like to ask the Minister to give some content in his response to the following questions.

Question 1: Exactly when was the study commissioned?

Question 2: Has the work on the study been started?

Question 3: What are the terms of reference of the study?

Question 4: Are they written?

Question 5: Can we have sight of the document?

Question 6: Who is conducting this study and what is his new date for completion?

Simply to say as soon as study is completed - my two daughters who are now grown and are now adults, I used to say, have you finished your homework and they would say, not yet. And then I learn to ask the real question, have you started your homework and the answer was, not yet.

Minister you are far older than my daughters but the same questions apply here.

(*Sotto voce* remarks by Mr. M. Peart)

Dr. DAVIES: What you have given us has taken us no further. We don't know who is doing this study. We don't know what are the terms of reference. We are told that we will get a chance to comment when you have presented it when it's completed.

Mr. M. PEART: He has done nothing!

Dr. DAVIES: I have asked the questions, about six questions, but I have no hope of getting a substantive response.

Mr. M. PEART: He has done nothing!

Opposition Member: Dinosaur!

Mr. CHARLES: Mr. Speaker, may I comfort the Member….

Opposition MEMBERS: No!

Mr. CHARLES: …not like his daughters would answer, the study has started. The study was commissioned right after it was expressed here in the Parliament. The study is being carried out under the leadership of

Dr. Cowell from the University of the West Indies with his team.

Dr. DAVIES: Doctor who?

Mrs. HENRY-WILSON: Noel Cowell.

Mr. CHARLES: Expressions have been that it is more involved than I thought and therefore will not be completed by the end of March. The House will be advised as soon as it is ready. I cannot at this time tell you that it has moved from March to April. I will not give you another date. I will tell you it is on-going, it is being worked on and we would like to get it as soon as possible and you will be so advised as soon as it is ready.

Opposition MEMBER: See what?

Mr. CHARLES: It is I who have commissioned it. Nobody has seen this before. Nobody had thought of it. You have been there for 18 years, you never thought of the poor people.

Mr. M. PEART: Turn on the record.

Mr. CHARLES: I have commissioned this and I am prepared to wait for a proper study. And this House will be advised when a proper study is done and this House will be advised to comment on it and to make an input so that, from hear on, we can take and make a proper decision on what is a minimum wage, why it should be paid or where do we go from here.

Thank you very much.

The SPEAKER: Yes, Dr. Davies.

Dr. DAVIES: Mr. Speaker, I don't know about you but I am not any further on in terms of understanding. What I would like to know, is there a formal contract with this team? What are terms of reference? What are the deliverables? Is it an open-ended, when you finish come or do you have specific dates for completion? We want the terms of reference, how was this team selected, we would like to know these things, Minister. I see you are claiming paternity. I am told that the idea and the proposal preceded your advent. But beyond that, is there a formal contract? What are the terms of reference? What is this team which is involved and what are the deliverables and when?

Mr. CHARLES: Mr. Speaker, I will go further than that. I will invite the Member to meet with the team and around the table to ask his question.

Dr. DAVIES: You know what my rates are?

Mr. CHARLES: I have urged the team to hurry up but to make sure that it is properly done. And therefore we will have reports from time to time and, if so pressed, I will advise the House on the Reports from time to time.

Dr. DAVIES: You have been so pressed?

Mr. CHARLES: Yes.

Dr. DAVIES: When is the first report?

The SPEAKER: Yes.

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, at Public Business the Minister of Finance will start us off by tabling the Second Supplementary Estimates.

The SPEAKER: Mr. Shaw.

Mr. SHAW: Thank you, Mr. Speaker.

Mr. Speaker, I know move for the suspension of the Standing Orders to enable

me to take the motion, notice of which I gave earlier.

The SPEAKER: The question is that the Standing Orders be suspended to enable the Member to take the motion, notice of which he gave earlier.

Put to the House and agreed to.

The SPEAKER: Minister.

Mr. SHAW: Thank you, Mr. Speaker.

Mr. Speaker, I first would like to, in moving the motion on the Second Supplementary Estimates, just to indicate, Mr. Speaker, that we are passing it on to the Public Administration and Appropriations Committee for its review. I have just had a discussion with the Chairman, Mr. Speaker, who has indicated that they are prepared to take a look at it tomorrow morning in their session.

And also to indicate, Mr. Speaker, that the desirable objectives in the future is that we can table the Estimates and give the Members enough time, a longer time period, of say a week, that they can examine and then we can have the further consideration. So I appreciate the gesture of the Chairman and Members of the committee to have a look at the Estimates tomorrow morning. There after, Mr. Speaker, the Standing Finance Committee, the arrangments will be made with the House Leaders, I think next Tuesday, and for debate in the afternoon. It would be the decision, based on consultation as to just how much time would be needed, because the Second Supplementary Estimates are really, Mr. Speaker, just a tidying up exercise pending the end of the financial year.

Equally, Mr. Speaker, the other matter before us has to do, of course, with the Vote - on-Account Resolution 2011/2012. There is a provision under section 117, subsection (3) of the Constitution of Jamaica and section 9, subsections (4) and (5) of the Financial Administration Audit Act for the House to approve sums for the carrying on of the Government's business between the close of a financial year and the coming into force of the Appropriation Act for the next year.

The financial year 2010/2011 closes on the 31st of of March, 2011. So this Resolution seeks the House's authority in accordance with the provisions previously cited for expenditure, of approximately Seventy-eight Billion Nine Hundred and Forty-two point Nine Million Dollars to carry on Government's business for a period of four months to the 31st of July 2011.

Mr. Speaker, the breakdown is as follows: Recurrent Expenditure $69.2 Billion; Capital Expenditure $9.7 Billion and the details for each ministry and department are shown in the Schedule attached to the Resolution and Ministry Paper.

These figures, Mr. Speaker, I am to remind the Honourable House, do not include statutory expenditure such as debt-servicing costs and salaries attached to certain posts provided for in the Constitution, or any other law, as well as the statutory requirements for public officers pensions. These do not require the annual parliamentary approval. The estimated amounts of such expenditure for the period April to July are as follows: Public debt amortization, Mr. Speaker, is some $49.9 Billion; interest servicing or debt servicing, interest cost $29.1

Billion dollars and for pensions and salaries, mentioned before, $4.974 Billion for a total of $84 Billion.

The Resolution will authorize expenditure up to the 31st of July, 2011 and it is expected that by then the Budget and the accompanying Appropriations Act would have been passed. After the Act is passed the funds released under the authority of this Resolution will be covered by warrants issued under the authority of the Appropriations Act. Presented for the approval of the House, Mr. Speaker.

The SPEAKER: Could you move for the motion to be approved then, Minister Shaw.

Mr. SHAW: I move for the motion to be approved, Mr. Speaker.

(Inaudible comment by a Member)

Mr. SHAW: Both, the Vote-on-Account and the Second Supplementary Estimates.

The SPEAKER: Members, the motion before you is for the Vote-on-Account and the Second Supplementary Estimates.

Put to the House and agreed to.

The SPEAKER: Both the motion and the Vote-on-Accounts are approved.

Dr. DAVIES: The warrants not ready. The CDF accounts released now?

DRAFT BOUNDARIES REPORT

Mr. HOLNESS: Mr. Speaker, you'll recall that we gave Notice of Motions Orally that we will taking at Public Business the Draft Order for the Boundaries Report which we Tabled some time ago.

Mr. Speaker, Members of this Honourable House are reminded that on the 27th day of March 2008, in accordance with subsection (2) of Section 67 of the Constitution of Jamaica, the House of Representatives passed a resolution appointing a committee, that committee being the Constituency Boundaries Committee to keep under continuous review:

(a) the number of constituencies into which Jamaica is to be divided; and

(b) the boundaries of such constituencies.

The Constituency Boundaries Committee met on two occasions in pursuance of its mandate. The first meeting, Mr. Speaker, was held on 27th of March 2008, and the second meeting on the 3rd of February 2010.

The committee in its deliberations received and considered the Report of the Electoral Commission of Jamaica on the realignment of boundaries and the increase in the number of constituencies; and that Report, Mr. Speaker, was dated the 6th of January 2010.

In accordance with subsection (7), of Section 67 of the Constitution, the constituency boundaries committee notified the Minister with responsibility for elections by notice, gazetted on the 9th of February 2010 of its intention to make a report under subsection (5) of Section 67 of the Constitution in relation to the number of boundaries into which Jamaica should be divided; and the boundaries thereof, for the purpose of election of Members of the House of Representatives.

Members of this Honourable House, Mr. Speaker, are further reminded that on the 23rd of February 2010, in accordance with subsection (5) of Section 67 of the Constitution, the Report of the Constituencies Boundaries Committee dated the 23rd of February 2010 was laid on the Table of the

House of Representatives. In the said Report, it is recorded that the committee agreed to accept the ECJ's Report received, and considered it as previously noted.

Mr. Speaker, Members of this Honourable House are further reminded that on the 10th of March 2010, the House passed a resolution approving the Report of the Constituency Boundaries Committee dated the 23rd day of February 2010, and that was annexed to the ECJ Report. Pursuant to subsection 8 of Section 67 of the Constitution and that says,

> *As soon as it may be after the Standing Committee,*

that is the Constituency Boundaries Committee,

> *has reported to the House, the Minister shall lay before the House for its approval the draft of an Order by the Governor General for giving effect for the recommendations contained in the Report and that draft Order may make provision for any matter which appear to be incidental to, or consequential upon the other provisions of the draft.*

Subsequent to the Tabling and approval of the Constituency Boundaries Committee by letter dated 25th October 2010, the Director of Elections brought to the attention of the responsible Minister, four errors appearing in the Annexed Report to the ECJ Report and requesting that these errors be corrected prior to the Tabling of the draft Order. And the errors are set out, Mr. Speaker, in the draft Order; and I will run through them quickly, Mr. Speaker.

The PRIME MINISTER: Andrew, you don't need to do that. That's time consuming.

Mr. HOLNESS: They have been laid, so we could - Members, should acquaint themselves with the errors, with the modifications - well, with the corrections and the modifications.

Having presented this Statement of Reason which is important, Mr. Speaker, so that we can now proceed, Mr. Speaker, to having now finalized the constituency boundaries and, of course, now having the increased numbers for the constituency.

I, therefore, present the Report to the House for its approval.

The SPEAKER: Members, before you is the draft Constituencies Boundaries Order 2011, with the noted errors being corrected and they are before you. And I now ask for your approval, Members.

Put to the House and agreed to.

The SPEAKER: The changes have been noted and the Order approved.

Very well. Thanks, Minister Holness.

Mr. HOLNESS: Mr. Speaker, the Prime Minister will now continue the debate on the Special Prosecutor Bill. The Prime Minister will make his closing statements.

The SPEAKER: Prime Minister.

THE SPECIAL PROSECUTOR BILL

The PRIME MINISTER: Thank you very much, Mr. Speaker. I., by agreement between both sides, I'm going to close the debate today.

Dr. RHODD: Mr. Speaker.

The PRIME MINISTER: And we're going to defer committee consideration to next week.

The SPEAKER: Hold a second, Prime Minister. Yes, Dr. Rhodd, you had a concern.

Dr. RHODD: I have Mr. Speaker. I had indicated to you and , the House Leader, for some time four weeks ago, that I wanted to participate in this debate, I think there was an understanding that I would be speaking prior to the Prime Minister closing the debate.

Mr. SHAW: You're not in touch with your House Leader.

Dr. RHODD: My House Leader is well aware of it also.

Mr. HOLNESS: Mr. Speaker, we had an agreement that we would have the Prime Minister take the time necessary to explain the very detailed amendments, but, Mr. Speaker, we have no objections to the Member making a brief contribution. I'm sure a valuable one at that.

Dr. DAVIES: He's going to take his time.

The SPEAKER: Okay, Dr. Rhodd.

Dr. RHODD: Mr. Speaker, allow me first to just thank you for your indulgence, and thank the House for allowing me to make this brief contribution.

I rise, Mr. Speaker, to say a few words on this important Act. I'm seized of the need for us to do the right thing, to put into place the kind of legislation that will help to create an environment in which our people may be constrained, or even better stimulated to reduce, or eliminate the corrupt practices which we may have unwittingly come to take for granted in our society.

Mr. Speaker, the penchant for corruption is seen by many as having become part of the national fabric and character, so much so that many of us will speak glibly of a culture of corruption. We all subscribe to the notion of the corrosive effect of corrupt conduct on the maintenance of public confidence in the transparent and fair operation of services as expressed in the Memorandum of Objects and Reasons appended to the proposed Act. We know very well how these corrupt practices weaken our democracy and create an environment for the promotion of disorder and indiscipline, ultimately impacting the codes of proper social behaviour and law and order.

It is for this reason that I come to this Honourable House with some important *caveats*. For I believe we need to engage each other and the wider Jamaican public in a discourse on corruption that seeks to identify the deep causes and the roots of the problem in order to put in place the regime for us to tackle this issue in a very comprehensive way.

Mr. Speaker, allow me to quote from another section of the Memorandum of Objects and Reasons, which in my view constitutes the equivocal nature of our approach to this problem. Don't get me wrong, Mr. Speaker, we need to signal our intention to weed out corrupt conduct and as such the imposition of punitive measures such as large fines, maybe One Million Dollars or Five Million Dollars in some cases, as well as the establishment of the national office of Special Prosecutor. But allow us - both allow us, rather, to communicate to our people the seriousness of our position. However, Mr. Speaker, we as the legislative arm of the government responsible for the creation of an

enabling environment within which our people may have the possibility of successful encounter and personal achievement must assure ourselves that we create conditions for our people to do so.

This is the basis of my concerns with this Act. Our response in this Act aligns itself with the punitive and leaves very little space for the restorative. Let me cite this fundamental principle governing the Act as stated in the Memorandum of Objects and Reasons and I quote,

> *"the existing regime provided by the Corruption Prevention Act and the Parliament (Integrity of Members) Act has been found to be inadequate in the fight against corruption conduct."*

Mr. Speaker, what the above statement point - posits, rather, is that our efforts over the years by way of the cited legislation have been insufficient in the fight against corruption. But, have we assessed the reason for this inadequacy? Was it an inadequacy of the legislation, or was it a failure to assure compliance to the legislation? Why were we unable over the years to get Parliament to comply with the Parliamentary (Integrity Members) Act, which we now seek to repeal?

Mr. Speaker, this inadequacy is stated as fact without any supportive reason - supporting reason - rather. It merely draws a conclusion from years of a reality in which corrupt practices seem to have increased exponentially.

The next line of the Memorandum is even more explicit in its position:

> It is also recognized that a coordinated national anti-corruption strategy is needed to effectively tackle the pervasive problem of corruption. This strategy indicates a comprehensive multi- disciplinary approach which combines the resources needed to:
>
> a) investigate allegations or complaints relating to corrupt conduct involving parliamentarians, public officials and private persons, and
> b) prosecute those persons where there is supporting evidence.

In other words, Mr. Speaker, our comprehensive strategy is effected in two words, investigate and prosecute. This is my concern. In a society known for absence of trust and high levels of suspicion, we are daring to create legislation that focuses simply on identification of corrupt practices and imposing punishments. The obvious conclusion is that of a feeling among us that what is needed to tackle corruption is to put our people under a microscope of suspicion and embark on a series of actions to punish them when caught. These strategies are at best myopic or shortsighted and insult, in my view, the creative genius of our people. It is our duty to provide them with an enabling environment which honours justice and rewards truth.

What the expressed objective of the legislation does not take into account - which is my concern - are the root causes of corruption, the ways in which our people learn and adopt corrupt practices and the factors that encourage or even in some instances, foster corrupt conduct.

Mr. Speaker, let us start from the basic premise that none of us, none of us is born corrupt. That corruption, like all other human

behaviour, is learnt or acquired. If we agree to this then the immediate focus of our attention ought to be an examination of the processes by which our people are socialized into the myriad forms of behaviour that we consider important to the promotion of law and order and fair and transparent operation of services within our nation. It is when we consider these aspects of corruption that we may be able to insert in the legislation and governance structure and practices proposals for the processes and actions to promote and reinforce positive values while abrogating the negative vices to which we often become prone.

Mr. Speaker, we can agree that the primary socializing agents for our children at this time are the family, the school, the church, the community and the media. The weakening of any of these institutions will allow alien and/or negative practices to insert themselves within the network of socialization of our communities. It hasbeen well documented that vulnerability lends itself to improper practices as individuals and groups of some communities seek means to survive and to achieve. Corruption will grow unheeded when families register economic impotence as they try to make a living. The concept that life is hard and that no one really cares, moves families to find ways to survive and immediately eliminates positive practices.

In this situation, the corrupt practices of parents are transferred to children who learn from early that hustling is a way to survive. We hear it everywhere. When we listen to our music it speaks to the ways of being and doing of ghetto people, so-called ghetto people. Some sounds resonate that poor people fed up, made popular by Bounty Killer. Or that they will have to beat the system to survive. *I an' I guh chant dung Babylon*, made popular by the HONOURABLE ROBERT NESTA MARLEY. In this way, corrupt practices become entrenched in our families and communities.

Mr. Speaker, one of the things that has become very pervasive in our country is the '*beat the system mentality'*. All around us our people understand very early that in many situations survival for themselves and their children demand that they take the law into their own hands or use every means possible to achieve their goals. How do we change this? How will we change this? Because without changing this, Mr. Speaker, I'm afraid that we will have another piece of inadequate legislation as cited earlier.

Mr Speaker, what I'm advocating is that it cannot be simply about investigate and prosecute. There must be an effort to change the very status quo that not only promotes but entrenches corrupt practices. (Applause) Mr. Speaker, interestingly, the Act places its discourse within the need to promote our country's development goals. But I want to ask us, do our people know what these developmental goals are? Do they know where they fit into these goals? Do they even believe they fit into these goals? There's an assumption that all of us Jamaican people see this country in the same way, that we have the same values, and that we have similar ways of interpreting our roles in the society.

Mr. Speaker, we face the real dilemma of many of our people feeling that without

hustling and corrupt practices they will not succeed in life. On another note, Mr. Speaker, there are ways in which elements of corrupt practices have been institutionalized. It is the way we operate. Too many of our institutions are based on suspicion and lack of trust among the people. If we examine many of our regulations we find that many, if not most of them, are constructed on the lack of trust. Before our people even approach us we create barriers to their achievements or establish pitfalls against their successes. From the moment they enter or arrive at the barricade,we call security check points. They understand that they are not welcomed. That the system at work will not facilitate them. That all will be an exercise in futility unless they befriend the security guard or offer compliments to the secretary or do whatever to beat the system. This speaks to the ways in which issues of good governance, Mr. Speaker, have on many occasions affected our people's capacity to engage personal development and spur them towards the negative or anti-social behaviour as they search for solutions.

The governance structures at the level of communities and at the point at which our people seek to access public and private services, are here called into question. In fact, they become among the principal contributors to the actions and behaviour as we refer to as corrupt conduct and practices. In other words, Mr. Speaker, the governance structures at the level of communities and the public and private institutions create challenges for our people, especially the poor and vulnerable. They often lack opportunities for genuine participation and fairplay, which often drives them to embrace corrupt practices.

I therefore submit that as we craft legislation to tackle corruption, I want to beg us to also examine ways in which we must build trust and create governance systems that empower communities and individuals in their search for survival for themselves and their children. (Applause)

Almost finally, Mr. Speaker. I want us to examine what we call the informal economy. From our past, our people have registered their entrepreneurial capacity and moved into creating wealth by establishing informal systems which official governance does not recognize or try to engage. Yet, many have found solutions for poverty and distress in these informal solutions. Yes, it is true that many of these solutions are sometimes built on less than acceptable practices.

The question to all of us who sit in this Honourable House is how to engage this informal economy in ways in which would bring it within the formal systems while not debilitating the inherent creativity and bravado that are the platforms on which they are built. Mr. Speaker, we need to examine this economy and determine what creates and sustains it. I submit this study is impatient of wait.

Finally, Mr. Speaker, as I stated earlier, I'm not averse to the need to create legislation to tackle corruption. I am, however, a bit reluctant to sign off on legislation that engages investigation for prosecution rather than rehabilitation and restoration.

Ultimately, it is about the society we construct and our ability to engage all our people in a national development programme. It speaks to how we educate and empower people, what they are taught and how they are taught. It is about how we see ourselves. It is about how we see ourselves as Jamaicans. If we continue to think of ourselves in terms of *bandoolo or trying a ting*, rather than creating substantial systems and beings, I fear we will not make a dent in the mantle of corruption that seeks to overwhelm us.

In this kind of discourse, Mr. Speaker, every one of us has a responsibility. We need to build trust among us and construct systems of engagement that recognize and respect each other.

Since we pride ourselves as being a Christian country, we could first begin our introspection by acknowledging the role of God in our lives and livelihood. Proverbs 3, verses 5 and 6 tell us to *"trust in the Lord with all thine heart and lean not unto thine own understanding. In all thy ways acknowledge Him and He shall direct our paths".* Putting God at the centre of our thoughts, words and actions, changes the whole paradigm in respect to how we treat ourselves, each other and the environment. It requires an understanding and acknowledgment of why we are here on earth. It demands from each of us the obligation of not only loving God, but also our neighbours as ourselves.

If we accept these tenets, which many of us embrace in our places of worship on Fridays, Saturdays and Sundays, then we must use them. We must use them to strengthen our resolve to craft legislation and policies which create greater love, respect and trust among our people.

This Act as crafted, I submit, will not achieve that objective and as such will act as a temporary band-aid, what I call a temporary band-aid in correcting - or treating that cancer of corruption.

I therefore submit, Mr. Speaker, that we broaden its Memorandum of Objectives to examine in a very profound way or analyze the factors which brought us to this point, since none of us, none of was born corrupt. We must address these causative factors inherent in our socializing agents, the family, schools, religious organizations the media and the broader community.

Alternatively, Mr. Speaker, and I put it to you, Mr. Prime Minister, we could decide to create complimentary Bills to treat with these factors of which I spoke. I submit that doing this will give us the moral authority, the moral authority and provide the means to deal with those who may not comply.

Let us be a parliament, Mr. Speaker, which is remembered for not only crafting laws with punitive measures, but one which was willing to touch the hearts and souls of our people by engaging them in a process to overhaul the socializing agents of our beloved country.

History demands that we do no less if we are to be true to the tenets of our National Anthem which says: Justice, *truth be ours forever.*

May it please you, Mr. Speaker, to God be the Glory.

I thank You.

(Applause).

The SPEAKER: Thank you, Doctor Rhodd. Prime Minister.

The PRIME MINISTER: Mr. Speaker, the debate that has taken place has been, in my view, of considerable value. I have taken the trouble, because reference was made to it here, to review the debate that took place in the other place, and especially the contribution that was made by SENATOR MARK GOLDING, because I gather he lead the Opposition's arguments on the matter there.

It has been acknowledged, Mr. Speaker, both here and in that other place, that there is general agreement on the purpose and the intent of the Bill. Some of the comments that have been made in this Chamber may give a completely different impression. But I found it significant that SENATOR A.J. NICHOLSON, in commenting on the Bill during the debate in that place, and commenting specifically on the work that had been done by the Joint Select Committee said and I want to quote him.

> **"This Report then, on the workings of the Joint Select Committee presents to the public a prime example of what consultation and collaboration can achieve within the democratic process."**

It is a very uncharitable comment, the Member for North West St. Catherine, was it last week or the week before when we were dealing with the matter, referred to it as a fool, fool Report. But let's go back to what Senator Nicholson said towards the end of his presentation and he is not a person who as far as I know is particularly generous in his compliments.

Dr. DAVIES: That is not nice.

The PRIME MINISTER: This is what he said towards the end of his presentation.

"We are therefore persuaded…" Listen.

> **"…we are therefore persuaded that this new and adventurous path that is being taken can bear rich dividends. I congratulate the Government for this initiative".**

The Leader of the Opposition when she spoke in this Chamber said that the Bill is flawed, very strong words. The Member for Central Kingston was strident in his criticism of certain of the provisions, and I will respond to those. The Member for North West St. Catherine urged that we withdraw the Bill. If I am not mistaken the Member from Eastern Portland just a while ago said, that this is a band-aid or words to that effect.

Mr. Speaker, the Bill is no more perfect than anything that the human mind can design or create. The Bill has benefitted from considerable deliberations. We recalled that the Joint Select Committee was appointed in July of 2008, it did not deliver its report until December 2010. That is two and a half years during which the matter was deliberated on. Public advertisements were placed to invite submissions, submissions were considered. There were a number of issues that were identified that needed to be corrected, and I think it is because of that painstaking process why it earned the comments that were made by Senator Nicholson.

There were a number of issues that were identified both in the debate in the Senate and

the debate here that I will want to speak with. There is a whole series of amendments that have been developed. We have circulated a schedule of those to the Opposition, it is part - that is part of the reason why in the discussions it has been agreed that we won't take committee stage today, we will allow some time and hopefully we can take that next week Tuesday.

I want to speak to the general issues first before I deal with the specific clauses.

The Leader of the Opposition spoke about the impact, the effect that too much bureaucracy, inefficient bureaucracy, inefficiencies in the court system, the need to implement and to accelerate the Justice Reform programme. She spoke about the effect that this has, and that this was part of what was facilitating, providing fertility for corruption.

I will say though, Mr. Speaker, that an efficient bureaucracy and an efficient court system are necessary but they are not sufficient, they are not substitutes for strong targeted measures to deal with corruption. One of the countries that has acknowledged to have one of most efficient bureaucracies anywhere, one of the most efficient court system, is Hong Kong. Hong Kong is rated Number 13 in the Transparency International corruption free list. So it is one of those countries that is considered to have effectively dealt with this monster of corruption. Efficient bureaucracy, efficient court system. But the anti-corruption agency of Hong Kong ICAC it is an acronym I am not quite sure how you spell it out. But the ICAC employs a staff of thirteen hundred, their anti corruption agency. So even with their efficient system, court system and their efficient bureaucracy they recognize that corruption has to be tackled headon and they have an effective efficient agency that does that.

Question has been raised in the debate, why a special prosecutor? Both the Leader of the Opposition and the Member for Central Manchester argued that you already have a DPP an assistant - a Deputy Director of Public Prosecutions in charge of a corruption unit within the DPP's office. I suspect that that is not the only thing that that Deputy DPP is in charge of and we may well ask, to follow that line of reasoning. Well, you have an Auditor General and you have an Auditor General's Department so why you bother have a Contractor General because what the Contractor General is investigating is something that would be within the remit of the Auditor General or you may very well argue, you have a Child Development Agency so why have a Children's Advocate when the functions ought to be carried out by your Child Development Agency.

Corruption, Mr. Speaker, is so significant and combating corruption is so important that we decided not recently, a long time ago, that if we ever had the opportunity, we would want to establish a dedicated institution that would be empowered to investigate, and would be empowered to prosecute subject to the ultimate direction of the Director of Public Prosecutions, because we recognize that, her, as it is now, constitutional authority, ultimate constitutional authority for prosecutions is something that cannot be

interfered with. But we wanted a dedicated institution that would zero in, would not be concerned about other crimes, that is the DPP's job, but would focus on this area. It is not a narrow area, as the Member for Eastern Portland said a while ago it's fairly endemic, but would focus on it with the energy, the concentration and the determination that it needs if we are to bring it under control.

The Leader of the Opposition and the Member for Central Manchester also suggested that we should look at establishing a Special Corruption Court. It is something that we would certainly not rule out, although we have to be careful that we don't - we have enough problems servicing the courts that we have. But I doubt myself, if the number of corruption cases that are in the queue would be sufficient to justify having a separate court to deal just with that.

If we enact this Bill, it may very well be that an aggressive Special Prosecutor will generate so many prosecutions that you may need to have a Special Corruption Court, and that is why it is something that we wouldn't rule out, but we don't think that that is a decision that could be made at this time.

The police have already suggested that they would like to have a special court to deal with proceeds of crime. And it may very well be that corruption and proceeds of crime could become a sort of remit for a dedicated court. That is something that we certainly would want to bear in mind.

The Member for Central Manchester also floated the argument, as a matter of fact, he more than floated it, I think he was advocating it, the consolidation of the anti-corruption agencies that we have, something similar to what exist in Hong Kong, for example, that is a proposal that is not to be dismissed. The Bill is actually moving us in that direction because what it is doing it's amalgamating the Corruption Presentation Commission and the Parliamentary Integrity Commission and it is strengthening that with prosecutorial functions, and what I expect is going to be far more effective and aggressive investigative capability.

So the ones that would be left out now is the Contractor General and that is something that I think we should keep on our radar. The - I don't think that I am misrepresenting, but I believe that the Contractor General if he has not advocated, assuming or having prosecutorial powers vested in him, he may not have gone that far, he might have. But I certainly know that if he didn't he has lamented his difficulty in operating without it. The Contractor General has also made the call for this amalgamation of all the anti-corruption agencies. As I said it is something that I think that we should keep considering, I think that what we are seeking to do here takes us part of the way. We will have to determine at a later stage whether we want to pursue that journey to that ultimate end, it is something that I certainly would not rule out.

Senator Nicholson in the Senate, Mr. Speaker, made the very valuable point that the success of the Special Prosecutor, the office of Special Prosecutor is going to depend on the harmonious - I am quoting him,

> **'harmonious collaborative relationship between the Special Prosecutor and the**

Director of Public Prosecutions."

And he went on to say that

"much will depend on the attitude and personalities of the holders of those two offices."

And he is perfectly right. He suggested that it should not be left to chance, that relationship, but should be embodied in what he call discrete administrative and regulatory framework. I don't think that that is necessary; I don't think that it is desirable to put it in the statute itself. What a number of agencies that have to interface, do as a matter of course, as a matter practices that they enter into some sort of framework agreement, some sort of memorandum of understanding and we have sought in an amendment that we are going to propose in Section 41 to at least recognize the usefulness of that kind of arrangement. But the actual working out of it would be left to the agencies themselves.

As I have said before, Mr. Speaker, we have taken careful note of the concerns that have been expressed in the debate here and in the debate that took place elsewhere. We have taken note as well of some concerns that were expressed in a caucus of Government Parliamentary Members because they had certain concerns, concerns about certain provisions of the Bill that we have had to look at very seriously. And those are the concerns that have informed the preparation of the fairly long list of amendments that have been circulated.

I want to deal with the significant ones now, and then when we get to Committee Stage we can deal with those - with the others.

The Leader of the Opposition expressed a concern for the procedure in the Bill for the removal of the Special Prosecutor; and she was referring to Clause 37. And Clause 37, Mr. Speaker, provides that it's each House of Parliament by Resolution. First of all, it sets out the conditions - the grounds on which the Special Prosecutor can be removed. And she objected to one particular ground: '*failure to discharge the functions of his office in a competent manner'*. We propose to delete it. Because it raises a concern that goes beyond - it's a job evaluation concern. And we figure that that doesn't appear in other protected offices, in terms of the provision for removal. So, we propose to delete that.

But, she went on now to be very critical of the provisions for removal once it is felt that that is something that ought to be considered. What is here, it says that: "*Each House of Parliament, by Resolution, decides that the question of removing the Special Prosecutor from office ought to be investigated*". Then, having done so, House and Senate, the Governor-General, after consulting with the Prime Minister and the Leader of the Opposition, appoints a Tribunal consisting of not less than three Judges. It is the Judges now who must examine and report to the Governor-General, and if the Judges in that Tribunal recommend that the Special Prosecutor ought to be removed, the Governor-General has to remove him.

The Leader of the Opposition was very, very critical of that. Let me quote her: *"Neither appointment nor removal process should be touched by the political hand of the Legislature*." And then she went on to say:

"*we do not know of any position in any department or Government where such a removal process is to be found*." And she wants the removal of the Special Prosecutor to be brought in line with the DPP.

And when she made that point, I said to her across the aisle that, we would look at it again. I am glad we did. I am not quite sure who advised the Leader of the Opposition on the matter. What we have there, Mr. Speaker, is identical to the provisions for the removal of the Contractor General, the Public Defender, and the Political Ombudsman. What is more, it is open; it is transparent; it requires the approval of both Houses, which means that the Opposition which has a particular oversight role/watchdog responsibility would be there that if anything ontoward is being attempted it can be brought to attention.

What is more, Mr. Speaker – and this is why I said that the Leader of the Opposition was not properly advised - the Special Prosecutor is more secured than the Director of Public Prosecutions. Do you know how the Director of Public Prosecutions can be removed? The Prime Minister writes to the Governor-General and says, "*I require you to appoint a Tribunal to consider whether or not the DPP should not be removed*". Don't have to consult anybody; just write a letter and the Governor-General is obliged to set up that Tribunal. And if the Tribunal recommends that he should be removed or she should be removed, has to be removed. That is Section 96 of the Constitution.

Do you know how the Auditor General can be removed? Either the Prime Minister or the Chairman of the Public Service Commission advises the Governor-General that the question of the removal of the Auditor General ought to be considered. The Governor-General has to set up a - it doesn't come to the Parliament. I don't even have to call the Leader of the Opposition. I can just write the letter.

Do you know how the Chief Justice is removed from Office? The Prime Minister writes a letter to the Governor-General, and say it is my view that the Chief Justice ought to be removed from Office, and therefore I am advising you to set up a Tribunal to examine and consider. And he has to do it. The Special Prosecutor, the Prime Minister can't write the Governor-General to remove the Special Prosecutor; only Parliament, in what we have here, by Resolution, debated here and passed.

The Leader of the Opposition made the point that she wants the Public Service Commission to have some role, because it is the Public Service Commission that recommends the appointment. And therefore, we propose to amend what we have here to say - to put that as an option. So, it can be either a Resolution, passed by both Houses, or it can be the advice of the Public Service Commission, which accommodates the concern that she has. But, the fact of the matter is that, it is far more secure than even the Chief Justice, in terms of how the process is triggered.

Let me just look clause by clause as quickly as I can, just to outline, because we have incorporated so many of the recommendations that were made, both in the

other House and in this one.

(*Sotto voce* comment by Mr. Kellier)

The PRIME MINISTER: What's that?

(*Sotto voce* comments by Opposition Members)

The PRIME MINISTER: Mr. Speaker, I am going to go through in sequence.

Clause 2: The Member for Central Kingston had expressed some concerns about the definition of *public function*. And here was a case where we seem to have been seeking to invent the wheel all over again because we already had an established definition in the Corruption Prevention Act. So, we are deleting that and we are simply replacing it with what currently exists in the Corruption Prevention Act.

Clause 5: I think it was the Member for Central Kingston, as well, who raised concern about the Bill applying to corrupt conduct outside of Jamaica. We are not breaking any new ground. That is what is in the Corruption Prevention Act right now - Section 14 subsection (9). And quite frankly, that is necessary, because when people are involved in corruption, you don't want them to jump on a plane and go to Miami and cut the deal over there and then fly back here. You want to know that wherever that deal is cut, you are going to hold them.

Clause 9, subsection (2)(a): Again I am going to lean heavily on the comments that were made by the Member for Central Kingston because he made a number of points, and we have sought to address them as best as possible. This phrase that he had difficulty with, "*abuses his real or supposed influences*", I couldn't quite understand what it meant either. And therefore, in discussions with the drafters, that is being taken out.

The question of undue advantage was raised by both himself and Senator Golding, in the other place. That really is necessary. Advantage is defined in the Bill, but the use of the term "*undue*" is to allow - ultimately, as Senator Golding acknowledged, it is the Court that will determine. But you have to allow some discretion, and I will tell you why. If you look at advantage, it means that if you are a Minister and your Ministry perhaps, awards contracts, and there is some firm that invites you to lunch at a restaurant, and they host you to lunch, if you look at '*advantage*' in its narrow definition, you could be breaking the law.

So, with - we feel it's necessary to provide some flexibility that "*undue advantage*" can't mean a free lunch. It has to mean more than that. And therefore, the Court, and certainly any Prosecutor that is worth his position would take that into account.

(*Sotto voce* comment by Members)

Clause 12 - or it may not be lunch, it may be a Mount Blanc pen, you know, or something like that.

(*Sotto voce* comment/Laughter)

The PRIME MINISTER: Clause 12 - or a…

A MEMBER: Rolex watch, Bobby.

The PRIME MINISTER: No…or a nice Italian silk tie, you know.

(Laughter/*Sotto voce* comments by Members)

The PRIME MINISTER: Now, let me just make a comment on Clause 12. It wasn't

raised in here, but it came up during the review that I did over the last couple of days.

We started out this legislation intending to deal, I would say, almost exclusively with corruption in public affairs. Clause 12 goes far beyond that. Clause 12 is now addressing corruption in the private sector; has nothing to do with Government officials, nothing to do with Government funds. And I say, well, why are we going that far? I mean, let's at least deal with our own situation first. But, what was explained to me - and it makes sense - there is no way you are going to be able to sterilize activities within government…

A MEMBER: No way!

The PRIME MINISTER: …if outside of Government, corruption goes unchecked. But, apart from that, we are signatories to the UN Convention Against Corruption, and we are expected to provide a legislative framework to deal with corruption wherever it is, whether it is public or private. And therefore, we would have some explaining to do as to why we are making this major step, and we have not taken it that far.

I think, Mr. Speaker, quite frankly, that the private sector themselves are going to see much value in the framework that is being established. If I could move quickly to Clause 13.

A number of Members expressed serious difficulty with Clause 13. And when it was argued, there was a lot of merit in what they said. Clause 13 basically said that if a public official, whether you are civil servant or a Parliamentarian, owns assets that cannot be explained by your lawful earnings, then it is presumed that it is illicit enrichment. And therefore, it becomes not only an offence, but it becomes forfeitable.

And the simple elementary question that was raised: suppose this house upon the top of Stony Hill – it is a house that I got 30 years ago, I was just elected last year; I can't find the papers from the lawyers, it's in the house for 30 years. So, how… you gonna hold me responsible for that because I can't explain how I came by it. And therefore, we are proposing to amend it to say, "*assets acquired during your period as a public official*". And it wouldn't apply to anything that may have existed before.

(*Sotto voce* comments)

There were some Members, Mr. Speaker, who were absolutely opposed to the criminalization of illicit enrichment. Again, it is not new; that provision exists now in the Corruption Prevention Act. It is not new. And all of us would have to explain to the public, if it was good enough that the Corruption Prevention Act, why is it not good enough - why is not necessary in this one. But more than that, in every effective piece of anticorruption legislation that we have looked at, illicit enrichment, unexplained wealth is a major, major plank. Because, you could investigate until you drop down, the investigators are never going to be as smart as the investigatees.

And therefore, if you don't have this to be able to back up somebody in a corner and say, now, look, you earn $4 Million a year, that's your salary, but since you got this job, we notice now - if you won it in the lotto, then all you have to do is get Supreme Ventures to give you a certificate and bring it come.

That's all you need to do and you explain it. And if you say you won it in a poker game, well, just get the poker partners to give you an affidavit...

(Laugher)

...witnessed by a lawyer to explain...

Mrs. NEITA-HEADLEY: Suppose im find it?

The PRIME MINISTER: Eeh?

Mrs. NEITA-HEADLEY: Suppose im find it?

The PRIME MINISTER: Under the law if you find it, you have to go to the police.

(Laughter)

And the police may allow you to keep it, but will tell you that you are not to dispose of it because somebody may come forward.

Mr. MONTAGUE: And they might say you have to give them some.

The PRIME MINISTER: So, it is a necessary provision.

Clause 14: The Member for Central Kingston was opposed to assets in possession, or control of persons closely related to be brought within. They don't have to. Can you imagine that if somebody wants to be corrupt - and as fast as they acquire the wealth, they just slip it in the girlfriend's name, or the boyfriend's name, or the cousin's name, or the auntie's name. That's what some criminals do right now to try and avoid POCA. And the investigators have to be running it down to find where these people are. So, there's no way we can avoid that.

Senator Golding raised a point. In clause 18 where it says you are guilty of an offence if you deal in, conceal, transact property which has been involved in corrupt conduct. He made a very good point. He said that you would not have as a defence that you didn't know it was, and therefore, we are amending that section to say, it is an offence where you knowingly, if you knew that it was and you transact the property. But if you didn't know, then your innocence or your ignorance would be a defence.

Clause 20.....

The SPEAKER: (Gavels) The Prime Minister's time for speaking has expired.

Mr. HOLNESS: Mr. Speaker, I would like to move for the suspension of Standing Orders to enable the Prime Minister sufficient time to complete his presentation.

The SPEAKER: The motion before the House is for the suspension of Standing Orders to allow the Prime Minister to complete his presentation.

Put to the House and agreed to.

The SPEAKER: Prime Minister.

The PRIME MINISTER: Thank you. I hope I won't have to go on indefinitely, but it's important.

Clause 20, Mr. Speaker, deals with the tender process, and Senator Golding again made a suggestion that in addition to the two provisions we have there, where it is an offence if you offer anybody a benefit for him to withdraw tender, or if you accept from anybody a benefit to withdraw your tender and let his go through, he suggested that we should also put a provision in there to deal with tender-rigging. And in fact, we do have a provision in the Fair Competition Act that it is an offence for two people to get together and agree among themselves what each of them will tender on the same contract. And

we are bringing a similar provision into section 20, as suggested by Senator Golding.

Clause 22, Mr. Speaker, Senator Golding made the point, again a good point. That if you are required by law to report to the Special Prosecutor that you have received a bribe, that what you are requiring somebody to do is to incriminate himself. We have other provisions in there that places an obligation on people to report known or suspected cases of criminality. So we are in fact deleting Clause 22(1) that has that particular difficulty, since it's already covered in a subsequent section.

Clause 23, again, in the Senate it was suggested, it mustn't be an offence only to harm somebody, it must be an offence to threaten to harm somebody because they have reported acts of corruption.

Clause 24. Some issues were raised as to what is meant by "off the book accounts". I am told that it is a recognized term in international accounting standards, but we figure let's keep it simple. So we are making some amendments simply to say, if you establish accounts that are intended to conceal transactions, or if you conceal or inadequately identify or record transaction, we are accepting the point that came out of the Senate as well that in 24(1)(c), it must be an offence not only to record deceptively expenditure, but to include revenue as well.

Clause 29, again a very useful point that was made. You see, the Bill benefits from all of these discussions that we have had. Twenty-nine says that the Office, meaning the Office of Special Prosecutor shall - means that he has to - conduct an investigation into every complaint. But suppose the complaint is frivolous. Suppose he examines the complaint and he considers it to be frivolous. So we are amending that to say that he will determine based on his own assessment or her own assessment, whether or not the matter ought to be investigated.

Clause 33 - no, before I move to that Clause 30.

Dr. DAVIES: I don't see any here.

The PRIME MINISTER: Senator Golding raised the question in the Senate about forfeiture. If you look at 30, it says here that:

> "*The Office may conduct such proceedings as may be necessary towards the seizure, restraint, forfeiture or recovery of any asset or property relating to corrupt conduct*".

Dr. DAVIES: So when are we getting that?

The PRIME MINISTER: That really, that really....eeh?

(Discussion between Mr. Holness and the Prime Minister)

Mr. HOLNESS: The amendment to 30 is not on the….

The PRIME MINISTER: No, it's not there I am speaking to 30. There is no amendment, I am just seeking to clarify an issue that was raised by Senator Golding that- if you look in 30(c), that is the general provision that empowers the Special Prosecutor to go and apply to a Judge in Chambers to access and to have those assets forfeited under POCA. So it is under here that that would be done.

Clause 33. The Member for Central

Kingston objected to the Director of Investigations having police powers. Well, you know, we feel it is necessary for him to be effective. And you know something more, the Revenue Administration Agents have it. And what is more, Customs Officers have had it since 1941. Customs Officers have had police powers since 1941 and, therefore, what we are doing here is not…

Dr. DAVIES: Does it help?

(Laughter)

The PRIME MINISTER: Eeh?

Dr. DAVIES: Has it helped?

The PRIME MINISTER: Well, we may need to consider what would have happened if they didn't have it. (Laughter)

But whether it has helped or not doesn't necessarily suggest that they would ever be able to be effective without it, no. I mean, I would hate to see when a Customs Officer see you arriving at the airport and him want to search yu bag im hav fe go find a JP to get a warrant before he can open yuh suitcase. (Laughter) I mean, that would be something else.

Clause 37. We are seeking to amend that here, it's really a simple amendment but necessary. It says here, the Special Prosecutor cannot hold office if he becomes a party to any contract with Government, that's one, fine. But, in other cases, in the case of the Contractor General, for example, a special provision is made that with the approval of both Houses of Parliament, because there may be instances. Works Agency building a road somewhere, and they need a piece of land, and that land happens to belong to the Special Prosecutor, right. So, we are putting in a provision that allows a resolution to be brought to Parliament to say, notwithstanding this provision, and Parliament approves it.

Clause 41. And here now perhaps the most significant change that we are making to this Bill. And I am going to spend a little time, I am going to spend two minutes on it.

Concern has been expressed, Mr. Speaker, very strong concern about premature and what some people consider to be unnecessary public disclosure about the intention to launch an investigation. It poses two significant dangers.

Firstly, it could well impede or frustrate the investigations, because a public statement, a release, media advisory is sent out, I am going to investigate John Brown. And the second danger it poses is the unintended damage that it can do to people's reputation.

Because this is a funny thing, you know. When it come to questions of corruption, if you even investigate and find anything, it don't even have to go to court, you don't have to be charged, but for years and years every time people see you, hmm, hmm, dem was a investigate him.

You know the Special Prosecutor, we are not inventing the Office. The Special Prosecutor in Britain, HELEN GARLICK, recently made a very profound point. She said - and I want to quote her.

> "*The most important duties carried out by anyone who is conducting major criminal investigation, are to preserve the confidentiality of the investigation and protect the rights of suspects to their privacy, and in the event that they are charged, their right to a fair trial".*

And we, Mr. Speaker, we support that view. That's the way the police does it. I don't know that the police launches, issues a statement to say they are investigating this matter. They may put out a statement if they have been looking for you and can't find you, they will call you something - name of what, "*person of interest*". But that is normally when they have exhausted all other means of locating you.

That's the way the DPP does it. When a file is sent to the DPP's Office, I don't hear the DPP issuing a news release to say, well, I have received a file on the Member for Southern St. James, and I am examining the file. So that some people in up in Catadupa now start to look for him. She will have the file and she will be looking at it, and the file may be with her. She may ask for more investigation to be done and when she decides now that she is going to charge, that is when a statement is made.

The Contractor-General chooses to do it differently. We think, Mr. Speaker, that the Special Prosecutor should not go that route, and hence, we are proposing an amendment, which will require the Special Prosecutor to maintain confidentiality of the investigation and non-disclosure, except for instituting criminal proceedings or where the Special Prosecutor considers it necessary. Now, that I know may be a little contentious. We are going to deal with it when we get into committee stage but we don't want to lock the door completely. Why?

Let us say that the Special Prosecutor is conducting an investigation. Let us say the Special Prosecutor is keeping it confidential. But somebody who is aware goes and makes it known publicly, and speculation starts to fly all over the place. You don't want the Special Prosecutor to be put in a position where he would wish to make a short statement just to indicate, but he is precluded from doing that because the law says he can't open his mouth until he charges. So we want to make some provision, but we are going to require confidentiality with that.

But we are going on to do something more, and I thank some of my colleagues on this side who brought it to my attention. When the Special Prosecutor does the investigation and finds that the subject of the investigation was not involved in anything, so there is no criminal proceeding, what happens? And what we are going to put in the amendment is that, he must issue a Certificate to the person. It doesn't have to be published, but to issue a Certificate; look I conducted this investigation, I found nothing wrong, no criminal proceedings. Why? That person may very well go and apply for a job somewhere and somebody say but, you know, I have some information that you were being investigated two years ago. He must be able to put this before the person and say well, the Special Prosecutor did his investigation and this is what, this is what he has provided.

Mr. PICKERSGILL: Irreparable.

The PRIME MINISTER: Mr. Speaker, the Member for Central Kingston in relation to Clause 42 raised concern about this thing where the Contractor General was now going to be able to write to everybody and say well, I need information on John Brown. We are deleting that, because there are already

powers to require under subpoena information pertaining to an investigation.

Clause 43 just mentioned, I don't think it is listed among any amendment, but Clause 43 - no we do have an amendment there - 43 yes. We are doing an amendment there just to reassert the independence of the Special Prosecutor, qualified only by the authority of the DPP over the Special Prosecutor. I wanted to make that clear.

Clause 44, we're imposing a duty on certain other public officials like the Auditor General, Contractor General and so on, if in the course of their work they encounter matters that they feel warrant investigation by the Special Prosecutor, then there's a requirement there to refer the matter to him.

Clause 45, the Member for Central Kingston objected to an identified complainant. Remember we dealt with that in the whistleblower legislation? I know he didn't - he wasn't comfortable with it there. The fact is that when a complaint comes in, first of all it has to be evaluated, **secondly** it's subject to investigation. So that it is the Special Prosecutor who is assuming the responsibility for making that charge and, therefore, I'm not sure that the fear is as well-founded as it may appear to be.

We are including a provision here similar to what we did in the whistleblower legislation, to make it a criminal offence for you to maliciously go and make complaint when you know it's not true, because you're damaging people's reputation and you must pay a penalty if you do.

Clause 46, we're making a slight amendment there. There's a requirement that when you make a complaint you must make it under oath and you must sign it and so on, we're going to remove that.

Clause 48, Senator Mark Golding made the point in the Senate that we were creating a kind of super prosecutor. Well in truth and in fact that we are. But what we have done - and you will notice it is reflected in some of the amendments that we have presented. We have sought as much as we can, given the fact that you're dealing with an office, in that office you have a Special Prosecutor, but you also have a Director of Investigations. And if you look at it and if you look particularly at the amendments, we've sought to, in as delicate a way as we can, but as effective a way as is possible, to separate the authority of the Director of Investigations from that of the Prosecutor. Certain things are vested in the Prosecutor, certain powers are vested in the Director of Investigations.

The Member for Central Kingston was concerned that there was a contradiction in subsection (4) of 48, because that says that you can't be compelled to surrender to the investigator, anything that you couldn't be compelled to do in court. Well that remains. The investigator is not going to be able to get matters that are between myself and my lawyer, or matters that are between myself and my doctor. My medical records are not - that a court it can't demand that your medical record must be presented unless in exceptional circumstances. So it's not a concern that I think should detain us.

Clause 49, the Member for Central Kingston raised the concern about the provisions regarding matters coming out of

Cabinet. I think he misunderstood, and the reason why I think he misunderstood is because of - it's a - I don't know what you call it - a pagination error where things that were supposed to be indented were not and so on, so it read in a way that could have misled.

What is intended here - we're seeking to clarify it now - that matters that come before Cabinet would not be withheld from the Special Prosecutor. What the provision is saying is that the Special Prosecutor who gets that information must treat that information - he's precluded from going and divulging that, except for purposes of instituting a criminal prosecution. And that in two specific areas to do with national security, or defence, the Cabinet Secretary will say no, that information is not available to you. I don't care what investigation you're carrying out, if it is national defence or security, that information - but in all other cases the information would be available, but the Special Prosecutor is precluded from divulging it.

Clause 50 was the source of much contention, much disquiet, certainly among Members on my side. That's the one where the Special Prosecutor or the Director of Investigations can turn up at your yard at 10.00 o'clock one night and say well, a want a search, and that is wrong. That's wrong!

Mr. CLARKE: Not my yard. (Laughter)

(Inaudible comments)

The PRIME MINISTER: We're going to delete that section altogether.

A MEMBER: Mi nuh waan yuh go sey yuh want a piece a mi.

The PRIME MINISTER: There are other provisions under which you get your search warrant and you have that search warrant properly served and so on. So we're deleting that section.

Clause 51, there was a concern that was expressed, I think on both sides, about this absolute privilege that was being provided. We're removing the 'absolute privilege'. It's privilege, but that privilege of course, would be qualified.

There was a point that was made - I think by Senator Golding - that the defence against defamation - because you have to provide some protection for the people who are going to be operating the provisions that you're putting in here - that the defence against defamation was limited to the Defamation Act, when in truth and in fact, defamation actions can be brought at common law, not necessarily under the Defamation Act. So we're gonna remove that restriction and we're gonna make it applicable right across.

We propose - and I hope that this was taken up - that where searches - where search warrants are to be obtained under this Act, it must be a Judge - a RM or a Judge in Chamber.

(Inaudible comment by Dr. McNeill)

The PRIME MINISTER: RM, when you get to committee you can work on it. I would have a real difficulty if what you're saying to your Resident Magistrates out there is that they can't issue a warrant. But we're taking out Justices of the Peace because some of them don't see so well.

Mrs. NEITA-HEADLEY: What? But it's not their fault.

The PRIME MINISTER: Well it's not

their fault, I mean some of them have served for a long time and they tend to sign, perhaps without the meticulous care that ought to be applied. So that's the proposal.

I think that has basically covered - oh just one other thing. We're putting in a provision that if through a warrant your place is searched and any document you have are taken, that upon your request, authenticated copies must be provided for you. Again, just some tidying up on it.

Mr. Speaker, as I said before, this Bill has been through - it has been a long journey.

A MEMBER: (Inaudible)

The PRIME MINISTER: Perhaps necessarily so. It's not the kind of thing that we could rush, because in so many areas we're breaking new ground, in some areas we are pulling different strains together to create a particular focus. There were eleven (11) meetings of the Joint Select Committee. There were submissions from the public. The Senate considered a Bill which was the subject there, of 39 pages of amendments, 39 pages. And even after those 39 pages of amendments were incorporated and it came here, we felt that it still had not reached the measure that we would require. And we have - I can't remember how many pages we have here, but we have - we are putting our own number of pages.

I hope, Mr. Speaker, that because we have sought so deliberately, and I know we have, to capture the concerns that were made in the Senate, we copiously went through the **Hansard** record of the points that were made. I hope that when it leaves here - assuming and hoping that it will have the support of this House - that when it leaves here and it goes back to the place from whence it came, which it has to do, I'm hoping that it will have no undue delay, because the House is due to be prorogued very soon and I would not like us to have to start the process of going through both Chambers all over again. We have some other important pieces of legislation that are likely to end up in that predicament, because we're not gonna be able to complete them here and complete them elsewhere before the House is prorogued. I mean some of them we've already started debate on and it means that after April, we're gonna have to start that process all over again.

This one is far too important and it is of particular urgency, an urgency that we have shared with the Leader of the Opposition, we've shared with the Opposition Spokesman on National Security; and I hope that in the spirit in which we have sought to amend, to accommodate, to improve, to strengthen, to tighten, to protect the critical issues and interest in this Bill, I hope that we'll have the support to have it passed. It is going to be a landmark. It's going to be an important step forward and I think it is something that this country will in time, recognise the value of.

And with those comments, Mr. Speaker, I need your guidance as to whether I sit, or whether you're going to direct us to committee, I don't know.

The SPEAKER: My understanding, House Leader, is that because these proposed changes were just made, that we're hoping to give both sides some time to consider them before we go to committee. So is that my understanding, Leader of the House?

The PRIME MINISTER: Yes, yes!

The SPEAKER: So we're hoping to go to committee next Tuesday.

The PRIME MINISTER: Next Tuesday.

The SPEAKER: Yes.

The PRIME MINISTER: But can I just point out, Mr. Speaker, that I'm stealing I'm actually running ahead of the Leader of the House. We hope next Tuesday, to take the vote on the Charter of Rights Bill.

Mr. HOLNESS: Yea, we are aware.

The PRIME MINISTER: The three month period that we had to wait would have expired and then it has to go to the Senate, from here. So I'm hoping that we can - there is no the debate here - so I hope that we can dispose of that, turn our attention to this, but to send that on its way to the Senate, so that we can hope to conclude - yes you're right, you're right.

The SPEAKER: Prime Minister, what I'd now ask you to do is to ask for second reading.

The PRIME MINISTER: Yea.

The SPEAKER: Ask for second reading now ...

The PRIME MINISTER: Can I, Mr. Speaker, can I ask - move - for second reading of the Bill?

The SPEAKER: ...and then next week we go to committee.

The motion before the House is for the second reading of the Bill before us.

Put to the House and agreed to.

Bill entitled:

AN ACT to Promote and Strengthen Measures for the Detection, Prevention, Investigation and Prosecution of Corrupt Conduct; to provide for the offence of corrupt conduct and offences relating to corrupt conduct; to provide for the establishment of a depart of Government to be known as the Office of the Special Prosecutor for Corruption with special responsibility for the detection, prevention, investigation and prosecution of corrupt conduct; to repeal the Corruption (Prevention) Act and the Parliament (Integrity of Members) Act; and for connected matters,

read a second time.

The SPEAKER: Members, next week at an appropriate time I will ask that we adjourn to Committee, okay, next week Tuesday. Now well if the recommendation of the Prime Minister is accepted, or if there are alternative proposals, Members should bring them as early as possible next week. Very well.

House Leader.

Mr. HOLNESS: Mr. Speaker, I want to ask, Mr. Speaker, for the recommittal of the item Statements by Ministers.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Order to allow for the recommittal of the item Statements by Ministers.

Put to the House and agreed to.

STATEMENTS BY MINISTERS
(Recommitted)

Mr. HOLNESS: Mr. Speaker, the Minister of Foreign Affairs has a statement to make.

The SPEAKER: Minister Baugh.

Dr. BAUGH: Mr. Speaker, thank you very much for the opportunity to make a Statement on this issue.

As is well known, we – Jamaica has at least 200 people who are living in Japan on different arrangements. Some have made Japan their home, some went there on the JET programme, but decided to stay over, but we have at least 200 people there.

And the Honourable House is aware that on Friday, March 11, Japan, especially on the North Eastern region of Japan, was hit by a massive earthquake, measuring 9 on the Richter scale, which is probably the most devastating earthquake to have hit a country.

(*Sotto voce* comment by an Opposition Member)

Well this is probably the most.

The PRIME MINISTER: The seventh worst in he world, but the worst in Japan.

Dr. BAUGH: The worst in Japan.

The devastating **tsunami** which that earthquake triggered, has contributed to the tragic loss of lives, the bereavement, the tremendous destruction and anxiety being experienced by the Government and the people of Japan. Mr. Speaker, anyone who has been watching the news will see the extent, the magnitude of the loss of production, production of cars, of exports, and production is crippled in many areas in the North Eastern section of Japan.

Today, Mr. Speaker, it is known that some 3,373 people have died. Those are the ones that are confirmed, because at least 6,746 are still missing. And concerns deepen as the Fukushima Dai-ichi Nuclear Plant's stability decreases.

(The Speaker leaves the Chair, the Deputy Speaker presides)

Mr. Speaker, there are at least some 530,000 – Madam Speaker, yu changed on me – Madam Speaker, some 530,000 evacuees are living in 2,600 shelters.

On the day following the **tsunami** – the earthquake and **tsunami**, the Prime Minister of Jamaica and myself wrote to the Prime Minister of Japan, as well as the Foreign Minister, to express the sympathies and the condolences of the people – of the Government and people of Jamaica, to the people of Japan.

Although Japan is known to be a country that is best prepared, because earthquake are indeed frequent in Japan, and it is a matter of course to deal with it. There was not so long ago, they had a very devastating earthquake in Kobe, Japan, where a lot of people died. But Madam Speaker, despite them being the best equipped and the best designed in preparation for earthquakes, despite the magnificient architecture and engineering, and the technology that's evident in Japan – I was only there a few months ago – no one can be ever forewarned and prepared for the kind of earthquake that they had, the strength and the impact of that earthquake.

We therefore express our conviction that the strong leadership being given by the Government at this time, and the resilience of the Japanese people, will pull them through this very difficult moment.

Madam Speaker, I am pleased to announce that the one individual with whom we could not make contact, has now been in

contact with our Embassy in Japan since this morning.

(Applause)

He is a Language Consultant, who was in the vicinity of the Miyagi Prefecture – that is where the earthquake hit – and electricity was down and communication was indeed difficult, and that's why we had difficult making contact with him.

It has been difficult to establish and maintain contact with the northern areas, Madam Speaker, since there are rolling power cuts now taking place in Japan, which is understandable because of the difficulty they are having with their nuclear plants and the production of energy. But not only that, there is congestion in communications and they are dependent on cellular phones, which sometimes are out of service.

The collaboration between the Jamaican Embassy in Japan and our Ministry of Foreign Affairs, resulted in the setting up of a "help desk" in our Ministry. And we must appreciate the ongoing efforts by the Foreign Nationals Affairs Division of the Ministry of Foreign Affairs in Japan, for assisting our embassy in locating our nationals. That division of the Japanese Foreign Ministry had given its number to the Jamaican public, *via* our embassy in Japan.

The Help Desk at the Jamaican Foreign Ministry, named Japan – Jamaica/Japn helpline, with a straight line number which has been announced, 936-0942, was opened yesterday, Monday, at 8.30 a.m., and remains open for calls until 6.00 p.m. each day, and will be open as long as there are concerned Jamaicans seeking information about their relatives in Japan.

We continue to be very concerned about the situation in Japan, Madam Speaker, in particular, in the north-eastern section of the country, in the aftermath of this natural disaster which caused so much loss of life.

As the death toll increases, so does the anxiety related to the stability of the nuclear reactor core in the Dai-ichi plant. We hope that the people and the Government of Japan will be spared any further intensification of the impact of this tragic natural disaster and its complications. We are also thankful that the radiation levels are now reportedly going down. We are following the reports closely, Madam Speaker. It will be nothing like the Chernobyl accident in the Ukraine, Russia, in 1986, because precautions have been taken in terms of its design, for containment measures to be in place. What really happened in this instance is that some of the precautionary measures were crippled, because the reactors were designed to shut down once the earthquake reached a certain intensity, which it did, but there was the need for cooling, and the normal electric grid that provided that power for cooling was crippled by the **tsunami.** But also, the next line of preparation, which is the diesel plants, those plants were knocked out as well. So the Japanese Government had to be intensely pumping sea water to provide the cooling down to prevent the overheating. Some overheating did take place, producing super-heated steam, and the separation into hydrogen and oxygen is what is reportedly responsible for the explosions that took place so far.

We recognize that many Jamaicans are anxious about the location and welfare of

their loved ones. Our Jamaican Ambassador to Japan, HER EXCELLENCY CLAUDIA BARNES, and her staff, have been working feverishly to establish contact with all Jamaican nationals in Japan, and they have been networking to do so. Many Jamaicans have been helping to contact friends and associates.

The Japan/Jamaican partnership in the JET Programme has been ongoing for ten years. There are currently 55 JET Programme participants from Jamaica employed as Assistant Language Teachers. Of the 55 participants, 10 were identified by the Embassy as living in the area most impacted by the earthquake and subsequent tsunami. We have been able to locate all 10, and we can report that they are safe.

We commend the collaboration between the Embassy of Japan and the Jamaican community in Japan, Madam Chair, because they were very helpful in locating these people. The Embassy estimates the total number of Jamaicans in Japan to be close to 250, among whom 55 are JET participants.

Madam Speaker, the Japanese people are now plagued by power outages, difficulties in transportation, shortages of water and food supplies. The Ambassador reported to me that there are long supermarket lines and empty streets. They have serious difficulties with communications, and several aspects of the communications and infrastructure are crippled. The place is covered with debris, Madam Speaker, as is evident on the reports that we receive. Buildings and motor vehicles have been destroyed.

Madam Speaker, we can only continue to pray for the people of Japan at this time. Japan is a country which has always gone readily to the assistance of countries in the wake of their suffering from the impact of natural disasters. The International Community has already begun to offer assistance to this generous country, which now needs our support and solidarity. (Applause) But we are confident, Madam Speaker, that they are resilient and will recover.

Thank you very much.

(Applause)

Mrs. HAY-WEBSTER: Thank you, Madam Speaker.

I would want to extend my won condolences in supporting your statement, Minister.

But one question though, as I have constituents there. There message back to me is, is there any assistance that we can give to get them back home? Because they are staying – one should have actually been coming home tomorrow, but because of what has happened, and the forward planning that would have gone on, everything is off. They are in an area where there is no roadway for them to come out.

Mr. VAZ: CDF!

Mrs. HAY-WEBSTER: And they are asking, is there anything that the Government of Jamaica is doing to assist Jamaicans, students and teachers that you speak of, to be able to return home?

Mr. VAZ: Audley going release some CDF for that.

Dr. BAUGH: The issue has been raised about providing transportation, or whether the

question of evacuation comes up. At this point in time, no. It is not an issue. We have not made any decisions concerning moving people out of Japan. The first and most important thing is to ensure their safety, and the maintenance of that safety. And we are assessing it, and we are keeping very close to the developments. If in fact the problem with the nuclear reactors gets worse, one may have to contemplate that. But we have every reason to believe that it is under control, they have sought American help, measurements are taken of the radiation close to the area. The evacuation points have been identified, people have been warned and some Jamaicans have in fact moved to safer areas. So we are watching it very closely. If it becomes necessary, if there are indications of it getting worse or getting out of control, then we will seriously consider providing assistance to have Jamaicans return home.

Mr. VAZ: In the meantime, CDF!

Mr. CLARKE: Thank you, Madam Speaker.

The Opposition wants to join with those sentiments expressed by the Government, and for whatever actions you have taken so far.

It is important that we remember the Japanese people as being the first country to have experienced the atomic bomb and what all that entailed. And now, they are being threatened in another situation where there has been some leakage in some nuclear reactors, which would cause the same kind of effect on some of them.

We will remember them for their generosity to us, especially the North Coast Highway, they started the development there, and even more importantly, what they have done to promote the Jamaican Blue Mountain Coffee.

(Applause)

It is because of that, that we really extend our sympathies to them, and pray that they will overcome these difficult times.

Mrs. NEITA-HEADLEY: Hear! hear!

Mr. CLARKE: We know that they are a resilient people, having survived all of that, and they have been able to rise like a phoenix from the ashes. I think they will, they will rise again.

(Applause)

And therefore, I commend the Government. And you have our total and unequivocal support in whatever you do in terms of that. (Applause)

Dr. RHODD: Madam Speaker, I would just like to join the Minister who has spoken, and the Opposition Spokesman – Opposition persons who have spoken on this matter.

For the past couple of days I have really experienced some very anxious moments, having some intimate knowledge and involvement with the situation there, since I have – my eldest daughter has worked and lived there for the past 17 to 18 months; and we have had some sleepless nights, practically, for the past four to five days.

And I would just like to express thanks to God and thanks to all the persons who have prayed since we have found out that, you know, she, along with all the other Jamaicans are safe.

I would like to salute the courage of the Japanese people, their resilience. (Applause) We have had the privilege of really getting

some first-hand information about some of the challenges which they have faced, separate and apart from what you see on the television and the cable networks. The shortage of food and water, even in areas which were not directly affected by the earthquake and tsunami, the shortages are real.

And I would just like to – whatever we can do as a country – I know other countries have started to respond to the recovery effort. And the Member from St. Elizabeth spoke about our association with Japan for many years, with coffee….

Mr. PICKERSGILL: Westmoreland, Westmoreland.

Dr RHODD: Westmoreland, sorry, Westmoreland – for many years. And of course we know how much they love our music. In fact, some people allege that Japanese Reggae concerts are much larger than anything that we have seen in Jamaica. So they really have a close association and love our culture, in respect to our music and our kind of performance.

I would like to, Madam Speaker, just to congratulate the work of the Jamaicans who have been there. The Minister spoke to the many hundreds of Jamaicans who are there, and they really have been some of the, what you might call, quiet ambassadors of our country, not just there, but in other countries.

And they have really helped to make this world, this globalized world, really become one small village. And it is going to assist us, as a country and as a people to really appreciate more and more the differences in cultures, the differences in languages. And somehow, Minister, we have to – I don't think we have tapped into enough. There are several persons who have had the experience of living and working in other countries, to see how that can assist us, our own country, to benefit more, in respect to how we propel development forward.

(*Sotto voce* comment)

Madam Speaker, also, I would just like to join the colleague who spoke before, to appeal to the Jamaican Government to continue to coordinate the activities – monitor the activities, particularly in respect to safety, there are still a lot of safety issues. And for those who would like to come home, or whose tour of duty is finished, to assist them in whatever way, so that they can get back home safely.

I thank you. (Applause)

ADJOURNMENT

Mr. HOLNESS: Madam Speaker, it is not proposed to do any further business.

Mr. PICKERSGILL: I am aghast! (Laughter)

Mr. HOLNESS: I therefore move that we adjourn our business today until the 22nd of March, that's next week Tuesday, when we will resume.

Mr. PICKERSGILL: I wa'an know – Andrew, I wa'an know, where is Warmington?

Mrs. NEITA-HEADLEY: So we are not meeting tomorrow?

Mr. HOLNESS: No, we are not meeting tomorrow.

Mrs. NEITA-HEADLEY: You said last week we were meeting tomorrow.

Mr. HOLNESS: We will have to do that next week.

Mrs. NEITA-HEADLEY: We were supposed to meet tomorrow.

Mr. KELLIER: So Tuesday morning, 10.00 o'clock?

Mr. HOLNESS: Madam Speaker, the Minister of Finance has tabled the Second Supplementary Estimates, which will be reviewed by the PAAC. And we will have Standing Finance Committee at mid-day on Tuesday, of the 22nd, to do our final review for presentation during the official sitting.

The DEPUTY SPEAKER: The question before the House is that this Honourable Court now be adjourned….

MEMBERS: House! House! (Laughter)

The DEPUTY SPEAKER: …the Honourable House be adjourned until Tuesday next, the 22nd of March, 2011.

Put to the House and agreed to.

The Honourable House of Representatives was adjourned at 5.28 p.m. to resume on Tuesday, March 22, 2011 at 2.00 p.m.

TUESDAY, March 22, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:25 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

DR. KENNETH LEIGH O'NEIL BAUGH, (JLP), St. Catherine, West Central, Deputy Prime Minister and Minister of Foreign Affairs and Trade.

AUDLEY FITZ ALBERT SHAW, (JLP), Manchester, North Eastern, Finance and the Public Service.

RUDYARD CONRAD SPENCER, (JLP), Clarendon, South Eastern, Minister of Health and the Environment.

JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

OTHER MEMBERS

MR. LUTHER BARTLEY MONTEITH BUCHANAN, (PNP), Westmoreland, South Eastern.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. FENTON RUDYARD FERGUSON, (PNP), St. Thomas, Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MR. IAN DAVE HAYLES, (PNP), Hanover, Western.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MRS. MAXINE ANTOINETTE HENRY-WILSON, (PNP), St. Andrew, South Eastern.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. DEAN ALEXANDER PEART, (PNP), Manchester, North Western.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition.

MR. ERNEST AUGUSTUS SMITH, (JLP), St. Ann, South Western.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

PRAYERS

Prayers were offered by Reverend Ronald Thwaites.

The House resumed its sitting at 2:25 p.m.

The SPEAKER: This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this afternoon we would like to welcome to the sitting of Parliament, thirty students and three teachers from the Mannings Hill High School. Welcome to the sitting of Parliament. (Applause)

Dr. DAVIES: Mannings or Mannings Hill?

The SPEAKER: Mannings High School.

MEMBERS: Oh!

(Applause)

Mr. BUCHANAN: Good school.

The SPEAKER: Please enjoy the sitting of Parliament this afternoon. Those of you who have your cellphones, please check to make sure they are off or that they are on vibrate so you don't disturb the sitting. But please enjoy the sitting of Parliament with us.

(HON. ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Defence, entered and took his seat.)

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 20**
  Cabinet agenda issues for March 7, 2011
- **Ministry Paper No. 21**
  Annual Performance Report and Audited Financial Statements of the Office of Utilities Regulation for the financial year 2009/2010
- Capital Development Fund (Withdrawal) Order 2011 under The Bauxite Production Levy Act
- The Public Bodies Financial Distributions Regulations, 2011 under The Public Bodies Management and Accountability Act.

- The Public Bodies Management and Accountability Information and Particulars Regulation 2011 under The Public Bodies Management and Accountability Act

(HON. EDMUND CURTIS BARTLETT, (JLP), St. James, East Central, Minister of Tourism, entered and took his seat.)

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Prime Minister.

The PRIME MINISTER: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move the following resolution:

BE IT RESOLVED that the Capital Development Fund (Withdrawal Order) (No. 1) Order under The Bauxite (Production Levy) Act which was laid on the Table of the House on the 22nd day of March, 2011, be approved.

And I believe - I hope we have consulted with the Opposition because I am going to have to move - at a later stage seek suspension of Standing Orders to allow me to take the...

Dr. DAVIES: I wasn't aware. If you are going to spend it in the bauxite areas… and not the campaign.

(Laughter)

(MR. GEORGE DELANO ARSCOTT, (PNP) Clarendon, South Western, entered and took his seat.)

(DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern, entered and took his seat.)

Dr. DAVIES: I hope you can keep that promise.

The PRIME MINISTER: This is Lent, you know. This is Lent.

At a later stage I will have to seek suspension, Mr. Speaker.

The SPEAKER: House Leader - Minister of Finance.

Mr. SHAW: Thank you, Mr. Speaker.

Mr. Speaker, I beg to give notice that at the next meeting of the House I will move to introduce and have read a first time a Bill entitled,

"**AN ACT to Amend the Financial Administration and Audit Act",**

and

"**AN ACT to Amend the Public Bodies Management and Accountability Act"**.

Mr. Speaker, I further beg to give notice that at the next meeting of the House I will move:

BE IT RESOLVED that "The Public Bodies Management and Accountability, Information and Particulars Regulations, 011 under The Public Bodies Management and Accountability Act, which were laid on the Table of House on the 22nd day of March, 2011, be approved.

Also:

BE IT RESOLVED That the Public Bodies Financial Distribution Regulations, 2011 under The Public

Bodies Management and Accountability Act, which was laid in the House of Representatives on the 22 day of March, 2011, be approved.

The SPEAKER: Thank you, Mr. Shaw. House Leader.

(PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security, entered and took his seat.)

DISCLOSURE /EXEMPTION NOTICE

Mr. HOLNESS: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

WHEREAS subsection (1)(f)(i) of section 41 of the Constitution of Jamaica requires a member of this Honourable House of Representatives to vacate his seat if he becomes a party to any contract with the Government of Jamaica for or on account of the public service;

AND WHEREAS the Member of Parliament for Central Westmoreland has been asked to provide equipment for hireage to the Jamaica Sugar Holdings Limited, to which he has agreed but is seeking the approval of Parliament before he engages himself:

BE IT RESOLVED that this Honourable House, pursuant to section (1)(f)(i) of section 41 of the Constitution and in recognition of him having disclosed the nature of such contract and interest of such committee of which he is a member, exempt the said Member from vacating his seat for reasons of the contract as aforesaid;

AND BE IT FURTHER RESOLVED that this motion be referred to the Ethics Committee for consideration and Report.

Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of the Standing Orders to enable me to take this motion.

The SPEAKER: Thank you, House Leader.

QUESTIONS AND ANSWERS TO QUESTIONS

MRS. HENRY-WILSON gave notice that at the end of 21 days she would ask the Minister of Education the following questions:

Question 1: Can the Minister indicate if it is the intention of the Government to abolish fees for early childhood institutions?

Question 2: If the answer to Part 1 is in the affirmative, can he inform the House of the timetable for doing so?

Question 3: Can he indicate whether any study has been done on the economic cost of delivering education at the early childhood level and outcome of any such study?

Question 4: Can he inform the House as to the level of the funds that would be required to fill the gap that would be created at the level of the early childhood institutions, should fees be abolished and the

plans by the government to fill such a gap?

Question 5: Can he further indicate which institutions would be affected and the impact this is expected to have on the thrust to have institutions reach the prescribed standard for certification?

The SPEAKER: Thank you, Mrs. Maxine Henry-Wilson. Mr. Thwaites.

Reverent Ronald Thwaites gave notice that at the expiration of 21 days he would ask the Minister of Energy the following questions:

Question 1: Will the Minister please set out the formula by which the prices of motor fuels to the public are calculated?

Question 2: Will the Government place a cap on the level of the *ad valorem* tax on motor fuels when the price for crude oil exceeds a determined level in order to ease the crushing and inflationary burden on consumers?

(DR. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing, entered and took his seat.)

Reverend Ronald Thwaites gave notice that at the expiration of 21 days he would ask the Ministry of Energy and Mining the following question:

Question 1: Why is the price of motor diesel higher than gasoline?

Question 2: What is the pricing formula for motor diesel?

Question 3: Does the Government ascribe to a pricing policy which favours industry and public transportation?

The SPEAKER: House Leader - Leader of the Opposition.

Mrs. SIMPSON MILLER: Mr. Speaker, I asked two questions of the Minister of Youth, Sports and Culture, 43 and 47, and I want to make it clear, they are not going to be falling off the Order Paper. I want answers to these questions. These are not questions that the Minister should not be able to answer without having to get information from the Ministry.

Thank you, Mr. Speaker. I serve notice.

The SPEAKER: Thank you, Mrs. Simpson Miller.

House Leader, could we have an update. We have at least five (5) questions that are due for answers now. Could we get an update on these.

Mr. HOLNESS: Mr. Speaker, the issue raised by the Honourable Leader of the Opposition regarding the answers that should have come from the Minister of Youth, Sports and Culture, the Minister isn't here today. The Minister is in Falmouth and should be on her way back to Parliament.

(HON. KARL GEORGE SAMUDA, CD, (JLP), St. Andrew, North Central, Minister of Industry, Commerce and

Investment, entered and took his seat.)

Dr. DAVIES: …with the Prime Minister.

Mr. HOLNESS: Well, the mode of transportation is little different. But, Mr. Speaker, we did not place answers for questions today, given the nature of the business of today's sitting. So at our next sitting - and we possibly will have one more sitting before we close this session of Parliament. So we would have those answers ready at that time, Mr. Speaker.

The SPEAKER: Could you say in relation to Questions 38, 39 and 42, House Leader.

Mr. HOLNESS: Mr. Speaker, the same thing applies that those answers would be ready but we would not present today, given the nature of the business we intended to pursue.

PUBLIC BUSINESS

Mr. HOLNESS: Mr. Speaker, before we go into Public Business, I would want to recommit the Items Reports from Committees, Announcements and Notices of Motions Given Orally.

(DR. THE HON. CHRISTOPHER CHARLES TUFTON, (JLP), St. Elizabeth, South Western, Minister of Agriculture and Fisheries, entered and took his seat.)

The SPEAKER: Members, the motion before the House is for suspension of the Standing Orders to allow for the recommittal of the items "Announcements, Report from Committees and Notices of Motions Given Orally".

Put to the House and agreed to.

(HON. LAURENCE GEORGE BRODERICK, (JLP), Clarendon, Northern, Minister of State in the Ministry of Energy and Mining, entered and took his seat.)

ANNOUNCEMENTS
(Recommitted)

The Clerk by leave laid on the Table of the House the Report of the Public Administration and Appropriations Committee of the House of Representatives on the Second Supplementary Estimates of Expenditure for the financial year ending March 31, 2011.

The SPEAKER: Mr. Kellier, you had...

Mr. KELLIER: Mr. Speaker, on behalf of the Chairman of the PAAC I beg to lay on the Table of the House a copy of the Report of the Public Administration and Appropriations Committee of the House of Representatives on our deliberations on the Second Supplementary Estimates of Expenditure for the financial year ending March 31, 2011.

The SPEAKER: Thank You, Mr. Kellier.

NOTICES OF MOTIONS GIVEN ORALLY

Mr. KELLIER: Again, Mr. Speaker, on behalf of the Chairman of the PAAC, I beg to give notice that at the next meeting of the House he will move:

BE IT RESOLVED that the recommendations on the Second Supplementary Estimates of Expenditure for the Financial Year ending March 31st, 2011, as contained in the Report of the

Public Administration and Appropriations Committee of the House of the Representatives which was laid on the Table of the House on the 22nd day of March 2011, be approved subject to further deliberations on these estimates by the Standing Finance Committee of the whole House of Representatives consisting of all the Members of the House.

Mr. Speaker, I further beg to give notice that a later stage today, I will move for the suspension of the Standing Orders to enable me to take the motion.

The SPEAKER: Thank you, Mr. Kellier.

PUBLIC BUSINESS

The SPEAKER: House leader.

Mr. HOLNESS: Mr. Speaker, there are several items for Public Business. We will be proceeding in the following way: as it relates, Mr. Speaker, to the Second Supplementary Estimates the House will take a suspension and we'll convene the Standing Finance Committee that will review the Report that was just tabled a while ago. After review, the House will reconvene and take the Supplementary Estimates. The Chairman of the PAAC is on his way here, and on his arrival at that point we will take the Estimates.

Dr. DAVIES: The Estimates or the Report?

Mr. HOLNESS: The Report, the report. Forgive me, the Report.

Mr. Speaker, we will take the two resolutions that were brought here, one from the Prime Minister for the withdrawal from the Capital Development Fund and the Exemption Notice. After that, Mr. Speaker, there is also a Bill that the Minister of Foreign Affairs - it is a Bill, Mr. Speaker, that seeks to make some amendments to the Terrorism Prevention Act. It is important to fulfilling our obligations. It has some financial implications. The Bill is not here as yet, I'm giving notice to the Opposition that when the Bill arrives we will seek to take the Bill.

Mr. Speaker, the important matter today is our voting on the Charter of Rights, we will seek to take that -

Dr. DAVIES: Not the Supplementary?

Mr. HOLNESS: The Supplementary is - you weigh that against the rights of the citizens? I know you misspoke so I leave you with that. I leave you with that.

Dr. DAVIES: I don't want you treat this as if it's a passing issue.

Mr. HOLNESS: It's not a passing issue, but it had review by the PAAC, but we have been doing the Charter of Rights for as long as I have been in Parliament and before that so, I believe, Mr. Speaker, it is due time for us to bring that matter to a close.

Mr. Speaker, we also have to address today, and hopefully we can, pass the Special Prosecutor Legislation. We're at Committee Stage with that and that would be the last item that we will deal with today.

So, Mr. Speaker, let me put the resolution for exemption.

Mr. Speaker, I now move for the suspension of Standing Order to enable the motion, notice of which I gave earlier.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Order to allow the House Leader to take the motion, notice of which was given earlier.

Put to the House and agreed to.

The SPEAKER: House Leader.

(HON. KARL GEORGE SAMUDA, CD, (JLP) St. Andrew, North Central, Minister of Industry, Commerce and Investment entered and took his seat).

(MR. DERRICK CHARLES SMITH, CD, (JLP) St. Andrew North Western entered and took his seat).

Mr. HOLNESS: Mr. Speaker, I now move that the motion be approved.

The SPEAKER: Members, before you is for the approval of the motion, notice of which was given earlier.

Put to the House and agreed to.

The SPEAKER: Motion approved. House Leader.

Mr. HOLNESS: Mr. Speaker, I move for the suspension of Standing Orders to enable the Prime Minister to take the motion, notice of which he gave earlier.

The SPEAKER: The motion before the House is for the suspension of Standing Order to allow the Prime Minister to take the motion, notice of which he gave earlier.

Put to the House and agreed to.

The SPEAKER: Prime Minister.

THE CAPITAL DEVELOPMENT FUND - WITHDRAWAL

The PRIME MINISTER: This is a rather routine…

Dr. DAVIES: Where is Ernest Smith, listen to this.

(Inaudible comment by Mr. E. Smith)

The PRIME MINISTER: …resolution in the context of our time and the challenges that we have to face. It seeks, Mr. Speaker, the transfer of $328.9 Million from the Capital Development Fund to be used for budgetary support for the current fiscal year which ends in another few days.

The House may not recall, but the Revenue Estimates for 2010/2011 made provision for an amount of $2.1289 Billion to be transferred from the Capital Development Fund to the Consolidated Fund to assist in financing budgeted expenditure for this year; the request that is now before the House $328.9 Million is based on the current status of the balance available from the fund.

The cash balance, Mr. Speaker, in the fund as at the 18th of March, was $362.47 Million. The amount to be withdrawn represents the third withdrawal to be made from the CDF for this fiscal year.

The first withdrawal was approved by the House on the 22nd of June and provided for the transfer of $1.4 Billion.

The second withdrawal, Mr. Speaker, was approved by the House on the 14th of December, and provided for $127 Million to be transferred.

I think it is appreciated, Mr. Speaker, that with the difficulties that the bauxite industry has been experiencing, the inflows to the fund have been reduced. Indeed, in our efforts to have the reopening of the refineries that have been closed, so far one has been reopened, discussions are now taking place regarding

the reopening of Kirkvine. In those discussions, we have had to make concessions which will significantly and adversely affect the flow into the fund. And, therefore, in going forward we are not going to be able to place the reliance that we have been accustomed to place on the fund for budgetary support, certainly not in the immediate future. We're trying to ensure that as far as possible the community programmes which are an important part of our arrangement with the bauxite companies are maintained.

(Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern entered and took his seat).

You will appreciate, Mr. Speaker, that when a plant is closed there are some of those programmes that would naturally been suspended. We have been able to get those companies to retain some of the critical ones, particularly where they have to do with vital services to the communities. But there is no doubt that some of them have been affected, particularly health care for some of the workers in some of the communities that are affected. So it's a difficult time. This is the final withdrawal for this fiscal year. When we present the budget in another few weeks, the House will have some indication as to what projections are for inflows into the fund for 2011/2010.

Mr. Speaker, I ask for the approval of the House for the withdrawal as indicated.

The SPEAKER: Members, before you is the - sorry.

Dr. Davies.

Dr. DAVIES: Thank you very much, Mr. Speaker.

This particular resolution has an interesting history in the last few years of the previous administration. And it became quite a controversial resolution as I see the Member from St. Ann, South West, who was very vocal, strident in discussing this…

(Inaudible comment by Mr. Jackson)

Mr. BUNTING: He has become mute and even dem to. Caan hear nothing. Don't go outside, no badda run.

Dr. DAVIES: …this conveniently absence but threaten to destroy to personally lead demonstrations and to destroy water projects which would lead to Manchester North East.

The SPEAKER: Who is that coming from?

Dr. DAVIES: From the Member from St. Ann, South West, who is now mute, but - and that's not necessarily a bad thing.

(Laughter from the Opposition)

But, Mr. Speaker, there are interesting changes and the Prime Minister in indicating the need for the resources to meet revenue shortfall, the collections from the levy seems significantly below that which had been projected and we understand those realities. There's the age old story of, is it Hog and the Mother? Right, so the understanding is coming across but there are some issues which we need to ask.

Just one housekeeping, Mr. Prime Minister, Mr. Minister of Finance, this is not a surprise and to spring it on us at this last moment and carrying it through all the stages, we can be a little more organized in that

regard. Give us a chance to deal with it. That's a housekeeping matter.

But there are two issues of substance I would like to raise. The first is, I think colleagues, all of us would like some more details as to the concessions which are being made in order to bring the two plants which have been closed back into production. And I pose this because this represents a very important policy shift; it's clearly a trade off for labour cost and some economic activity. But it also means that the revenue projections which may have been contained - which may have been built in for the medium term are being significantly altered. But it also leads to the other issue; so I would like some if the Prime Minister is in a position to so do, can we have some indications as to what are the concessions being made? Are they interim? Are they contingent with the world market prices, what are those concessions? And it's very important for us, very important to us because we're looking at the medium term picture in terms of revenues.

But it also leads to another question, in that the crisis in the world market has brought home to us and very, very forcibly, the reality that this industry is subject to these fluctuations and therefore what was an issue which we debated in almost a political way, has become more fundamentally important. What of those regions which have owed so much their development and their economic viability to the bauxite/alumina industry, what then of alternatives in terms of economic activity? And that therefore leads us to the question of what was once the Development Fund. Are there plans, even with the reduced levy inflows, are there any plans for us to stimulate some other economic activities in those areas?

And related to the stimulation of other economic activities is the issue which I virtually, all the MPs who represent bauxite and alumina areas have complained about, in that this is a wasting industry, but in certain instances damage has been done to housing, stock, et cetera and I think one of my colleagues will be raising this question. So even as we recognize the reasons for the reduced inflows, we need to know what steps, within the restricted level of inflows, what steps can we take to address alternative economic activities as well as some form of compensation for the damage which has been done to environment or households in that whole process.

(DR. DONALD GLADSTONE RHODD, (PNP), Portland, Eastern, entered and took his seat)

So Mr. Speaker, we aren't going to make too much about the resolution, at this late stage, but I think that resolution, underlying in that resolution are some fundamental issues which we have promised. The Prime Minister in one of his earliest speeches as Prime Minister committed himself to a very thorough review. I believe the Member from Central Manchester spoke of the revenues, the way in which the revenues from the bauxite industry and the whole impact of the industry on the different regions. That debate has still not taken place and we need it now more than ever.

I thank you, Mr. Speaker.

The SPEAKER: Thank you, Doctor Davies. Sorry, Prime Minister, Mr. Arscott would like to... Mr. Arscott.

Mr. ARSCOTT: Thank you very much, Mr. Speaker.

We speak about this withdrawal, Prime Minister, on World Water Day, and we are aware of the destruction of the nature of bauxite mining, massive destruction of the vegetation, and usually bauxite is found in areas of low rainfall. So our acquifers are usually affected by the removal of the vegetation.

Now, over the years, some amount of reclamation has been done, usually a few inches of topsoil and the area having grass. Now, Prime Minister, I don't know, but we need to begin to look seriously at restoration of these mined-out lands. I know it's on the books, but the implementation has to be serious. Gone are the days when we can joke about these matters. You see what is happening with climate change? And it is a matter that we have to take very seriously. So I think we have to begin to ensure that the restoration is done, and done promptly and according to what is established.

The second thing I want to say, Prime Minister, is that every time I pass the mud lakes it reminds me of what happened in Eastern Europe last year when there was a...

Opposition MEMBER: Hungary, Hungary.

Mr. ARSCOTT: ...in Hungary, when there was serious flow of mud into towns. And the funny thing about it is that nobody was able - the company did not want to take responsibility for it and there was a problem between the government and the company of who would be responsible. We know we live in an earthquake zone and the mud lakes, both the one in Manchester as well as the one in Ewarton, are in places that if we breach the dykes, major economic catastrophe will befall us.

I know NEPA has given assurance about the integrity of the dykes. But we don't know after a heavy flood rain and probably an earthquake, what could happen. So, therefore, we need to ensure that even with our assurance about the integrity of the dam, if, God forbid, that there is a mud flow, who would be responsible? How would the compensation be made? What steps or what preparations are being made?

The final point I want to make, Prime Minister, is that JAMALCO has continued to produce and increase. It has never stopped. In many of the surrounding communities, the houses are being affected by the fall-out of the - the pollution coming out of the chimneys. Many houses, the distance now has increased. So whereas the houses were confined to Hayes, for example, as the Member from South-East Clarendon can attest, it is now many miles away, as far as Race Course, Rhymesbury, many miles away now houses are affected. Roofs are just rotting. And the company, they are not taking any responsibility for that.

So we think that some attention... If the company will not do it then at least we should get some assistance from the CDF to assist those suffering communities - those persons

whose roofs have been damaged by the fall-out, from the contamination from the chimneys of the alumina refinery.

Thank you very much, Mr. Speaker.

The SPEAKER: Thank you, Mr. Arscott. Prime Minister.

The PRIME MINISTER: The Member for South St. Andrew and the Member for South-West Clarendon, have raised three issues. And I want to try to respond to them as best as I can, not having anticipated that these issues would be raised.

Insofar as the concessions are concerned, I would want the Minister of Finance, along with the Minister of Energy and Mining, if you are so minded, to sit with you and to look at what it is that we have done. I put it that way because you will understand that there are some sensitivities in relation to it. We have had to ensure that we don't get into a situation where bauxite companies are jostling us down. So, in other words, once we - if we do a facility, time-bound with one that is what - that sets the limits that we can do in relation to another company that comes forward. But because of those sensitivities, I would ask the two Ministers to meet with you and such other persons as you may wish, to look at what it is that is in place so far.

Insofar as the redevelopment of these areas are concerned, yes, it is part of what was the original scope and intention. Some of that has taken place. I think we have to be very careful that we don't speak in absolute terms. Perhaps not as much as should have taken place. I know, for example, that in relation to the Mocho area there was recently, quite a significant agricultural development project that is part of what is intended to put some economic life into these communities after the bauxite has been taken out.

Insofar as restoration is concerned, there are certain standards that are established. What we have to do is to enforce those standards. And that, of course, is the responsibility, primarily, of the Jamaica Bauxite Institute. If there are situations where it is not being done, it is important that that be brought to attention. Not much of that is taking place now, because apart from JAMALCO, not much bauxite mining - and Miranda.

But in those areas where the plants are closed and mining is not taking place, what they had was carry-forward restoration work from pre-suspension, and that was supposed to be continuing and completing.

The standards don't require that where they took down trees and they took out huge layers of topsoil, that when they are restoring they are to put back huge layers of topsoil and plant back trees. That's not required. We know there's a certain cover that they are required to provide. That's part of the system that is in place. What we need to do is to ensure that it is complied with.

But let's not fool ourselves. The land that is disturbed is not going to have the range of agricultural potential that it had prior to. It's a choice that you make. You have to decide, do you want to keep it so that it can produce significantly in terms of agricultural output and have the bauxite sitting down underneath, or do you want to take out the bauxite but know that in doing that, you limit the capacity of that land to carry. Which is why in most

instances, it is for grazing and.

A MEMBER: Pasture land.

Mr. SAMUDA: They have destroyed the dairy industry...

The PRIME MINISTER: It's for grazing and in some instances, depending on the soil conditions, for light cash-crop cultivation and so on. It's one of those tough choices that we make. And we have to determine whether or not that is the traffic we want to beat.

Now, bear in mind, you know, bear in mind, that prior to the downturn in the industry that occurred in 2009, bauxite/alumina accounted for more than 50% of our total export earnings. So when you add up all of the manufactured goods that we are exporting, all the rum, all the beers, all the jerk sauces and so on, and put all of that in a mix, bauxite alumina accounted for more than 50% of our earnings. That's what you face.

Mr. SAMUDA: Absolutely!

The PRIME MINISTER: And those are choices that you have to make.

The Member for South-West Clarendon raised issues about danger to which we are exposed in terms of earthquake. I can't speak to that because you getting me into technical areas now and I don't have that advice. But I certainly would expect that in the building of the mud lakes, I certainly expect that there are standards that are required that would have to be met. As to whether or not those standards could withstand a 8.9 earthquake or a 9 on the Richter scale, I don't know. I'm sure that we have certain benchmark standards that are stipulated.

It's interesting that the Member has raised that question because there is urgent need. And when I say urgent, I mean like, now, now, now, for a new mud lake at JAMALCO because of the expansion that has taken place and because of the fact that they have almost exhausted the existing capacity there.

I did see on the television recently, I did have a word with the Member for South-East Clarendon, where some residents were complaining about damage that they were experiencing. I've asked for a brief on it, and I've asked to be advised as to what follow-up action the authorities, both within the Ministry of Energy and Mining as well as within NEPA, what action are they taking to follow-up on it.

Those matters have to be brought to attention. Those matters have to be policed. There perhaps will always be some issue of contention. The normal thing is that people in the community claim damage. The extent of the damage is normally contested by the company. There has to be some adjudication as to what actually happened, what liability exists and what is fair compensation. And I will try to get that report in the course of this week and I will share the results with you. And if there is any follow-up that is necessary, then please get in touch with me.

Mr. Speaker, based on those issues, those responses, can I seek the approval of the House for the...

The SPEAKER: Members, before you is the resolution as presented by the Prime Minister for your approval.

Put to the House and agreed to.

The SPEAKER: Approval to the resolution. House Leader.

Mr. HOLNESS: Mr. Speaker, as I have indicated, I will now ask for the suspension of the House so that we could take the Report of the PAAC on...

(*Sotto voce* comments)

Well, so that the Standing Finance Committee can take...

The SPEAKER: Members, before you is a motion for the suspension of Standing Order to allow the Report of the PAAC to be taken at this time.

Put to the House and agreed to.

The SPEAKER: House Leader who is presenting the Report?

Mr. HOLNESS: The Minister of Finance...

(MR. CLIVE ARTHUR MULLINGS, JLP, St. James, West Central entered and took his seat.)

(Inaudible comments)

The SPEAKER: No!

Mr. HOLNESS: Mr. Speaker, we are going to take the suspension and then we will have the Standing Finance Committee.

The SPEAKER: Yes, but the Report is now before us.

Mrs. HAY-WEBSTER: No, you have to take the Report first.

The SPEAKER: The Report.

Mrs. HAY-WEBSTER: You have to take the Report first.

The SPEAKER: Mr. Fitz Jackson, are you taking...?

Mr. JACKSON: I had discussions with the Chairman.

The SPEAKER: Yes.

Mr. JACKSON: ...and he has asked me to lead...

The SPEAKER: Present the Report.

Mr. JACKSON: ...on the Report.

The SPEAKER: Okay, very well. Mr. Fitz Jackson.

Mr. JACKSON: Mr. Speaker, the Report, as Members will see, is very concise. The reduction in the Budget is as a result, essentially, of shifts of expenditure of this Financial Year into the next Financial Year.

But before we go forward, Mr. Speaker, I wish to advise, as was discussed and deliberated by the Committee, it found it very difficult to give a full sum of attention to the Estimates of Expenditure that was tabled, given the timeframe. It was tabled on the Tuesday of last week and the Committee had to meet the following day to go through, analyze and assess the changes being made and to table a Report. And in that regard we are submitting that for future Supplementary Estimates, that the Committee be given at least two weeks, one week to read and assess the Estimates and subsequently to prepare the Report, that it can be tabled and discussed in a more meaningful way.

I think that there are some discussions with the Minister of Finance by the Chairman prior to, and it was subsequently raised with the Financial Secretary and I think there is an understanding that that will obtain going forward. But I raise it before the House so that we all can be of one common understanding as it comes to us again.

Mr. Speaker, of particular concern to the Committee was in respect of the Office of the Prime Minister is the E-Learning Project. And as we state, while the Committee accepts the information that was provided by the Financial Secretary, the funds that had been

cut will be carried forward to the project in the next financial year 2011/2012.

The Committee wishes to place on record, Mr. Speaker, our concern that the integrity of the project needs to be maintained as was originally envisioned. In the discussions with the Ministry with the Office of the Prime Minister it came to our attention that much more needs to be done in order to ensure that the goal of the project is achieved. And, therefore, we are urging the Minister and the Prime Minister under whose office it falls, to ensure that there is more strident efforts to ensure that the project is implemented to achieve its goals.

Mr. Speaker, much of the - as I said, much of the funds that are cut has gone forward in the next financial year, but the downside of that in our judgment is that, that under expenditure has a deflationary effect, and we believe that at this time when you need more expenditure in the economy, that more effort ought to be made to ensure that the projects are implemented on a more timely basis, so that the targeted outputs in the financial year can be achieved.

In respect of the Ministry of Transport and Works, the Committee had a number of concerns and was unable to have those addressed because nobody came from the Ministry of Transport and Works to provide the Committee with the information.

And in fact, we had sought that the information be submitted post the meeting, but prior to our meeting here. To my knowledge that has not been done. However, against that background, we are urging Members of the House to take cognizance of that absence of information as it considers our report and the Estimates which has been tabled before it.

Mr. Speaker, as I said, that's about the highlights and the full details is as contained in the Report before the House.

The SPEAKER: Yes, Mr. Kellier.

Mr. KELLIER: Mr. Speaker, in looking at the Report very cursory, since it was just tabled, I want to support the Member's position in regard to the timeline of us in this House having adequate time to peruse the document in respect of the Estimates of Expenditure prior to us bringing it to the stage where it gets to the Finance Committee of the whole House.

Because the truth of the matter is, to do this thing in a rush and to hurriedly put this thing together and to get into the next stage really is not good governance. And while it may have been done in the past, I really think it is something that we need to address now going forward, that we have more time in deliberations to properly analyze these Reports.

When you take for argument sake, Mr. Speaker - and I don't know what action the House is going to propose - because I don't think it is something that we can take lightly and just allow to pass. When a Ministry takes it upon themselves not to present themselves to the Committee to answer questions relating to over-expenditure. It says here very clearly that there has been over-expenditure and under-expenditure. I am not so worried about the under-expenditure so much at this point in time, but a Ministry cannot be over-expending money that they were not

authorised to do so by a budget that we had passed. And at the same time they don't turn up here to explain themselves to the Committee as to why there was an over-expenditure. And there must be some action that has to be taken or initiated in that regard. That means, if one Ministry do it, next year two will do it and three, four and the next thing you know, nobody don't turn up to give account of themselves and their stewardship as to how they spend the money that taxpayers have to foot the bill for. It cannot be that any Ministry takes it upon themselves to do that. I want to hear specifically, what action is going to be taken in regard to a Ministry that does not present itself here at the PAAC to give account of itself. It cannot be and it must not be allowed to pass. And I definitely want to hear what is going to be done from the Minister. How can we approve further budgetary support for that Ministry, if they do not wish to come and give an account for what we approve for them. It is not right. And there must be some accountability in that regard.

The SPEAKER: Thank you, Mr. Kellier. House Leader.

Mr. HOLNESS: Mr. Speaker, I listened carefully to the presentation of the Leader of Opposition Business, he makes a valid point. The business of the House cannot continue without the support of the Ministries, especially when we have to review Supplementary Estimates. We would like to know, Mr. Speaker, the Ministries that didn't, so that we could take the appropriate action.

The SPEAKER: Thank you, House Leader. Mr. Fitz Jackson, could you ask for the approval.

Mr. JACKSON: Mr. Speaker, I think my colleague reiterated the point I had made about the non-support of the Ministry. And I take it that the House Leader in his....

The PRIME MINISTER: Could the Member yield?

I didn't realize that the Member was about to close the debate. Can I just respond very quickly to an issue that he raised in relation to the E-Learning Programme, the Universal Access Fund.

Cabinet yesterday gave approval for contracts - I was hoping to get the exact figure for you....

Mr. ROBERTSON: Approximately $500 Million.

The PRIME MINISTER: I think it's just under $500 Million, which would complete the build-out programme that was envisaged for this year.

I think the House need to be aware, however, that that is a programme that has existed on very tenuous foundation. Every single year an issue is raised by the US Trade Department because it is considered that the landing charges imposed from which the Universal Access Fee is a violation of trade rules. And we have already been served notice that it was intended for a build-out of the E-Learning Programme. There are restrictions on it, for example, that you can provide the technology and the equipment but you can't fix up the building where it is to go. And there is already an indication that we are going to come under intense scrutiny once the programme as we had originally designed, once that programme is completed and how we carry it forward.

It is something that we are having discussions about. We believe that there is still much that needs to be done, because we need to go beyond just the schools, there are the communities, there are the services in the communities that need to be brought up to technology the post offices, the local health clinics and so on.

We want to be able to facilitate, for example, a doctor in a rural clinic being able to communicate with a consultant, a specialist in one of the major hospitals to deal with diagnoses and cases right there. So there is a whole range of things for which we need those facilities and we are hoping to be able to fund it through that. We are going to have to find a way to avoid the strictures that are coming down upon us.

When we get into Standing Finance Committee to discuss the 2011/2012 budget, we will be able to provide much more details as to what the programme is intended to do for this year, and we'll be able to update you as to how we intend to navigate our way through some of the challenges that are being mounted at this time.

The SPEAKER: Thank you, Prime Minister. Mr. Fitz Jackson.

Mr. JACKSON: Thank you, Mr. Speaker.

Prime Minister, I am thankful for that explanation, but I wish to reiterate the point that one of the concerns the Committee had. At least in the deliberations we had, we were not privy to that kind of discussion or that bit of information. But the concern is that insofar as the fund is there, with certain amount of funds there, cash, sitting there, that whatever doable projects that can be done be executed.

The impression that comes to us from our discussion is that, here you have the funds sitting here with the monies collected alreadyand the Prime Minister makes the point in respect of what will come forward from those who contribute into the fund. But you already have the money there and you already have a menu of projects that have been signed off on that can go forward that is sitting there. And we are concerned that much could be achieved if we seek to do what can be done from the funds which are actually at hand.

In closing, Mr. Speaker, I want to advise the Minister of Finance that in respect of pensions, by virtue of what was tabled in the Estimates, it gave the impression as if there was a reduction in pension payments, which was of great concern to the members. However, we were advised that it was a reallocation of those amounts but not a reduction. And the importance of raising and highlighting that point now and for the future is that, we don't give unnecessary fear to our pensioners. Because when they heard the announcement about the cut-back and what was tabled, they were of the impression that the payments coming to them would not be in place. However, we have been advised that it is not as such, so I think the public need to be duly advised about that.

One of the important point, Mr. Speaker, there was an increase of a billion dollars for utility bills in the Estimates. Now, again, there was an inadequacy of information or explanation. Is that as a result of more

consumption or is that an increase solely as a result of the general increases in electricity from the fuel charges? So that, we can better appreciate how accurate our projections were at the beginning of the financial year, because indeed, One Billion Dollars more for utility was very striking.

So again, for greater clarity in the future, the committee would like those kinds of information coming forward to it. Because the point is made, Mr. Speaker, that as we will in the next couple of weeks, we will vote on a set of Estimates of Expenditure, the country and the House need to have an appreciation of how relevant these Estimates are in respect of what will take place in the ensuing year. If that doesn't happen, then the exercise become meaningless.

So we ask that the Minister seek to ensure that whatever is projected, match up with what is likely to take place.

And finally in the same breath, Mr. Speaker, some expenditure in education, for example, for schools and so on, it gives the wrong information or impression I should say when you hear these cut-backs for building new schools when on the other hand, the Minister in the Budget Debate or in the Sectoral Debate remind the House of the severe shortage of school spaces at different parts of the country.

But yet the House approves these expenditure and they're not acted upon, not because there's a shortage of funds, as we're told, but because of less than satisfactory project implementation. So that was of great concern to the Committee and we hope that going forward we can again, match better what is projected to be done and what actually takes place.

I therefore submit for the House's approval of the Report as is tabled.

The SPEAKER: Thank you, Mr. Fitz Jackson.

Members, the matter before you is for the approval the Report of the Public Administration and Appropriations Committee of this House.

Put to the House and agreed to.

The SPEAKER: The Report for the year ending March 31, 2011, is approved.

House Leader.

Mr. HOLNESS: Mr. Speaker, you would forgive me as many other Members would have probably not been following the new procedure for approving the Supplementary Estimates. The new fiscal responsibility framework requires that any changes to the national budget be passed through the PAAC, so all of the Supplementary Estimates have to first be reviewed by the PAAC.

Normally, Mr. Speaker, the Standing Finance Committee would have met before the sitting of Parliament and then reported to Parliament, but now we have to take first the Report from the PAAC, debate the Report which we have just done, and now we will have to recommit a motion to take the Report to the Standing Finance Committee. So I'm going to do these formalities now, Mr. Speaker, to ask for the recommittal of the item, Notices of Motions, which the Minister of Finance will bring that Notice.

The SPEAKER: Thank you, House Leader.

Members, the motion before the House is

for the suspension of Standing Order to allow for the recommittal of the item Notices of Motions Given Orally.

Put to the House and agreed to.

NOTICES OF MOTIONS GIVEN ORALLY
(Recommitted)

The SPEAKER: Mr. Shaw.

Mr. SHAW: Mr. Speaker, I beg to give notice that at the next meeting of the House I'll move:

> BE IT RESOLVED that the Second Supplementary Estimates of Expenditure for the financial year ending March 31, 2011, which was laid on the Table of the House on the 15th day of March, 2011, be referred to the Standing Finance Committee of the whole House of Representatives consisting of all the Members of the House, for consideration and report;
>
> AND BE IT FURTHER RESOLVED that the Committee, during its deliberations, take into account the recommendations contained in the Report of the Public Administration and Appropriations Committee of the House of Representatives on its deliberation on the Second Supplementary Estimates of Expenditure for the financial year ending March 31, 2011, which was laid on the Table of the House on the 22nd day of March, 2011.

Mr. Speaker, I further beg to give notice, that at a later stage today I will move for the suspension of the Standing Orders to enable me to take this motion.

The SPEAKER: Thank you, Mr. Shaw.

PUBLIC BUSINESS

The SPEAKER: Mr. Shaw.

Mr. SHAW: Mr. Speaker, I now move for the suspension of the Standing Orders to enable me to take the motion, notice of which I gave earlier.

The SPEAKER: Members, before you is for the suspension of Standing Order to allow the Minister of Finance to take the motion, notice of which he gave earlier.

Put to the House and agreed to.

The SPEAKER: Minister Shaw.

Mr. SHAW: Mr. Speaker, I now move that we have a sitting of the Standing Finance Committee to look at the Report of the PAAC as well as to consider further, the Supplementary Estimates. I ask that the motion be approved.

The SPEAKER: Members, before you is for the suspension of the sitting of the House to allow the House to sit as House Committee of the whole House.

Put to the House and agreed to.

SUSPENSION TAKEN AT 3.30 P.M.

ON RESUMPTION AT 5.18 P.M.

The SPEAKER: (Gavels) Please be seated. Sitting of the Parliament is now resumed.

House Leader, we are at Public Business.

Mr. HOLNESS: Mr. Speaker, the Prime Minister will now - well before I outline the continuation of matters under Public Business, I would like to recommit the item Statements by Ministers, to allow the Prime Minister to make a statement to Parliament.

The SPEAKER: Members, the motion before you is for the recommittal - is for the suspension of Standing Order to allow for recommittal of the item Statements by Ministers.

Put to the House and agreed to.

STATEMENTS BY MINISTERS
(Recommitted)

The SPEAKER: Prime Minister.

CHARTER OF RIGHTS

The PRIME MINISTER: Mr. Speaker, I'm much obliged.

We hope before we adjourn this afternoon, to take a final vote in this Chamber on the Charter of Rights. The Bill of Rights which will secure far more than is currently provided in the Constitution, those fundamental rights that we feel our citizens should be entitled to, it hasn't come easy. It has been many, many years of tedious work, getting it right, considerable collaboration between both the Government and Opposition, until we arrived at a charter that we feel represents what our people are entitled to.

When the matter was last discussed, and even since then, our attention has been drawn to the fact that it is part of a wider framework of constitutional reform, and important
though it is, necessary and valuable though it is, it has to be seen in the context of several other aspects of our constitutional arrangements that need to be changed to reflect our independence, the time that has elapsed since we achieve that independence, and what needs to be done to consolidate and to confirm that independence.

One of those issues that has to be addressed has to do with our final Appellate Court. That has been the source of considerable discussion, considerable difference between Government and Opposition over many, many years. I have said so publicly and I'll acknowledge in this House, that as a result of the very strong position that was taken by a number of entities, a number of organizations including the then Opposition, significant changes were made to what was originally presented, and as a result of that some of the concerns that we had initially have been allayed. But there are still areas of concern, still issues that, speaking for this side, some of us are concerned about.

It is not without significance, that although Jamaica was, for many years, the only country where a difference existed between the Government and Opposition. So far there are only three countries that have signed on to the final appellate jurisdiction of the court. Trinidad, which - where such a difference didn't exist, one seems to exist
now. I've seen a statement made as recently as yesterday by the current Prime Minister of Trinidad, which raises a serious question, because Trinidad is where the court is based and there seems to be an oddity in the country that houses the court has a difficulty with the full jurisdiction of the court.

Now, I indicated, Mr. Speaker, some time ago, that we had asked a team shared by the Deputy Prime Minister, to have a look at the issue of the CCJ, the issue of the Privy Council and to review and to provide us with

a perspective as to what position we should take.

Our position was not cast in concrete. We – our initial opposition to the CCJ, I was prepared to subject that to review. In that review they suggested that an option that should be looked at was having our own final Court. And when I made that reference to it on the 21st of December in this Chamber, I didn't state it as any decision, I didn't say that this was the Opposition's position. I made sure this afternoon to get hold of the **Hansard** record of what I said, and I simply said it was something that we felt ought to be looked at. I am a little disturbed that public comments have been made almost as if that was a position laid down by the Government. I can understand the reaction that came from some sections of the eastern Caribbean, they are far away. But I can't understand that reaction coming from people who are much closer here, and ought to have been mindful of the context in which it was made.

Something that I think we need to take into account, Mr. Speaker, is this; as I said before, the Charter of Rights is only one part of what I think is a package of reforms that we ought to seriously seek to put in place. Some of the changes that need to be made require a two-thirds majority in this House. Some of the things that we need to do and on which we have already agreed, require a two-thirds majority in this House, and in addition to that, the approval of the voters of Jamaica in an electoral vote.

Next year we are scheduled to celebrate our Fiftieth Anniversary of Independence. And I do believe that we should see to what extent those issues on which we have agreed and those issues where we may not have agreed, but which are so important to that Independence, as a symbol of that Independence, to what extent we can agree to have those placed before the people, and have those decisions made so that they can be part of what commemorates our Fiftieth Anniversary next year.

The Leader of the Opposition and I have met while the House was deliberating other matters. And what we have agreed – and I hope that I will – I hope that I am reporting it as faithfully as I understood it – what we have agreed is that we are going to set ourselves a time to meet, to as diligently as possible address the issue of the Final Appellate Court of Jamaica, with a view to arriving at a position by the end of June, which would then allow us to structure a programme, including the other issues on which we have already agreed, other major issues of constitutional reform. So that we could then look at a finite, a definite timetable where these issues can be placed before the people, and the programme of Constitutional reform be substantially achieved. It is something that we need to approach with goodwill.

If it is simply a question of putting opposing positions on the table, we are not going to make any progress. If it is a question of looking seriously at the issues, and if it is a question of recognizing that what exists cannot provide us with the basis on which we can have confidence in the future, that's where this side has come, that the arrangements provided through the Judicial Committee of the Privy Council, that that

cannot be the basis on which we hang our reliance on the ultimate judicial determination for the country.

(Mr. Thwaites applauds)

The PRIME MINISTER: What we will need to do is to see how we can reach a consensus, because of the fact of the matter is that there is no other way that it can come about. Anything that is to be put to the people in a Referendum to amend the Constitution, starts here with a Bill. That Bill requires two-thirds majority before it is put to the people for a simple majority. If that Bill does not get the two-thirds majority in this House, and the Government, whichever is the government of that day, decides that they are still going to put it to the people, it then requires a sixty per cent majority, something that has never been achieved in any electoral arrangement in Jamaica. And therefore, that's how the Constitution was written, that's how it is structured, perhaps for good reason. What the framers of the Constitution were saying is that look, there are some things that are so important that it is not just a matter of counting up the votes to decide who has won, it's a matter of ensuring that both Government and Opposition can find common ground.

And I want us in earnest, in a spirit of goodwill, to see whether or not we can find that common ground between now and over the next three months, so that we can then finalize a package of constitutional reform to take us into our Fifty-first year of Independence. (Applause)

The SPEAKER: Mrs. Simpson Miller.

Mrs. SIMPSON MILLER: Thank you, Mr. Speaker**.**

It should be recalled that the Charter of Rights and Freedoms was started by our Administration.

Opposition MEMBERS: Hear! Hear! (Applause)

Mrs. SIMPSON MILLER: And I want to recognize the contribution of the Most Honourable P.J. Patterson… (Applause)

Mr. BUCHANAN: Hear! Hear!

Mrs. SIMPSON MILLER: …and the Most Honourable Edward Seaga…(Applause)

Government MEMBERS: Hear! Hear!

Mrs. SIMPSON MILLER: …and the present Government that completed the charge. As a matter of fact, we had gotten it to a stage, a final stage, and there was an objection by the then Opposition, that the language was too verbose and should be made simple. And so there was some delay – there was no disagreement, apart from the language delayed to this stage. And the Prime Minister indicated earlier that the Government and the Opposition, we met and we came to a position.

I think, Mr. Speaker, in our almost forty-nine years of Independence, we have never had an amendment of an entrenched constitutional provision, largely because an Opposition could not resist using the effective veto to reflexively frustrate the policies of the government of the day.

And I am pleased to declare that this Opposition is going to take the historic and progressive decision…

(Applause)

Opposition MEMBER: Hear! Hear!

Mrs. SIMPSON MILLER: …that we are putting principle and the interest of the

people above party politics, and we are putting…

Opposition MEMBERS: Hear! Hear! (Applause)

Mr. BUCHANAN: That's right!

(*Sotto voce* comments)

Mrs. SIMPSON MILLER: …and we are putting principle and the Jamaican people first. You see, the Prime Minister and myself met, we had no quarrel, we had some discussions, and even after the Prime Minister spoke some people still cannot keep silent and agree with what the both of us agreed to. Man, come on!

Mr. BUCHANAN: They don't trust him!

Mrs. SIMPSON MILLER: Mr. Speaker, further, that even though we would like to combine the passage of the Charter of Rights and the Caribbean Court of Justice as our final Court of Appeal, we are not going to make the best the enemy of the good.

Mr. BUCHANAN: That's right! Hear! Hear! (Applause)

Mrs. SIMPSON MILLER: Therefore, we are supporting the passage of the Charter of Rights, an initiative started under our last Administration. (Applause)

We – and the reason why we are so strong on the CCJ, Mr. Speaker, I will mention. But, if we have the Charter of Rights, we must ensure that there is the justice system where the masses of the people of this country who will never be able to access Privy Council, can have some – go to, to get some redress. And all of us as Parliamentarians must be mindful of that.

Mr. BUCHANAN: That's right! (Applause)

Mrs. SIMPSON MILLER: So we have agreed with the Government that – and the Prime Minister announced it earlier – we establish a joint team to work on a bundle of amendments to the Constitution, most of which are already agreed, and some of which have to do with repatriating the symbols of our sovereignty.

We have agreed on the need to move our final Court of Appeal from the Judicial Committee of the UK Privy Council. Let us all recall that – I want us to recall because there is a concern in Jamaica that we do not have the kind of participation we ought to have on the CCJ, but that a distinguished Jamaican lawyer, Dr. Lloyd Barnett, I am told, is a member of the Judicial Committee of the CCJ. And that we now have – and some of us were – and the Prime Minister was there, we attended the ceremony, the swearing-in ceremony for Justice Anderson, a Jamaican, who is now on the CCJ.

We must further recall that already Jamaica has been meeting our obligation for the maintenance of the financial health of the CCJ.

Mr. HYLTON: Hear! Hear!

Mrs. SIMPSON MILLER: And whether we use the CCJ as our final Court or not, we still have to pay. We have to meet those financial obligations. And if we have to set up a separate Court, we will have to find the funding to set up that Court, and at the same time, we have to live up to our obligations to the CCJ. And I am sure the Prime Minister and his team is taking that into consideration at a time when we have no money and there is so much suffering stalking the land…

(Applause)

Mr. BUCHANAN: Hear! Hear!

Mrs. SIMPSON MILLER: …and it is imperative on all of us on both sides. Therefore, we will be discussing with the Government team, with a view of finalizing, as the Prime Minister said, a position, a unified position by June of this year.

And as I said to the P.M. before today, and I repeat it, for the CCJ two-thirds majority, for the issue of Head of State, then we would have to have a referendum.

But I want to know if the Prime Minister lead the JLP team, and I lead the People's National Party team to the country, on an agreed position with us carrying the same message, who will be able to defeat it?

(Applause)

And so, if we are serious, and we meet and sit seriously and have some discussions, we can come to an agreement and continue to move the country forward. (Applause)

This evening is an historic moment for Jamaica and for Jamaicans, but we have to ensure, both sides, that it is not just on paper, but the masses of the people that we - all of us here sit, we have - all of us believe in a class alliance, I am sure, certainly I know we do here. That is part of a principle and philosophy when our movement was founded. But we have a responsibility to those who cannot help themselves and we need to think about that and they will need redress and there must be a final court, accessible to them, and that they can afford. (Applause)

And as the Prime Minister said, if we have any hope of passing these constitutional amendments in time for our 50th anniversary. Independence anniversary, then both sides, we are going to have to get serious, and put the people first, and Jamaica first above partisan political considerations.

Thank you, Mr. Speaker. (Applause)

The SPEAKER: Thank you very much, Leader of the Opposition.

House Leader, can we go back to Public Business now then.

Mr. HOLNESS: We are heading back to Public Business, Mr. Speaker, but for expediency sake, today has been a very hectic day, the Minister

(*Sotto voce* comments by Member)

Mr. HOLNESS: Sometimes. The Minister of Foreign Affairs and Foreign Trade has a Bill - an amendment to the Terrorism Prevention Act that he has to make, so he will present the Bill to the House now, Mr. Speaker.

The SPEAKER: No. we have to recommit, Minister.

Mr. HOLNESS: We will recommit Notices of Motion and Presentation of Bills without leave of the House first obtained.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow for the recommittal of the items Notices of Motions given orally and Presentation of leave of the House

without leave of the House first obtained.

Motion put to the House and agreed to.

RECOMMITTAL OF NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Minister Baugh.

Dr. BAUGH: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move to introduce and have read from a

first time a Bill entitled, "AN ACT to Amend the Terrorism Prevention Act".

The SPEAKER: Minister Baugh, continue.

Mr. BAUGH: Mr. Speaker, I further beg to give notice that at a later stage today, I will move for the suspension of Standing Orders to enable me to take first and second reading of the Bill and to take it through all its concluding stages.

The SPEAKER: Thank you.

RECOMMITTAL OF PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED

The SPEAKER: Minister Baugh.

Mr. BAUGH: Mr. Speaker, I will move for suspension of the Standing Order to enable to take first and send reading of the Bill, and take it through all its concluding stages.

The SPEAKER: Thank you. Members, the motion before the House is for the suspension of the Standing Orders to allow the Minister to take the motion, notice of which he gave earlier.

Motion put to House and agreed to.

The SPEAKER: Minister.

Dr. BAUGH: Mr. Speaker, I now move to introduce and have read a first time, a Bill shortly entitled, "The Terrorism Prevention Amendment Act."

Bill shortly entitled,

"The Terrorism Prevention (Amendment) Act, 2011"

read a first time.

Dr. BAUGH: Mr. Speaker, I beg to give notice of second reading of the Bill.

PUBLIC BUSINESS

Mr. HOLNESS: Thank you, Mr. Speaker. Just so that Members understand. We took the presentation of the Bill so that we would not then have to then go and recommit after we have finished the voting in Public Business on the two constitutional matters that would create the Charter of Rights.

Mr. Speaker, we are now at the point where we can now move for third reading of the two Bills.

The SPEAKER: We are on the Terrorism Prevention - okay.

Mr. HOLNESS: The Prime Minister will move for third reading of the Bills individually and we will vote individually on the two Bills.

(*Sotto voce* comments by the Speaker)

Mr. HOLNESS: No, no, we have gone to Committee Stage, Mr. Speaker. So just as all Members are clear we have passed Committee Stage - Mr. Speaker, for the benefit of Members the two Bills are, "AN ACT to amend the Constitution of Jamaica to provide for a Charter of Fundamental Rights and Freedoms and for connected matters" And the second Bill is, "AN ACT to Amend the Constitution of Jamaica" And those two Bills are now going to be read a third time.

The SPEAKER: Members, the motion before you is for the Bills, the two Bills…

Mr. HOLNESS: No, no the Prime Minister.

The SPEAKER: Prime Minister.

The PRIME MINISTER: Mr. Speaker, if you will allow me, I would like to move third reading first of the Bill entitled, "AN

ACT to Amend the Constitution of Jamaica". That is the one that deals with the - for want of a better word the Pratt and Morgan restriction. I propose that we dispose of that one first and then we take the larger, more significant Bill. I beg to move third reading.

The SPEAKER: The motion before the House is that the Bill be read a third time.

Motion put to the House and agreed to.

The SPEAKER: No, we have to go…

(*Sotto voce* comments by Members)

The SPEAKER: One second. Members because it is a constitutional motion, every Member's name will be called for you to respond, including the Speaker. So, on both Bills every name will be called. Okay? So, please listen to your names.

Ayes:

Mr. Arscott,
Mr. Edmund Bartlett
Dr Bartlett
Dr Baugh
Mr. Broderick
Mr. Buchanan
Mr. Bunting
Dr. Chang
Mr. Charles
Mrs. Dalrymple Philibert
Dr. Davies
Dr. Duncan
Mr. Fagan
Dr. Ferguson
Mr. Gallimore
Mr. Golding
Dr. Guy
Miss Hanna
Mr. Hayles
Mrs. Hay Webster
Mr. Henry
Mrs. Henry Wilson
Mr. Hibbert
Mr. Holness
Mr. Hutchinson
Mr. Hylton
Mr. Jackson
Mr. Kellier
Mr. Lawrence
Mr. Mair
Dr. McNeill,
Mr. Montague
Mr. Mullings
Mr. Paulwell
Mr. Peralto
Mr. Pickersgill
Dr. Rhodd
Mr. Robertson
Mrs. Robinson
Mr. Samuda
Mr. Shaw
Mrs. Simpson Miller
Mr. Derrick Smith
Mr. Ernie Smith
Mr. Rudyard Spencer
Mr. Stern
Dr. Tufton
Mr. Vaz
Mr. Witter
Mr. Chuck

Abstention:

Reverend Thwaites.

The SPEAKER: Members, in relation to – Members in relation to the Bill generally referred to as Amendment - to the Pratt and Morgan amendment. The Ayes are 50, one

abstention and eight absent. The Bill is passed by majority. (Applause)

Dr. DUNCAN: Mr. Speaker, is there any way to withdraw your vote?

The SPEAKER: No.

Dr. DUNCAN: No way?

The SPEAKER: No.

Dr. DUNCAN: Any way to admit you made a mistake?

The SPEAKER: No.

Dr. DUNCAN: I would like to say I made a mistake.

The SPEAKER: No, you can't.

Dr. DUNCAN: I am sorry, I ask for forgiveness now.

The SPEAKER: No, no, you can't.

Dr. DUNCAN: Will **Hansard** record what I said?

The SPEAKER: Yes.

Dr. DUNCAN: Thank you.

The SPEAKER: Members, please.

Bill entitled:-

"AN ACT to Amend the Constitution of Jamaica"

read a third time and passed.

The SPEAKER: Very well. (Applause) Okay, Prime Minister.

The PRIME MINISTER: Mr. Speaker, it is really both an honour and a privilege for me to move third reading now, of the Bill entitled "AN ACT to Amend the Constitution of Jamaica to provide for a Charter of Fundamental Rights and Freedoms and for connected matters". I respectfully beg to move that the Bill be read a third time.

The SPEAKER: The question Members, before the House is that the Bill be read a third time.

Members, this is the Charter of Rights Bill, please; one at a time.

A MEMBER: Which one of them?

The SPEAKER: This is the Charter of Rights.

(Cross talk)

The Bill having been put, the House voted as follows:

Ayes

Mr. Arscott
Mr. Bartlett
Dr. Bartlett
Dr. Baugh
Mr. Broderick
Mr. Buchanan
Mr. Bunting
Dr. Chang
Mr. Charles
Mrs. Dalrymple-Philibert
Dr. Davies
Dr. Duncan
Mr. Fagan
Dr. Ferguson
Mr. Gallimore
Mr. Golding
Dr. Guy
Ms. Hanna
Mr. Hayles
Mrs. Hay-Webster
Mr. Henry
Mrs. Henry-Wilson
Mr. Hibbert
Mr. Holness
Mr. Hutchinson
Mr. Hylton
Mr. Jackson
Mr. Kellier

Mr. Lawrence
Mr. Mair
Dr. McNeill
Mr. Montague
Mr. Mullings
Mr. Paulwell
Mr. Peralto
Mr. Pickersgill
Dr. Rhodd
Mr. Robertson
Mrs. Robinson
Mr. Samuda
Mr. Shaw
Mrs. Simpson Miller
Mr. D. Smith
Mr. E. Smith
Mr. R. Spencer
Mr. Stern
Mr. Thwaites
Dr. Tufton
Mr. Vaz
Mr. Witter
Mr. Chuck

Absent

Mr. Clarke
Ms. Grange
Dr. Harris
Mrs. Neita-Headley
Mr. D. Peart
Mr. M. Peart
Dr. Phillips
Mr. Spencer

The SPEAKER: Members, the vote of the House is 51 in the affirmative, 8 absent Members, no abstention.

The Bill is passed.

(Government and Opposition Members stood while applauding)

A MEMBER: Let them hear wi clap wi self.

A MEMBER: Follow the PNP league.

Mr. VAZ: We need to do this more often.

A MEMBER**:** I would like that.

(Cross talk)

The SPEAKER: (Gavels) Just for the final pronouncement, Members.

Bill entitled:

AN ACT to Amend the Constitution of Jamaica to provide for a Charter of Fundamental Rights and Freedoms; and for connected matters, read a third time and passed.

(Applause)

Mr. JACKSON: Next time we do CCJ.

Mr. HOLNESS: Mr. Speaker, the Minister of Foreign Affairs will now take the Bill for the amendment of the Terrorism Prevention Act.

The SPEAKER: Minister Baugh.

(*Sotto voce* comments)

THE TERRORISM PREVENTION ACT

Dr. BAUGH: Mr. Speaker, the Bill before us is the Terrorism Prevention (Amendment) Act, 2011. The Tourism - the Terrorism Prevention Act, TPA.

A MEMBER: Not Tourism, you know.

(Laughter)

Dr. BAUGH: Terrorism, Prevention Act came into force in June 2005. And it was in cooperation with the United Nations Security Resolution 1373. And, Mr. Speaker, as I think it is well known, this Resolution came in the wake of the 9/11, which is the September 11 attack, 2001 attack on the United States of America. By virtue of Article 25 of the

Charter - Chapter 7 of the United Nations Charter, Jamaica, as a member of the United Nations is obliged to carry out the actions required by the Resolution SCR1373.

The Resolution, Mr. Speaker, has identified 12 anti-terrorism instruments which are conventions, amendments and protocols to which States must become party. The TPA, Terrorism Prevention Act, has implemented – well, implements eight of these agreements. The remaining treaties are implemented in other forms of legislation. It, in fact, gave power to the Director of Public Prosecutions to apply to the Supreme Court to have certain persons, or entities, listed as terrorist entities. It also created several other terrorism offences which include, recruiting persons to commit an act of terrorism, or participation in a terrorism group activity.

The Act also deals with a range of issues, with respect to terrorism financing. And these range from prohibition of funding terrorist acts, to the monitoring of financial institutions, to ensure that they do not deal with an entity which has been designated a terrorist entity.

Mr. Speaker, countries are therefore, monitored as to their compliance with the TPA. They are monitored by virtue of the fact that we have to submit a report to a committee, established under this Resolution, and Jamaica is due to submit its next report in April, 2011.

In addition, Mr. Speaker, those elements that are related to terrorism financing are separately monitored by the Financial Action Task Force, FATF. The FATF is an inter-governmental body related to the OECD, Organization of Economic Cooperation and Development, which develops policies to combat money laundering, as well as terrorism financing.

The FATF has issued special recommendations. I believe nine of those recommendations are in respect of money laundering, and 40 of those special recommendations are in respect of the financing of terrorists. And these are known as the "Forty plus Nine" Recommendations.

The FATF also conducts regular mutual evaluations of all countries to ensure that they are adhering to the international standards in these areas. Such an evaluation was conducted on Jamaica in 2005 when the TPA first came into force.

Mr. Speaker, this brings me to the issue of the amendments that are before us. Because from that moment when the Act was passed, the FATF pointed to certain areas of the TPA which required amendment to more effectively comply with the special recommendations. However, this has not been done for several reasons. And this fact was noted with concern when there were evaluations - when mutual evaluations took place. Mr. Speaker, Jamaica is due to face another such exercise of evaluation, which means that our report must be submitted by the end of March 2011 - this March, this month.

If the necessary amendments to the TPA are not in place at this time, it would have been six years since the country has failed to implement the FATF's recommendations. It is likely that after this period the country will be deemed to be noncompliant. And if a

country is deemed to be failing to implement the special recommendations, it may be designated as a high-risk destination - jurisdiction. If the FAFT makes this recommendation to its members about Jamaica, the effect can be effectively, to lock Jamaica out of the Global Financial System, and out of financial institutions.

Mr. Speaker, these amendments are being made to two sections of the TPA; Section 14 and Section 16. The amendment to Section 14 is intended to allow the Director of Public Prosecutions, the DPP, to apply to the Supreme Court for an Order to list persons or entities as terrorist entities based on either a list issued under the Security Council Resolution, 1267, or, if our own DPP has reasonable grounds for believing that persons or entities, participated in terrorist acts.

The other amendment, Mr. Speaker, is to Section 16. And that is intended to clarify and expand on the obligation of financial institutions in Jamaica: our banks, or insurance companies, and other financial institutions, to report on any unusual or suspicious transactions. And that Report is to the FID, the Financial Investigations Division.

In conclusion, Mr. Speaker, the Terrorism Prevention (Amendment) Act must be enacted by the end of this legislative year, 2010/2011. The failure of the country to enact the amendment by the end of the legislative year would have serious consequences for our country. In the light of the commitment which Jamaica has given to the FAFT, it should also be noted that it may be a requirement of the IMF agreement that Jamaica be compliant with the FATF's, Financial Action Task Force, recommendations. Therefore, the country cannot afford to be deemed non-compliant by the FATF for these reasons that I have outlined.

Mr. Speaker, I would now turn to the Act that is before us, the TPA, and the amendment. And the amendment has been circulated. And I believe all Members should have the amendment in front of them.

And just to read Clause 14 from - the relevant section of Clause 14, from the Act itself of 2005. Clause 14(1) states:

The Director of Public Prosecutions shall apply to a Judge of the Supreme Court in Chambers for an Order under subsection (4) in respect of any entity if,

(a) the entity is included on a list of entities designated as terrorist entities by the United Nations Security Council, and,

(b) The Director of Public Prosecutions has reasonable grounds to believe that the entity:

(i) has knowingly committed or participated in the commission of terrorism offence; or

(ii) is knowingly acting on behalf of, at the direction of, or in association with an entity referred to in Paragraph A.

There lies the rub, Mr. Speaker, where the burden is on the Director of Public Prosecutions to be able to satisfy this requiment that there is reasonable grounds - although she receives a list from the Security Council of the United Nations she has to be able to show that there are reasonable grounds

for her to be convinced that such a person, or an entity, is guilty of such an offence. And this has been difficult.

And so the amendment before us, Mr. Speaker, first of all the amendment to section 14(1)(a), this section sets out the procedure for listing terrorist entities. The section has been amended by deleting the word "and" at the end of the section replacing it with the word "or". The effect of this amendment is to allow the Director of Public Prosecutions to apply to a Judge in Chambers of the Supreme Court to list entities as terrorist entities

(a) if they are included in a list of terrorist entities designated by the United Nations Security Council; or

(b) the DPP has reasonable belief that an entity committed or participated in the commission of a terrorist act or acted on the direction of an entity which has been designated as a terrorist entity by the United Nations.

In other words, our DPP, based on information that she has to reasonably suspect that an entity or a person locally is involved in terrorist activities, she indeed can make an application to the Supreme Court for the same end. She receives information, reports from the financial institutions, anybody. In other words, originally what it said it depended on a list coming from the Security Council of the United Nations. They would send the list, then she had to have reasonable ground to feel that those people are in fact guilty - well, not guilty but chargeable. So she would apply to the Supreme Court to put them on that list. Now what this does is it makes it feasible that once the list is applied for the Security Council, she automatically applies to the Supreme Court.

And secondly, for our purposes, is that if we suspect in Jamaica that there are terrorist activities the DPP can take action even without the report coming from the Security Council of the United Nations, go to the Supreme Court to make an application for them to be so listed. If such a person wishes to repeal that there is a provision already in the Act which is under section 14, subsection (6), "within 60 days" - I am reading - "after the date of publication of an Order under subsection (5) the entity in respect of which the order is made may apply to a Judge of the Supreme Court for a review of the Order and shall notify the Director of Public Prosecutions of the application". So there is recourse to appeal having been put on such a list.

(*Sotto voce* remarks by Opposition Member)

Dr. BAUGH: To an individual or entity, anybody so listed.

(*Sotto voce* remarks by Rev. Thwaites)

Dr. BAUGH: And I will just deal now, Mr. Speaker - sorry, you say you don't understand?

Mr. PICKERSGILL: That is not surprising.

Dr. BAUGH: Let me try to go through a little more quickly, Mr. Speaker.

Section 14 (3)(b), this section has been amendment as a consequence of the amendment to 14, section (1)(a). The word "and" has been deleted at the end of the subsection and replaced with the word "or". The result of this amendment is that where

the DPP applies to a Judge of the Supreme Court the application will be *ex parte* - that is the other side will not be present - and will be accompanied by an affidavit swearing to either

(a) information on the list of terrorist entities designated by the United Nations Security Council; or

(b) information showing that the Director of Public Prosecutions had reasonable grounds for believing the entity committed or participated in terrorism.

Section 14(4)(a), there is also a consequential amendment to this subsection. The section has been amended by deleting the word "and" at the end of the subsection and replacing it with the word "or". As a result of this amendment a Judge in Chambers of the Supreme Court should order that an entity be declared a listed entity once he is satisfied that either

(a) the entity was included in the list of entities designated as terrorist by the United Nations Security Council; or

(b) that there were reasonable grounds for the DPP's belief that the entity committed or participated in terrorism or acted on behalf of an entity designated by the United Nations Security Council.

These are small amendments, Mr. Speaker.

And now to the amendment of section 16 of the principal Act. Section 16 of the principal Act is amended:

(a) in the marginal note - and let me read the marginal note, Mr. Speaker. Section 16, the marginal note is a duty to report suspicious actions. That word 'suspicious' is being amended to ‘certain’ actions. Section 16, the next amendment is in subsection (2), by deleting the words ‘complex, unusual, of large transactions or unusual patterns of transactions’, and substituting therefor the words "complex transactions, unusual large transactions, or unusual patterns of transactions."

Still in section 16, Mr. Speaker, subsection (3), subsection (3) again, “by deleting subsection (3) and inserting the following as subsections (3) and (3)(A)” - and this is in the document that is circulated. I will still read it, Mr. Speaker, for the sake of clarity, if that can help -

(a) promptly report to the designated authority all complex transactions, unusual large transactions, or unusual patterns of transactions, which have no apparent economic or visible lawful purposes; and

(b) ensure that the background and purpose of all transactions referred to in paragraph (a) are examined and the entity's findings thereon set out in writing;

(c) in accordance with procedures set out in Regulations applicable to reporting entities under this Act;

(d) and (2) made available upon request to its auditors and to the designated

authority". That's the first part.

That's the wording of the replacement for subsection (3).

And, Mr. Speaker, continuing,

"3(A) Each entity shall report to the designated authority all transactions, whether completed or not, which the entity suspects, or has reasonable cause to suspect -

(a) involve property connected with, or intended to be used in the commission of a terrorism offence; or

(b) involve, or are for the benefit of, any listed entity or terrorist group as soon as is reasonable practicably, and in any event within 15 days after the suspicion of - reasonable clause for suspicion arises".

And that, Mr. Speaker, is the amendment of subsection (3) which has been struck out and now changed for the wording that I just read. If you don't have Act in the front of you, how subsection (3) read, before this amendment was "each entity shall promptly report to the designated authority all complex, unusual or large transactions and unusual patterns of transactions which have no apparent economic or obviously lawful purpose". So that has now been struck out and amended as read in the amendments that have been circulated.

In subsections (4) and (5), Mr. Speaker, as a consequence of the amendment in subsection (3), section 4 which reads "an entity which fails to comply with subsection (3) commits an offence and is liable to summary conviction in a Resident Magistrate's Court". Because of the amendment we have done to subsection (3) that must now read, "comply with subsections (3) and (3A) which is what we have just read from subsection (3). So as is circulated in subsections (4) and (5) by deleting the words "subsection (3)" and substituting thereafter in each case the words "subsections (3) and (3A), which is what I have just explained.

In subsection (7) again, Mr. Speaker, a similar change "by deleting the words 'subsection (3)'" because of the amendment in subsection (3) already and substituting thereof the words "subsection (3) or (3A)" as the case may require.

Mr. Speaker, that brings to an end the amendments that I have put forward before this House, the amendments of the Terrorism Prevention Act, 2005 which as I said before are urgent because of the timeframe in which are working and that this is overdue and we are to be subject to a review. We have to submit a Report by the end of March, and we have to submit ourselves to that review in April. And, Mr. Speaker, I will now entertain opinions from the other side or on this side of the House concerning the amendments proposed.

The SPEAKER: Mr. Hylton.

Mr. HYLTON: Mr. Speaker, notwithstanding the lack of adequate notice of the amendment to the Opposition, we have discussed the specific amendments to the Act, the Terrorism Prevention Act, and we do not think that it is a controversial issue. It ensures that we maintain our obligation and respond to our obligation under the United Nations Charter on an issue of national and international importance namely, the terrorism and the prevention of terrorism.

The amendment, of course, seeks to amend the Act of 2005 and retains the safeguard provisions in the way that the Act approaches the question of either the listing of entities or the naming of - placing certain individuals on a list. We appreciate that the matter was evidentiary first of all in the objection that existed to the previous arrangement, and perhaps I believe that the amendment being sought actually improves on the Act. And so the Opposition has no issue with the Bill and supports the amendments to the Bill.

The SPEAKER: Minister Bunting.

Mr. BUNTING: Thank you, Mr. Speaker.

As the spokesman on Foreign Affairs said we support the Bill. I just have a couple questions of clarification. And, as you appreciate, Minister, having just got it today maybe if I had, had time to do the cross referencing I would have come across the answers to some of these. But if you could just help me.

The fact that the - you were explaining the process where notwithstanding the fact that the entity is listed by the UN Security Council, that the DPP, nonetheless, has to apply to the Court for its designation, for our designation in our law. Is the fact that it appears on the United Nations Security Council list by itself sufficient, or does the DPP also have to independently satisfy herself? That's what I thought I heard you say. And it would seem to me to require putting an undue burden on the DPP to independently verify terrorist organizations which have already been listed by the UN Security Council, some of which may be operating on the other side of the world, and I was wondering whether by itself that couldn't be a sufficient case for it to be listed in the local - in our local system or for the purposes of this Act?

The second thing is within the Act the word entity - and perhaps if the Parliamentary Counsel was listening he might be able help us - but the word entity seems to be used to apply both to the terrorist organization as well as to the specified institution, most likely a financial institution, which is required to report. And it would seem to me that that has the potential to create some confusion. If we could be consistent, and you look puzzled, so I would just draw your attention to Section 3 of the Bill, and the Section (3A) which is to be inserted on page three where it says,

> "*Each entity shall report to the designated authority all transactions whether completed or not."*

Now, 'entity' in this section clearly means specified institution.

Mr. PICKERSGILL: Yeah, financial, yeah.

Mr. BUNTING: But yet, in the Memorandum of Objects and Reasons we speak to facilitate the listing of terrorist entities under Section 14 of the Act once those entities have been designated as terrorist entities. So you see it creates a potential confusion and I think it would be more elegant if we used that word consistently. I don't think Mr. Edwards has been paying attention to us.

The SPEAKER: Could we probably do that at Committee?

Mr. BUNTING: We can do it at Committee.

(Inaudible comment follows)

And finally, Minister, if you could explain—you have explained the urgency, but you explain why you have taken this last minute approach to wait until the eleventh hour to address this Bill?

(*Sotto voce* comments by Mr. Pickersgill)

Dr. DAVIES: Ken, I hope you heard that.

Mr. BUNTING: The final thing was why we have waited until the eleventh hour to address this Bill, the passage of which is so important for us.

Thank you, Mr. Speaker.

The SPEAKER: Minister Baugh.

Dr. BAUGH: All good questions, very good questions. In the first instance, the point you made which there is, in fact, a burden under the current law, the TPA, not the amendment, that's what is being amended. Because under the current law, the DPP even though she gets a list from the United Nations Security Council, has to satisfy herself that she has - that is being removed, that is being taken out. So once the list comes, then she goes to the Supreme Court.

Mr. BUNTING: She doesn't need anything further?

Dr. BAUGH: No, she doesn't need anything further. That is the amendment that has been made to remove that burden and the difficulty which has impeded the operation over a number of years.

Mr. PICKERSGILL: She goes to the Supreme Court for what?

Dr. BAUGH: Sorry, say that?

Mr. PICKERSGILL: She goes to the Supreme Court for what?

(*Sotto voce* comments)

..already listed.

(*Sotto voce* comment by Dr. Davies)

Dr. BAUGH: A list comes from the United Nations Security Council. Now our DPP, has to take that to our Supreme Court, so that these persons can be listed locally.

Mr. PICKERSGILL: Oh!

Dr. DAVIES: So the mere fact of being listed by the U.N. means you must be listed locally.

Dr. BAUGH: That's right. Our DPP now has to take that …

Mr. PICKERSGILL: Whether or not—

Dr. BAUGH: …list from the Security Council and go to the Supreme Court.

Mr. PICKERSGILL: Whether or not—

Dr. BAUGH: That's the action we have to take in our country to make sure that our laws apply and that we are, in fact complying with the Financial Action Taskforce as well as the Security Council.

Mr. PICKERSGILL: Whether or not we have transgressing financial institutions here. It just seems...

(*Sotto voce* comments)

Dr. BAUGH: Your second point concerns the issue of entity that there is some confusion as to what an entity is; whether the entity is the terrorist organization or the financial institution that is supposed to be making the report. That's what I discern from your question.

Dr. DAVIES: Yes.

Mr. PICKERSGILL: But they're both

terrorist entities.

Dr. BAUGH: They're both entities, but -

Mr. PICKERSGILL: But they're both terrorist entities.

Dr. BAUGH: The term used in the Bill and Act to identify the terrorist entity is a 'listed entity'. And I read from the Act in Section 15,

> *"In this section and sections 16 to 18 'designated authority' means the Director of Public Prosecutions or such other person as the Minister may designate by order."*

Second part, subsection (2):

> "The following entities shall determine on a continuing basis whether they are in possession or control of property owned or controlled by or on behalf of a listed entity-
>
> (a) foreign companies in respect of their business in Jamaica relating to banking, securities, insurance, investment advice or trusts;
>
> (b) financial institutions;
>
> (c) any entity designated by the Minister, by order subject to affirmative resolution, as an entity to which the provisions of this section shall apply.

Mr. BUNTING: And is there a definition of specified institution in the parent Act?

Dr. BAUGH: Is there a definition of specified institution in the parent Act? Maybe we could do it at the Committee Stage. But I believe that should answer the question concerning the confusion with entity.

Mr. BUNTING: Is it being consistent with the parent Act?

Dr. BAUGH: Concerning the timeframe, six years. This is something that we have been trying to get through over the last several months; it has been to Cabinet twice.

There are issues that we have had with it that had to be sorted out and thrashed out. So there's no question, there is some delay on our side. But 2005, you know, was when your side was in power - 2007 was, when you lost that power. So we are accountable from 2007 on. From the time when in June 2005 when this Act was passed in Jamaica from then, the authorities indicated that amendments needed to be made and it has been delayed. So we all are responsible. There have been delays, the amendments need to be made. Unfortunately, because of the delays and because of the confusions that existed and sorting it out to make sure that we're all on the same page, it had to take some time but it is in fact an urgent situation.

And I'm told that we have really no flexibility; that the Report has to be submitted by the end of March and that we have to be subject to that evaluation in April of this year. So we have to see it through.

The SPEAKER: Minister, could you ask for second reading.

Dr. BAUGH: Mr. Speaker, let me just thank the contributors, two contributors, for participating and for the cooperation and understanding. And we apologize for the lack of notice and we thank you very much for cooperating with us to make sure that this important Bill goes through. Because as is said it has implications, significant implications for the country and for its economic wellbeing.

Mr. Speaker, I now close the debate on the Bill and ask that the Bill be read a second time.

The SPEAKER: Members, the question is that the Bill be read a second time.

Put to the House and agreed to.

Bill entitled,

"AN ACT to Amend the Terrorism Prevention Act",

read a second time.

The SPEAKER: The House will now resolve itself into a Committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

Clause 1 and 2 put to the House and agreed to.

The CHAIRMAN: I put Clause 3.

Mr. BUNTING: Mr. Speaker Mr. Chairman, remember you said we could deal with this committee. So I just want to again - have lost Mr. Edwards, again? I wanted to add whether we couldn't improve the drafting where in (3A) where we say "*each entity*" could we substitute there "*each specified institution*"; just for, you know (3A).

Dr. BAUGH: Three what? Specified institution?

Dr. DAVIES: Entity is confusing.

Mr. BUNTING: Yeah, just to avoid, you know.

(*Sotto voce* comment by Member)

The CHAIRMAN: No, no. He's asking whether we could modify the proposal.

Mr. BUNTING: No, no! I don't need it. I'm just asking whether it might not make the…

Mr. PICKERSGILL: Where you reading from?

Mr. BUNTING: Page three, (3A), the amendment (3A).

Dr. BAUGH: In spite of the fact that the entities have been defined by Section 15.

Mr. BUNTING: Right, but I'm just saying if the Bill - Andrew, I'll just borrow the Bill from you. If the Bill itself defines specified institution, I think I would be clearer to use specified institution, but it doesn't. It's used in the Memorandum of Objects and Reasons, but there's no definition. I'm trying to lip read from the ladies over -

Dr. BAUGH: Can you Section 15 of the TPA.

Dr. DAVIES: Of the what?

Dr. BAUGH: The Terrorism Prevention Act. No, not the Bill; the Act 2005.

Dr. DAVIES: Section 15.

Dr. BAUGH: Yes, Section 15, subsections (1) and (2). Let me get some clarity on this.

Mr. BUNTING: Okay, what it seems, they do not anywhere define specified institution. I thought that it might have a defined term in the Terrorism Prevention Act, but it isn't; it appears not to be. So I think it does leave some ambiguity, Mr. Chairman, but since it's in the parent Act and the alternative isn't, there is no - since there is no definition in the parent Act.

Dr. BAUGH: There's a clarification here. The terrorist entity is referred to as a listed entity. The reporting entity is referred to as an entity as defined by Section 15, subsection (2).

Mr. BUNTING: Yeah, but you see that they're so close as to be ambiguous. I think it

would have been tidier, but I won't make an issue of it. I just thought if we had been able to…

The CHAIRMAN: Very well.

Mr. BUNTING: …use specified institutions it might have been avoiding any, you know.

The CHAIRMAN: Okay, with that point can we put Clause 3.

Clause 3 put to the House and agreed to.

The Title and Enacting Clause put and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed the Committee Stage without amendment.

Put to the Committee and agreed to.

RESUMPTION

The SPEAKER: I do report the Bill as having Committee Stage without amendment.

Minister.

Dr. BAUGH: Mr. Speaker, I move for a third reading of the Bill.

The SPEAKER: Thanks.

The question is that the Bill be read a third time.

Put to the House and agreed to.

The SPEAKER: Bill entitled,

"AN ACT to Amend the Terrorism Prevention Act",

read a third time and passed.

The SPEAKER: Very well. Bill read and passed.

(Applause by Government Members)

Mr. HOLNESS: Mr. Speaker, today is not a normal day. We have had to suspend the sitting and we will have to do so again to receive the Report of the Standing Finance Committee.

Mr. Speaker, I, therefore, ask for the suspension of the sitting to enable us to reconvene the Standing Finance Committee.

The SPEAKER: Members, the motion before the House is for the suspension of the sitting of Parliament for us to sit as a Committee of the whole House for the Standing Finance Committee.

Put to the House and agreed to.

Parliament suspended at 6:25 p.m.

RESUMPTION

The House resumed its sitting at approximately 6:45 p.m.

The SPEAKER: Members, the sitting of the House is now resumed.

Mr. HOLNESS: Mr. Speaker, we now move for the recommittal of Item, Notices of Motions to allow the Minister of Finance to take this motion.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow for the recommittal of the Item, Notices of Motions Given Orally.

Put to the House and agreed to.

NOTICES OF MOTIONS GIVEN ORALLY

(Recommittal)

The SPEAKER: Minister Shaw.

Mr. SHAW: Mr. Speaker, I beg to give notice that at the next meeting of the House I'll move:

BE IT RESOLVED that the Report of the Standing Finance Committee of the whole House of Representatives consisting of all Members of the House on the Second Supplementary Estimates of Expenditure for the Financial Year

ending March 31, 2011, which was laid on the Table of the House on the 22nd day of March, 2011, be adopted.

Mr. Speaker, I further beg to give notice that at a later stage today, I'll move for the suspension of the Standing Orders to enable me to take this motion.

The SPEAKER: Thank you, Minister Shaw.

PUBLIC BUSINESS

Mr. SHAW: Mr. Speaker, I now move for the suspension of the Standing Orders to enable me to take the motion, notice of which I gave earlier.

The SPEAKER: Members the motion before the House is for the suspension of Standing Orders to allow the Minister to take the motion, notice of which he gave earlier.

Put to the House and agreed to.

The SPEAKER: Minister Shaw.

SECOND SUPPLEMENTARY ESTIMATES

Mr. SHAW: Thank you, Mr. Speaker.

Mr. Speaker, the Second Supplementary Estimates are before us and there is no need for me to go into any exhaustive detail. As I indicated at the time of the sitting of the Standing Finance Committee, the principal areas of reduction relate primarily, Mr. Speaker, to the reduction of interest payments which has been reduced by J$3.21 Billion and the reduction in amortization of some $1.62 Billion, and when combined, the overall debt servicing is reduced, therefore, by $4.833 Billion.

Of course, the amortization relates to the revalued exchange rate, and we are aware of the lower interest rates that have attended the Treasury Bill and the operations of the Central Bank.

And I should indicate that the last issue of the Central Bank 30-day instrument on its open market operations yielded an interest rate of 6.75%... (Applause) ...which, Mr. Speaker, is the lowest interest rate on record at the Bank of Jamaica that we are aware of. (Applause)

Government MEMBER: Hear, hear!

Mr. SHAW: In relation to the other area of non-debt, there was non-debt capital reduced by $1.476 Billion for a total reduction in the budget, Mr. Speaker...

(Cross talk)

...a total reduction of $6.3 Billion in the budget. And, Mr. Speaker, as the Opposition spokesman on finance is aware, it is a routine matter that we - it's a tidying up matter and on the particular feature of this exercise now, relates to the involvement of the Public Administration and Appropriations Committee.

And I want to say, Mr. Speaker, that we welcome the work of the Committee and take note of the observations that have been made in relation to the various subject areas. And it is our intention, going forward in the budgetary process that we hope that this higher level of indulgence and involvement of the entire House in the process, will lead to increased transparency, I think overall a better understanding of the budgetary process and more involvement of Members in the process itself.

So, Mr. Speaker, I think the House

Leader at the appropriate time will make the announcement in relation to the programme for the new Budget which is to be tabled next month. But I will leave that to him.

I beg to move for the approval of these Second Supplementary Estimates. (Applause)

The SPEAKER: Doctor Davies.

A MEMBER: Congratulations.

Dr. DAVIES: Thank you very much, Mr. Speaker.

The Second Supplementary Estimates, Mr. Speaker, as is normally the case, is essentially to tidy up operations for the end of the Fiscal Year, and given the proximity to the tabling of the new Estimates, as well as the Standing Finance Committee for the new Fiscal Year, there is no need at this time for any major presentation on this Budget.

In any event, any such debate will be limited by the fact that all we have would be the changes which are being made for specific Heads and so we don't have an overall picture nor do we have data on the revenues in particular areas. So, that's one of the reasons why there can't be a full - or there's no need for a full debate.

And let me join with the Minister in commending the work of the PAAC... (Applause)... The Public Administration and Appropriations Committee because that preliminary step has helped to clarify certain issues.

There is need, however, and I say this to the Minister as well as to the technical staff to have greater clarity for us to really comprehend what is happening. So there are a couple terms which really remain unclear, like, *savings*, and *under-expenditure*. So, we really don't know what they mean, what factors would have occasioned the cut-backs. And I'm going to make reference to a particular entity, the normal response in terms of inadequate preparation of the project, *et cetera*, sometimes we need a little greater precision in terms of... Because these projects have been presented - were presented a year ago as clearly in terms of defining what will be the presence of the Government in the economy. And we should have known at that stage...and I need to speak specifically about a couple areas where we need to look at.

And... let me start with the... the Minister announced and several suggested...I should offer congratulations for the lowest interest rates. (Applause)

Minister, let me, even as I congratulate you, you know that you have a potential problem if the interest rates on your domestic currency is now lower than your interest rate on the US dollar. So the Government of Jamaica is putting out bonds, GOJ Bonds in JA Dollars, and the interest rate payable on that is lower than the interest rate payable on GOJ/US Bonds.

Unless you know something about which we don't know, there is a potential problem emerging in terms of that situation. It can last for the present because there's no great demand for US dollars. But that imbalance is not logical. And it is something which needs to be monitored very closely. And I say that in good faith.

(Inaudible comments)

Now, let me raise some of the concerns which came about just by the work of the

PAAC and also from the abbreviated Standing Finance Committee.

The JSIF is a very, very important institution for all of us in terms of the contribution to...I do not agree with all of their projects, but in general, in terms of their contribution to strengthening the social infrastructure, and the 15% cut in that Capital Budget. I heard the Minister, but I would urge for him to get fuller and better particulars. The response which he gave does not coincide with the response which Members of Parliament have received in terms of why aren't these projects moving ahead. And that is of concern to us. And whilst we understand your need to stay within certain budget caps, a 15% cut from that institution is worrying.

We made the point in the Standing Finance Committee and the point was made in the PAAC, the under-provision ...

(*Sotto voce* comments)

No, I think he has given it up. The under-provision for the street lighting, it's a recurring decimal and it makes very little sense for us to over-estimate the inflows from property taxes. We all wish for higher levels of inflow from collection of property taxes. In fact, the Opposition supported the measure, even silently, when the adjustment was made to the tax rates. But the expectations projected, and the Minister of State was quite optimistic of what that would mean for additional revenues. It hasn't - the levels which were projected have not materialized and hence there is an adjustment to the allocation for street lighting.

At the same time, I would urge that the minis... I don't know what it's called, the department of Local Government working together with the KSAC and the parish councils, would identify whether the payments which are being made, and for which additional provisions are now being made are linked to street lights which are working. But that remains a major issue which we have raised before. The Minister made...

There is a major allocation for pension, supplemental allocation for pensions. It's a point which we have raised before that sooner - we need to put all systems on the go for the adjustment to a new contributory pension scheme. If the estimate the Minister gave for next year, it will mean that the pension payments will be bigger than most ministries. You'll be allocating close to $25 Billion which is nearly 2% of GDP, assuming GDP doesn't drop more, it will be more. But you're dealing with about 2% of GDP for pensions and that's coming straight out of the Consolidated Fund. It's not sustainable. Life expectancy is increasing so that's not sustainable. And it would present an issue which has to be addressed not somewhere in the future, but now, in terms of creating a contributory pension scheme for new recruits into the civil service. In the short term, it will be more costly because the Government will have to make its own contributions in addition to meeting the outstanding obligations. But it is something which..It's a signal that something has to be done.

I turn now, Mr. Speaker, to the Education Capital Budget. This Capital Budget has been cut by 30%.Whatever the

reasoning, there is something amiss here. To cut over half a Billion Dollars from Education Capital Budget, something is amiss here. These are programmes which are needed. I've heard the Minister of Education's response in terms of school sites, *et cetera*.

But again, Mr. Speaker, these things could not have occurred overnight. And there has to be greater precision and accuracy in terms of what is presented to us. I made the point about street lightning. I'll make the same point about utilities. It's not aggregated in any one place. And I'd urge the Minister to have that work done. How much is there in terms of the additional amounts allocated. How much is for payments to the JPS, and how much will be payments to the NWC. What's the additional amount? It's not clear whether this represents an under-estimation a year ago of the utility costs, or if this represents an under-estimation of normal recurrent business, and entities and ministries, or simply using whatever cash is released to deal with everything else, with the expectation that the Ministry of Finance will take up this. This is something which needs to be addressed in terms of either a more realistic projection as to these costs, or, greater discipline in terms of controlling the way in which ministries and departments handle the amounts allocated to them.

The situation in the Ministry of Health, not contained in the Supplementary Budget, but given in response to a question, if I heard correctly, the Minister of Health indicated outstanding arrears to be $2.4 Billion?..

A MEMBER: Two point eight.

Dr. DAVIES: Two point Eight Billion Dollars.

(*Sotto voce* comments)

No, it's not clear whether - and this is in addition to the amounts which have been provided. This is very worrying, this is very troubling, Mr. Speaker, because we need to see in the new budget what is going to be done, not only about dealing with those arrears, but in terms of making realistic projections for the needs for the next year.

Mr. BUNTING: Hear, hear!

Dr. DAVIES: So, Mr. Speaker, despite the fact that this is essentially a tidying-up operation, there are several questions which should point the direction in terms of the analysis which should take place for the next Fiscal Year.

Finally, Mr. Speaker, finally. In terms of the changes which we are making, the welcome additional work being done by the Public Administration and Appropriations Committee, we need to work very carefully in terms of the scheduling of the budget process. That work is critical, is very helpful to us in terms of the Standing Finance Committee.

Mr. BUNTING: Hear, hear!

Dr. DAVIES: We need, therefore, to ensure that they receive the information on time such that they can have time to do their work, prior to the meeting of the Standing Finance Committee. It's very important, especially since the indications are that we wish also to look at the budget of the public enterprises or entities. Nothing has been presented, and I can understand why. But the answer is not that the changes have been insignificant. There are several entities which have had significant changes to the budgets which have been presented and those which have really come to pass during the year.

So, Mr. Speaker, the Opposition is not making any major issue about this. We participated fully. The PAAC has helped the process. And we will look forward to some of these issues being addressed because we shall be returning to them in the debate on the next Budget. Thank you very much, Mr. Speaker.

The SPEAKER: Thank you, Doctor Davies. (Applause) Mr. Shaw.

Mr. SHAW: Thank you, Mr. Speaker. Mr. Speaker, I take note of the observations that have been made by the Member and Opposition spokesman. And I just want to indicate that...and I'll just make mention of a few of the points that he raised. First of all, the question of the Jamaica Social Investment Funds.

I want to give the undertaking, Mr. Speaker that I am going to ask the Head of the JSIF to come in and have a chat with me, so that I can have a better and deeper understanding of the problems that are faced by the JSIF. Because I want to indicate that I like the JSIF and my constituency, not in recent months and years unfortunately, but my constituency has benefitted, Mr. Speaker, quite extensively.

(*Sotto voce* comments by Messrs Davies and Bunting)(Laughter)

Mr. SHAW: Yes, extensively. Good roads have been built, farm roads, community roads, basic schools and community centres and it is....

(*Sotto voce* comments by Dr. Davies)

Mr. SHAW: I am pleased and proud of the JSIF. And therefore I want to make sure, I want to make sure that everybody (Laughter) else is getting the fruit of such a very important organization.

Now, the question of the pension scheme, the pension programme, I agree with the former Minister and the truth is that, as you know, the World Bank has been involved in working with us, carrying out the appropriate studies. A Green Paper on Pension Reform will be tabled later this year, which will be setting out the proposed reform to the pension system. I have already had a look, a preliminary look at that Paper and a number of recommendations are contained in there.

I can say with absolute certainty that the replacement scheme will have to be a contributory scheme, there is no question about that so everybody can look forward to that. The question is the transitioning, the grandfathering that has to be done, and all of those technical details that have to be worked out in order to ensure that there is equity in the system.

But, I believe that it is now recognized that time is of the absolute essence. It's a very, very serious matter because as you have correctly indicated, 2% of GDP just dedicated to pension payments alone is a very, very alarming figure when you look at the growth in one budget year over another. It is - I think that's where you get the word exponential (Laughter) when you look at that kind of growth.

Mr. Speaker, the spokesman also mentioned the question of the concern about the cut in the Capital budget at the Ministry of Education. And while the Minister did speak to it during Standing Finance Committee, we have to be reminded that there were a whole

series of administrative and technical issues that militated against the full roll out of the construction of these schools.

And I think that it really - the point that you make, I think it raises an issue, not just in relation to schools or certainly in other areas of Capital Expenditure, including JSIF as we just mentioned, that perhaps one of the challenges that we face, even as we now look to a new budget, is how we can, perhaps with greater precision pinpoint the capacity to accomplish certain projects within a particular budget period.

(*Sotto voce* comment by Mr. Holness)

Mr. SHAW: I am not saying that in the case of education growth capacity, but we know that in other areas the question of capacity does arise.

So all I am saying is, we have to have greater precision, we have to have more fine-tuning, we have to sharpen our pencils more, because sometimes you end up depriving other areas that could also have been able to expend in a better way.

The question of arrears, of course, is not a problem of my creation, and it is a longstanding problem. And so, Mr. Speaker, what we have done within the context of the Standby Agreement with the IMF, we do have arrears under certain control and we are obligated under that Standby Agreement to keep it within a certain range.

(*Sotto voce* comments by Mr. Thwaites)

Mr. SHAW: A caan pay off all de money one time, sir. It cannot all be paid at one time. Okay.

Dr. DAVIES: Stop quarrelling, speak to the Speaker.

Mr. SHAW: But I keep saying, Mr. Speaker, we inherited the problem....

Mr. BUCHANAN: How you cantankerous so!

Mr. SHAW: At least.....

Mr. BUCHANAN: Cantankerous!

Mr. SHAW: ...at least in our case we have it under control, Mr. Speaker. We have it under control. (Applause) and that is why we have sought.....

Mr. STERN: Inherited, man.

Mr. PICKERSGILL: You weren't doing badly.

Mr. SHAW: Yes, I wasn't doing badly, but I can't take the hypocrisy man. I can't take the hypocrisy, that's the problem.

Mr. BUCHANAN: You miss Warmington? You miss Warmington?

Mr. SHAW: I can't take the hypocrisy and the holier than thou attitude, right. We all have a problem with - this is a mutual problem. This is a mutual problem that we face and what we therefore have to do....In fact, Mr. Speaker, that's why one of the reasons in this Second Supplementary Estimate we deliberately took out some of the more glaring problems of arrears and we bent backwards to deal with them in the Second Supplementary Estimate, that's what it's all about. Good intentions are here and they are reflected in the Second Supplementary Estimates. (Laughter)

Dr. DAVIES: Stop quarrelling now.

(Laughter)

Mr. SHAW: But certainly, and we are going to - you mention utilities, we are going to make sure that we put in place systems in the budgetary process, Mr. Speaker, to ensure

that the monies that are allocated to a certain - under certain heads and certain provisions, that we are going to keep the MDAs to the book that what is given to them for a particular purpose must be expended.

Mr. PICKERSGILL: You said that two years ago.

Mr. SHAW: We are going to amend the Financial Administration and Audit Act.

Mr. PICKERSGILL: To do what?

Mr. SHAW: To impose the specific rule that when a money is given to you to spend on item A, it must be spent on item A, otherwise it has to receive the prior approval of the Financial Secretary if there has to be any administrative change. We are coming with that amendment to the FAA Act. We have to bring some discipline to this business of public expenditure, Mr. Speaker, and that we can give you the undertaking that we are going to do.

Mr. Speaker, Mr. Speaker, let me just end by saying, the former Minister has mentioned, Mr. Speaker, the question of the concerns about the low interest rate at the Bank of Jamaica. Can I get the .....I want....excuse me. I want the former Minister to hear what I am saying.

Dr. DAVIES: I am hearing.

Mr. SHAW: Mr. Speaker, the former Minister of Finance has mentioned his concern about the low interest rates at our Central Bank of 6.75%. And he has mentioned that in relation to the interest rate of the US Bonds - and it's a concern and I take note of the point that you have raised.

I also want to indicate, however, that we have obviously built a level of confidence on the International Capital Market that we have seen us attracting bond rates now at 7.95% on the last instrument that we - on the last foray into the International Capital Market a few weeks ago. Mr. Speaker, it's the lowest rate that we have gotten ever since we have been going to the International Capital Markets. (Applause by Govt. Members)

But let me also indicate that our interest rates are trending down because inflation - we know that there are some storm clouds on the horizon, but I want to point out..... I don't know what has happened to the press when it comes to the inflation now, all of a sudden it's not an issue, it's not even reported. But the inflation rate in January was minus point two percent, and the inflation rate in February, Mr. Speaker, published already, by STATIN but not published by the media, the inflation rate in February was minus point four per cent.

(Applause)

Mr. SHAW: So that…

(Cross talk)

(*Sotto voce* remarks by Rev. Thwaites)

Mr. SHAW: Keep quiet and listen and you will learn. Between January and February, Mr. Speaker, we have had minus point 6% inflation between January and February. And as a result of that the annualized inflation rate to the end of February, Mr. Speaker, is 6.7%. (Applause) And so, Mr. Speaker…

A MEMBER: Yuh never see that yet.

Dr. DAVIES: Five point eight, 5.8 in 2007.

Mr. SHAW: …Mr. Speaker, with that inflation rate is part of the reason why we can

see the trending down of interest rates taking place in the economy.

A MEMBER: Very good leadership.

Mr. SHAW: Let me just end by saying that we continue to work with the International Monetary Fund. A team is in Jamaica, came into Jamaica yesterday and will be here for another week or so. And as I had indicated publicly before, the review that they are carrying out now will be a review for both the December quarter and the March quarter that they will be carrying out the review.

And in addition to that, Mr. Speaker, I want to indicate that things are stable, things are stable in the economy. The exchange rate continues to be stable. One year ago the exchange rate was $89.90 to one US dollar and today, Mr. Speaker, the exchange rate is $85.84. (Applause) One year later. The challenge for us now is to get the commercial banking system to understand that this Government is serious about reducing interest rates in the economy and we want them to join us as quickly as possible in that process.

(Applause)

(*Sotto voce* remarks by Dr. Davies)

Mr. SHAW: There are indications, Mr. Speaker, that elements in the commercial banking sector are quietly beginning to respond by offering in their own system differential interest rates and for certain large customers they are offering them 9% and 10% now, which is going in the right direction. But the prime interest rate, Mr. Speaker, has to go down. Mr. Speaker, things are stable. The NIR is healthy and the gross foreign exchange reserves in the Bank of Jamaica is now at US$3.4 Billion. The largest amount of foreign exchange reserves ever held at the Bank of Jamaica. (Applause)

Dr. DAVIES: Gross!

(*Sotto voce* remarks by Mr. Gallimore)

Mr. SHAW: So it means, Mr. Speaker, that we have demonstrated beyond the shadow of a doubt that we have stability in the economy and we have inflation that is under control. We have interest rates that are trending down. We have foreign exchange that is available that can, not only service our normal domestic requirements but can fuel investment demand and therefore the conditions for going for growth are put in place. In the Budget Debate I will be speaking along with the Prime Minister and other speakers, we will be directing our attention to the question of growth in the economy because we have established the foundation for growth by having a stable economy.

Thank you very much, Mr. Speaker. (Applause)

(*Sotto voce* remarks by Mr. Buchanan)

The SPEAKER: Members, we now ask for an approval.

Mr. BUCHANAN: Talk 'bout how much we owe!

The SPEAKER: Okay, Mr. Buchanan.

We now ask for an approval for the Report of the Standing Finance Committee of the whole House of Representatives, which is for the period financial year ending March 31, 2011, which was just concluded.

Put to the House and agreed to.

The SPEAKER: The Report approved.

House Leader.

Mr. HOLNESS: Mr. Speaker, we have one more matter to deal with. But you will realize, Mr. Speaker, that we are approaching the time for which we would have to ask for suspension of Standing Orders to sit beyond 7:30. So, Mr. Speaker, I therefore move the suspension of Standing Orders to enable the House to sit beyond 7:30 to complete the business…

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the House to sit beyond 7:30.

Put to the House and agreed to.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, we will now continue with the debate on the Special - well, we will continue at Committee Stage.

The SPEAKER: The third reading. Sorry.

Mr. HOLNESS: Committee Stage.

The SPEAKER: Committee Stage.

Mr. HOLNESS: The Prime Minister made a presentation on the Bill closing the debate stage. We are now at the Committee Stage and I believe…

The SPEAKER: He is now to ask for second reading.

Mr. HOLNESS: I think we did that. We have asked for second reading. We will go straight into committee.

The SPEAKER: No, it's for me now. Before us, Members, is the Corruption Prevention (Special Prosecutor) Act and the House will resolve itself into a committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

The CHAIRMAN: Members, we have a number of amendments but we have to go through clause by clause and as we reach to the amendments we will stop for the amendments.

Clause 1 put to the House.

Dr. GUY: Chairman, could you look at page 2 at the end there, Chairman, of clause 1, "different dates may be appointed for the coming into operation of this Act as the case may be or to different sections of this Act". Now if compare that with section 82, Chairman, there seems to be a little untidiness there in that 82 speaks to the renewing of the Act, "the Act may be renewed from time to time by a committee of both Houses of Parliament appointed for that purpose and the first of such review shall be conducted not later than three years after the appointed date". Are we suggesting that based on this that we may have a series of reviews then? Can I get an advice on that?

The CHAIRMAN: I don't think it really - it's not really that inconsistent, Dr. Guy?

Dr. GUY: No, whether it is so, Chairman, but I need to be advised.

The PRIME MINISTER: Mr. Chairman, I don't think there is any inconsistency there. What I am trying to find out is why would we have to have different sections being brought into effect on different occasions? What I am being advised is that it is to provide some flexibility, because what we have in fact done is that we have combined two different existing statutes into one. I am not sure I am persuaded myself, to be honest with you.

Rev. THWAITES: Mr. Chairman, how would that possibly be administered if you could theoretically, at any rate, bring each section in at a different time or blocks here and blocks there? That would make it void for uncertainty.

The CHAIRMAN: Could we delete subsection (2), I mean…

The PRIME MINISTER: No, there has to be a provision that says - the normal standard provision is that this Act shall come into force on a date to be appointed by the Minister. And therefore I am proposing - is that the wording, can we just confirm?

The CHAIRMAN: No, just to delete the subsection, just to delete it.

Dr. GUY: Section 1 speaks to that Prime Minister.

The CHAIRMAN: The proposal, as I understand it from the Parliamentary Draftman is just to delete subsection (2).

The PRIME MINISTER: Just delete it altogether?

The CHAIRMAN: Yes.

The PRIME MINISTER: So it would come into effect once it is signed by the Governor-General.

Mr. BUNTING: On a date to be appointed by the Minister. Subsection (1) already deals with it.

The PRIME MINISTER: Okay. Thank you.

The CHAIRMAN: Right.

Dr. DAVIES: Just out of interest, what would be the reason for subsection (2) in the first place?

The CHAIRMAN: I have no idea.

The PRIME MINISTER: I have seen it in one other statute where it was felt that there were some - as a matter of fact, it is the sexual offences, I think it's the Sexual Offences Bill where certain provisions like the Sex Offenders Register or something, that would not be ready in time. There were some flexibility allowed that certain provisions wouldn't have to be brought into effect, but in this case…

The CHAIRMAN: It's not necessary.

The PRIME MINISTER: But in this case I am supporting removing subsection (2).

The CHAIRMAN: Therefore I now put the amendment to section 1.

Put to the House and agreed to.

The CHAIRMAN: I put Clause 1 as amended.

Clause 1 put to the House and agreed to.

The CHAIRMAN: I put Clause 2.

The PRIME MINISTER: There is an amendment, Mr. Chairman, to Clause 2. Some concern was expressed, I think quite rightly expressed about the definition of public function. What we have decided to do was to revert to the definition that currently exist in the Corruption Prevention Act, which is what is reproduced in the amendment sheet.

Mr. MULLINGS: Mr. Chairman, looking at that definition, although it's located elsewhere, seems to be particularly inelegant and unnecessary. It says in the amendment "public function means any activity performed a single time or continually". And I believe that activity does include a single time. I don't see the necessity of having it spelt out in this way and it is

rather inelegant in the construction of the clause. So it could be public function - that's clause 2 - public function means any activity whether or not payment is received therefore, which is carried out by and it goes on and on. But to spell it out as being performed a single time or continually is singularly unhelpful, I believe. It would be "public function means any activity whether or not payment is received therefor" which is carried out by a, b and c in the amendment.

The CHAIRMAN: Apparently, Mr. Mullings, the amendment is now the existing law. Is that correct? What I understand they are doing is to bring the amendment or bring the Act to the existing laws. So what is being proposed is the existing law. Is that correct?

The PRIME MINISTER: Yes. I am trying to see if I can understand what's the mischief that the Member is seeking to correct.

Dr. DAVIES: The inelegance!

Mr. MULLINGS: The inelegance of it, Prime Minister.

The PRIME MINISTER: It seems to have had 10 years of elegance because that is what is in the existing law. Normally you try, unless there is something found wrong with it, then - what you don't want to have is several different formulations of the same thing in different statutes, so we normally try to stick with what is there before. I think the intention has to - it is defined in such a wide way because it is intended to capture, for example, Chairman of Boards who wield considerable influence and who may not be paid but who perform a function. And it may be a continuous thing, it may be an employment driven kind of function, it may not be so. It may be somebody who is simply given authority to do something on a short-term basis and in the process of that can exert influence. I mean, that is what I get the sense that the definition was intended to capture.

The CHAIRMAN: Okay. Well if there is no other alternative to - can we move then that Clause 2, can I move the amendment?

Rev. THWAITES: No, I don't think the Members point has been answered.

The CHAIRMAN: Well the question arises is whether an alternative…

Mr. MULLINGS: There is.

Dr. DAVIES: He has proposed an alternative.

The CHAIRMAN: What is the alternative? Take out…

Dr. DAVIES: Take out all that single time and continue with two.

Mr. MULLINGS: I think the concern is that other legislation has it but that doesn't commend its accuracy or reliability or necessity. An activity can be a one off and if a matter is brought to Court your defence cannot be I did it one time, and the statutes speak of activity and therefore because I did it one time it's not an activity. I think it does violence with respect to the English language, but if other statues have it, so be it.

Rev. THWAITES: Chairman, could you please tell me what section (2)(1)(b) means? Would you like me to read it for you?

> "Any act or omission at the request of another person whether or not the nature or timing of the act or omission is then known, or the making of the request is expressed or

implied, direct or indirect".

I have been trying for the last half hour to figure out a set of circumstances that could possibly fit into that definition. Could you help me, Chairman?

The CHAIRMAN: Where are we? Could you just remind me page what?

Rev. THWAITES: Page 2, (2) (1)(b).

The CHAIRMAN: On what page?

Rev. THWAITES: Page 2.

Mr. BUNTING: Page 2 of the Bill.

The CHAIRMAN: Okay, okay.

Rev. THWAITES: This is not ready, you know. It's just not ready.

Dr. DAVIES: What's happening, Chairman?

The CHAIRMAN: No, no, I mean, I must admit, I am trying to figure out what (2)(1)(b) means.

Rev. THWAITES: You shouldn't have to try, it should be patent.

Mrs. HAY-WEBSTER: Yes.

A MEMBER: It should be explicitly clear.

Mrs. HAY-WEBSTER: Chair, it almost sounds like what (2)(h) is, which is a catchall to just as an umbrella phrase, but I don't see…

Mr. HOLNESS: No, but what it – respectfully, Mr. Chair, what this is possibly trying to say is that…

(Laughter)

Mrs. HAY-WEBSTER: But, House Leader, CPC ought to be able to clarify that for you.

Mr. HOLNESS: …is that you couldn't claim as a defence, that somebody asked you to do it. That even if you did it outside of your own volition, it is still creating an advantage which would be an offence.

Rev. THWAITES: You are really trying. (Laughter)

> "Whether or not the nature or timing of the act or omission is then known or the making of the request is expressed…"

Come on. Why are we forcing a law which is clearly in need of refinement? Why are we doing that? We reached section 2, and already we have had two substantial issues to do with drafting. Please. This is an important Bill. Let's take the time and do it right. I am not going to vote for something that has these things which you can't make head or tail of.

The PRIME MINISTER: But you know, Mr. Chairman, with respect, with respect. Unless the Member is seeking to give the impression that he doesn't want to see this legislation passed – we discussed it…

Opposition MEMBERS: No, no!

Mrs. HAY-WEBSTER: No, no, Prime Minister.

The PRIME MINISTER: We have been discussing this Bill since July of 2008. So that there is no basis on which anybody can talk about inadequacy of time. We had extensive discussions during the debate, several points were raised by that Member. We have incorporated those points in the amendment. He did not raise this one on that occasion, and therefore, every time we get to this point, after we have accommodated every one, another one is going to be found and we are going to be told let's not rush the Bill.

That is completely unfair.

Mrs. HAY-WEBSTER: Chairman, Chairman…

(*Sotto voce* comments)

Mr. BUCHANAN: Keep quiet!

Mrs. HAY-WEBSTER: Chairman, with respect, sir.

(*Sotto voce* comments)

Mr. BUCHANAN: Shut yu mouth!

The CHAIRMAN: Mr. Buchanan! Okay, one at a time, please.

Mrs. HAY-WEBSTER: Chairman…

The CHAIRMAN: Yes, Mrs. Sharon Hay-Webster.

Mrs. HAY-WEBSTER: All of us in here, as legislators…

(*Sotto voce* comments)

Mr. BUCHANAN: You are a racist! Keep quiet!

The CHAIRMAN: Please, Mr. Buchanan!

Mrs. HAY-WEBSTER: All of us in here must have comfort with the law in passing it. And I must defend my Member by saying if we, as legislators in here cannot have an answer for a clause - it cannot be that we are just finding fault, so to speak. If we are discomforted by it then we must raise it. And if there is no answer it means that the crafting has been incorrect.

Government MEMBERS: No, no!

Mr. JACKSON: Or not clear.

Mrs. HAY-WEBSTER: Now, let us be clear on what we are doing here.

Mr. HOLNESS: No, just to be clear, Mr. Chairman, the drafting of this particular…

Mrs. HAY-WEBSTER: This is not law to play around with, Chairman and House Leader. So, please! This is not objection for the sake of objecting, Prime Minister. If you can't answer us, if you, yourself, and the CPC cannot answer us…

The PRIME MINISTER: Mr….

Mrs. HAY-WEBSTER: …how can we pass law?

The PRIME MINISTER: Mr. Chairman, Mr. Chairman, I propose that we delete paragraph (2) (b) – (2)(1)(b).

Dr. DAVIES: No, no, no, I just want somebody – Prime Minister, before you go there, I just want somebody to tell me – I assume that these weren't people on a frolic, and what the Member from Central Kingston asked for is what was the intention. So I don't want us to go the route of simply deleting it, because somebody must have been able to explain what this meant. And I don't know how we do it, but…

(*Sotto voce* comment)

Mr. HOLNESS: But the explanation is clear. This is saying…

Dr. DAVIES: Yes.

Mr. HOLNESS: …that an advantage is created even if it were done on the behest of someone else, even if the person creating the advantage didn't do it of their own volition, but was requested to do it. So it captures a broader category of the offence.

Now, it is also captured under (h), any other, which is why the Prime Minister was comfortable in saying…

Mrs. HAY-WEBSTER: That's the simple point I was making, House Leader.

Mr. HOLNESS: Let's not argue over it, it's already captured.

Mrs. HAY-WEBSTER: That's the

simple point I was making, House Leader.

Mr. HOLNESS: But the point isn't made because so would all the other identified offences. So would all the other identified offences be captured under (h). So we don't…

Mrs. HAY-WEBSTER: No, no, (h) would be the umbrella. (A) just seems like a gathering of words to support (h), but (h) is the closing to tie everything together.

Mr. HOLNESS: Yes. So then, we could argue over (a) or (c) or (d), and capture them under (h).

Opposition MEMBERS: No, no, no!

Mrs. HAY-WEBSTER: No, no, sir. All the others are very clear, (b) is not, (b) is not.

Mr. BUCHANAN: Come on, House Leader.

Mr. GALLIMORE: Why not allow Buchanan to explain? (Laughter)

Dr. DAVIES: Only he can explain so you understand, right? Only he can explain so you understand. (Laughter/applause)

Mr. HOLNESS: Mr. Chairman, we agree to delete (2)(b). We will delete (2)(b).

(*Sotto voce* comments)

The CHAIRMAN: Okay! Okay, Members! (Gavelling) Members, the proposal – and it has been accepted – is to delete (2) (1)(b).

Now, what's the consensus now on the definition of the public function?

Dr. DAVIES: What's that?

The CHAIRMAN: The definition of the proposed amendment - the definition of public func…

The PRIME MINISTER: Mr. Chairman, firstly, we will have to re-number.

The CHAIRMAN: Re-number.

The PRIME MINISTER: But also, the definition of "*appointed day*" would also have to be amended, given the action that we took in relation to 1(2). So I am proposing that the definition of "*appointed day*", we delete the words "or as the case may be, a section of this Act", delete all of what is there between the commas.

The CHAIRMAN: The definition of "appointed day", Members, on page 3, the second paragraph.

The PRIME MINISTER: …means the day upon which this Act comes into operation.

The CHAIRMAN: Is that clear, everyone?

Dr. DAVIES: Well, yeah, it's consistent with the…

The CHAIRMAN: …with the deletion of (2), yes, subsection (2).

Now, just to clarify, Mr. Mullings had raised the elegance of the definition of public function, what's the position on that?

The PRIME MINISTER: Well, is there a proposed amendment?

The CHAIRMAN: I think he wanted to remove, Prime Minister, those six…

The PRIME MINISTER: I am sorry?

The CHAIRMAN: He wanted to remove those six words, "*performed a single time or continually".*

Mr. MULLINGS: We don't need that.

The PRIME MINISTER: Where are we?

The CHAIRMAN: This is in the amendment, Prime Minister, the proposed amendment, Clause 2. He wanted to define:

"*Public function*" means any activity… whether or not payment is received therefor.

The PRIME MINISTER: And what is the amendment proposed?

The CHAIRMAN: No, it's to remove the words "*performed a single time or continually*". Is that correct, Mr. Mullings?

Mr. MULLINGS: That's correct, Mr. Chairman.

The CHAIRMAN: In other words, the proposal is to remove "*performed a single time or continually".*

Mr. HOLNESS: …performed a single time or continually, whether or not payment is received, is therefor…

The CHAIRMAN: You want to remove those six words, "*performed a single time*…"

A MEMBER: Yes, and the comma.

The CHAIRMAN: And the comma. So it would mean then…

The PRIME MINISTER: All right.

The CHAIRMAN:

"*Public function*" means any activity whether or not payment is received therefor.

Is that clear, everyone?

Mr. HOLNESS: Yes.

Mrs. HAY-WEBSTER: No, I am not clear.

The CHAIRMAN: No, look, Sharon, on the amendment.

Mr. HOLNESS: On the amendment itself, not on the law.

The CHAIRMAN: On the amendment, not on the law.

Mr. HOLNESS: Not on the Bill.

The PRIME MINISTER: Accepted.

The CHAIRMAN: On the second and third lines, we remove the words, "*perform a single time or continually*" plus the comma. So it will now read:

"*Public function*" means any activity whether or not payment is received therefor.

Okay.

Mrs. HAY-WEBSTER: Okay.

The CHAIRMAN: Now, Members, firstly, I have to put an amendment to the amendment.

Put to the Committee and agreed to.

The CHAIRMAN: The amendment as amended put to the Committee and agreed to.

I now put Clause 2 as amended.

Dr. GUY: No, Chairman, are you completing Clause 2?

The CHAIRMAN: No, I am still at Clause 2. I am now going to put Clause 2, unless you have another amendment.

Dr. GUY: I do have another concern.

The CHAIRMAN: What is the proposal?

Dr. GUY: Page 7 of the Bill.

"Public Official" means any person holding an executive, legislative, judicial, or administrative office, whether appointed or elected, whether permanent or temporary, or whether paid or unpaid; any other person who performs a public function, any member of the security forces, but does not include a Parliamentarian or a person who holds a judicial office.

That, to my mind, Chairman, is…

The CHAIRMAN: But apparently, those two lines should have been removed.

The PRIME MINISTER: That has to do, I believe, Mr. Chairman, with a provision in the Constitution which specifically states that the term "public official" does not include these categories, but they are captured separately. And that's why you are going to come to a section where it lists – it makes a special reference to the fact that Members of Parliament - I will find it in a minute.

The CHAIRMAN: But my understanding, Prime Minister, is that we don't – because they are included elsewhere, we don't need to put in the 'but' - from 'but' to the semicolon. Is that so?

The PRIME MINISTER: I am sorry?

The CHAIRMAN: We are to remove – so we are to remove – Members, we are to remove the last two lines, starting from '*but*' to the semicolon after '*office*'.

The PRIME MINISTER: You are on the amendment sheet?

The CHAIRMAN: No, apparently that should not have been included.

The PRIME MINISTER: On the Bill? Is that…

The CHAIRMAN: So we are on page 8…

Dr. GUY: Page 7 on to page 8.

(*Sotto voce* comment)

The CHAIRMAN: No, no, no! But what we are deleting are the last two lines of the first paragraph on page 8.

Mr. PICKERSGILL: *…"But does not include".*

The CHAIRMAN: Right. So we are removing – deleting from "*but does*" to semicolon after '*office*', all of that is amended. Is that clear, Members? Mr. Buchanan, are you with us?

"*But does not include*" we start to delete from '*but*' to the semicolon to '*office*' and the semicolon.

Dr. GUY: I also ask that in respect of the Parish Councillors, Prime Minister, in that there is no reference made to them, except in being a member of - elected individuals. So it poses a question or a concern for me that the Members of Parliament and those who hold judicial offices should have been mentioned. But the Chairman has cleared that up, so it's now acceptable to me, that is.

Mr. PICKERSGILL: So then, for the purposes of this Act, you are not a public officer.

The CHAIRMAN: The what? It's included, you know.

Dr. DAVIES: Eh? They are included?

The CHAIRMAN: Yes. If you look at – if you look at in fact, page 4 – no, no, is that 4 – page 7…

Dr. DAVIES: So this was an error?

The CHAIRMAN: No, no, no!

Public official means any person holding an executive, legislative, judicial or administrative office, whether appointed or elected.

Dr. DAVIES: Right.

The CHAIRMAN: So that would embrace Parish Councillors.

Dr. DAVIES: No, but does not include…

Mr. PICKERSGILL: But it says, but does not include.

Dr. DAVIES: What we are taking out…

The CHAIRMAN: We are removing that.

Dr. DAVIES: Yeah. But weare taking it out because it should not have been there or what?

Mr. PICKERSGILL: It should not have been there.

The CHAIRMAN: It should not have been there. It would have been inconsistently put.

The PRIME MINISTER: That was actually taken out in the Senate, but in the reprint it came back in.

But the Member for Central St. Mary is raising an issue that I really – I note, for example, that in the current Corruption Prevention Act, it defines public function to include…

Mr. PICKERSGILL: Public function or public official?

Dr. DAVIES: Public function?

The PRIME MINISTER: It includes – it says here:

> Public function means any activity performed…

And it has this word about a single time or continually.

Dr. DAVIES: A single time or continually, yes.

The PRIME MINISTER: …whether or not payment is received therefor, which is carried out by…

And among the persons or the categories that they identified –

> …a person for, or on behalf of or under the direction of, a Ministry, Department of Government, a statutory body or authority, a Parish Council, the Kingston and St. Andrew Corporation, or a Government company.

I am just trying to figure out whether we drop that out and, therefore, whether Parish Councillors would be excluded from the scope of this. I am not quite clear.

The CHAIRMAN: On page 6, public body, look at the definition on page 6, Prime Minister.

The PRIME MINISTER: Under public body definition?

The CHAIRMAN: Look at Page 6 the definition of a public body, means (b) a parish council, so it includes everything.

Dr. GUY: Does not necessarily Chairman, it makes reference to interaction or transaction with a public body, it doesn't make reference to parish councillors, but it makes reference to the institution. Not the individuals who are representatives at that institution.

The PRIME MINISTER: For, or on behalf of, or under the direction of a public body. Now, if you are acting as a councillor, and the actions that we are talking about would have to be actions that you are carrying out for on behalf of or at the direction of that council. How else would you be carrying out a function?

Mr. HYLTON: Prime Minister, the question I think is pertinent because in other sections we make it very clear that the Parliamentarians, even in the section under public functions that we have read, it speaks specifically to Parliamentarians and yet nowhere in there is the specific reference to councillors and it raises the question then, why this lack of clarity and the difference in treatment?

The PRIME MINISTER: Find out if we will have any difficulty in just adding a member of a parish council or municipal corporation? Alright, might I suggest that

wherever we have reference to Members of Parliament we include as well members of parish councils or municipal authorities.

The CHAIRMAN: Well, could we make a note of that please? We are going to add members of parish council or municipal body. Very well.

We are still at Clause 2. Yes, Reverend Thwaites.

Rev. THWAITES: Chairman Page 9, subsection (2) for the purpose of the definition of public function the term public service includes the provision of electricity, water and communication. What does that communication encompass please, Chairman? Telecommunication, broadcasting on the radio, driving a bus or a truck, letter writing? Tell us.

The PRIME MINISTER: Just to point out, I am trying to get the explanation. But just to point out that currently exists in the Corruption Prevention Act.

Mr. HOLNESS: Member, could you repeat your concern?

Rev. THWAITES: My concern is the vagueness and the breadth of the term communication. What does it encompass?

Mr. BUNTING: But, it would also seem though that many, many private sector companies would be captured and employees of these private sector companies, private power companies for example, JPS, Digicel, LIME, all of them would have to…

Rev. THWAITES: Taxi companies?

Mr. BUNTING: Yes.

Rev. THWAITES: The bus companies, the airlines?

The PRIME MINISTER: What it is in fact seeking to do is to identify the range of functions and services within which corrupt activity can take place, and therefore would be subject to the strictures of the Bill. That is essentially what it is. It is not that it is seeking to make those activities corrupt, but what it is saying is that, if there is corruption in the provision of those services, then that would be subject to the strictures of the Bill here. Remember that this is not just Government, you know, remember that this also deals with - if you look at section 12 also deals with corruption outside of government.

The CHAIRMAN: Okay, so, can I put…

The PRIME MINISTER: I don't know whether - I have been told that it has to do with the - essentially with the provision of telecommunication services; so I don't know, whether or not…

Mr. HOLNESS: Could that help if you say telecommunication services?

Rev. THWAITES: If there was a reference to telecommunication services one would understand.

The PRIME MINISTER: Yes, and I am told by the drafters that they would have no difficulty with amending it to make it specifically telecommunications.

Rev. THWAITES: Thanks.

The CHAIRMAN: Well, could we then - instead of communication we will put telecommunications, is that so Prime Minister?

The PRIME MINISTER: Yes.

The SPEAKER: We put telecommunication instead of communication?

Mr. PICKERSGILL: Telecommunication is broad enough?

Mr. BUNTING: So are we excluding the post office which should be communication but not telecommunication? Wouldn't the post office be a public function?

The CHAIRMAN: We better put telegraphic and telecommunication.

Mr. PICKERSGILL: Communication in all its form, Sir.

The CHAIRMAN: Is concern about the…

(*Sotto voce* comments by Members)

Mr. PICKERSGILL: You know, whenever we complain about this draft thing the Prime Minister gets upset. But it is clear that - Andrew you are going to walk all night? I mean, what happen, you walk like little – little boy you send out with message.

Mr. ROBERTSON: Why are watching the man walking?

Mr. PICKERSGILL: Because of this.

The CHAIRMAN: Is that agreed then Members, include the provisions of electricity, water and telecommunications instead of communication, is that agreed?

Mr. PICKERSGILL: What you put 's' communications?

The CHAIRMAN: We are going to put and telecommunication and post. So remove communication and replace with telecommunication and post.

A MEMBER: Multimodal too.

The CHAIRMAN: Now, if that is agreed - is it post or postal services? Again I understand it is postal services - and postal services, very well.

Mr. PICKERSGILL: Internet and computer in this?

The CHAIRMAN: So, Members, may I put the amendments to Clause 2.

Motion put to the Committee and agreed to.

The amended Clause 2 put to the Committee and agreed.

Clauses 3 and 4 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 5...

Rev. THWAITES: Mr. Chairman, Clause 5 I yield to Mr. Mullings.

The CHAIRMAN: Yes, Mr. Mullings.

Mr. MULLINGS: Clause 5 says conduct may amount to corrupt conduct under this Act, even though it occurred outside of Jamaica and such conduct refers to matters arising outside Jamaica. I stop there before I go on to 'or'.

If an Act breaches the laws of another country, but does not breach the laws of Jamaica, where would Jamaica get the jurisdiction? I can see the other section which says, "or matters arising under the laws of Jamaica". But if a person does something in another State breaching those laws, we have no jurisdiction in Jamaica to enforce the laws of a foreign state.

Mr. BUNTING: No, I don't think that is the intention. I think this is where, for example, a procurement officer went to a foreign country and took a bribe over there, then they would be captured under this clause.

Mr. MULLINGS: No, but that is where 'or' comes in, if you look at the 'or', the other section says, 'matters arising under the laws of Jamaica' and that is not objectionable. Because what the section says, 'conduct may amount to corrupt conduct under this Act', even if it occurred outside Jamaica and such conduct refers to matters arising outside of

Jamaica, or matters arising under the laws of Jamaica, so it is disjunctive. So if you are speaking of matters done elsewhere affecting the laws of Jamaica one can understand because even conspiracy would countenance that. If the section is saying that someone does something which breaches the laws of another country, not affecting anything here, Jamaica would have no jurisdictions to enforce those laws.

Mr. HYLTON: Share the view, Prime Minister. Chairman, I support the view from the Member and my objection, the concern I would raise is on the same basis, in that it would have an extraterritorial application. Either you have in Jamaican law reach another country where the act occurred and violate another country's law, because the 'or' captures the matter quite clearly.

The PRIME MINISTER: I am trying to understand what the difficulty is. Firstly, a corrupt conduct is defined in the Act. So what we are talking about under section 5 would have to fall within that definition of corrupt conduct. And what we are saying is that, even if that corrupt conduct takes place abroad, once that person is somebody who is subject to the provisions of this Act, public official, the fact that as the Member for Central Manchester is saying, the fact that he was transacting the bribe in a hotel room in New York, does not escape the reach of this Bill.

Mr. MULLINGS: No, but what I am saying is that if you look at the section it is disjunctive that would be applicable to matters arising under the laws of Jamaica. So if the person does the bribe abroad for a matter concerning Jamaica it does arise under the laws of Jamaica albeit it is physically located elsewhere. But the first part of the section says, "conduct may amount to corrupt conduct under this Act even though it occurred outside of Jamaica and such conduct refers to matters arising outside Jamaica".

The PRIME MINISTER: Are you suggesting that we should stop it there?

Mr. PICKERSGILL: No, that is not what he is saying.

Mr. MULLINGS: No, what I am saying is, you need not put - so in other words the section should read:-

> "Conduct may amount to corrupt conduct under this Act even though it occurred outside Jamaica and such conduct refers to matters arising under the laws of Jamaica".

Mr. HYLTON: Where the problem lies, to me, is in the recognition that this Act applies not only to the conduct of public officials, that would be the easier one, it's where you have private sector activities that this attempt to bring within the purview of the Act. And I think it will create quite a bit of confusion and concern on the part of private sector actors that have very little connection to Jamaica as at the time on Jamaican laws, as at the time that a particular conduct may be engaged in.

Mr. MULLINGS: My concern isn't in terms of the public function or *vis-à-vis* a private function. If you look at the section, it is disjunctive. It says:

> "Conduct may amount to corrupt conduct under this Act even though it occurred outside Jamaica. And such conduct refers

to matters arising outside Jamaica, or matters arising under the laws of Jamaica."

Mr. BUNTING: So, you would delete those five words, "*outside Jamaica or matters arising"*?

Mr. MULLINGS: No, no, what I would take out, "*such conduct refers to matters arising outside Jamaica*". So, all you need to put "*is conduct may amount to corrupt conduct under this Act, even though it occurred outside Jamaica*", and such conduct refers to matters arising under the laws of Jamaica.

Mr. BUNTING: Right. So, you delete, "*outside Jamaica or matters arising*".

Mr. MULLINGS: That's right, that's right. Because what it is, in fact saying, is that if you do something abroad, a corrupt act abroad, not touching or concerning anything in Jamaica, you are liable. In other words, that's where the extraterritorial reach of the Act comes into play which would be objectionable. But, if I commit a corrupt act abroad, touching and concerning matters in Jamaica, then you are subjected to the jurisdiction of the laws of Jamaica.

(*Sotto voce* comment by Mr. Pickersgill)

Mr. BUNTING: Yes, I think you can go with that. Just take out those five (5) words.

Mr. PICKERSGILL: What about 2? Two says - 2 is probably more explicit. "*Where a citizen of Jamaica engages in corrupt conduct...*" (Inaudible)

The CHAIRMAN: Those five (5) words.

(*Sotto voce* comments)

Mr. HYLTON: This is why the particular area of concern for me is more in the private sector because the public - the person serving a public function and a citizen, those persons would be reached by 2, clearly. It is really where the person - where the private sector person acts that I think poses some problems.

Mr. MULLINGS: And it raises another concern, this is 5(1)(2), the issue of double jeopardy. Say for instance you commit an act in another country, you are tried and you found guilty of that, when you come back to Jamaica you will be tried for that as well. So, the complaint of double jeopardy would also arise.

The CHAIRMAN: Okay, Members, the proposal is the removal of five (5) words. We can start at, "*outside Jamaica or matters arising*" - those five (5) words, "*outside Jamaica or matters arising*".

The PRIME MINISTER: Yes, you are right; you are correct.

The CHAIRMAN: Is that okay where...?

(*Sotto voce* comment)

The CHAIRMAN: So, we delete those five (5) words.

Mr. BUCHANAN: And how will it read now?

The CHAIRMAN: It will now read:

"*and such conduct refers to matters arising under the laws of Jamaica*,"

the rest of the phrase. Okay. So, I put the amendment as proposed.

Mr. BUCHANAN: No, no! What about 2?

Mr. PICKERSGILL: What about 2?

Mr. BUCHANAN: Yes, see where it says… (Inaudible)

The CHAIRMAN: No, that is clear. Two is okay?

Mr. BUCHANAN: No… "*where a citizen of Jamaica engages in corrupt conduct or commits an offence*". I mean, that part...

Mr. MULLINGS: Under Part II in another State.

A MEMBER: Yes.

The SPEAKER: Yes, nothing wrong.

(*Sotto voce* comments)

The PRIME MINISTER: No, no, no!

Mr. HOLNESS: No, no, if you commit an offence which is deemed...

The PRIME MINISTER: The offence that he commits would have to be under this Act.

The CHAIRMAN: Yes.

The PRIME MINISTER: This Act. It is the only thing that would make it an offence for him.

The CHAIRMAN: That's right. If he commits something else…

The PRIME MINISTER: If he does something else where, that must be under somebody else's Act. But if he is committing an offence under this Act...

The CHAIRMAN: It must be under this Act.

The PRIME MINISTER: …even though that offence is committed elsewhere. Otherwise everybody who is going to be involved in corruption, just make sure they have a plane ticket in their hand.

The CHAIRMAN: Is that clear?

So, we put the amendment to Clause 5.

Put to the Committee and agreed to.

The CHAIRMAN: I put Clause 5 as amended.

Put to the Committee and agreed to.

The CHAIRMAN: I put Clause 6...

Mr. BUNTING: Hold on, Mr. Chairman.

The CHAIRMAN: Clause 6.

Mr. BUNTING: The issue here that we are coming across with the conflict between the Independent Commission of Investigations and the DPP, is this sufficient to avoid it also occurring in the case of the Special Prosecutor? I seem to recall there was an addition that Mr. Edwards was proposing to deal with that. Was it this...? Well, could you explain, how do we avoid getting into the same situation that we recently saw manifested with INDECOM, where there is this conflict between the DPP and the other prosecutor… (Inaudible)

The CHAIRMAN: If you look at Section 30...

The PRIME MINISTER: Section what?

The CHAIRMAN: Thirty… Page 23, everything is subject to the DPP.

(*Sotto voce* comment by Mr. Pickersgill)

A MEMBER: Section what?

The CHAIRMAN: Section 30 on Page 23.

Rev. THWAITES: So, this prosecutor then cannot initiate proceedings?

Mr. PICKERSGILL: Yes.

The PRIME MINISTER: Of course.

The CHAIRMAN: Yes.

The PRIME MINISTER: Of course. But what it means is that at any time...

The CHAIRMAN: The DPP can intervene.

The PRIME MINISTER: …the DPP

can intervene by taking over, discontinuing. The Director of Public Prosecutions would have that overarching authority.

Rev. THWAITES: That we understand, Chairman, but there is the other question. While that is generally understood as in the INDECOM/DPP issue, the question is the need for clarity as to who may initiate. As to who can discontinue take over is not in doubt, the question is the right of initiation.

The PRIME MINISTER: And the right of initiation is vested in the Special Prosecutor. Indeed - I can't remember the exact section, but the Constitution expressly provides that persons other than the DPP can initiate prosecutions. And it goes on to say:

"*But the DPP always has the authority to intervene, to take over, to discontinue."*

So, that is something that was envisaged in the Constitution.

(*Sotto voce* comments)

Rev. THWAITES: I really would appreciate if the Prime Minister could direct me to that section of the Constitution.

The CHAIRMAN: No, but any private citizen can initiate…

Mr. HYLTON: But with the DPP's…

(*Sotto voce* comment)

The CHAIRMAN: Yes, yes, any private citizen.

Mr. HYLTON: That's a *fiat*.

The CHAIRMAN: They may eventually get a *fiat.*

(*Sotto voce* comment by Mrs. Hay-Webster)

The CHAIRMAN: Can initiate a private - and ask for a *fiat* from the DPP.

Mr. BUNTING: We had a very untidy situation, you know, and… what in here is going to avoid what happened with INDECOM happening again with the Special Prosecutor?

Mr. PICKERSGILL: Based on this, it can't be avoided because... (Inaudible)

(*Sotto voce* comments)

The PRIME MINISTER: It is Section 94...

The CHAIRMAN: Ninety-four.

The PRIME MINISTER: …subsection (5). And it contains the proviso that says:

"Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by, or at the instance of that person or authority, and with the leave of the Court."

And what this is clearly saying is that the DPP is not the only source of criminal…of the initiation of criminal proceedings, but has ultimate - can exercise ultimate control.

The CHAIRMAN: In fact, subsection (94)(3)(b) also, Prime Minister, makes that point:

"to take over and continue any such criminal proceedings that may have been instituted by any other person or authority."

Okay. Mr. Bunting, can we move on then?

The PRIME MINISTER: Can we also just look very quickly at the amendment sheet and look at what is proposed as an amendment for 43 which addresses this point as well - to insert immediately after the words, "*public interest*", the words, "*and*

subject to the powers conferred upon the Director of Public Prosecutions by Section 94". And this is...

The CHAIRMAN: This is the proposal...

The PRIME MINISTER: …the proposed amendment to 43. And what we were tending to do there is to say two things. One is to re-assert the ultimate authority of the DPP, but to also make it clear that the Special Prosecutor shall be subject to the direction and control of no other person other than the DPP. The DPP is the only person who would be able to exert any direction or control over the Special Prosecutor.

The CHAIRMAN: Okay so, can I put Clause 6.

Put to the Committee and agreed to.

Clauses 7 and 8 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 9.

The PRIME MINISTER: Clause 9, now, Mr. Chairman, the Member for Central Kingston had raised a concern about 2(a). And we accepted that, and we are proposing the deletion of 2(a), and consequentially, paragraph (b) would no - what is there as (b) would no longer exist, what follows (b) would actually just flow into the rest of it.

The CHAIRMAN: Subsection (1).

The PRIME MINISTER: Yes.

The CHAIRMAN: I put the amendment to Clause 9.

Put to the Committee and agreed to.

The CHAIRMAN: I put Clause 9 as amended.

Put to the Committee and agreed to.

Clause 10 put to the Committee and agreed to.

The CHAIRMAN: I put Clause 11.

Dr. GUY: Chairman, Chairman... I just have a little difficulty with this particular part. Whereas I understand and appreciate that there are some jurisdiction that allow their foreign - or their workers who work in international organizations to accept influence, for want of a better word, I have a little difficulty with 11(a), giving an individual a defence that:

> "*it is permissible under the laws of the foreign state or laws governing the public international organization for which the foreign public office shall perform functions."*

I don't know if my concern is shared by anyone else, but I have a little difficulty with accepting this particular bit of it.

The CHAIRMAN: I mean, what's the...

Dr. GUY: My point, Chairman, is that if you have done as 10 says:

> "*A person shall not directly or indirectly promise, offer, or give to a foreign public official, or an official of a public international organization any undue advantage in offer for the official performs - for that official to perform, or refrain from performing his official duties."*

And the person who contravenes that section commits an offence and is liable. And then you have a defence given to that person under 11(a).

Mr. HYLTON: I will just say that I have no difficulty with it as is. Because, if you are going to apply the provisions in 5, which reach into activities in taking place in

foreign space, in a competitive environment, I think you will be putting Jamaicans and Jamaican entity at a disadvantage, if in fact that is permissible in that foreign State. And so, I have no difficulty with the provision as is, and in fact, supports it.

The CHAIRMAN: Suppose, Dr. Guy, you - let us say a country would like you to vote for them, and they would pay your fare to attend an international organization, you think that would be corruption? I mean, in other words, let us...

(*Sotto voce* comment)

No, no! Let us assume that Jamaica cannot afford to go to a conference, and another State who is seeking election to, you know, a higher - to a committee is prepared to pay the fare for the Jamaican officials, would that be - would it be an offence?

Rev. THWAITES: Chairman, what is the consequence of importing into a Jamaican statute a standard of conduct which, under domestic law, would be repugnant?

The PRIME MINISTER: What I am being told - and I believe that this is related to what the Member for Western St. Andrew is saying - is that this is a standard provision that is required by certain diplomatic conventions or practices. I am trying hard myself, to see if I can conjure up a situation where it would apply. But, I am told that this is - we didn't coin these words. This is a fairly standard provision in legislation like this.

Mr. HYLTON: At least in recognition that you really – you really are living in a very competitive world. We may have certain standards here in Jamaica that bind the conduct here Jamaica. But if you go to compete abroad – and again, bearing in mind that this covers the action of the private sector, it is not just public bodies. So, I think that by reaching the actions in the foreign State, that is an extra - it really is a – it goes beyond the territorial scope, and we are agreeing to that, but I think there also has to be some recognition that there are activities in that environment in which you have to compete. So, I think it is a competitive – it is a pro-competitive provision that recognizes that our conduct, and our - the standard that we set, is not always upheld globally in all enormous spaces.

The CHAIRMAN: Let's face it Members. There are foreign organizations and foreign bodies who may well pay your fare because that organization or body, would like to say that 20 or 50 countries attended, to support whatever function they are putting on, and then want to be able to say to...

Dr. GUY: It is the other way around, you know, Chairman. It is the other way round. Take it say Jamaica is doing that now; coin the example in that context.

The CHAIRMAN: And let us say Jamaica is putting it on...

A MEMBER: Go ahead.

The CHAIRMAN: …and you are inviting say, all the Speakers from the Caribbean, and from small States to put in a - and in order to get that we need, for instance, to be able to say to X charitable organization, we need so much money to put it on.

Mr. HYLTON: I'll give you a quick example. I give you a concrete example. Every year in the Whaling Commission, there is a particular country, whose name I shall not

call, but they have a particular interest in getting the support of the small States of the OECS and the country.

(*Sotto voce* comments)

Mr. HYLTON: And they will pay their fare and everything else…

The CHAIRMAN: That's right.

Mr. HYLTON: …so that they can procure the votes at that time.

The CHAIRMAN: That's correct.

Mr. HYLTON: And so… and that could apply in other situations. And I think we have to be very careful about convention - certain conventions and practices that are upheld. Even as we break new ground, I think we have to be cognizant of certain conventions and practices that may be different from ours, but have to take account of it.

Rev. THWAITES: Chairman, would you attend to the question I asked? Philosophically, what is the basis of excusing and permitting explicitly, a standard of conduct outside of the country that you would not permit locally when you have particularly proscribed in Section 5, a Jamaican citizen, a Jamaican public official doing this?

The PRIME MINISTER: What the Member is saying, Mr. Chairman, carries great weight with me. I think there is an inherent contradiction.

A MEMBER: Yes.

The PRIME MINISTER: And what I am asking is whether or not there is any violence that we would do if we take out…

(*Sotto voce* comment)

The PRIME MINISTER: I am being told, yes, it would.

Mr. HYLTON: It would put certain activities... (Inaudible) …disadvantage.

The PRIME MINISTER: I am being told it would affect our diplomacy.

Dr. DAVIES: Certain levels of international bribery accepted.

(Laughter)

The PRIME MINISTER: Such cynicism has no place after 8:00 o'clock in the evenings.

(*Sotto voce* comments)

The PRIME MINISTER: I would feel more comfortable if we were able to leave it out, but I am told that we ought not to do so. I am told that it has strong and powerful antecedents, and that it is...

The CHAIRMAN: Well, can we then - with the concerns nevertheless, can we put Clause 11?

Rev. THWAITES: How can we do that sir, we are passing law?

The CHAIRMAN: No, but…

Mr. BUNTING: What we are saying is that foreign public officials can be as corrupt as they like in Jamaica and we can do nothing about it?

Mr. HOLNESS: No, it clearly is not saying that. I mean, clearly, the section contemplates that there is a jurisdiction with standards, or there is an international body with standards. Now, unless you are saying that the international body - and for our concerns now, this would be with our diplomatic relationships - that they would permit corruption in their law.

(*Sotto voce* comments by Mrs. Hay-Webster)

Mr. HOLNESS: I mean, unless - no, no, it is not international, that's the definition of

private - private sector. That's the private sector.

Dr. GUY: Chairman, I think a better example would be say, for example, a particular ambassador is stationed here in Jamaica, and we know that his government is desirous of giving us something… to Jamaica. And we hasten that process by bribing him, for him to do - him or her to do or to accelerate the process to ensure that Jamaica gets that assistance, whatever he gets. The fact is, are we saying that that is allowable if his State considers it legal?

Mr. MULLINGS: But it is philosophically unsound. I agree with the Member. What are saying essentially is that our laws are low on the *totem* pole for that of a foreign State. If you come to Jamaica and breach Jamaican laws then you must be held accountable. In other sections we have been at pains, almost, to have persons who are Jamaicans, who commit acts abroad - we almost did that with nothing touching Jamaica - nothing concerning Jamaica, and prepared to throw them in jail. Now, we are seeing a defence being accorded to foreign officials who come here, and their defence is, it is all right because in my country it is not a problem, but you breach the laws here. It can't be. It is untenable. It is not sound in principle, nor philosophically could one support that. And what we are doing in the House - we would be doing unwittingly, I believe, that we would therefore be suppressing our own laws, and the efficacy of what we are passing here. We can't, as legislators, do that.

Mr. HYLTON: Colleagues, I want to suggest that this world is not as simple as we would want it to be, nor is it as we would like it to be. It is what it is. And I believe that in the conduct of your diplomacy, and in interaction with international organizations, there are things that you don't necessarily agree with, but you have to countenance and at least recognize.

The PRIME MINISTER: Might I suggest that we defer this clause. The people from the Chief Parliamentary Counsel office would like to have a look at the UN Corruption Convention to see what guidance that may provide. So, we will return to it.

The CHAIRMAN: That's Clause 11, so should we leave it?

The PRIME MINISTER: We defer Clause 11, yes.

The CHAIRMAN: Defer Clause 11?

The PRIME MINISTER: Yes.

The CHAIRMAN: Okay, I put Clause 12.

Rev. THWAITES: Chairman…

The PRIME MINISTER: Chairman, sorry, sorry, can I just ask, Mr. Chairman, if you could just recommit - well, we didn't pass it. Clause 11, there is some language problems. If you look at what is in (a) and what is in (b), the subject seems to be a little mixed up. I think we need to, perhaps, pull out two words and put them in the main section, rather than in the subparagraphs. And then in Clause 12, the words in (b), the words, "*in order that the person who directs*", I believe, ought to be taken out and put back into the margin.

Dr. DAVIES: Is 12 meaning that the Special Prosecutor has jurisdiction over

private sector corruption?

The PRIME MINISTER: I am sorry?

Dr. DAVIES: Does it mean that the Special Prosecutor will have jurisdiction over private sector corruption?

The PRIME MINISTER: Yes, yes.

Mr. HOLNESS: Well, as long as it relates to a public matter.

MEMBERS: No, no!

Rev. THWAITES: No, no, everything.

The PRIME MINISTER: No, no! I raised that very same question and I was told yes. And I was told that this was insisted upon by - it's a requirement of one of the Conventions that we are a signatory to - just getting some information, which one is it? I know it is a requirement of one of the Conventions.

(Consultation)

Dr. DAVIES: It is a good thing to say corruption is corruption, but will this office be able to deal with, not just the public sector, but also to be out there looking at private sector?

The PRIME MINISTER: Well, I imagine you can focus... Yes, I am told it is the same UN Convention.

Dr. DAVIES: Well I don't like creating… well, it would be interesting to see what the staffing which would be required to look at…

Mr. HOLNESS: But, are you concerned that it embraces all transactions?

Dr. DAVIES: Well, I would have assumed that it would deal with issues involving the public sector and if someone who bribes a public official, then you could - and that's taken care of, but I didn't realize it was seeking to...

Mr. HOLNESS: But, you know, I don't see how it could make sense in any event, private transactions.

Dr. DAVIES: How it could make sense?

Mr. BUNTING: Yeah, man, an employee of a corporate entity can do corrupt acts for their own benefit. But, I think the difference between the public and the private sector is that there is no reporting requirement for private sector persons.

(*Sotto voce* comment by Mr. Holness)

Dr. DAVIES: Right.

Mr. BUNTING: But, there is no reporting requirement, so the only way it would arise is if it was referred by the police, or some other investigative body.

(*Sotto voce* comment by Mr. Holness)

Dr. DAVIES: Consider this, suppose company X is…

Mr. BUNTING: Well, this is defined more widely than fraud.

Dr. DAVIES: …well, is doing a housing scheme, invites bids, and the person…

Mr. BUNTING: Rig the bids.

Dr. DAVIES: Yes, rig the bid. Is it that the Special Prosecutor could have an interest in that?

The PRIME MINISTER: Let me give you an example that was used. Let us say that a private company is carrying out a project - they are building a new headquarters; somebody goes to the contractor and say, now, look if you take the marl from my marl pit, I will cut you back so much. It doesn't affect Government, and yet it affects the public good, because it means that somebody is paying more. The intention is that that would also be subject to investigation and prosecution by the Special Prosecutor. The

Special Prosecutor would, of course - I mean, the Special Prosecutor can, of course, determine where they put their priorities and where they put their focus, but it would be caught within that.

Mr. MULLINGS: The Memorandum of Objects and Reasons states that the first paragraph says:

> "*Recognizing the corrosive effect of corrupt conduct and the maintenance of public confidence in the transparent and fair operation in the services, both in the private and public sectors. The Government has identified the eradication of corrupt conduct as one of its most urgent priorities."*

So, it seems that the theme of the legislation does countenance the prosecution of corrupt conduct, both in the public and private sectors.

Rev. THWAITES: May I point out an incongruent though, Chairman. The breadth of Section 12 and the encompassing of corruption in any sector of the society by a public—

(Inaudible comment by Dr. Davies)

Rev. THWAITES: No public or private. I'm adverting back to Clause 2 which in Section, which in the amendments proposed in subsection (c), describes a member of the– "*public function being carried out by a Member of the House of Representatives, or of the Senate, or a holder of a judicial office, in that capacity*".

Obviously, you could take out in that capacity because whether he or she is acting as in the capacity as the public official or in your private business you're subject to the same standard. Is that what you really want?

(The Chairman vacates his seat and the Deputy Chairman presides at 8:32 o'clock)

Dr. DAVIES: Restricting the range of activities of this office beyond what it could possibly do.

Mr. HOLNESS: You see my view on it is that corruption is defined on the public good. And I'm not certain whether or not private actions would impinge on the public good.

Dr. DAVIES: That's what they call sharp business practices.

Mr. HOLNESS: Precisely, you could probably be limiting, you know, I'm very cautious about how far - I can see where business practices such as, unfair information, unfair disclosure of information those things need to be regulated when they affect the operations of markets generally. But in the natural course of business, in competitive business, you could stymie business activity.

Dr. DAVIES: Now, specifically you're proposing elimination of 12?

Mr. HOLNESS: Well, that - you see in my mind there are other pieces of legislation which capture activities which affect the operations of markets, particularly capital markets in general. There's legislation for fraud already and at common law for -

Dr. DAVIES: I'd like to pursue that because it would seem to me what we may be saying is that some things which are - would be defined as corrupt in the public sector would be seen as good business practice in the private -

Mr. HOLNESS: No. no! That's not what I am saying.

Dr. DAVIES: No, no, I'm not disagreeing with you. But I'm just saying if in the private sector fren and fren, a person makes a decision to help a brethren -

The PRIME MINISTER: Yes, I think what the Minister is saying is that we have a responsibility to protect the public…

Dr. DAVIES: Purse.

The PRIME MINISTER: ... purse, right. We are their custodians, I mean we are their watchdogs so to speak, and we have to do that. We don't really have a business to go and protect shareholders. Shareholders must make their own arrangements to do that. I think that's what he's saying because in doing that you may now criminalize things that the private sector doesn't have a problem with. I mean that may be what they consider to be, you know.

Mr. HOLNESS: There's no loss of public good there for them. It's a private benefit and a -

Dr. DAVIES: Good. So you're proposing taking out 12, then? Yes? It must be that you're proposing taking out 12.

Mr. MULLINGS: One has to be careful how we approach it because a public official may very well assert that I'm entitled to equal treatment before the law under the Constitution.

(Laughter)

Dr. DAVIES: Now under the terms of your employment. You're, you're—yes.

(Laughter)

Mr. HOLNESS: Well, I wouldn't suggest taking out 12 in its entirety. Clearly, where the private official proffers a bribe or encourages a corrupt act certainly that person should be caught.

Dr. DAVIES: No, that's covered before. That's covered under - it's covered somewhere else where a member of the private sector bribes a public -

The PRIME MINISTER: Where they're providing a public service.

Dr. DAVIES: Yes, but this one, 12, is wide ranging.

Mr. HOLNESS: This one is very broad.

(*Sotto voce* comment by Member)

Mr. HYLTON: How would this activity affect lobbying efforts? I mean.

Dr. DAVIES: Not a good word, but.

Mr. HYLTON: Yes, lobbying efforts, in the context of say - even in the contemplation of our current campaign finance laws, we're not envisaging that the private sector cannot participate and cannot make contributions. Now, clearly there has to be, there's a between these link contributions and at least I would expect fair, free speech. They're lobbying their right to lobbying for the passage certain laws, legislation or policy. It doesn't have to be contracts. I think it's far more pernicious with policy and what private sector is arguing.

Mr. HOLNESS: You know I find it would be far more difficult to police this law, it's not - on second reading of it it's not practical.

(Inaudible comment by Dr. Davies)

The PRIME MINISTER: I'm just wondering if we do any damage by taking it out…

A MEMBER: I think you should.

The PRIME MINISTER: …because there are things we would say would be wrong in government that I'm not sure—within the private sector West Indies is playing England…

Mr. BUCHANAN: Get somebody we can play.

(Laughter)

The PRIME MINISTER: ... and a private sector man., and a private sector company wishing to get some deal is prepared to say to another private sector company….

Mr. HOLNESS: We'll pay you more.

The PRIME MINISTER: …I'll give you to tickets to go up to watch the match. The question is should we get involved in that or should we leave that to them, you know, let them sort out that in their own marketplace?

Dr. DAVIES: So when the private sector says you run government like the private sector.

(Laughter)

The PRIME MINISTER: Yeah. No, I'm just wondering, wondering seriously.

Mr. BUNTING: But Prime Minister, I think if we read it carefully…

Dr. DAVIES: Yes.

Mr. BUNTING: …I think - well certainly (b) it speaks in order that the person who directs or who works for the member breaches his function.

A MEMBER: Right.

Mr. BUNTING: So I don't think in that case that person would be breaching that function.

The PRIME MINISTER: No, I was on 12, you know. I was on 12.

Dr. DAVIES: He's also on 12 too.

Mr. BUNTING: 12(b) I'm speaking to.

The PRIME MINISTER: Oh!

Dr. DAVIES: Yes.

Mr. BUNTING: 12(b), if you read, solicit, or accept any undue advantage, *et cetera*, in order that the person who directs or works for the member breaches his function.

Dr. DAVIES: Right.

Mr. BUNTING: You see, so in that case that you spoke to, you know, giving tickets or something that would be part of that salesman or part of marketing person's function, because they would be dealing with somebody who is going to be a customer, for example, of theirs. This is where, I think, the person breaches his function to the organization.

Mr. HOLNESS: Yes, but we have to be very careful on our role as government. And I think, you know look, what this law is saying is that if two parties are in a business transaction, and a third party comes and makes a higher offer for a change in the business decision, that's a criminal offence.

The PRIME MINISTER: Well, no criminal offence. It's a question of when you say to a man look, you know, a brand new BMV if you shift me the business.

Mr. HOLNESS: But, but...

The PRIME MINISTER: And the question is, should we bring that under what we are imposing for public sect since we are, in fact, the shareholder's representatives…

Mr. BUNTING: No, but.

The PRIME MINISTER: Or should we leave private shareholders to make their own?

Mr. HOLNESS: Precisely, precisely.

(Inaudible comment)

Mr. BUNTING: No, but Prime Minister, what this clause is doing is making it an offence. Now that doesn't say the private sector can't have their machinery to audit, and catch, and investigate and comment, initiate the prosecution of it; this is just making it an offence.

(The Chairman returns to the Chair at 8:39 p.m.)

Dr. DAVIES: Yeah, but why put it to here if it is for the Special Prosecutor? This suggests that's what he's going to be doing,

Mr. BUNTING: No, but he could prosecute it if the police brought it to him.

Dr. CHANG: I think (a) is what's too broad in this. This (a) covers almost anything. Section 12(a).

The PRIME MINISTER: The what?

Dr. CHANG: Section 12(a) covers everything, but it's really that if I'm negotiating a contract to build to my house, and somebody else well, the guy charged too much, the other guy would do it for less, is almost - can charge me for breaching.

Mr. BUNTING: This is not between private sector entities, you know…

Dr. CHANG: We need to be tolerable.

Mr. BUNTING: …this is between an employee and the employer.

Dr. CHANG: Yeah.

Mr. BUNTING: So the employee would have a fiduciary responsibility to the employer.

Dr. CHANG: (b) has a responsibility because if you go into a bank and the bank manager -

Mr. BUNTING: And it's in (a) as well because (a) refers to any person who directs or works for a member of private sector. So it's talking about the employee.

Dr. CHANG: Employee relationship.

Mr. BUNTING: Exactly, the employee/employer and creating that offence.

Dr. CHANG: Because -

Mr. BUNTING: Just as if when a public official does it in the public sector, it creates an offence.

Dr DAVIES: You think you can monitor that?

Mr. BUNTING: No**,** but what I'm saying this is not putting an obligation on the Special Prosecutor to monitor it because they don't have any report obligations as do the public sector, it is just creating an offence. Because this –

The PRIME MINISTER: Which means that this is an offence that the police can investigate…

Mr. BUNTING: Exactly!

The PRIME MINISTER: ….the Fraud Squad, you know, and the DPP.

Mr. BUNTING: Can prosecute or the Special Prosecutor could prosecute if the police investigated and referred to them.

Dr DAVIES: Andrew is suggesting that is not something which is our business.

Mr. BUNTING: Why not?

Dr. CHANG: It would appear then like a senior partner in an accounting firm instructing the junior partner to do something to fudge the accounts so to speak, that's what they would be investigating as opposed to.

Mr. MULLINGS: But with respect, this legislation…

Dr. DAVIES: Yes.

Mr. MULLINGS: …this legislation is seeking to ground jurisdiction in the Special Prosecutor. So is not just that you create an offence and it is applicable or not. This is the legislation. This is where the rubber hits the road. So if you're putting here as an offence what you're doing is grounding the jurisdiction in the Special Prosecutor to go through.

Dr. DAVIES: Is the translation of all of that named in the terms of reference.

Mr. BUNTING: And it doesn't necessarily mean he has to go out there and find it.

Mr. HYLTON: But Peter, Peter!

Dr. DAVIES: I agree with you.

Mr. BUNTING: If it's an offence which he can prosecute but the firm has its auditor, has its — whatever system that it has to engage that.

Mr. MULLINGS: True!

Mr. BUNTING: Identify it call in the police, the police would then refer it to the Special Prosecutor.

Mr. MULLINGS: True.

Mr. BUNTING: If it is a corruption offence.

Mr. MULLINGS: True.

(Inaudible comment by Member)

Mr. BUNTING: And if we start saying because it's private sector we taking out then let's go back to public function because a whole heap of what we've now gone and defined as public function overlaps with private sector entities.

Mr. HOLNESS: I don't understand— I'm not understanding that point, Member.

(Inaudible comment by Member)

Mr. BUNTING: It's not removed from police jurisdiction. It's creating the offence, the police could still do the investigation and if they determine that they're going to prosecute…

Mr. HOLNESS: Oh, you've moved off the -

Mr. BUNTING: …then they could refer it to the Special Prosecutor.

Dr. DAVIES: Andrew is raising a more fundamental question; should it be a crime?

Mr. HYLTON: Prime Minister, Prime Minister.

Dr. DAVIES: Is that your question, should it be a crime?

Mr. HYLTON: Prime Minister, Prime Minister. I have a concern that we are creating a tremendous of amount of risk here because I hear Mr. Bunting's point about merely creating an offence, but that is not how the private sector analyzes these things. They look at it in terms of what are the risks that we're creating and have created for them. And I think we really to be careful with this thing when comes it on to the private sector. I mean I think we can affect investment and investor, and how an investor views these things.

And I just say my own experience is that before an investor come into the jurisdiction he asks, this has happened in my own case, he asks a law firm to look at a raft of things and among these things when they see these things which are virtual traps that you're setting for them, they just gaan bout their

business. So I just think we need to be very careful how we start to interfere. And I see the objective and I don't believe that they can be excluded simpliciter, but I think we have to be careful about the extent to which we go. And there's a balance here that we are going to have to strike that I—from the language I'm reading here and further on, I'm not clear that we've struck that balance. I don't think we strike that balance at all and create all kinds of risks.

The PRIME MINISTER: I don't have the comfort level that would want me to proceed with it. I'd prefer we leave it out.

The question that... We do have commitments under the UN Convention to deal with corruption in the private sector, but those are broad things. I mean, some of them we've done already in terms of financial legislation that has been passed and so on. I think that this leaves itself too much open to all sorts of different interpretations and applications that may straight jacket the doing of business. We are seeking to reduce bureaucracy not to create new areas of activity that they are now going to have to, you know, sort of start watching and so on.

Mr. BUNTING: The offence of corruption then will only relate to public officials or private members bribing or receiving bribes from public officials.

Mr. HOLNESS: We could very well consider changing 12 such that if the action of the private person amounts to affecting the public good.

Dr. DAVIES: That's done already.

The PRIME MINISTER: We have that covered already.

Mr. HOLNESS: No, not necessarily. No, let's just be clear. In other words, let...You see...

(Inaudible comments)

Dr. DAVIES: Go ahead.

Mr. HOLNESS: We don't, for example, have anti-trust legislation in Jamaica where a private sector person could take an action in his private interest that affects the public good. He could do something that is corrupt that affects the public good. If we could conceive of a clause that would capture that, then...

Dr. DAVIES: But that's not 12.

Mr. WITTER: Why don't you take...? (Inaudible)

Dr. DAVIES: That's not 12.

Mr. HOLNESS: You see, once you have something that interfaces...Right now 9(2).

Mr. BUNTING: I think I could accept what Horace says as a...Let's perhaps just take out (a) make 12 just include (b), and it's more straightforward.

The PRIME MINISTER: Take out (a)?

Mr. BUNTING: Yeah, because (b) is more straightforward.

(Inaudible comments by Dr. Chang)

Mr. MULLINGS: Sorry, where are we?

Dr. DAVIES: We have two separate issues. One is what should be (a) as corruption. The other one is a - this is Mr. Mullings' question...This is Mr. Mullings' question...

The PRIME MINISTER: All right, then I believe...you know..Sorry, sorry. Go ahead.

Dr. DAVIES: ...whether this is...

Dr. CHANG: Law...

Dr. DAVIES: Yes.

Dr. CHANG: Well, I won't...you are the lawyer.

Dr. DAVIES: So there are two issues.

A MEMBER: I think we should take (b).

A MEMBER: It's straightforward.

The PRIME MINISTER: Can I just read for guidance the Convention, Article 21?

Dr. DAVIES: Yes.

The PRIME MINISTER:

"*Each State party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally in the course of economic, financial or commercial activities (a) - And this is the almost exact wording we have here. The promise offering or giving directly or indirectly of an undue advantage to any person who directs or works in any capacity for a private sector entity for the person himself or herself or for another person in order that he or she in breach of his or her duties act or refrain from acting, and (b) the solicitation, acceptance..."*

A MEMBER: Both of them have to be there.

(*Sotto voce* comments)

The PRIME MINISTER:...

"*directly or indirectly of an undue advantage by any person who directs or works in any capacity for a private sector entity for the person himself or herself or for another person..."*

Language is so unwieldily –

"...in order that he or she in breach of his or her duties act or refrain from acting".

And so what they were really seeking to do here is to capture the essence of the Treaty obligation that we have here in terms of - as to whether or not the simplification that the Member for Central Manchester is proposing would adequately... I think what we're trying to do is to avoid questions being asked as to why is it that you disturb Parliament to enact legislation and did not properly...

Mr. BUNTING: Yeah.

The PRIME MINISTER: ...discharge or your obligation.

Mr. BUNTING: But the way you described (a), our (a) stops short. The final sentence of (a) was clarifying to me, hearing you read it there. So I wonder if we could add something there...

Dr. CHANG: Yes, that sounds like (b).

Mr. BUNTING: Yeah, it was similar to (b), it went on...

(*Sotto voce* comments by Mr. Holness)

The PRIME MINISTER: Yeah, I know that, I know that.

Dr. DAVIES: Well, I have another problem. The different bodies already have difficulties even processing the submissions given to them. And we are saying the Special Prosecutor will be able to do that plus...?

The PRIME MINISTER: No, I think that's the mistake you're making.

Dr. DAVIES: What's that?

The PRIME MINISTER: No, I think that's the mistake you're making. It doesn't mean that this is for the remit of the Special Prosecutor. It creates an offence...

Dr. CHANG: Which the police can pursue.

The PRIME MINISTER: Eh?

Dr. CHANG: Which the police can pursue with the DPP.

The PRIME MINISTER: Yes, yes, yes. It creates an offence. I mean, I imagine that the Special Prosecutor...

Dr. CHANG: It's not confined to the Special Prosecutor.

The PRIME MINISTER: It's not confined to the Special Prosecutor, no. And this is why...

Dr. DAVIES: Who would do it?

The PRIME MINISTER: And this is why there is this clear separation in the Bill itself between the Special Prosecutor and the Director of Investigations. It is not locking... It's creating a power, prosecutorial authority. But it is creating offences that are offences that any...

Mr. BUNTING: Anybody can prosecute.

The PRIME MINISTER: Yeah, anybody can investigate and prosecute. The police can do it.

Dr. DAVIES: And perhaps no one would.

Mr. BUNTING: They wouldn't have that...

(Inaudible)

Dr. DAVIES: Well.

The PRIME MINISTER: Can we get some assistance here, Mr. Speaker, ah beg of you. Looks like everybody gone on leave. (An Orderly attends to the Prime Minister) Can you pass this to Mr. Bunting. Have a look at it and see if there's a way that we can get a formulation.

Dr. BAUGH: Can I suggest we can't take out (a) and leave (b)...

The PRIME MINISTER: What's that?

Dr. BAUGH: We cannot remove (a) and leave (b). I think I've heard that proposal being made...

Dr. DAVIES: Is there any...

Dr. BAUGH: ...because (a) directs the action to the person who promises, offers or gives, whereas (b) directs the action to the person who solicits and accepts and receives. So the both actions, the giving...

Dr. DAVIES: Is there any country which has this law in place which is being used, this legislation?

Dr. BAUGH: I can't answer that specifically.

Dr. DAVIES: No, I know...Well, I understand that, but I'm just wondering how you draw the line between, you know, companies lobbying, making...

Dr. CHANG: Promotion.

Dr. DAVIES: Yes, promotion...

Dr. CHANG: ...of his medical practice...

Mr. MULLINGS: But section 12 doesn't purport to draw a line. Section 12 is specifically creating offences for the private sector.

Dr. DAVIES: Yes...

Mr. MULLINGS: Because it is saying that offences relating to undue advantage in the private sector, fullstop. So it is not shy of indicating that they are directing it to the private sector.

Dr. DAVIES: No, I accept that. But I am just really wondering...Would you love those cases to defend, not to prosecute...?

Mr. MULLINGS: Well, I won't mind.

Dr. DAVIES: Yes. (Laughing)

Mr. BUNTING: Can I suggest, at (a), just before the semicolon, between the private sector and the semicolon, if we added the words: '*in order that he or she in breach of his or duties act or refrain from acting'*...which is just using the final sentence of (a).

A MEMBER: Yeah.

The PRIME MINISTER: So, you'd still leave out (a), would you?

Dr. DAVIES: No, he's expanding it.

Opposition MEMBER: He's expanding it.

Mr. BUNTING: No, I'm just saying clarification, in trying to improve the definition of (a) where it has promise of or give any undue advantage to any person who directs or works in any capacity for a member of the private sector in order that he or she in breach of his or her duties act or refrain from acting.

Dr. DAVIES: Legal draftsman...

(Teasing Mr. Bunting)

(Inaudible comments by Dr. Chang and Dr. Davies)

Dr. DAVIES: No, I think we have to resolve two issues. One, is that, are we including it?

(Inaudible comments by Mr. Mullings)

The PRIME MINISTER: What are they saying?

Mr. BUNTING: In breach of his or her duties…

(Consultations and inaudible comments by Members)

(Mr. Thwaites hands Doctor Davies a note)

Dr. DAVIES: Well, Prime Minister, as we reflect on this, can we really finish this tonight?

(*Sotto voce* comments between the Prime Minister and Mr. Holness)

Mr. HYLTON: Good question.

Dr. DAVIES: That's a sort a bribery.

(Inaudible comments by Dr. Chang)

Mr. HYLTON: I think we have to work through some conceptual clarity. It's not present here tonight.

The PRIME MINISTER: Well, you better propose it.

Mr. HOLNESS: Mr. Chairman, in light of the time - I think we have been making progress...

(Laughter and inaudible comments)

I think, Mr. Chairman..

(*Sotto voce* comments)

Yes. Mr. Chairman, I think we would have to just report progress and we would resume our sittings next Tuesday.

(Inaudible comments)

The PRIME MINISTER: Might I suggest though, Mr. Chairman, the comments that were...

(Interruptions by Members)

The CHAIRMAN: (Gavelling) Members, as we wrap up the committee's meeting could we just... Please. Prime Minister.

The PRIME MINISTER: The comments that were made during the debate and the contributions, suggestions, concerns that were expressed, helped to inform the

amendments. It would be useful if we are going to... It doesn't appear that we are going to be able to conclude it this evening. It would be useful if the other sections of concern could be brought to attention, so that we could have the Chief Parliamentary Counsel examine them. So when we come back now we would know whether this because it's some treaty, some convention commitment or whether or not we can improve it, rather than just trying to do it on the seat of our pants, so to speak, that we could get the necessary research done.

The CHAIRMAN: We would need to get to the Parliamentary draftsman by Friday the latest.

Dr. DAVIES: No, I have another question. Don't you think that 12 or what variation of it we're gonna do, Clause 12, you don't think we should have a discussion with the private sector?

The CHAIRMAN: Possibly.

Mr. BUNTING: Wasn't there a Joint Select Committee?

The CHAIRMAN: No, but I'm saying any proposal, any adjustment or recommendation we could discuss it and then take it, send it on to the two House Leaders so that they can pass it on to the Parliamentary draftsman.

Rev. THWAITES: I beg to... (Inaudible)

The CHAIRMAN: Very well. Members, therefore, the question is that I do report progress to the House.

Put to the Committee and agreed to.

RESUMPTION

The SPEAKER: Members with respect to the Corruption Prevention (Special Prosecutor) Act, 2011, I do report progress and the matter will continue at the next sitting of Parliament. House Leader.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is definitely not proposed to do....any further business...

(Laughter by Members)...

Dr. DAVIES: Vote of no confidence... (Inaudible)

Mr. HOLNESS: No, you would never get that chance.

Mr. Speaker, I just want to point out to Members that our last sitting will be the 29th, Tuesday, and Parliament would resume on April the 14th. I want to point that out to Members.

A MEMBER: I won't be here.

A MEMBER: What's that?

Mr. HOLNESS: April the 14th, we have informed the Leader of Opposition Business. He will circulate it...

A MEMBER: What?

Mr. HOLNESS: The Schedule.

A MEMBER: For what?

Mr. HOLNESS: For the budget...

A MEMBER: The opening of Parliament.

Mr. HOLNESS: And the opening of Parl... The opening of Parliament will be the 14th.

Mr. PICKERSGILL: When?

Mr. HOLNESS: You will be informed of the date. Your Leader of Opposition Business has a... Mr. Speaker, I therefore move that the House do adjourn until Tuesday the 29th of March.

The SPEAKER: Members, the motion before the House is that this Honourable House do adjourn until Tuesday, the 29th of March at 2:00 p. m.

Put to the House and agreed to.

The SPEAKER: (Gavelling) This Honourable House stands adjourned.

The House accordingly adjourned at 9:00 p.m. until Tuesday, March 29, 2011 at 2:00 p.m.

TUESDAY, March 29, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 2:29 p.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Planning and Development and Defence.

PEARNEL PATROE CHARLES, CD, (JLP), Clarendon, North Central, Minister of Labour and Social Security.

OLIVIA ATAVIA GRANGE, (JLP), St. Catherine, Central, Minister of Youth, Culture, Sports and Culture.

RUDYARD CONRAD SPENCER, (JLP), Clarendon, South Eastern, Minister of Health and the Environment.

DR. CHRISTOPHER CHARLES TUFTON, (JLP), St. Elizabeth, South Western, Minister of Agriculture.

MINISTERS OF STATE

THE HONOURABLES:

DARYL WESLEY PHILLIP VAZ, (JLP), Portland, Western, Minister without Portfolio in the Office of the Prime Minister, Minister of Information and Telecommunication.

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

WILLIAM JAMES CHARLES HUTCHINSON, (JLP), St. Elizabeth, North Western, Minister of State in the Ministry of Agriculture.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

ROBERT ST. AUBYN MONTAGUE, (JLP), St. Mary, Western, Minister of State in the Office of the Prime Minister.

OTHER MEMBERS

MR. LUTHER BARTLEY MONTEITH BUCHANAN, (PNP), Westmoreland, South Eastern.

MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central.

MR. ROGER HAROLD CLIFFORD CLARKE, (PNP), Westmoreland, Central.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. FENTON RUDYARD FERGUSON, (PNP), St. Thomas, Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

DR. ESMOND VERNAL PATRICK HARRIS, (PNP), Trelawny, North.

MRS. SHARON MERLE HAY-WEBSTER, (PNP), St. Catherine, South Central.

MR. JOSEPH URIAH HIBBERT, (JLP), St. Andrew, East Rural.

MR. FITZ ARTHUR JACKSON, (PNP), St. Catherine, Southern.

MR. OTHNEIL DAMION ST. ELMO LAWRENCE, (JLP), St. Ann, North Western.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

DR. KENNETH WYKEHAM McNEILL, (PNP), Westmoreland, Western.

MR. CLIVE ARTHUR MULLINGS, (JLP), St. James, West Central.

MRS. NATALIE NEITA-HEADLEY, (PNP), St. Catherine, East Central.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. MICHAEL ANTHONY PEART, (PNP), Manchester, Southern.

MR. DEAN ALEXANDER PEART, (PNP), Manchester, North Western.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

DR. PETER DAVID PHILLIPS, (PNP), St. Andrew, East Central.

MR. ROBERT DIXON PICKERSGILL, (PNP), St. Catherine, North Western.

THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

PRAYERS

Prayers were offered by Reverend Ronald Thwaites.

The House resumed its sitting at 2.29 p.m.

The SPEAKER: This Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

The SPEAKER: Members, this afternoon we would like to welcome in the gallery students and advisors from the University of Technology. Welcome to the sitting of Parliament. (Applause)

(HON. EDMUND CURTIS BARTLETT, (JLP), St. James, East Central, Minister of Tourism, entered and took his seat.)

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No. 22**
  Cabinet agenda issues for February 28, 2011
- **Ministry Paper No. 23**
  Cabinet agenda issues for March 14, 2011
- National Water Commission
  Annual Report and Audited Financial Statements for the financial year 2008/2009

- Special Report of investigations conducted into the allegation of improper procurement practices at the Sugar Company of Jamaica from the Office of the Contractor General.
- Report of the Sessional Select Committee on Infrastructure and Physical Development on the Jamaica Urban Transit Company Limited
- Report of Sessional Select Committee on Infrastructure and Physical Development on the Road Maintenance Fund
- Report of the Joint Select Committee to consider and Report on the operation of the Access to Information Act, 2002 relative to the review of the legislation as provided by the Act
- Report of the Joint Select Committee on Private Bills on its deliberations on the Bill shortly entitled: "The Mustard Seed Missionaries (Incorporation and Vesting) Act"
- The Bauxite and Alumina Trading Company of Jamaica Limited
  Annual Report and Audited Financial Statements
- Certified Appropriation Accounts for the following ministries and departments:
  Companies Office of Jamaica
  2009/2010
  Post and Telecommunications
  Department 2009/2010
  Post and Telecommunications
  Department for 2007/2008
  Post and Telecommunications
  Department for 2006/2007

(JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy, entered and took his seat.)

BILLS BROUGHT FROM THE SENATE

The Clerk read the following message from the President of the Senate:

I have the honour to advise the Honourable House of Representatives that on the 25th day of March, 2011 the following Bills were passed in the Senate:

"AN ACT to Amend the National Insurance Act to validate and confirm the payment of certain benefits made in good faith by persons acting on behalf of the National Insurance Fund, and the collection of contributions done in good faith and to indemnify certain persons in respect of those payments and contributions; and for connected matters",

passed without amendment;

"AN ACT to Amend The Terrorism Prevention Act",

passed without amendment.

Signed: Oswald G. Harding
President of the Senate."

REPORTS FROM COMMITTEES

The SPEAKER: Mr. Vaz.

Mr. VAZ: Thank you, Mr. Speaker.

I beg to lay on the Table of the House a copy of the Report of the Joint Select Committee set up to consider and Report on the operations of the Access to Information Act, 2002 relative to the review of the legislation as provided by the Act.

NOTICES OF MOTIONS GIVEN ORALLY

The PRIME MINISTER: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move to introduce and have read a first time a Bill entitled: **"AN ACT to Amend the Revenue Administration Act; and for connected purposes"**.

I would also want to indicate, Mr. Speaker, that at a later stage today I will seek suspension of the Standing Orders to enable me to take first reading and to take the Bill through all its concluding stages. (Laughter)

I do so not in my own right, Mr. Speaker. I do so on behalf of the Minister of Finance and the Public Service.

The SPEAKER: Minister Vaz.

Mr. VAZ: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

> BE IT RESOLVED that the Report of the Joint Select Committee set up to consider and Report on the operations of the Access to Information Act, 2002, relative to the review of the legislation as provided by the Act, which was laid on the Table of the House on the 29th day of March, 2011 be approved.

I further beg to give notice that at a later stage today I will move for the suspension of the Standing Orders to enable me to take this motion.

The SPEAKER: Thank you, Mr. Vaz.

Mr. HOLNESS: Mr. Speaker, I beg to move for the suspension of the Standing Orders to ask for the recommittal of the item Reports.

The SPEAKER: Members, the motion before the House is for suspension of Standing Orders to allow for the recommittal of the item, Reports from Committees.

Put to the House and agreed to.

REPORTS FROM COMMITTEES (Recommitted)

The SPEAKER: Mrs. Dalrymple.

Mrs. DALRYMPLE-PHILIBERT: Mr. Speaker, I beg to lay on the Table of the House a copy of the Report of the Joint Select Committee on Private Bills on our deliberations on the Bill shortly entitled,

> **"The Mustard Seed Missionaries (Incorporation and Investing) Act, 2010"**.

The SPEAKER: Mr. Pickersgill.

Mr. PICKERSGILL: Yes, Mr. Speaker. I beg to lay on the Table of the House a copy of the Report of the Sessional Select Committee on Infrastructure and Physical Development on our deliberations on the Jamaica Urban Transit Company Limited (JUTC); and a copy of the Report of the Sessional Select Committee on Infrastructure and Physical Development on our deliberations on the Road Maintenance Fund, the RMF.

NOTICES OF MOTIONS GIVEN ORALLY
(Recommited)

Mrs. DALRYMPLE-PHILIBERT: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

BE IT RESOLVED that the Report of the Joint Select Committee on Private Bills on our deliberations on the Bill shortly entitled, **"The Mustard Seed Missionaries (Incorporation and Vesting) Act, 2010**", which was laid on the Table of the House on the 29th of March, 2011 be approved.

The SPEAKER: Thank you, Mrs. Dalrymple-Philibert.

Mr. PICKERSGILL: Mr. Speaker, I beg to give notice that at the next meeting of House I will move:

BE IT RESOLVED that the Report of the Sessional Select Committee on Infrastructure and Physical Development on our deliberations on the Jamaica Urban Transit Company Limited, the JUTC, which was laid on the Table of the House on the 29th day of March, 2011 be approved. And:

BE IT RESOLVED that the Report of the Sessional Select Committee on Infrastructure and Physical Development on our deliberations on the Road Maintenance Fund, RMF, which was laid on the Table of the House on the 29th day of March, 2011 be approved.

The SPEAKER: Thank you, Mr. Pickersgill.

QUESTIONS AND ANSWERS TO QUESTIONS

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: No, I have no new questions. I am asking regarding the answers due for today.

The SPEAKER: Very well. House Leader.

Mr. HOLNESS: Mr. Speaker, we have prepared for answer today Question 43 and Question 51. Those will be answered by the Minister of Youth, Sports and Culture; 43 was asked by the Leader of the Opposition and 51 by the Member from St. Ann South Eastern.

Mrs. SIMPSON MILLER: What happen to 47?

Mr. HOLNESS: Forty-seven (47) we have asked for a one-week extension, which...

Dr. DAVIES: Who you ask?

Mr. HOLNESS: The rule is that we...

Dr. DAVIES: Who you ask?

Mr. HOLNESS: …ask the Clerk.

Dr. DAVIES: No. It doesn't say so.

Mr. HOLNESS: Yes, that's the Standing Order.

Dr. DAVIES: You want a bet?

Mr. HOLNESS: I am not a gambling man, and if I were, I would win.

(Cross talk/Laughter)

Mr. HOLNESS: Therefore it's not a gamble.

Dr. DAVIES: Mr. Speaker, I am not protesting this particular asking but I have read the Standing Orders myself and there has to be - it requires consultation with the person who posed the question. It cannot be left

solely to the Clerk. There is supposed to be - it speaks to it specifically, you must consult with the person who posed the question.

Mr. HOLNESS: No doubt, Member, consultation is required but only on the extension and extensions thereafter.

Government MEMBER: Whoa, whoa!

Mr. HOLNESS: Mr. Speaker, so we have asked for extension on Question 47. We are prepared, Mr. Speaker, to answer Question 50 asked by the Member from Central Kingston of the Prime Minister. Forty-nine (49) I have it down as being prepared but unfortunately I am not seeing the Minister here. I am sure on his arrival the question will be answered.

The SPEAKER: So at the moment we have 43, 50 and 51?

Mr. HOLNESS: Yes, Mr. Speaker.

The SPEAKER: So could we start with 43 then?

Mrs. SIMPSON MILLER: Can I ask a question, Mr. Speaker?

The SPEAKER: Sure. Yes.

Mrs. SIMPSON MILLER: Will the House be meeting next week?

Mr. HOLNESS: Mr. Speaker, it is quite likely that we will meet next week.

Mrs. SIMPSON MILLER: Mr. Speaker, I would like to know because I don't want my question to have to go over into the next year.

The SPEAKER: Well, I understand, Mrs. Simpson Miller.

Minister Grange, you have Question 47, can we get an answer next week?

Miss GRANGE: Mr. Speaker, I will make every effort. I am awaiting correspondence and if the correspondence arrives my answer will be ready.

The SPEAKER: Okay. Possible. Very well. Can we then start by Question 43? Mrs. Simpson Miller, Question 43.

Mrs. SIMPSON MILLER: Mr. Speaker, I would like to ask the Minister of Youth, Culture and Sport to answer the questions in my name.

The SPEAKER: Forty-three. Thank you very much, Mrs. Simpson Miller.
Minister Grange.

Miss GRANGE: Thank you, Mr. Speaker.

Question 1:	Will the Minister indicate whether an allocation was made by her ministry to facilitate preparation for the hosting of the CONCACAF Under 17 Soccer Tournament?
Answer	There was no budgetary allocation in 2010/2011 budget for this event as it was in the last quarter of 2010 that the Jamaica Football Federation advised the ministry of their commitment to host the Under 17 Football Tournament. However, funding was eventually sourced.
Question 2:	If the answer to No. 1 is in the affirmative, would the Minister indicate the amount

allocated and the agency through which the allocation was made?

Answer: Although there was no budgetary allocation, the ministry decided that it would support the tournament and as such the Sports Development Foundation contributed J$5 Million to Independence Park Limited to help prepare for the tournament.

Question 3: Will the Minister indicate whether any amount from any allocation made was specifically earmarked for preparation of the Trelawny Multipurpose Stadium for the tournament?

Answer: These funds were allocated to assist in hosting the CONCACAF Under 17 matches at the Trelawny Stadium.

Question 4: If the answer to No. 3 is in the affirmative, will the Minister indicate the amount so allocated?

Answer: Five Million Dollars ($5,000,000) was allocated for the Trelawny Stadium.

Question 5: Will the Minister indicate the contractor/contractors retained to carry out the prescribed work?

Answer: Preparation of the field, Mr. Dalton Brown; repairs to the elevator, the Jamaica Electrical and Mechanical Engineers Limited; repairs to the security camera system, Hawkeye Limited; general electrical repairs, Garfield Johnson, a local electrician; general plumbing repairs, Curtis Miller, local plumber; general repairs, Sydney Sinclair, local artisan.

Question 6: Will the Minister indicate what steps have been taken to do damage control internationally so that Jamaica may continue to have the opportunity to host international sporting events?

Answer: We continue to promote Jamaica as a destination for sports. The challenges faced during the staging of the CONCACAF Under 17 Championship caused some anxiety, but never threatened the hosting of the tournament in Jamaica. We are confident that our management of the challenges has demonstrated Jamaica's capacity to host international tournaments. Indeed, I refer the House and the Member to the article, and I quote: "CONCACAF gives Jamaica passing grade", published in *the Jamaica Observer* on Friday, February 25, 2011 in which a CONCACAF top official is reported as being, and I

quote: "Impressed with the problem-solving skills of the Jamaican organizers". Adding that, and I quote again, "It's just a matter of time before Jamaica is awarded another tournament" as the country had exhibited its resourcefulness and ability to organize. We have been receiving similar reviews from a wide cross section of sport leaders.

The SPEAKER: Thank you, Miss Grange.

Mrs. Portia Simpson Miller.

Mrs. SIMPSON MILLER: Yes, I have some follow-up questions.

The SPEAKER: Additional.

Mrs. SIMPSON MILLER: Mr. Speaker, I would like to ask the Honorable Minister how much was spent on the preparation of the field that caused the challenges that the Government had to remove the hosting of the tournament to another venue? And it would be very good and informative if the Minister could give a breakdown of the cost to each contractor that she named in response to my question.

The SPEAKER: Miss Grange.

Miss GRANGE: Mr. Speaker, I will be unable to give a breakdown for each contractor at this time. However, I can state that the amount allocated for the preparation of the field was approximately $1.5 Million. The contractor got a deposit of $400,000.

The SPEAKER: So the overall cost you said is $1.5 Million.

Mrs. SIMPSON MILLER: No, for the field.

The SPEAKER: For the field, yes.

Mrs. SIMPSON MILLER: I am asking the Honourable Minister, Mr. Speaker, through you, to give a breakdown of the $5 Million that she identified in the response from the Sports Development Foundation, and to ask the Minister whether any other government agency made any contribution to the hosting of this event? Thank you.

Miss GRANGE: I am not aware of any other government agency making a contribution. I am aware of the contribution made by the Sports Development Foundation. I am unable to give a detailed breakdown as per each contractor, but what I can say is that the amount for the preparation of the field was approximately $1.5 Million of which the contractor got a deposit of $400,000.

Mrs. SIMPSON MILLER: I would like to ask the Honourable Minister, Mr. Speaker, whether she was satisfied with the work done by the contractor in terms of the preparation of the field? Thank you.

Miss GRANGE: Absolutely not! In fact I asked the Permanent Secretary to have an investigation done into the preparation of the field and the arrangements that were made with the contractor. I have been given a report on the matter and I will make a copy available to you. But to summarize, what the contractor did was to make high inputs of fertilizer and herbicides. And in addition to that used top dressing of unwashed sea sand from Black River, which resulted in the rapid deterioration of the field and that's really what created the problem.

Dr. PHILLIPS: Is that the missing sand?

Miss GRANGE: I am sorry.

Dr. PHILLIPS: Is that the missing sand or…

Miss GRANGE: I am not in the sand business, I can only tell you a report I got.

(*Sotto voce* remarks from Opposition Members)

Miss GRANGE: But the unwashed sand from Black River with all the sodium plus the high input of fertilizer and herbicides rapidly deteriorated the grass on the field.

Mrs. SIMPSON MILLER: Mr. Speaker, I would like to ask the Minister whether she had tried to get some kind of perhaps suggestion or information as to the best person or the contractor with the ability to prepare a field such as the Trelawny field?

The SPEAKER: Minister.

Miss GRANGE: The contractor who was used is someone that has always been used by Independence Park Limited. However, based on the findings and the embarrassment that it caused the country, I have taken certain actions. The contractor - IPL was instructed to immediately terminate the contract with the contractor and to make no further payments. The responsible officer was reprimanded for failing to do due diligence and to provide adequate levels of supervision required for an event of that magnitude. And since that work has commenced to rehabilitate the grounds.

Mrs. SIMPSON MILLER: Thank you, Minister. In terms of the last question, I just like to say to you, despite the comments by CONCACAF publicly, that you should try to do everything because the executive met in, and very often when any country will be hosting an event or vying to host there are other countries that will have to vote for that country. And I just like to say to you to continue to see what can be done because for me Jamaica's image and reputation as a country that hosts events with style was damaged, and I ask that you ensure that that damage be repaired.

Miss GRANGE: Well we have made every effort and we certainly have impressed the organizers. The international coverage that we got gave us credit that, the fact that we were able to solve the problem expeditiously and to stage a first-class tournament speaks volume of the ability of Jamaica to get things done and get them done well. I can assure you that this incident will not occur again because we have taken the appropriate steps to ensure that those who are responsible will provide adequate supervision. And I must say to the Member that I can't plant the grass but I will ensure that it is done well the next time around or else heads will roll, I can assure you.

The SPEAKER: Thank you, Minister.

Mrs. SIMPSON MILLER: I want to thank the Minister, but just to say the venue that finally hosted the tournament the ground wasn't looking very well either. So, Minister, I hope that you will be - whenever we are hosting, the ground that hosted the tournament, just watching it from television, did not look very well either. I just want to say that to you and to say to you that you gave an assurance that you will ensure that next time what happened will never happen again.

Miss GRANGE: I think one has to appreciate one thing. When national federations go and bid for events if they do not serve advanced notice and then they come to the ministry at the last minute for support, then we can't be held responsible for not having adequate lead time. That field is a new field and it was work in progress. What we did was to do our best to bring it up to a level where the tournament could be held. And it is important that, in future, any sporting organization that intends to bid for a tournament should first have a discussion with the ministry, so that we have adequate time to prepare or to complete any work that we are doing.

I would say that the contractor, who did that field, did an excellent job in the short time. And I think we need to recognize that.

Mrs. SIMPSON MILLER: Thank you, Minister.

Mr. Speaker, I just want to make one comment here.

Minister, if you take the advice from one who what was there. The Sporting Associations might not come to you very early. Take for example, when we were preparing for World Cup, the Government did not wait for the Football Federation to come to them, we called them to a meeting to ask what would be the preparation for, because Jamaica would be on show, and once Jamaica is going to be on show the Government has a responsibility to ensure that nothing can happen to expose Jamaica to the world not looking at our best, take the advice, Minister.

Thank you.

Miss GRANGE: I would like you to appreciate the fact that the condition that I inherited was so bad that it has taken a lot of money and a lot of effort to bring things up to the level at which it is now. I just want to put that on record. (Applause)

The SPEAKER: Miss Lisa Hanna. Sorry, Leader.

Mrs. SIMPSON MILLER: Minister, Mr. Speaker, it doesn't matter how badly the field became it was not being used, the whole country knew about that. The fact is it doesn't escape the fact that the Minister should have seen to the preparation, the proper preparation of the venue.

The SPEAKER: Miss Lisa Hanna. Ms Grange, just…

Miss GRANGE: Mr. Speaker, I am not going to accept that. Mr. Speaker I am not going to let anyone in this House beat up on Jamaicans who did their best to get the field ready, right. I took it from a disgraceful condition and created a miracle in a very short time… (Applause) …and a lot of people worked very hard to do it and I am not going to sit here and allow anyone in this House to downplay the amount of blood, sweat and tears that many Jamaicans put into bringing things up to a certain level, after I inherited everything that was totally a mess.

Mrs. SIMPSON MILLER: Mr. Speaker, I did not get up to quarrel, you notice it. And I am not anyone. My name is Portia Simpson Miller, Member of Parliament for South Western St. Andrew, and in the Constitution recognized as the Leader of the Opposition, I am not just anyone.

The SPEAKER: Miss Lisa Hanna.

Miss HANNA: Thank you Mr. Speaker, Minister, as it relates to the preparation of the field, I have a simple question. I know that you have a sports policy that is being developed and I am asking whether or not perhaps, the maintenance initiation, not only of international fields for competition, but certainly in terms of local fields if things of this nature will be inculcated in that kind of policy moving forward for the kind of development that we are looking for?

Miss GRANGE: That goes without saying. It is more in terms of a programme of maintenance, it is not so much a policy, it's something that has to be done. And I have always said to those who are responsible that they must ensure that all the fields are properly maintained.

What I have inherited too is people, some people who have been in position are not as competent and we are ensuring that we put competent people in place to ensure that a good job is done. (Applause)

MEMBERS: Excellent.

Miss HANNA: Mr. Speaker, just to - Minister when will the policy be Tabled? And final question. What is the thinking behind perhaps how the fields would be maintained moving forward?

Miss GRANGE: The policy document is now at HR Committee. We have started reviewing it at the Human Resource Committee of Cabinet. There will be a special meeting called to complete the revision. Once that is done it goes back to Cabinet, once Cabinet signs off on it we are going to do a second round of consultations, and then we will put the policy in place.

As far as maintaining the fields, what I can do, I can ask those who are responsible to give me a programme, and I will give you a copy of that programme for the maintenance of the field.

The SPEAKER: Yes, Dr Davies.

Dr. DAVIES: Well, I have some questions to be answered, but I am not clear. I just what to address the issue as to when answers are delayed, the proper process. I was challenged in terms of what Standing Orders would say, and therefore for the record, Mr. Speaker, I would like to read explicitly what Section 17 (A), deferral of question.

1. A Minister seeking to defer answering a question shall hand to the Clerk a written request therefore which explains the reasons why the answer could not be supplied in the time required. And if the House…

Listen, Deputy Leader of the Government.

The SPEAKER: Just a second. We are finished then with Question 43, so you are on a new point?

Dr. DAVIES: Yes, I am on a new point.

…and if the House, if the House…

Not the Speaker.

> …is satisfied with the explanation, the House may extend the time for answering by a period of not more than fourteen clear days.

I have not seen any instance where this written submission has been provided to the House and the permission given by the House. Andrew knows that, the other one doesn't. But…

Part 11, the procedure specified in paragraph 1 shall apply to any further extension required by the Minister, so however, that in such case consent to such extension and the length there - off shall be obtained from the Speaker and the questioning Member.

Mr. Speaker, I am reading this because we have treated this with some informality. But when I am challenged as to what the proper procedure is, I just refer the challenging Member who has bowed his head in ignorance to read the relevant sections.

The SPEAKER: House Leader, I think the Members, in relation to Question 38 and 39 in particular, that you need the permission of the House.

Mr. HOLNESS: Mr. Speaker, the Standing Order is clear, Mr. Speaker, and in my response to the Member….

(*Sotto voce* comments by Dr Davies)

Mr. HOLNESS: No, in my response to you I acknowledge that yes there must be consultation. But the clear position, Mr. Speaker, and what must be acknowledged is that, never before, since at least I have been in the House, have we ever sought to abide as closely, to the Standing Order because, Mr. Speaker, we now write formally to the Clerk pass it to you, Mr. Speaker, it is in the Speaker's discretion now to approach the House…

Dr. DAVIES: It is not in his discretion.

Mr. HOLNESS: It is, to approach the House. But in truth, Mr. Speaker, Mr. Speaker, each time that I ask for an extension, I stand in this House and I make the point that I have passed my request to the Speaker…

(*Sotto voce* comments by Dr Davies)

Mr. HOLNESS: No, no, I am merely saying that the House is advised by this process and the Members who are asking the question at that time, they stand up and they make their objections. So, in effect, Mr. Speaker, we are following the Standing Orders, the House is so advised and the House does not say negatively against the question.

So, Mr. Speaker, whilst we take the Member's reading of the Standing Orders, the Member's complaint is that we are not following the process. And I am saying, Mr. Speaker, that by the fact of us, standing up and giving an answer, and explaining why it is that we are asking for extensions the House is advised, and the House…

(*Sotto voce* comments by Dr Davies)

Mr. HOLNESS: The House agrees, and the House - the Members could stand up, Mr. Speaker, and say no, we don't want, and that has never happened.

The SPEAKER: House Leader, the real issue is that, when the Standing Order is breached as it is, in that the question is not answered on time it is a matter for the House to approve. So I can only put it to the House for the approval. Now, admittedly in the normal course of things the House approves it because the Minister request extra time. But the real procedure is that, to be fair, the House Leader do send in these requests but each time I have to put it to the House for the House's approval. So, Dr. Davies is correct in that, it is the House that approves, it is not the discretion of the Speaker, it is the Speaker who requests the House and asks the House for approval.

So in the circumstances Members of the House…

(*Sotto voce* comments by Dr. Davies)

The SPEAKER: The permission is granted by the House. So at each request, I ask the House and whether it is the wish of the House to approve the extension.

Dr. DAVIES: May I?

The SPEAKER: Yes.

Dr. DAVIES: Mr. Speaker, I am not trying to make a really big issue of this. But it goes further, Mr. Speaker, and if you look at the questions which have not been answered…

The SPEAKER: We are really looking at 38, 39 and 42.

Dr. DAVIES: And each of those, Mr. Speaker, has exceeded the additional maximum of fourteen days. So it goes now beyond putting it to the House. I am just urging, Mr. Speaker, that we become a little bit more tidy in dealing with this. We get it a little bit tidier. Each of those has already exceeded the fourteen additional days, so it now goes beyond your simply putting it to the House. The person - the Member who poses the question has to be directly consulted, that is paragraph (2).

Mr. HOLNESS: Mr. Speaker, we have no arguments in following the rules. And as the Member accepted that it is since this administration has been on this side of the House that we have made sure to follow the procedure. Indeed, we have consulted with Members directly when we have exceeded the extension granted. But just to be clear, Mr. Speaker, I want it to be absolutely clear, Mr. Speaker, that this Government has made it a point of duty to answer questions as they are posed. We have gone - we have answered more than 80% of the questions asked, Mr. Speaker, just for this year. For last year we answered over 90% of the questions.

(*Sotto voce* comments by Dr. Davies)

Mr. HOLNESS: No, no, Mr. Speaker, I spent several years on that side and I could not recall when the Government of the day answered as many questions as we have in this House. (Applause)

The SPEAKER: Yes, Dr Phillips, turn on your mike.

Dr. PHILLIPS: Mr. Speaker, I am not going to get into a tiff with the Leader of the House. But, it is not true to say, that the previous administration did not answer questions, nor is it true to imply that we did not follow the procedure.

(*Sotto voce* comments by Dr. Davies)

Dr. PHILLIPS: I was the House Leader and I would like the record to show, Mr. Speaker. And I believe the record would also show particularly in relation to questions asked about the Road Maintenance Fund and there are other questions which have not been answered satisfactorily.

But be that as it may, Mr. Speaker, my question really is to ask the House Leader what will happen to those questions that he - for which answers were not provided today but which are on Order Paper and particularly 37 which was transfer to the…

The SPEAKER: No, not 37. Which number?

Mr. HOLNESS: My understanding, Member, is that the questions are not normally carried over, but they can be re-tabled.

Dr. PHILLIPS: No, I don't have a problem with them being re-tabled; but maybe it would be worthwhile to note, Mr. Speaker, the length of time that has passed since these questions have been on the Order Paper which I would believe belies the very point that the House Leader is making.

Mr. HOLNESS: Just to be clear. One of the proposals for the amendment to our Standing Orders is to allow questions to be carried over from Parliamentary to Parliamentary year…

The SPEAKER: Questions and motions.

Mr. HOLNESS: And motions as well. But just to be clear, Mr. Speaker, you know, there are questions that require more time than others. And it is not always as you would have known in your time; it is not always possible to answer the questions as they are asked.

On our side we make the commitment that we will answer all the questions asked.

Dr. DAVIES: On behalf of all Members?

Mr. HOLNESS: On behalf of all Members.

The debate of course, Mr. Speaker, is not the answering it's the when, and that's the Member's issue.

Dr. DAVIES: So that is why sometimes it's Neville.

The SPEAKER: Okay.

Dr. PHILLIPS: But, Mr. Speaker, do I understand the House Leader to be saying that for those questions not answered today he's urging us to re-table them?

The SPEAKER: But no, there's no doubt that - as I understand the House Leader, some will be answered hopefully, if we sit next week, but the others can be re-tabled. Fine. Now, Members, at this present time - well before we go to that - could we do question 50?

Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, will the Prime Minister please answer the question I asked him in my name at Number 50 on the Order Paper?

The PRIME MINISTER: Mr. Speaker, the question 1 - well the only question –

Question: What money is being spent by the public purse to pay lawyers and commissioners for the Manatt/Dudus Enquiry?

Answer: Prior to the start of the Enquiry, the Cabinet approved expenditure of Thirty Seven Million, Forty Eight Thousand, Three Hundred and Twenty-Nine Dollars to cover the fees of the Commissioners and the cost of legal services of the Commission and other necessary support services. It is estimated that cost to date amounts to approximately $33 Million. Given that the deadline for completion of the Enquiry originally set for the end of February, has twice been extended, the last such extension being to May 16, 2011, it is estimated that the additional cost will be in the region of $21 Million.

The Cabinet has also approved an amount of $24.1 Million for legal representation of the several

public officials, excluding the Prime Minister, who have been required to appear before the Commission and who have been, or are being represented by counsel.

The final cost to the public purse of the Enquiry cannot be determined until it is concluded.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, would the Prime Minister please help me with the arithmetic? It's 37 plus 21 plus 24, a total of $88 Million...

The PRIME MINISTER: Thirty three plus twenty-one and twenty-four.

Rev. THWAITES: Thirty three so far, yes, so 33, 21 and 24? I take from the nod that that's correct.

And, Mr. Speaker, would the...

(Inaudible comments)

Dr. DAVIES: No, no is it 21 on 40 or 21 on 36?

The PRIME MINISTER: My understanding - and I hope I'm correct - but my understanding is that it is 21 in addition to the 33 that is estimated, has already been ...

Rev. THWAITES: Mr. Speaker, is the $24 Million for representation of public officials a full brief fee or is it likely for - to be further increased, given the extensions to the Commission?

The PRIME MINISTER: Mr. Speaker, it's difficult for me to answer that definitively because the information - some of the lawyers who are acting for some public officials have not yet submitted their bills although their fee rates have been agreed, but the actual statements have not been submitted. I'm aware of some payments that have been made for some of the officials who were represented. The payments that have been made so far are relatively small in relation to that $24.1 Million, but it is almost impossible to say until the hours are calculated and the bills are submitted, what the final cost will be.

Rev. THWAITES: Mr. Speaker.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Would the Prime Minister be able to confirm the estimates of all the fees for some of the attorneys being paid by the public purse, up in the regions of $20,000 to $30,000 an hour?

The PRIME MINISTER: My understanding is that a number of the attorneys who are appearing are contracted at hourly rates comparable to the Chairman of the Commission in relation to senior counsel and in relation to junior counsel to other members of the Commission. Those rates as I understand, are the Jamaican dollar equivalent of US$350.00 per hour for senior counsel and US$250 per hour for junior counsels. There are - from what I saw - some instances in which the fees are calculated at even lower rates, I think as low as US$150.00 per hour. I gather that these rates are standard rates within the legal profession. Indeed I believe that they were benchmarked to some standard that is used by lawyers in current practice.

Rev. THWAITES: Mr. Speaker, is there a reason why the most senior public official - the Prime Minister of Jamaica - is not included in the expenses being incurred by the public purse, regarding his representation at this Commission?

The PRIME MINISTER: Mr. Speaker, I took a personal decision that the cost of my legal representation would not be borne by the taxpayers of Jamaica. (Applause)

The SPEAKER: Mrs. Simpson Miller.

Mrs. SIMPSON MILLER: Mr. Speaker, I'd just like to make a comment, since this was not raised that the lawyers representing the People's National Party and Dr. Peter Phillips not borne by the Government of Jamaica or the taxpayers. (Applause)

The SPEAKER: Question 50 - could we move to question 51?

Miss Hanna.

Miss HANNA: Thank you, Mr. Speaker.

I wish to ask the Minister of Youth, Sports and Culture the questions standing in my name.

Miss GRANGE: Mr. Speaker,

Question: What is the status of the National Youth Survey?

Answer: Now, Mr. Speaker, it's quite a lengthy Report and so my response is, please find attached detailed status report on the National Youth Survey.

And those should have been handed out...

Miss HANNA: I don't have a copy.

Miss GRANGE: You haven't got a copy?

Miss HANNA: No!

Miss GRANGE: I'm sorry about that but we have adequate copies here. It's quite lengthy, I don't know if you would want me to read the Report.

MEMBERS: No, no, no!

Miss GRANGE: Oh great. (Laughs)

Miss HANNA: But, Minister, if you can just...

(Inaudible comments)

Miss HANNA: Mr. Speaker, perhaps if you could just give me a synopsis, because I know that the grants and the launch ...

(Inaudible comments by Mr. Vaz)

Ms. HANNA: Hold on nuh man, relax nuh man.

Dr. DAVIES: All of us over here use email you hear, Daryl.

Mr. VAZ: Yes.

Miss GRANGE: You want me to read it?

Miss HANNA: No, no we don't want you to read the Report and I certainly will read it, and probably ask for a recommittal to ask you other questions. But I know it was launched, I attended the launch.

Miss GRANGE: The Report is submitted by the National Centre for Youth Development, and what we have provided in a detailed report, is - it's a household survey under the IDB loan and the National Centre for Youth Development is now embarking on the revision of the youth policy and through that, we are doing this youth survey.

The Statistical Institute of Jamaica has reported and confirmed the completion of the survey interviews as of March 1. The sample population youth is 6000, and this is readily acknowledged as a representative sample. The Statistical Institute has begun coding and entering the data, and will make a submission of the findings to the Ministry of Youth, Sports and Culture and the NCYD by April 30. And we trained interviewers, the data collection started on August 9, 2010 and went

through to December 19, 2010. It was delayed a little because of heavy rains, but we were able to complete it.

The survey instruments included questions on the following:

a) employment and entrepreneurship;
b) education and training;
c) health and wellness;
d) participation and empowerment;
e) care and protection;
f) living environments and so on.

And we did all the parishes, we also did the National Street Youth Survey where we engaged street youth.

The timeline for the revision of the Youth Policy as a result of this survey:

a) conducting of the National Youth Survey - April to March 2011;
b) Dissemination of findings and Results of Youth Survey - July 2011
c) Situational analysis on youth - September 2011;
d) youth programmatic inventory and gap analysis - January 2012;
e) writing of policy and consultations February 2012 to July 2012; and
f) completed draft of Revised Youth Policy will be completed - August 2012.

So that's sort of a synopsis of what...

The SPEAKER: Ms. Hanna.

Miss HANNA: Thank you, Minister.

I actually skimmed through it while she was reading, Mr. Speaker.

What is interesting, Minister, is in terms of the survey instruments that you had for your methodology in terms of data collection and education, training *et cetera*, were in there. What I also noticed was your time line in terms of implementation leading up to the revision of the Youth Policy. What I'm curious to find out however, is that in terms of - you've already collected the data and I'm sure the data has been inputted and certainly you were able to get some kind of cursory observation as to the status of youth. If that is so, why is it that you feel, or why is it that - have we cut the budget for youth by some - over $20 Million, if it is that the data coming in would have represented a certain kind of trajectory on the ground?

Miss GRANGE: The cutting of the budget has nothing to do with the Youth Survey. Cutting of the budget was the fact that the two information centres that were scheduled to be built, we could not have spent all that money in four days and so it had to be taken off the budget and will be back on the budget for 2011/2012.

We do not have any details coming out of the Survey as yet, because they're still coding and putting in the data.

Miss HANNA: Mr. Speaker, Mr. Speaker.

The SPEAKER: Miss Hanna.

Miss HANNA: Thank you.

The dissemination and findings of the Youth Survey, Minister, how is that coming before the situation analysis, which is in September? So the dissemination is in July, but you're doing the situation analysis in September...

Miss GRANGE: Could you repeat, I'm not hearing you?

Miss HANNA: I'm saying to you in looking at your timelines, I recognise –

because I saw in your sectoral presentation that you say youth is a preeminent focus of your Ministry, and so I'm assuming that all that you'll be doing will be garnered to facilitating youth development, certainly for this financial year. But I'm curious because in terms of your timelines, if it is that you're disseminating findings and results of the Youth Survey, how is it that you will do the situational analysis after? It almost seems to me that there's some things that you're doing in reverse in terms of the revision of the Policy. And I would like to ask that the Opposition be in - certainly have an idea of the information coming out of it. Because we weren't even clear - I mean I came to the launch of the Survey, but we were not clear as to the timelines, certainly as to where the project had got to, and I don't think many persons nationally got there. Because there is an overlapping of the understanding between the Youth Survey and its purpose, and certainly the National Census.

So, Minister, if we could have more dialogue certainly in terms of this, I will be interested to do so.

Miss GRANGE: I certainly would like to involve you more, and for us to have more dialogue, in relation to this exercise that is taking place. And we will be in touch with you to set that up.

Thank you, Mr. Speaker.

The SPEAKER: Very well.

Question 51. Sorry, I am sorry, Question - Members, we are going to deal with Question 49. Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, will the Minister of Transport and Works please answer the question addressed to him at Number 49, in my name?

The SPEAKER: Minister Henry.

Mr. HENRY: The answer to question asked by Member of Parliament, Reverend Ronald Thwaites, of the Minister of Transport and Works.

Question 1: What is the process by which subcontractors under JDIP are chosen and monitored? Since these contractors are using money which will have to be paid back by the Jamaican people, please set out the contract prices and scope of works awarded from the outset of the JDIP to March 31, 2011.

Answer: The Ministry of Transport and Works/National Works Agency does not select subcontractors under the JDIP.

We recognize China Harbour Engineering Company (CHEC), as the single main contractor only.

We are, however, aware that CHEC has chosen to use local subcontractors for various projects under the JDIP.

CHEC carries out its own prequalification exercise and assigns scores to local companies, based on established performance criteria.

> The NMA offers its no-objection to the selection, on the basis that the local companies chosen as subcontractors by CHEC, must be registered with the National Contracts Commission, (NCC), and must possess a valid Tax Compliance Certificate, (TCC).

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, will the Member indicate what is the process of its 'no-objection' to the selection of subcontractors, please?

Mr. HENRY: Mr. Speaker, as I think I have reported in the past, we recommended to that contractor that they chose Grade 1 contractors registered, and they advertised for contractors to come to see them, the contractors were seen by them. If they offered us those names, then, to see if we had any objection it would only relate to whether they are not Grade 1, not qualified, no tax compliance, *et cetera*.

Rev. THWAITES: Mr. Speaker, does the Minister have a list, or his Ministry has a list of these subcontractors? And if so, will he provide them?

Mr. HENRY: As one would be aware, I have to be careful how far I go from the main contractor with subcontractors. But I will seek to request the names of the subcontractors that they have. I wouldn't want to start naming one and find it is nine, ten or eleven. But I will seek to get the information through the Works Agency.

Rev. THWAITES: Mr. Speaker, when the Minister does that, would he please also attend to the other requests of the original question, which regards the prices and the scope of works of all such contracts to March 31, 2011? May we have that assurance?

Mr. HENRY: You certainly have that assurance, Member. As you know, the project is limited to Fifty Million Dollars, ($50M) in this year, One Hundred and Fifty Million, ($150M) in the upcoming year, and I will give you all of those details as we proceed, as I have to give Cabinet a full report.

Rev. THWAITES: Mr. Speaker, is it correct that this - the main contractor is a foreign company? And will the Minister state what is - does he know, first, and if he does, will he state what is the process other than the compliance with the listing of the National Contracts Commission, and the valid TCC which they use? Is there any local input in the choice of these contractors?

Mr. HENRY: As I said earlier, when the company came to Jamaica we advised them we wished to have a percentage of the contracts done. Anything under Ten Million US, (US$10M), could go to grade 1 contractors, anything above that, based on the agreement which has been placed in Parliament, the contractors themselves have to do a proportion of that amount of the loan themselves. I think they are going to be doing three or four contracts themselves, because it's above Ten Million, ($10M), and therefore, they advertised in the newspapers for contractors who were interested in applying to be subcontractors. And we guided them that those contractors should be Grade 1

contractors, which they would have to be, at Ten Million US Dollars, (US$10M). And, therefore, those persons who responded to them were interviewed with them, we would have checked that they were Grade 1, and that they were tax compliant, and therefore, they would proceed from that. As they provide the information that you have asked for, I will provide it to you.

The SPEAKER: Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, is the Minister aware if there are escalation clauses in the subcontracts that are given in the manner that he has described in the answer to this question?

Mr. HENRY: I am not sure if you said if there are escalation clauses. But I would not be going into the details of subcontracts, because I have to be careful how much I interfere with my main contractor who is subcontracting. But I am sure all of that can be made available in any further depth that you want to know. So I have not looked at any subcontractors contract to know, because the contract I have is with China Harbour to produce what we asked for, in the cost that we have checked and the quantities that we have asked for.

Rev. THWAITES: Mr. Speaker, bearing in mind that...

The SPEAKER: Your mike, your mike.

Rev. THWAITES: It is on. Bearing in mind the fact that in our recent history, we have - the public purse has suffered considerably from contract overruns. WiIl the Minister state whether the main contract, then, with China Harbour, contemplates the possibility of escalation of prices?

Mr. HENRY: Again, I would have to answer that on the reality of the economics of the world. Right now we are 12½ per cent behind...

Dr. DAVIES: Go dey, Mike!

Mr. HENRY: ...because of the increase in fuel prices. The increase in the normal economic areas has shown that we are reducing, or we are having to look at a 12½ per cent reduction in what you get for the work overall, that's due to fuel prices, that would be due to any other issues that may arise overall.

Rev. THWAITES: Mr. Speaker, is the Minister confirming then, that the cost of the JDIP is likely or is possible to be much higher than that which has been approved by this House?

Mr. HENRY: I don't know of anything in the world of economics that does not shift, in relation to it, from one budget year to the next. And these are realities that all of us have to face. So, in that context, I have said that fuel prices have an impact on the asphalt that you use, and therefore, that relates to it. But it's all - a lot of that is built into the structure and the quality of the work that you are putting in place.

The SPEAKER: Mr. Bunting, then Mr. Fagan.

Mr. BUNTING: Thank you, Mr. Speaker.

Would the Minister explain how the taxpayers of this country are guaranteed value for money in this contracting and subcontracting process, particularly in light of the information which the Minister very kindly circulated to the individual Members

of Parliament, showing the contracts in their constituencies, along with the estimates of the Parish Council, for those roads to be repaired? And in every case, it seemed the contract sum was - ranged from about twice as much to, in some cases, up to fifty times as much as the estimate of the Parish Council. So, in these circumstances, how is the taxpayer guaranteed value for money, Mr. Minister?

Mr. HENRY: Hopefully, the taxpayer is guaranteed - not hopefully, the taxpayer is guaranteed by good management by good government. And that is put in place by the quality of checks that you have. There are four to five levels of checks that relate to each contract. The China Harbour Company does their own check and reports to us on all the contractors and their performance and their grading, that relate to any other subcontractors which the Grade 1 may take. Those are recorded and checked by, (a), firstly, the National Works Agency, whose quality has been upgraded - we even have a quality office established now in Montego Bay. We have upgraded with engineers, four private companies to ensure; built into the contracts is an independent check for independent relations in respect of the quality of kerbs, in the quality of cement, *et cetera*.

And then, China EXIM Bank, who happens to be coming here with another delegation this week, comes and make their checks, in relation to the China Harbour company work. Some 20 persons are coming this week to go through the programmes, independent of the Ministry. And the Road Maintenance Fund also does another check. All of that will be supplied as we go along, in terms of the quality, which is the hallmark of the project.

In terms of Local Government, what we got were requests that related to maybe Nine Hundred and Sixty Thousand, ($960,000), One Million ($1M) on a road, that is not what the JDIP is about. The JDIP is about restoring the infrastructure for ten, to fifteen to twenty years, by the quality work, and that is what we are proceeding to ensure is implemented in the programme.

The SPEAKER: Mr. Fagan. Sorry, yes.

Mr. BUNTING: Mr. Speaker, with respect, the Minister has outlined a process that checks on the quality of the work done after the contract has been issued. My question was really with respect to the contract amount - sorry, during the implementation of the contract. But I am talking about upfront in determining the amount of the contract that is signed with China Harbour, and then, in some cases, subcontracted. How is the taxpayer guaranteed value for money in determining the contract sum up front, given the wide disparity between the estimates of the Parish Council engineers, and what the contract sums are eventually signed for?

Mr. HENRY: Any one of these contracts that is related to Local Government roads, or to Works Agency roads, an estimate is done by an officer that is reviewed by the Quantities, it is made to ensure that if you left out curbs or you left out sidewalks, *et cetera*, that that is reviewed, and the contract that is signed is for the exact quote of work that is to be done. You could ask me to do a road and

say - previously, how it used to be done is, I have a Hundred Million, ($100M), Two Million, ($2M) on this road, One Million ($1M) on that road, half a Million, ($½M) on that road, bush this road, clean this road. Therefore, when the roads are included in the programme, an estimate is done and the quantities put in place by the officers of the NWA, checked by China Harbour, China Harbour implements the programme of work, based on what I have said is the required amount to ensure the quality and completion of the road.

The SPEAKER: Mr. Fagan.

Mr. FAGAN: Mr. Speaker, it's in the same line. I just wanted to find out in another way, what is the relationship between China Harbour and the Parish Councils, especially as it relates to the parochial roads. It would seem to me that the Superintendents - the Roads and Works Department is not sufficiently involved in the implementation of these contracts.

The SPEAKER: The first question, is whether - is there a relationship?

Mr. FAGAN: Is there a relationship. And whether or not - following up on that, is whether or not the Parish Council Roads and Works departments are sufficiently involved in the operation.

Mr. HENRY: ...China Harbour to National Works Agency. You have parochial roads, the Opposition on that side knows that you have parochial roads and then you have National Works Agency roads. They are aware that you have to have permission to work on one road as against the other road. What has been submitted to us goes through the process of ensuring that we are rebuilding the road fully. The Parish Councils, therefore, are not involved in that context of it. They have submitted roads, we have chosen the roads, we are gazetting those roads, and those repairs will be carried out by the contractors, China Harbour.

Mr. FAGAN: This is a follow up, Mr. Speaker. It now seems to me that the parochial roads will now be gazetted and will be removed from the responsibility of the Parish Councils.

The SPEAKER: Now, why you came to that conclusion?

Mr. FAGAN: Because…

The SPEAKER: Are you asking the question or you are making a point?

Dr. PHILLIPS: He is saying, do you agree.

Mr. FAGAN: I am - it would - I am saying, Mr. Speaker, that given the answer, given the answer, Mr. Speaker...

(*Sotto voce* comments)

Mr. Speaker, what is the effect of gazetting the road? That's what I am trying to find out.

Mr. HENRY: Perhaps I should refer him to the former Ministers to tell him what gazetting a road is and what is to work on the roads. But basically, gazetting a road means that you have to gazette the road in order for the Works Agency and the Road Maintenance Fund to expend some money on it, so that you can do the very same audit and check that you are referring to.

Mr. CLARKE: Minister, is there any work being done on any roads throughout the country, apart from what is being done under

the China Harbour arrangement?

Mr. HENRY: There is...

The SPEAKER: Mike, mike, put on your mike, please.

Mr. HENRY: There is some interim and continuous work. We are doing Washington Boulevard, which as you can see as we drive along overall. We are doing the road that leads to the Harbour View Bridge over the Dry River. There are a number of patching programmes that are being done under the RMF. We await this year's Budget. You all know that you have to have a pause between one Budget and the next, then you can carry on budget. And therefore, yes, there is work being carried on a number of roads in different areas of the country with other expenditures under Capital B.

The SPEAKER: (Gavels) Okay, Members.

(*Sotto voce* comments)

The SPEAKER: Members... oh, you have a follow-up, Mr. Clarke?

A MEMBER: Several.

Mr. CLARKE: You are saying, Minister, that some of the patching that's being done now on some of the arterial roads, that patching is being done under the Road Maintenance Fund, separate and apart from the Chinese arrangement. Can you say, Minister, in the Road Patching Programme that is being done now, is there any difference, in terms of the quality of work, different from what used to be done on those roads; is there anything that has been done to improve the quality of work that is being done now as what used to obtain?

Mr. HENRY: Well, having added the words used to, you might take me to micro surfacing, patching and 14 units that are lying down, bought at US$100,000 each, which were never used. But, I don't think you want me to go there.

(Laughter/*Sotto voce* comments)

Mr. HENRY: I have not been happy with them squaring out some holes in anticipation of expenditures which they didn't have. And I therefore, am launching a new patching programme to catch up on some roads where the planning was not as I would have liked it to be, and I have seen where they have squared out holes and not completed. In some instances why we have held with that is because we are coming with major repairs to one or two of the roads that would spring to mind automatically. But, I am...

The SPEAKER: Go ahead!

Mr. CLARKE: You are saying, Minister, that you are virtually revamping the original programme that used to obtain, in terms of road patching?

Mr. HENRY: No, I am not saying that. What we had was a patching programme, initially, which would move from ordinary patching to sheet patching on the main roads. Some of that was done under the JDIP. On the other areas, because of the vast damage to the poor infrastructure, we have a patching programme under the RMF, and I am again going to be releasing some more funding to do that patching, some of which will be micro-patching because we have discovered some machines that we can repair, and begin to do a quicker service of patching in some areas.

The SPEAKER: Okay. The final...

Dr. GUY: Thank you, Mr. Chair...

The SPEAKER: No, no, Mrs. Natalie...

Mrs. NEITA-HEADLEY: Mr. Speaker, I just would like to ask the Minister, as it relates to the alternate routes and the JDIP Programme. I am aware that alternate routes of Barry and Sligoville - and recent mention of a closure of the Gorge to facilitate the completion of the KMA works taking place there at this time. Now, Minister, the Barry road and the Sligoville road can't be worst. And the truth is, I am afraid that if there should be any closure – and though I would want to see the completion of the process - and there is - the roads are listed as roads for patching, but the Barry Road cannot be patched…

A MEMBER: No!

Mrs. NEITA-HEADLEY: …it cannot. So, I am asking, Minister, is there a position of the Ministry for any review where we find that following the writing of the programme, that the roads are beyond repairs, that there might be a review for rehabilitation of those roads?

Mr. HENRY: Firstly, Mr. Speaker, $400 Million can't do $4 Billion worth of work, okay...

Dr. DAVIES: You hear, Bobby?

Mr. HENRY: …so that in that context you still have to approach it. I was not aware when the National Water Commission decided to do the Gorge, and they do have a problem coming along there now, which forces us to look at the Barry Road, which was not in the JDIP to begin with because of further long-term plans.

However, I have met with my colleague Minister; we are in discussion. And, I think his Ministry and the contractor is going to assist me with the funding no improve the Barry Road to make it passable in respect of what we are faced with, with the Gorge. What we are faced with with the Gorge is that you are coming up on to a cement road which we built that is going to be more difficult for them to run the pipelines along it overall. And we are working to ensure the least inconvenience to people who travel that way, and we are going to offer the railway to the students by May, for them to travel from Linstead to Spanish Town, so that they can get there in time overall as we have alternative plans of transport.

(Applause/*Sotto voce* comments)

Mr. HENRY: So, the Gorge, of any form of closure, will only relate to the minimum amount of time, if any, and I am in dialogue with the Minister, and we will post the necessary notices, in respect of that.

The SPEAKER: Miss Lisa Hanna.

Mrs. NEITA-HEADLEY: You have not referred... one second, Minister, you have not said anything about the Sligoville Road because it is now taking the bulk of the traffic and really is very, very bad in some spots.

Mr. HENRY: What I should have said is, I can't do every road with $400 Million. Sligoville was not in the thing. I will look at Sligoville in Capital B as we go down the road.

Mrs. NEITA-HEADLEY: Minister, Sligoville is on the JDIP Programme.

Mr. HENRY: Well, if it is on it then your letter should have told you when it might be started.

Mrs. NEITA-HEADLEY: Your letter is indicating that it is in progress. And yet, when I speak with those in St. Catherine, there is no indication of start or the choosing of a contractor. So, I am saying there is a discrepancy between the letter that you are - you have offered, and what is actually taking place on the ground.

Mr. HENRY: Mr. Speaker, I wish I could remember every road on the schedule. The letter stated, contact the Works Agency to be clear what is taking place. If you wish for me to update myself, I will get on my iPod and try to do so for you as quickly possible. But, equally, you could have asked the National Works Agency, which is whom I referred to, to clarify for you, as I have just asked them today to give me an update of everything across the country, and I will be starting to tour the roads myself by next week.

The SPEAKER: Miss Lisa Hanna.

Miss HANNA: Thank you, Mr. Speaker.

Minister, when you do minor patching - and I have had one road so far on the schedule being patched - but there is no contingency, Minister, in there for drain cleaning or bushing. So, the fear is that when it is patched, the bushes are still on the road and when it rains it is just going to, perhaps, move away and the money would have gone to naught. That's the first question.

The second one, Mr. Speaker, as it relates to the Fern Gully Road, because as you are aware, I am subject to a boundary cut in my constituency, and very soon Fern Gully will become a part of my constituency. It is not a bad thing at all. However...

(*Sotto voce* comment by some Members)

Miss HANNA: No, I know my numbers. You don't talk to me 'bout my numbers; I know exactly what they are.

(Applause/*Sotto voce* comment)

Miss HANNA: Minister, there is a lot of anxiety on the ground, in terms of the work that will be done because $500 Million is a large figure, and many persons are unclear about what that $500 Million will actually go towards, especially in the surrounding communities, perhaps. The parochial roads in Hines Town, and other places, are in such a deplorable condition. So, if you can speak to that a little bit, I would really appreciate it.

Thank you.

Mr. HENRY: Let me try and take it a step at a time. The citizens should have had meetings in respect of Fern Gully subsequent to it. The questions that would relate to the expenditure could be explained. The Fern Gully expenditure relates to the fact, if you recall, that Ocho Rios town was flooded and almost unusable in the last heavy rains. That was caused because of some abandoned quarries along that route because of the drainage that has not been properly done, because we are also moving to use more cement in relation to that area on drains.

Therefore, it has to be an expenditure which will prevent the flooding of the town of Ocho Rios again. We had discovered sink holes which have been opened up and repaired, and this is an ongoing process to ensure the town can again be opened fully for visitors and the pride that should reflect.

One of the major draw backs on the road programme is maintenance. The maintenance

funding - please remember, I had no Capital B budget last year. I managed to survive without that, only through the RMF. So that, in that context, maintenance is now, hopefully in this budget this year as a start project. And I am working very heavily to improve the maintenance budget because without cleaning your side drains, and bushing and cleaning, you are going to have the roads deteriorate that you are repairing. That is what the infrastructure approach is about. And therefore, I am aware of it, and I am pushing hard for more amounts, for maintenance, in terms of how you clean the gullies and drains, and programmes are to be prepared for that.

Miss HANNA: Final question, Mr. Speaker. So, in terms of the roads that have been rehabilitated, and certainly my...

(*Sotto voce* comment)

Miss HANNA: ...the roads that have been rehabilitated, in terms of minor patching, that did not get that contingency, Minister, what is the possibility for getting that contingency retroactively, for this financial year?

Mr. HENRY: If you will forgive me for my facetiousness, I heard you use the term my constituency which is a term I never use. It's the people's constituency. And therefore, in the context of the drains and the roads that I deal with, I deal with them on the basis of my ability to use my CDF to request repairs to roads. There has been no dedicated maintenance structure that has been put in place, and I am starting that this year. It will not be enough to do all that has been needed to be done.

Just like traffic management is going to be in the Budget at a slightly higher level, I hope. That relates to the fact that we can't repair the rails; we can't improve the traffic lights, et cetera, and the various things that guide you on driving. So, I am saying, it is a priority that I am seeking to improve on. And I hope when the Standing Finance Committee comes, you will ask for four times the budget that I am asking for so that I can respond to your needs.

The SPEAKER: Dr. Guy.

Dr. GUY: Thank you, Mr. Speaker.

Minister, you did indicate earlier on, and in a follow-up to the Member from Central Westmoreland's question, earlier on you indicated that there are levels of assessment by the China EXIM Bank, the China Harbour, and you intimated about the National Works Agency's ability to assess the work that is being done. The question I want to ask though, is there any difference in the standards currently, of the work being done by the China Harbour, as opposed to the other patching programme that you alluded to that is to be done as a follow up to what is not being done by China.

Mr. HENRY: I repeat, there is no patching in the JDIB programme.

Dr. GUY: Whatever it is.

Mr. HENRY: No, it can't be whatever, you know, because, yes, there are different standards, a higher quality - higher quality of curbs.

A MEMBER: Periodic patching.

(*Sotto voce* comments)

Mr. HENRY: Well, put periodic patching to have started off, but that is what I am hoping the Capital B budget will support, because we can't use it for periodic patching over a life of the period. But I started it off

because we needed something done out there. Okay. So, when we now move to the next level which must come from Capital B, or it must come from increased approach to how you retain the roads. So, the difference is that periodic maintenance will move through RMF or Capital B budget, but not within this project. This must be sheet patching, all the drains, all the breakaways, all the main roads and asphalted concrete, with curbs and sidewalks.

The SPEAKER: Mr. Fitz Jackson, final question.

Mr. JACKSON: Mr. Speaker, through you. Two questions to the Minister.

One, in response to the Member from East Central regarding the Gorge, I heard the Minister to have said that there was - the pipe laying exercise by the National Water Commission, no preparation was made, no budgetary allocation in respect to the road. My question is, is it the case that the National Water Commission proceeded on those works in the gorge without prior consultation, and forward planning by the National Works Agency in respect to one, the management of the traffic through the road and the alternate roads that may become necessary while those road works are being done?

My second question, the Minister's response to the Member from Central St. Mary in respect to the work being done under the Chinese Programme and that there is no patching being done under that programme. I recall in the answers he provided to the questions I Tabled a couple weeks ago, he listed a set of roads as having commenced in October of last year, all of those roads listed as having commenced under the Jamaica Infrastructure Development Programme only involve patching. So I'm not clear in that it had started from then, but there's no patching involved in it but there's only patching that has been done on a portion of those listed for works in South St. Catherine including those that are supposed to be overlaid?

The SPEAKER: Minister Henry.

Mr. HENRY: As I intimated, we started some programmes of what we call patching in preparation for sheet patching. That combined with the patching that was done under the RMF, and as I said I'm reviewing on putting more funding in that. As to the bad habits that have been inherited in relation to your question overall, I'm seeking to ensure that we correct that approach that you mentioned of the areas addressed by you. I don't remember what was the first question, what was it? Remind me.

Mr. JACKSON: The first question was regarding the pipe laying exercise in the Gorge.

Mr. HENRY: Okay, as I said, my colleague Minister and I have met. We're taking a new approach. And when I said 'bad habits' as you know in the past the same thing has been happening, you repair a road, the pipelines get dug up. The Minister faces great challenges with pipes breaking because of the age, *et cetera*. It hasn't changed with the period of time, but we're now seeking to work to see, and he may want to address that, where we have agreed on a position but I'll answer for him here. What we're trying to do is now work ahead with better planning in respect of seeking to include these areas in the contract that is being done, rather than have us find that after we have done it then

they come to dig up the road. But as you know it's a perennial problem between the National Water Commission - and again I don't want to say the person who asked the questions will make his eyebrows. But you know there was once a Minister of Transport, Works, Water and Housing. So I would have hoped by then it would have been resolved at that time. But yes, sometimes the National Water Commission starts without consulting, and sometimes we don't give them all the information we should, but we're addressing it to correct and reduce it in the future.

(DR. DONALD K. DUNCAN, (PNP), Hanover, Eastern entered and took his seat.)

The SPEAKER: Thank you, Minister Henry.

Members, the questions before you, four were answered today, but they are five questions that were due for answer up to today - including today, that's Question 38, 39, 42, 47, and 48.

And I now put it to the House, is it the wish of the House that the extension be granted so that these questions can be answered in a week's time.

Put to the House and agreed to.

(Inaudible comment by Mr. Jackson)

Mr. HOLNESS: Mr. Speaker, just for information of the House -

(Inaudible comment by Mr. Jackson)

Mr. HOLNESS: Then we would have to go to a vote.

Mr. JACKSON: Then what?

Mr. HOLNESS: Then we go to a vote. Mr. Speaker, just for information of the House fifty-seven questions has been asked, Mr. Speaker. We've answered forty-six questions after the Minister of Transport and Works answered.

(Applause by Government Members)

That makes it eighty-one per cent of questions answered.

The SPEAKER: Very well.

Dr. PHILLIPS: Mr. Speaker, can the House Leader tell us how many have been answered within time?

Mr. VAZ: And compare that to your...

(Inaudible comment)

(Cross talk)

The SPEAKER: No, my understanding is that a number will be answered at the next sitting.

House Leader, we have a number of housekeeping matters, you want a recommittal of…?

(Cross talk)

Mr. HOLNESS: Mr. Speaker, We have several matters including a statement, Mr. Speaker, that should come…

(Cross talk)

The SPEAKER: Reports from Committees.

Mr. HOLNESS: …but I will ask now, Mr. Speaker. All right, Mr. Speaker, we'll ask for recommittal of the items, statements.

The SPEAKER: Ask for the recommittal of all three.

Mr. HOLNESS: All right, Mr. Speaker, I move for the suspension of Standing Orders to enable me to ask for the recommittal of the items: Statements by Ministers, Reports from Committees, and Notices of Motions Given Orally.

The SPEAKER: Members, the question before the House is for the suspension of Standing Order to allow for the recommittal of the items: Statements by Ministers, Reports from Committees, and Notices of Motions Given Orally.

Put to the House and agreed to.

STATEMENTS BY MINISTERS
(Recommitted)

The SPEAKER: Minister Baugh.

THE SHANIQUE MYRIE ISSUE/BARBADOS

Dr. BAUGH: Thank you, Mr. Speaker.

Mr. Speaker, this Statement to Parliament concerns the report of abusive treatment of a Jamaican national by Border Services officials…

Mr. PICKERSGILL: What's the truth, what's the truth?

Dr. BAUGH: …in Barbados. Mr. Speaker, I believe the information has been - is now well known having been on several radio stations over the last three to four days.

And the story is that Ms. Shanique Myrie, a Jamaica national, travelled to Barbados on the 14th of March, this year. On the 23rd of March the Ministry of Foreign Affairs and Foreign Trade received a report from her in which she recounted details of her experience at the entry point of the Grantley Adams International Airport. The national media has carried the story of her allegations of abusive and degrading treatment including being stripped and twice subjected to a **cavity search** by an official using a glove.

The Ministry of Foreign Affairs and Foreign Trade instructed our High Commissioner in Trinidad and Tobago, HER EXCELLENCY SHARON SAUNDERS, instructed her to advise the Barbadian Foreign Ministry of the formal complaint and requested a full investigation and that notification was done on the 24th of March, the very next day. The Permanent Secretary of the Ministry of Foreign Affairs, Jamaica, made attempts to contact the Permanent Secretary of Foreign Affairs in Barbados, those attempts proved to be unsuccessful.

Mr. PICKERSGILL: Unsuccessful?

Dr. BAUGH: Unsuccessful.

Mrs. NEITA-HEADLEY: What was that?

Mr. PICKERSGILL: Unsuccessful, that nuh sound right.

Dr. BAUGH: The Permanent Secretary. However, Mr. Speaker, I was able to reach the Barbadian Foreign Minister, the HONOURABLE MAXINE MCCLEAN, whom I know very well, naturally.

Mr. PICKERSGILL: Naturally?

Dr. BAUGH: Yes. She was all day in a meeting…

Mr. PICKERSGILL: Remember, you know, you are a doctor.

Dr. BAUGH: And I remember you're a lawyer and I'm exceedingly cautious about those sotto voce comments. The Minister was involved in an all-day meeting, Mr. Speaker, but returned my call in the afternoon as soon as she had an opportunity to do so. She had heard about the case, she had read the reports carried in a local newspaper and she had already caused an investigation to commence.

A formal note expressing grave concern of the Government of Jamaica was faxed to

the Barbadian Foreign Ministry on the afternoon of Friday, the 25th of March. The note also indicated that the High Commissioner, SHARON SAUNDERS, was instructed to visit Barbados to discuss not only the case of SHANIQUE MYRIE, but the broader question of negative attitudes which could undermine bilateral relations and CARICOM solidarity.

Mr. Speaker, I was called by the - sorry, I called Minister McClean on the next day, the second day, to get an update on the results of her investigations and she called me back on the Saturday March 26, and informed of the results of her preliminary investigations and she provided also the text of her press releases on her findings. As she was advised, Mr. Speaker, the findings of her officials did not support the allegations of Ms. Myrie and claimed that her statement was false.

The Ministry of Foreign Affairs and Foreign Trade, Jamaica convened a meeting this morning, where Ms. Myrie and her legal representative provided information on the case and they subjected themselves to detailed questions. Participants in the meeting included the Permanent Secretary of the Ministry of Foreign Affairs, but also senior representatives of the Attorney General's Chambers. That meeting found no agreement to the Barbadian claim, but rather considered that the matter demanded fuller investigations where due process must be respected.

(Applause)

(The Speakers leaves the Chair at 4.00 p.m., Mr. Mair (Acting) presides)

Dr. BAUGH: The delegation will travel to Barbados tomorrow lead by HER EXCELLENCY SHARON SAUNDERS, and will be comprised of the CEO of PICA, the Passport Immigration and Citizenship Agency, a human rights expert from the Attorney General's Chambers and three, Deputy Superintendent of the Organized Crime Unit of the Jamaica Constabulary Force.

Today, I had a conversation with the Minister, the Honourable Maxine McClean, our fourth conversation and although she won't be available for the meeting when our officers arrive, she will be available for a meeting with the High Commissioner. The reason she is not available for that meeting no reason for agreement is because she's going to Belize where I'm also going this week, Mr. Speaker, to a meeting of CARIFORUM.

The delegation will have a full brief, a full legal brief on the matters which the Barbadian authorities will be requested to answer. The results of their visit will determine the next steps to be taken at the diplomatic level. The Ministry of Foreign Affairs is aware that Ms. Myrie has contracted legal services to defend her rights *vis-á-vis* the Barbadian authorities.

(Applause)

Mr. ROBERTSON: She needs a good lawyer.

Dr. BAUGH: That is a second parallel track with which the Ministry of Foreign Affairs will collaborate as far as is possible, Mr. Speaker.

Another level being utilized by the Ministry is the CARICOM process. Coincidentally, a meeting of the working group on free movement has been scheduled for the 4th to 7th of April. Jamaica has requested that the inscription of a new item

on the agenda on the treatment of CARICOM nationals at border entry points within CARICOM be included on that agenda.

(Applause)

Mr. Speaker, we also note the release or the statement that our Public Defender has contacted his counterpart in Barbados, who has committed to also undertake an investigation. Of course, they will have our full cooperation to the extent that is necessary.

Since the account of MS. SHANIQUE MYRIE has been made public it has catalyzed several calls; and we have had a number of anecdotal accounts of discriminatory practices at the point of contact especially in relation to Border Services in Immigration and Customs. Mr. Speaker, this is not only to do with Barbados, there are other countries as well. And it is important that we acknowledge that the full movement to the implementation of the Caribbean Single Market and Economy has been stymied by many issues concerning the free movement of persons and products.

(Applause by Opposition Member)

Ms. HANNA: Hear, hear!

Dr. BAUGH: Particularly, in special reference to the movement of people throughout the Caribbean. Mr. Speaker. We have conducted a review as to the status of implementation of all the elements of the Caribbean Single Market and Economy. The review shows that all countries have moved to the implementation of the essential steps, at the policy making level, at the legislative levels, at the administration levels. Some of them are impeded and slowed by the lack of the capacity to complete the process on time. Even so, Mr. Speaker, it is clear, and our Prime Minister has made this point at the Meeting of Heads, that at the implementation level many impediments still exist to the free flow of people and products. There are non-tariff barriers, there are obstructions, there are all sorts of reasons, and all sorts of explanations given that people experience difficulty. There is no doubt that there is movement of drug traffickers in the Caribbean. We know that it's something with which we are grappling. And there's no question that from time to time people from Jamaica or other countries in the Caribbean enter other borders for the purpose of transporting drugs. Or in one instance related to me by the Minister herself, Minister Maxine McClean, a Jamaican did enter. There was doubt about his credentials, but they allowed him in nevertheless. The result was that the next day he held up a jewelry store and store and was caught selling the jewelry in Spanish Town and is now incarcerated in prison. But there is no need, there is no need…

Mr. PICKERSGILL: This Spanish Town? (Inaudible)

Dr. BAUGH: No, not in Spanish Town. In Bridgetown, Barbados.

Mr. PICKERSGILL: But you did say Spanish Town.

Dr. BAUGH: Did I say Spanish Town? Freudian slip.

Consequently... Mr. Speaker, there is no doubt that these things do occur and there is legitimate cause for concern and to take steps. But there is no need for it to be generalized. I have received the statistics from Minister

McClean of Jamaicans entering Barbados.

In 2008, arrivals were 18,227. Of that, 404 were refused.

In 2009, arrivals were14,952. Of that, 218 were returned. In 2009, arrivals were 14 refused. And in 2010, arrivals were 17,900, of which 229 were refused.

A MEMBER: That's a good amount.

The PRIME MINISTER: Here are the comparative figures for Jamaica...

Dr. BAUGH: The Prime Minister has just handed me the comparative figures for Jamaica.

In the year 2008, number of passengers landed.

(*Sotto voce* comments by an Opposition Member)

The PRIME MINISTER: What you mean? Coming to Jamaica.

Dr. BAUGH: ...2,734 in 2008, passengers landed. Number of refusals, 2. Reasons: one wanted for murder and the other one is not clear; 2009, 4,797 arrivals; one refused; 2010, 4,702 arrivals; one refused on the basis of insufficient funds...

(MR. CLIVE ARTHUR MULLINGS, (JLP), St. James, West Central, entered and took his seat.)

…2011, to date, 1,844 arrivals. One refused for insufficient funds.

(Inaudible comments by Miss Hanna)

How much?

(Inaudible comments by Miss Hanna)

Those were the figures for Jamaica I just gave…

Miss HANNA: No, no, no!

Dr. BAUGH: For Barbados?

Miss HANNA: Yes.

Dr. BAUGH: Again? You want to hear them? 2008, 18,227, 404 refused; 2009, 14,952; refused, 218; and 2010, arrivals, 17,900; 229 refused.

(Inaudible comments by the Prime Minister)

Dr. BAUGH: This incident has demanded that we move to investigate thoroughly the circumstances surrounding the movement of people through the Caribbean and these refusals, and in particular this case of Shanique Myrie which is before us.

Mr. Speaker, I can only guarantee that intensive investigations will be done. The preliminary one this week will be followed by others, but that will be determined. The extent to which we move and how we do it will be determined by the results of this meeting. There is no question that much work needs to be done in the Caribbean, not only at the level of the Council for Trade and Economic Development or COFCOR. Work has to be done among our own nationals, nationals of other countries about the Caribbean Single Market and Economy of how it must work, and what are the requirements for it working. Because one of the fundamental requirements is the free movement of the factors of production. But we have to undertake education of our border officials in particular, our immigration and customs officers, to make sure that the courtesies are understood, that must be extended to all Caribbean nationals. It is not sufficient to have a CARICOM passport.

There is no doubt that we have to build a level of understanding and appreciation. And

there is a backlog of rivalry and biases that we have to deal with. We first of all have to accept that they do exist, and that we have to take special measures to improve the relations between our countries, especially in terms of the movement of people.

Mr. Speaker, we are taking this opportunity to explore all the necessary steps that need to be taken to make sure that this Caribbean Single Market and Economy becomes a reality. Thank you, Mr. Speaker. (Applause)

Mr. PICKERSGILL: She is to get legal services in Barbados?

Dr. BAUGH: No, she is to get legal services here. I didn't mean to point in that direction.

The Acting SPEAKER: Mr. Hylton.

Mr. HYLTON: Thank you, Mr. Speaker. Mr. Speaker, let me say at the outset of this brief comment on the Minister of Foreign Affairs' statement to this Honourable House, that the firm of which I am a partner has been retained by Miss Myrie in this matter to pursue...

Mr. VAZ: Yuh hear that, Bobby?

Mr. HYLTON: ...to pursue all legal remedies available to her under law, whether it be Barbadian law or the Treaty of Chaguaramas. That aside, Mr. Speaker, that does not prevent me from commenting as the Opposition spokesman on Foreign Affairs and Foreign Trade...

Mr. VAZ: I don't think you should.

Mr. HYLTON: ...to say the following, Mr. Speaker.

Firstly, I want to say that we are satisfied that the Ministry has, and is responding with the appropriate seriousness that this matter warrants. As the Minister has indicated, cooperation has been given and will be given with respect to the investigation at the diplomatic levels. But I want to say at the outset, that it was unfortunate, I believe, very intemperate, for the remarks made by the Minister of Foreign Affairs and Foreign Trade in Barbados, concerning the entire fabrication of this matter. Because I think as was said by the Minister in his statement, Miss Myrie has cooperated with the Ministry, the Ministry has had the benefit of speaking with Miss Myrie in the presence of her legal representative. And the Ministry's conclusion and determination as at this moment is that Miss Myrie...

Mr. HOLNESS: Mr. Speaker, if the Member would allow me. Mr. Speaker, while I agree with the Member's sentiments, it may not be in good order, given the Member's standing outside with the person in question that he should speak on this matter.

Mr. HYLTON: That's what I said earlier.

` **Mr. HOLNESS:** And I would invite, Mr. Speaker, that you guide us on this one.

Mr. HYLTON: Mr. Speaker, I suggest that my brief remark does not conflict with my position. And I was making a very brief comment on the matter. I know the appropriate lines. I will not cross those lines, and I think it's preemptive. I think the objection is preemptive. And I assure you I will stay within the bounds of appropriateness on this matter.

The Acting SPEAKER: Also, Mr. Hylton, please, just remember it's a

diplomatic matter and we should just try and minimize our comments to ensure that it is resolved at that level.

Mr. HYLTON: Well, it's my very point that we have supported and will continue to support the diplomatic effort. And that's the point that I was making.

(Inaudible comments)

(The Speaker returned to the Chair and the Acting Speaker resumed his seat.)

Mr. HYLTON: Yes. I was making the point...

(Inaudible comments)

The SPEAKER: Go ahead, Mr. Hylton.

Mr. HYLTON: Thank you, Mr. Speaker. I was merely making the point that so far, the support, the cooperation has been fulsome and will remain so. And I was commending the Ministry for taking the steps that it has indicated in this matter and to make the point that the statement so far has been unfortunate, insofar as the attempt to say that Miss Myrie has fabricated the story. And to say to this House and to the people of Jamaica that in fact the evidence available to the Ministry and to all the other agencies so far that have intervened, is to indicate that this is a very serious matter requiring the most serious consideration in pursuing this matter. And I want to give support to the Ministry in its effort.

Thank you, Mr. Speaker.

Mr. VAZ: Good legal representation. Don't leave out that part. (Inaudible)

The SPEAKER: Very well. Mrs. Simpson Miller.

Mrs. SIMPSON MILLER: Thank you. I'll be very brief. Mr. Speaker, I'd just like to commend the Minister of Foreign Affairs for taking on this thing in a very serious way because I believe the interest of all Jamaicans should be protected, not only in Jamaica but elsewhere. (Applause) And the fact that we have good relations with our CARICOM neighbours, I really believe that we should see to it that our people be treated with respect and that their dignity be not trampled on. And so I want to - and we just passed the Charter last week - and that their rights be protected.

A MEMBER: Hear, hear!

Another MEMBER: At home and abroad.

Mrs. SIMPSON MILLER: And the fact that we have a very good relationship with CARICOM, and the fact that several of our leaders, former Prime Ministers and the present Prime Minister having served as leaders of CARICOM, at some time or the other, I really believe that while we extend respect to the other countries, respect is also due to Jamaica.

Mr. MULLINGS: Absolutely! (Applause)

Mrs. SIMPSON MILLER: We are pleased that they are cooperating with the Ministry of Foreign Affairs and the Minister. And I would just like to say to the Minister and to the Government that we are in full support for all actions to be taken to ensure that the truth as to what happened will be unearthed. And that our Jamaican citizens, not just the young lady that was involved, but all Jamaicans will be protected. And when they are travelling through any of the CARICOM countries, the necessary respect

will be given as we return the respect in Jamaica.

Thank you. (Applause)

The SPEAKER: Doctor Phillips.

Dr. PHILLIPS: Minister, through you, Mr. Speaker.

I notice... I mean, you propose, as I understand it, to send a investigative team and you are in bilateral discussions, though I did hear you make mention as to the implications of all of this for the Single Market arrangements. And my question therefore is whether or not there is any plan on the part of the Government of Jamaica to raise this issue in a CARICOM forum as distinct from the bilateral exchanges between Jamaica and Barbados; and whether or not there is a plan in that regard to establish some framework that is for the free movement of people and some further standards, refine the standards that would govern the movement across CARICOM borders, that is being contemplated by the Government of Jamaica.

Dr. BAUGH: Thank you. Mr. Speaker, through you.

I indicated in my presentation that there is a working group on *Free Movement*, which is scheduled for April 4 - 7, and we are making certain that this is on the agenda.

But you are right, on the agenda of other significant meetings, COTED and COFCOR, we are going to make certain that this item is on the agenda. This is not new. On the Heads meeting that was held, our Prime Minister chaired here in Jamaica, in Montego Bay, last year, it was a big item on the agenda. As a matter of fact, in all the Heads meetings that I've been to with the Prime Minister, this issue has been very topical about the impediments that still exist. And there are in fact real issues. The questions of the rights of establishment, the questions of contingent rights that relate to if you establish business in another territory, what are the rights of your wife and children and the people who will manage your business, as a matter of fact. The question of access to social services such as education and health in particular. Because in some countries they provide these services free of cost. Some countries all the way up to tertiary education it's free of cost. Does that give an entitlement to people from other territories that when they come their children have that right?

Dr. BAUGH: At the last intercessional Heads it was discussed and it was emphasized that as far as primary education is concerned and emergency medical care, those were fundamental rights to which people were entitled. Others will have to be worked out overtime because there are obvious implications for cost and the burden on the economy of the receiving country.

There are other issues, of course, such as the legal issue concerning the recognition of common-law unions in Jamaica, but not so recognized in other countries such as Barbados, what are the implications for the spouses and the children of such a union.

These are real issues and these are issues that are discussed frequently. I don't believe it is yet resolved. It is going to take more time before we can achieve that level of free movement. At the same time, we have to recognize that things have taken place, incidents have occurred, in terms of our

entertainers, for instance, who were denied entry to Barbados. The Prime Minister himself on a visit there had to intervene on behalf of one of our nationals while he was there who was denied entry and was at the airport.

The PRIME MINISTER: A Journalist.

Dr. BAUGH: A Journalist. But there are real issues again with entertainers when it comes into conflict with moral values and moral standards of a country, that they feel that these moral values may be subject to some disturbance and, therefore, they will refuse entry.

What we have done in that case, is that we put the issue on the agenda for COTED. It was discussed at COTED. We emphasized the point that yes, that territory has a right to do that, but there must be notifications, and there are rules and regulations about how this must be handled, and there has to be some accountability.

So the matter is being dealt with, but it becomes even more urgent now. There is no question, that the difficulties that are being experienced are impediments to moving further with the CSME. You cannot go to the full CSME when the CSM, the Single Market is having difficulties. As a matter of fact, it was recognition from the time of signing that there are two phases. The first phase is to perfect the Single Market, and the other phase is to move towards the Single Economy. And we are at the level of the Single Market, we have to make that work. It is not working too well at this point in time.

There are issues that we have dealt with in terms of products as well as is well known. We have been successful in many instances, but there are others. And there is no doubt in my mind that it will involve much more work, it's a work-in-progress and it is something that we will have to address from time to time, even when we are not around for other generations as well.

But the work is taking place. The institutions are there in the Caribbean to deal with it. Some countries have capacity problems; other countries can help them. But we anticipate that we really have to resolve these issues before going any further to the Single Economy.

Dr. PHILLIPS: Can I ask, is it likely to form part of the agenda of discussions at the forthcoming Heads of Government in July? Because it may be appropriate to have the matter clarified at that level rather than to have it perculating through the lower levels where the possibility of, shall we say, excessive nationalism may threaten even further the integrity of the Single Market arrangements?

Dr. BAUGH: I have no doubt it will be on the agenda of the Meeting of Heads. I have no doubt about that. It has been and considering what is happening now, it is more than likely to be. We will make certain that it is on that agenda.

(*Sotto voce* comment)

Dr. BAUGH: Well, I don't think I have to say any more to that, I think once the Heads deal with it, it will make progress, it will go forward.

The SPEAKER: Reports.... Sorry, sorry, Prime Minister.

The PRIME MINISTER: Mr. Speaker, I really don't want to prolong the discussion

of the matter, it has been fully ventilated and taken aside, indeed we can take it here. But I do feel that there are few observations that I would want to make.

Firstly, we must be very careful not to allow an incident, no matter how deplorable or despicable it is reported to be, to undermine the regional integration movement.

What will turn is not so much the incident itself, it is what is the response to the incident, the extent to which it is investigated transparently and the extent to which, if it is found to be correct, accurate or substantially so, what steps are taken, both to redress and to prevent a recurrence.

In that regard, our jury has to remain out. It is a matter of concern to me that the position taken by the Government of Barbados, based on their investigation and the report which, as submitted by Miss Myrie, bear no measurable relationship. That worries me. Because we are not into the business through of disputing details, we are as far from each other as the earth is from the sun. And, therefore, we have to await the report of our mission, the march that will be made upon the Barbadian Government before we can take a definitive position about it. But I want to say a little bit more.

This is not a matter that is new. As a matter of fact, as recent as the recently CARICOM Heads of Government Meeting in Grenada last month, the Prime Minister of St. Vincent made complaints about the treatment of his nationals when they arrive in Barbados. At the meeting before that, a similar complaint was made by the president of Guyana.

There are issues that we have not addressed. The Deputy Prime Minister will confirm that at almost every Heads of Government Meeting the matter is raised. I normally speak about it. I speak with some amount of pride at the extent to which Jamaica is way ahead of all the other countries in terms of facilitating admission of CARICOM nationals when they arrive.

But I also have to be appreciative of the peculiarities of small island States with small populations. I mean, we have some CARICOM countries with populations of below 50,000. And a country with a population that is so small, is likely to have - undergo stress in terms of migration of people than a country with 2.8 million people would not suffer. I mean, if all of Dominica were to take some charter flights and arrive in Jamaica, the place would look a little crowded, but they would quickly melt into the landscape.

(Inaudible comment by Dr. Davies)

The PRIME MINISTER: If the parish of St. Thomas were to decide to descend on Dominica, they would overwhelm the place. So there are differences in size and differences that we have to contend with.

But this last point I want to make. As the Deputy Prime Minister says, I have discussed the matter at every CARICOM Heads of Government Meeting. I have suggested since some countries have not been able to meet the timelines that were given for free movement, can we, through the Secretariat provide support for them to work through the difficulties that they are having and to see if you can't - you can't do it now but if it is five more years you are going to need and what

support can we give. In terms of our immigration capabilities here, can we lend some support so that you work through some of those difficulties.

There is, regrettably, an unwillingness to restate and reaffirm the commitments of the revised Chaguaramas. It's almost as if the question of entry of people, free movement of people is something that some countries would prefer, let's not talk about it.

The truth, Mr. Speaker, is that we are likely to succumb to frustration if we believe that we can interface our legislation, we can interface our policies, we can interface our systems, we can move our capital up and down if we don't start interfacing the Caribbean people. If you don't have that as the foundation, then all of the things that we are trying to do by legislation and by treaties and by all sorts of things will not work. And therefore, it is something that we have to come to grips with.

And if this unfortunate incident that is reported to have happened in Barbados last week, if any good comes from it, it perhaps would be knee-jerking all of CARICOM to recognize that this is an issue that we can no longer ignore, we can no longer skirt around it, we are going to have to confront the issue.

(Applause by both sides)

The PRIME MINISTER: I expect, although the agenda has not yet been developed, but there is a Special Heads of Government Meeting that is to be held in Guyana, either the 3rd or the 4th week in May, prior to the Annual Heads of Government Meeting which will be held in July, and I am almost sure that this is an issue that is going to have to be dealt with on that agenda.

(Applause by both sides)

The SPEAKER: Thank you, Prime Minister.

REPORTS FROM COMMITTEES

The SPEAKER: Mrs. Dalrymple.

Mrs. DALRYMPLE-PHILIBERT: Mr. Speaker, I beg to lay on the Table of the House a copy of the Report of the Regulations Committee on our deliberations of the Financial Management Regulations, 2011.

Mr. HOLNESS: Mr. Speaker, may I move for the suspension of Standing Orders to ask for the recommittal of the Item, Announcements?

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow for the recommittal of item Announcements?

Put to the House and agreed to.

ANNOUNCEMENTS
(Recommitted)

The Clerk by leave laid on the Table of the House a copy of the following:

- Report of the Ethics Committee of the House of Representatives, regarding exemption motion for the Member of Parliament for Westmore-land Central.
- Report of the Regulations Committee on the Financial Management Regulations.
- Green Paper No. 1, entitled Information and Communications Technology Policy 2011.

REPORTS FROM COMMITTEES (Continued)

The SPEAKER: House Leader.

Mr. HOLNESS: Thank you, Mr. Speaker.

Mr. Speaker, I beg to give - I beg to lay on the Table of the House a copy of the Report of the Ethics Committee of the House of Representatives, set up to consider and report on the motion regarding the Member of Parliament for Westmoreland Central.

The SPEAKER: Thank you, House Leader.

NOTICES OF MOTIONS GIVEN ORALLY

The SPEAKER: Mrs. Dalrymple-Philibert.

Mrs. DALRYMPLE-PHILIBERT: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

> BE IT RESOLVED that the Report of the Regulations Committee on our deliberations on the Financial Management Regulations, 2011, which was laid on the Table of the House on the 29th day of March 2011, be approved.

And Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of Standing Orders to enable me to take this motion.

The SPEAKER: Thank you, Mrs. Dalrymple-Philibert. House Leader.

Mr. HOLNESS: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

> BE IT RESOLVED that the Reports of the Ethics Committee of the House of Representatives set up to consider the Report on the motion regarding the Member of parliament Westmoreland central which was laid on the table of house on the 29th day of march 2011 be approved

Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of Standing Orders to enable me to take the motion.

The SPEAKER: Thank you, House Leader.

PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, I now move to introduce and have read - this is on behalf of the Minister of Finance - a first time a Bill shortly entitled: "The Financial Administration and Audit (Amendment) Act, 2011" and a Bill entitled: "The Public Bodies Management and Accountability (Amendment) Act, 2011".

Bill shortly entitled:

"The Financial Administration and Audit (Amendment) Act, 2011"

read a first time.

Bill shortly entitled:

"The Public Bodies Management and Accountability (Amendment) Act, 2011"

read a first time.

Mr. HOLNESS: Mr. Speaker, I beg to give notice of second reading of the Bill.

PUBLIC BUSINESS

The SPEAKER: Mrs. Marisa Dalrymple-Philibert.

Mrs. DALRYMPLE-PHILIBERT: Mr. Speaker, I now move for the suspension of the Standing Orders to enable me to take the motion, notice of which I gave earlier.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the Member to take the motion, notice of which was given earlier.

Put to the House and agreed to.

The SPEAKER: Mrs. Dalrymple-Philibert.

Mrs. DALRYMPLE-PHILIBERT: Mr. Speaker, the Regulations Committee met and we looked at the sections that were amended under the Regulations and they were all approved, but there were certain suggestions that were made and recommendations. One of the main recommendations that we found that could be looked at is the fact that, although we have - there are amendments to the Regulations, we did not see any amendments put forward to penalties or sanctions to be addressed. And usually if we are amending the Regulations usually the sanctions or the penalties imposed are really outdated and way behind time. So although the Regulations were approved by the committee, we felt that we need to look at the sanctions or the penalties to be imposed if they were not adhered to.

And I think it was in **Clause 114** when we were addressing the sale of government properties, the use of the word 'purchase' was made, which is correct, but we thought the use of the word 'sale' would be a better way to address clearly what was there. But the amendments were all approved and we ask that they be commended to the House to so do.

The SPEAKER: Thank you, Mrs. Dalrymple-Philibert.

Yes, Mr. Fitz Jackson.

Mr. JACKSON: Mr. Speaker, I wish to join in supporting the recommendations of the committee, the Regulations Committee, on the matter put before us, and to emphasize the point raised in the Report in respect to the sale of government property.

It was the considered opinion of the Members that in considering the sale of government properties, great focus and attention should be placed on the extent to which such an asset can contribute to wealth creation and national development. And, in particular, Mr. Speaker, the concern that from time to time government properties might be sold and be held for extended period without being brought into productive use, and such practices can deny the country of timely investment, and so some consideration ought to be given to some time frame in which government assets are transferred and not being utilized. It is acknowledged, Mr. Speaker, that investments may encounter difficulties from time to time, but such transactions should not be in finality without any benefit accruing to the State from those assets.

In respect of the time line for the Financial Secretary to give rulings on transactions, we believe that while it is in order for the Financial Secretary to come to bear on those transactions, on those reporting, as set out in the Report, a time line should be set. Invariably, Mr. Speaker, there are matters involving the State where those members of the public that are injured from those incidents, those occurrences, the

Government, the State, takes an inordinately long time to finalize those matters; and persons without much resources stand to suffer. For those who have the abilities and the resources to challenge and take on the State it's not a major problem, but for those who are marginalized we believe that there should be some protection for them by way of a time line for the State to respond in those matters. Having highlighted those particular points, Mr. Speaker, I once again give my support to the recommendations of the committee.

Dr. PHILLIPS: Mr. Speaker.

The SPEAKER: Yes, Dr. Phillips.

Dr. PHILLIPS: I have only this afternoon received this Report and I notice the clause referred to by both the Deputy Speaker and by the Member for South St. Catherine, in relation to Regulation 114, where it is said that in the view of the committee the reference is to the purchase of government lands and should be changed to **sale**. Is it that you are suggesting a reversion of that recommendation? Because, if not, it seems to me, Mr. Speaker, that it is in fact referring to the purchase of assets by the government and is setting down the basis on which the government ought to purchase, and it seems to me appropriate in that way.

And, indeed, if you look at Regulation 133 onwards to 141 there is a reference to the sale of government properties. So that it seems that the Regulations were structured to deal with both the sale in 133 and the purchase by government. And from time to time government needs to purchase obviously, and so this was what was being set out. So I am merely seeking clarification as to what is the intention of the committee and how they would want the Parliament to proceed.

Mr. PAULWELL: Mr. Speaker, I think I could respond as a Member of the committee.

The SPEAKER: Yes, Mr. Paulwell.

Mr. PAULWELL: The Member, I believe, is correct. Within the committee meeting I had raised an issue if that matter pertained to the purchasing by government of properties. And the point I was making is that there wasn't any specific requirement that there was funding for such purchases to be made. But I was convinced that it related more to the sale. But I think the Member is correct that really it is when one is purchasing on behalf of the government then those are the criteria, in which case I will have to re-lodge my own comment and observation that there was not within that framework a requirement that funding be identified for such purchases, and that you can't be making purchases without Parliament having approved some budgetary expenditure for it. So therefore I think it is appropriate for us to withdraw that note in the submission and to let it remain as is.

The SPEAKER: Well is it then that . . .

Mrs. DALRYMPLE-PHILIBERT: We had a quorum. I might just commit to you the words yield not to temptation because yielding is sin. We had a quorum and it was properly discussed and we have…

The SPEAKER: Very well. Members, the Report is before you on the motion. We now ask for the approval of the House.

Put to the House and agreed to.

The SPEAKER: The Report of the Regulations Committee is approved.

House Leader, we now have….

Dr. PHILLIPS: Mr. Speaker, the House obviously can decide to do what it pleases. And we are accepting the Report. But I don't know if in relation to 114, given that I believe the committee, for whatever reason acted in error, my question would be to you, Mr. Speaker, what then is the consequence of the acceptance of this Report? I believe they were proceeding on a false premise. What Part 8 does is simply say that - maybe it says so in an inelegant way - but it's saying purchase of government property - it should be purchase of property by government, right, that's what it should be.

(*Sotto voce* remarks by Mr. Holness)

Dr. PHILLIPS: No, that's not what it says. It sets out…

The SPEAKER: Dr. Phillips….

Dr. PHILLIPS: Yes.

The SPEAKER: Could we….

Dr. PHILLIPS: What I really want, for us to just simply pass it by rote, Mr. Speaker, what then flows? Because we should not….

The SPEAKER: Dr. Phillips, what we would do is to ask the Regulations Committee to consider that narrow point at their next meeting. We will ask the committee, on the issue you have raised, Dr. Phillips, to consider that point and make a Report back to Parliament.

Mrs. DALRYMPLE-PHILIBERT: Mr. Speaker, if I might, as Chairman, I think having discussed it, it would be the considered view of the committee that we withdraw that amendment and allow for the Regulation to go through. I think it is not necessary that we meet and report again. The point made by Member Phillips is well taken and we are advised and we would withdraw that proposed amendment and leave it as it is.

The SPEAKER: Very well. Members, I have to put again that the amendment be withdrawn.

Put to the House and agreed to.

The SPEAKER: I now put the Report as amended.

Put to the House and agreed to.

The SPEAKER: House Leader, we have a few Reports for - Public Business, under Public Business. Yes, we are at Public Business.

Mr. HOLNESS: Mr. Speaker, at Public Business I will be taking the Report from the Ethics Committee, which is standard for approval. And then, Mr. Speaker, the Minister of Information in the Office of the Prime Minister will take the Green Paper that he has tabled. I gather that there might be a change to that. And then, Mr. Speaker, I propose that we resume at Committee Stage where we left off last week for the Special Prosecutor.

The SPEAKER: I think Mr. Pickersgill also has a Report of the Infrastructure Committee.

(*Sotto voce* remarks by Government Member)

The SPEAKER: Well let's go with the Ethics Committee Report first.

Mr. HOLNESS: Remember, Mr. Speaker, we also have the Revenue Administration Act which we intend to take through all its stages today. So we will proceed with these matters until the Prime Minister is back in the Chamber. We will probably take the Revenue Administration

Act first. We'll probably take that first. Agreed. So the order of business then, Mr. Speaker, is that we do the Reports then we go to the Revenue Administration Act and then we continue with Special Prosecutor.

Dr. DAVIES: No, no, no! We are not doing that.

Mr. HOLNESS: The Reports, the Green Paper.

The SPEAKER: Ethics Committee Report then.

Mr. HOLNESS: Mr. Speaker, I now move for the suspension of Standing Orders to enable me to take the motion, notice of which I gave earlier, which is the motion of the Ethics Committee.

The SPEAKER: Members, the motion before you is for the suspension of Standing Orders to allow the Leader of the House to take the Report, notice of which he gave earlier.

Put to the House and agreed to.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, I am not going to take the - debate the Report, I am just going to ask that the Report be approved. The Report is available for Members to read it, it is regarding - it is an ethics…

The SPEAKER: Members, the Report before you is the Report of the Ethics Committee dealing with exemption as applied for by the Member from Central Westmoreland.

Motion put to the House and agreed to.

The SPEAKER: The Report is approved.

Mr. HOLNESS: Mr. Speaker, the Minister of Information will now take the Green Paper.

The SPEAKER: Very well. Minister Vaz.

Mr. VAZ: Mr. Speaker, before I speak, I will yield to Mr. Paulwell.

The SPEAKER: Mr. Paulwell.

Mr. PAULWELL: Mr. Speaker, the Minister and I have consulted on the proposed Green Paper that was tabled in Parliament today. And after discussion we would like to put to you, to the House, that there be a modification to the document because we have been in extensive discussions over the last five years, in fact, in 2006 the previous Cabinet had signed off on a new policy recognizing that the existing Telecom's policy was to enable a transition from a monopoly arrangement to full and open competition. And that, up to 2006 we had engaged in wide discussion that involved a wide cross-section of the country, and subsequent to that, with the change of government there have been further discussions. Because this policy will enable us, Mr. Speaker, to now move to draft new legislation, it is our considered view that it not be treated as a Green Paper, but that it be passed by acceptance as policy to enable drafting to take place at which time, when the new law comes back, we are proposing that it be dealt with by a Select Committee of Parliament.

So the Opposition is supportive of a move to treat **this Green Paper as policy**, to enable drafting to commence so that a new Telecom's law, which is absolutely necessarily especially in light of some of the things that are happening in the Telecom's

market today that those things be brought to Parliament as quickly as possible, including very importantly, the establishment of a single regulator for Telecom's market. And so, I am putting that to the Parliament, and we have the concurrence…

The SPEAKER: Mr. Paulwell, Mr. Vaz, before - you are asking for the Green Paper to change to a White Paper. House Leader, could we stand this matter down so that the matter can be given some consideration?

So, Members, the motion before the House is for this matter before us to be stood down for further consideration as to how we move - how we proceed.

Mr. HOLNESS: Mr. Speaker, I agree with you, but both Members agree on the position that the paper should be escalated to a White Paper. So we will then do the necessary…

The SPEAKER: We need to have a resolution to have it done.

Mr. HOLNESS: …to ensure that that is done.

The SPEAKER: So, very well. So Members, the motion before you is for the standing down of this paper.

Motion put to the House and agreed to.

The SPEAKER: House Leader, we will take the…

Mr. HOLNESS: Mr. Speaker, the Member from North St. Catherine….

(*Sotto voce* comments by Dr. Davies)

Mr. HOLNESS: St. Catherine North West, Mr. Speaker, will now give the Report.

Mr. PICKERSGILL: Mr. Speaker, I have two Reports. Do you want me to do both or just one?

The SPEAKER: Both.

JUTC - REPORT

Mr. PICKERSGILL: Both. Well let's start with the JUTC.

I tell you it is a very extensive document, so I am going to take it as read because it would be very time consuming to go through page by page. And so I will move straight to the recommendations. That for future development bus sheds should be constructed in Parade area to protect commuters from the elements. That is a very basic recommendation.

Since the JUTC cannot enter the bus park because of the way it is configured, the Committee should demand a report on the Water Lane Transportation Centre to identify what went wrong in the design, and construction stage to ensure that there is no repetition of the errors identified.

And give constant reminders to the Transport Authority to regulate the transportation system; to ensure that the KMTR is controlled to the point where the JUTC can regain its position as the most used transportation system. Sublet the routes that the JUTC does not find feasible to operate on And for future consideration expand the JUTC services to areas in neighbouring parishes; and expedite the mapping out of a bus service for some towns, and/or consider using cheaper alternate fuel instead of diesel oil to fuel the buses.

(The Honourable Speaker vacated his seat and the Deputy Speaker presided)

However, action should be taken to ensure that the alternate choice of fuel does

not compromise the safety of the travelling public. And of course, Madam Speaker, we acknowledge our thanks to the Clerk for - the staff for their invaluable contribution and from the officers of the JUTC. As I said, it is an eleven (11) page Report, but all the information is there.

ROAD MAINTENANCE FUND

In terms of the Road Maintenance Fund, Madam Speaker, once again, I would confine my remarks to the recommendations. Use micro- surfacing for roads that are near to the sea as that method of road surfacing can handle its salt and the water better than the other methods of road surfacing. And assess the cost of implementing and maintaining an asphalted road *versus* the cost of constructing and maintaining concrete roads, roads made from cement.

Again, Madam Speaker, I would like to say thanks to the Clerk and to the Road Maintenance Fund who came and spoke honestly and answered the questions we asked adequately.

Madam Speaker, the attendance records is not what I would like it to be. And based on the Report that you just sent in there is some empathy there. But I would really like to implore the Members to make a better attempt to attend these meetings.

I ask that the Reports be accepted, Madam Speaker.

The DEPUTY SPEAKER: The question before the House is that, the two Reports just mentioned, the Report of the Sectional Select Committee on the Infrastructure and Physical Development and, on the Urban - Jamaica Urban Transit Company Limited which was laid on the Table be approved.

Motion put to the House and agreed to.

And the other is the Report of the Sessional Select Committee on Infrastructure and Physical Deliberation on the Road Maintenance Fund, Report which was laid, be so approved.

Motion put to the House and agreed to.

Mr. HOLNESS: Madam Speaker, we will now take the Revenue Administration Bill. The Prime Minister will take charge of that Bill.

THE REVENUE ADMINISTRATION ACT

The PRIME MINISTER: Madam Speaker, as I had indicated earlier, I wish to seek suspension of the Standing Orders to allow me to introduce and have read a first time the Bill entitled; "AN ACT to Amend the Revenue Administration Act" and to allow me as well to take it through all its concluding stages.

The DEPUTY SPEAKER: The question before the House is that there be suspension of the Standing Orders to allow the Prime Minister to have the Bill read a first time and to take it through the stages of the amendment.

Motion put to the House and agreed to.

Bill entitled:-

"AN ACT to amend the Revenue Administration Act and for connected purposes,"

read a first time.

The PRIME MINISTER: Madam Speaker, again in keeping with the Standing Orders, it is necessary, and I will explain in a

moment to take the Bill through all its stages today, and therefore I am formally moving second reading of the Bill.

I am doing so, Madam Speaker, on behalf of the Minister of Finance, who was off the island, he was attending the annual meeting of the IDB, in Calgary. He left Canada today, for London to attend the Commonwealth Debt Management Conference. He is due back later this week.

The fact that I am taking it in his stead on his behalf indicates the urgency that attends this particular matter. It is a policy base requirement of the current Standby arrangement with the IMF and it is time sensitive. And I want to apology to the House because it should have been brought here before. I want to thank the Opposition who has been consulted and who appreciate the urgency and the sensitivity of it.

The major objective of the Bill, Madam Speaker, is to restructure the tax administration machinery, a substantial part of the administration machinery. And I want to put it in a particular context.

In 1998, certain amendments were made to the Revenue Administration Act, which in effect decentralized the tax collecting apparatus, where separate revenue departments were set up to deal with particular areas of taxes.

The Member for South St. Andrew can speak more intimately of the thinking that went into it on that occasion. The sense I had is that, it was felt that it makes sense to move away from tax lines where, if you're dealing with income tax for example, all of your income tax matters would be dealt with in one department, your appeals and everything. It was felt that we needed to move away from that into more functional separation and specialisation. So that we brought together appeals in one department, and it didn't matter whether you were appealing income tax, or you were appealing some other kind of tax, we brought the skills and the expertise to deal with appeals in one department.

And therefore as a result of those amendments that were made, we created, in 1999, the Revenue Protection Department, the Tax Administration Services Department, the Taxpayer Appeals Department and the Taxpayer Audit and Assessment Department. Each of these Departments was headed by a separate commissioner appointed by the Governor-General, and then we established the post of Director General of Tax Administration. But in establishing that post, I think it's fair to say that the relationship between the Director General and these several commissioners that had been established, was not clearly defined. In fact, what the statute says is that the Director General shall be responsible, to the general direction and supervision of the Revenue Department.

Now that, I'm sure, could be interpreted in several ways, but the mere fact that it can be interpreted in several ways, indicates the uncertainty that attended the authority of the Director General.

I think it's true to say as well, Madam Speaker, that the previous Administration recognised that it was something that needed to be revisited. And therefore the Member for Southern St. Andrew, when he was Minister

of Finance, requested the IMF to make available to Jamaica, a technical review team to look at Tax and Customs administration, as a result of which they sent a mission to Jamaica in August and September of 2006. They examined what we had, they looked at our experiences and they prepared a report which was tendered in February of 2007.

And I think that for the purpose of the House and for the record, I'd just like to mention some of the observations contained in that Report. It spoke of lack of integration in Tax Administration; it pointed out that the management of the core business functions across five semi-autonomous entities created too much complication. The Report pointed out that Jamaica was, in a sense, going in the wrong way on a one-way street. Because best practices had established and almost every other country was moving towards an integrated approach rather than this separated approach. The Report pointed out that the Director General does not have the adequate authority, statutory - or administrative, to effectively manage these semi-autonomous revenue units. And then it pointed out, as well, that the proposed single organisation for domestic taxes in parallel with border taxes, which would be collected by the Customs Department, was the better way to approach the structuring of our Tax Administration, Tax Collection agencies.

In August, Madam Speaker, of 2008, the current Minister of Finance asked the IMF to review its own Report, to look at what had been implemented during that period and what was still left to be done. And that team visited Jamaica in September of 2008, submitted a report in October of 2008 and it said briefly, it endorsed the findings and the recommendations of the previous review, it recommended and endorsed the proposal for the establishment of a single agency... What's the name again**?** (Consulting) ... Jamaica Tax Administration.

Mr. M. PEART: Tax Administration of Jamaica.

The PRIME MINISTER: Well, it pointed out that what had been set up headed by the Director General, was still merely a coordinating body with limited and ill-defined executive authority. The lines of responsibility were blurred because of considerable overlaps. And they went on to say - and this is a quotation I've lifted from the Report - "*No amount of process review will succeed without changing the current confusing organisational structure".*

They also pointed out, Madam Speaker, pointed to the high cost of compliance, because taxpayers have to relate to different agencies, dealing with separate departments with overlapping responsibilities. I spoke of the high cost of administration because of duplication and lack of effective direction, dysfunctional cooperation and rivalry - I've seen some of this myself - dysfunctional cooperation and rivalry among separate semi-autonomous revenue agencies - revenue departments.

The Report spoke of the need for a single legislative framework for implementing all domestic tax laws. And finally, the need for a single Executive management, a Chief Executive Officer and the requisite number of deputies, to replace the current two-tier

structure that we have, with a coordinating Director General and four semi-autonomous executive departments.

It is on that basis, Madam Speaker, that this Bill has been drafted and brought to the House. In a sense it's a carry forward of a review process that commenced during the last Administration - in the final years of the last Administration. It is something that we have continued, sought to make sure that we get it right, and that is what informs the Bill that has been brought.

Let me just - for the benefit of the House - to just indicate a couple of other things that are interesting. Because the changes that are contained in this Bill, are only part of the reform process, only part of what came out of that review. As I indicated, some of those measures have been implemented administratively. And I'd like to give the House some indications as to what those are and how they've fared.

One of the recommendations was for the establishment of what is called the last taxpayer office. We have about roughly 1000, maybe a little over 1000 taxpayers in Jamaica who, together combined, represent a huge - I don't - don't ask me to quote a figure because I don't want to be wrong - but they represent the substantial chunk of the taxes that are collected. And therefore, the recommendation was, you need to create an office that can deal with these large entities, because there are certain peculiarities, certain aspects in terms of their business that require that sort of treatment.

In 2009/2010, the last taxpayer office dealt with 237 accounts. Between April and December of last year, they dealt with 618 taxpayer accounts and I'm told that as of the end of March, that figure is now up to 900. So that they are pretty close to bringing in the entire family of large taxpayers in terms of dealing with them, processing, trying to improve the efficiency in the tax collection system.

One of the recommendations as well, Madam Speaker, had to do with the establishment of a customer care centre. And for 2009/2010, the customer care centre reached out, provided services, facilitated over 65,000 taxpayers, who were contacted, and of that number over 45,000 of them are paying taxes. And I put it no further than that. I don't say they are paying the right amount, but they are now brought into the system of tax payment.

There is a Forensic Data Mining Unit. This is the one, Madam Speaker, that raises the assessments, which results in sometimes entities that have never been brought into the tax system before, are now brought into the tax net. For 2009/2010, over 5000 assessments were raised. And then there is the special enforcement team. This is the one that causes some stress and attracts a fair amount of media coverage. But it is a necessary part of the machinery to deal with the collection of stubborn taxes, those taxes that are so riveted and fastened to the places where the profits are - the taxable income is generated, that you can't get it out of there into the tax coffers, and that team, Madam Speaker, has had to be very aggressive. For 2009/2010, as a result of the efforts of the enforcement team, $168 Million was collected. For April

to December of 2010, they had more than double that figure, $356 Million were collected.

We have expanded, Madam Speaker, the online facilities for filing of returns and payment of taxes. I mean people can now prepare their returns on a computer, pay their taxes on a computer in the comfort of their own home. We're trying to get there.

Let me just say one final thing before we actually look at the provisions themselves, and perhaps we wouldn't even spend much time on that since we can do that - most of that in Committee.

Lots of people in Jamaica complained that taxes are too high. A major part of the reason, Madam Speaker, why the taxes are so high is because the number of persons who are not paying taxes is also so high. For every dollar of taxes that we don't collect, it means that that is one more dollar of taxes that we have to put on the people from whom we can collect. And therefore in looking at tax reform, tax reform has to provide some equity, it has to share the burden in a fairer way, and in doing that then it means that many of those who have been overburdened by taxation - and it doesn't only mean persons who pay income tax. If we were collecting the taxes that we ought to have been collecting, then perhaps GCT would not have to be where it is at. It is because - so even people who pay GCT are in some respects, bearing more than their fair share of the taxation simply because there are so many areas in which people who ought to be paying taxes are not. And therefore what we're seeking to do here is part of the continuing effort to strengthen our capacity, to improve on our level of efficiency to give us the kind of infrastructure that will enable us to do better at collecting the taxes that ought to be collected.

(The Speaker returns to the chair at approximately 5:28 p.m.)

What the Bill seeks to do, Mr. Speaker, is to repeal all of the provisions which established the Inland Revenue Department, the Taxpayer Audit and Assessment Department, the Tax Administration Services Department. The positions of Separate Commissioners there to be abolished and to replace it with Tax Administration Jamaica, with specific responsibility and statutory authority for domestic tax administration. It will be headed by a Commissioner General, he or she will have three Deputy Commissioners General, they will have specific areas of responsibility, management services, operations and legal services.

There are some entities, Mr. Speaker, that will remain as departments under the Revenue Administration Act, reporting to the Financial Secretary - that's the Customs Department, which is - which deals with international taxes, border taxes. The Revenue Protection Department, which has particular functions that require it to be separate, Revenue Protection Department will have to investigate the whole tax collection process very often. And it can't be investigating that process if it is, itself, part of what is being investigated.

And, of course, the Taxpayer Appeals Department has to be kept separate, because you don't want a taxpayer to be appealing

from Caesar to Caesar, and hope that in the process justice will be delivered. So that those are essentially the provisions of the Bill.

Again, I want to apologise to the House for the rush. It is not something that I like to see happen. I want to, once again, express my appreciation to the Opposition for their understanding of the importance of having this concluded before Parliament prorogues.

The SPEAKER: Dr. Davies.

Dr. DAVIES: Thank you, Mr. Speaker. Having been...

Thank you very much, Mr. Speaker. As the Prime Minister has indicated, Mr. Speaker, this is a continuation of work which has been ongoing, started partly because we were aware of the need to keep improving the institutional structure, and partly because as Minister, I sometimes didn't know where the responsibility for one ended and another started. And so this represents, as he indicated, the result of work. We brought in some experts to look at the structure and to make the recommendations.

I understand the pressure to have this passed. But the reality is that if I had had a couple days' notice, then some of the questions I am about to pose perhaps could have been addressed in that period, such that we would have even had a greater level of agreement.

But I feel obliged to pose some questions. Because one of the reasons we are doing this is that there are many times overlapping areas of responsibility. And even as this seeks to eliminate some of these overlapping areas, there are some questions outstanding which need to be answered before we put this into law.

And let me indicate - I don't know if it was ever done, but it would have been good for us to have had one of those diagrams - what they call them? They have a fancy name for them - which tell you the structure, who reports to whom.

(*Sotto voce* comments)

Dr. DAVIES: And right now I am just trying to sketch out the reporting relationships. And so, Prime Minister, let me begin.

One is the Commissioner General, this new position, is the head of Tax Administration, Jamaica. Now, is it clear - I looked at clause 5(2), and it's implied that that person will be reporting - advising the Minister, and also reporting - he will serve as principal advisor to the Financial Secretary, so, presumably, the Financial Secretary is at the head of that stream. And then the Deputy Commissioner Generals, or it's Commissioners General?

Mrs. NEITA-HEADLEY: Commissioners General.

Dr. DAVIES: Commissioners General, right - will report to the Commissioner General. So far I am clear.

But there is a position within the Ministry of Finance and the Public Service, which is the Deputy Financial Secretary for Taxation. Is that position going to be retained? DFS Taxation, for years Barbara Gunther.

The PRIME MINISTER: Within the Ministry?

Dr. DAVIES: Within the Ministry. Now, is that position going to be retained? And if so, what will be the reporting relationship between the Commissioner General and the DFS Taxation? And more

precisely, what will be the range of task for the DFS Taxation, as Clause 5(2)(b) indicates that the Commissioner General will serve as principal advisor to the Financial Secretary in matters respecting administration of the relevant laws relating to revenue. That sounds like an excellent description of what the DFS Taxation, would logically do. I am just asking for clarification.

Secondly, there are some other questions with regard to the relationship between the DFS Taxation, the Commissioner General, and then there are clauses which speak to the Commissioner of Revenue Protection, the Commissioner of Taxpayer Appeals, the Commissioner of Customs. Do these positions report directly to the Financial Secretary, or do they report to the Commissioner General, and then through the Commissioner General to the Financial Secretary? This is not clear, in that what we are seeking to do is to provide some - a coherent structure. And I am not certain, therefore, whether we have the Financial Secretary, below the DFS Taxation, beside that the Commissioner General, and then we have Deputy Commissioner Generals and four other Commissioners. The Commissioner of Taxpayer Appeal, the Commissioner of Revenue Protection, and the Commissioner of Customs.

I pose that not just for greater clarity, in terms of the institutional structure, but also - and the other members of the PAC who are here, will be aware that in just recent weeks there was a special case of the treatment of overtime by the Commissioner of Customs, which was unique within the operations. And there were suggestions that other areas of the tax network were not similarly treated.

Rev. THWAITES: You used nice words.

Dr. DAVIES: So let me just for review, Mr. Speaker, point out, we are going to have a Commissioner General, who is in charge of this new institution, Tax Administration Jamaica. There are going to be three (3) Deputy Commissioners General. There is a DFS Taxation, and then remaining will be a Commissioner of Revenue Protection, there will be a Commissioner of Taxpayer Appeals, and then a Commissioner of Customs, and these all remain positions. I am not clear, and the Bill obviously was not designed to answer those questions, but they reflect fundamental questions which will impact on the ability of this new structure to operate efficiently. So I would wish and I think the House would benefit from a clearer explanation, in terms of how do these offices, offices and officers relate to each other, and are we any closer to the greater cohesion which we are seeking.

Now, there is a particular area - and the Minister of State with responsibility for Local Government and so, each year, each year in the budget we have these projections of what would be resulting - the revenues from property taxes, which are needed to deal with the basic necessities of a civilized society, public cleansing, street lighting, whatever. And each year - and the point has been made not in a partisan way, but the point has been made that the projections are put in and are never fulfilled, are never attained. And the question, therefore, is what is the difficulty in terms of property taxes?

One difficulty is that there are just too

many cooks involved. There is Land Val., there is the Local Authorities, the Parish Council, the KSAC, there is the Ministry of Finance, there are just too many organizations involved, and no one is in charge. It is a classic catch going through slips. Cricket is not a good thing for us to speak about, but if everybody leaves it to the other person, the final result is that in a sense the underperformance is guaranteed. And this whole system, I am not clear whether the system, this new - or it has been even thought about in the process.

Let me commend one particular area. Again we draw on the experience from the PAC. We were horrified, in that the Auditor General pointed out that the divergence between the assessments made by the department which has that responsibility, and the actual collections, the divergence was so great, but the person with responsibility for the assessment indicated to the PAC that, that was his job. Full stop. And he had no concern about collection, that was somebody else's job. And hence, if we needed to ask questions about the divergence, we should ask the other person.

Now, this change, one positive is that the Deputy Commissioner General with responsibility for Operations, will both have responsibility for audit, investigation, and assessment, as well as for collection. And so from that perspective, we are moving in the right direction.

So, Mr. Speaker, as I said that perhaps there are simple answers to the questions which I have posed. But I would like to just reiterate that there is need for clarity, the relationship between the DFS Taxation, the Commissioner General, the three (3) Deputy Commissioners General - like Governors-General.

Mrs. NEITA-HEADLEY: Yes.

Dr. DAVIES: Okay. The three (3) Deputy Commissioners – I am educable – the three (3) Deputy Commissioners General, the Commissioner of Revenue Protection - because that office remains as is - the Commissioner of Taxpayer Appeal, the Commissioner of Customs. And we would also wish to know whether any of these changes will impact on the efficiency of collection of property tax.

So, Mr. Speaker, if we could get some clarification and some precise responses to those questions, then the Opposition would be in a position to support the Bill.

The SPEAKER: Mr. Kellier.

Mr. KELLIER: Thank you, Mr. Speaker.

Mr. VAZ: Since when you know 'bout finance?

Mr. KELLIER: Your father was a good man, so just quiet yourself.

Prime Minister, nothing too serious. But, you know, the fact that we are actually bringing a Bill to amend the Revenue Administration Act, and to change a name by calling this new body the Tax Administration Jamaica, (TAJ), and putting in the four (4) new persons, I don't see - when you are wrapping up you could tell me where - what is the methodology? How are these people going to be appointed? It says here that the Governor-General may appoint. Is there going to be a new set of applications for all

these people? Will they have to apply for these new positions, or are we going to use the current persons in place to fill these posts? That needs to be clear. What sort of salary structure is going to come into play here? Is it going to be the same salary structure that currently exists in those areas? Or are we going to...

The PRIME MINISTER: I soon come. (Laughter) (The Prime Minister leaves the room)

Mr. KELLIER: Yes, Mr. Speaker, there are a number of these things that need to be made clear, upfront, so we know exactly what we are getting into. We want to know whether or not the - although the Governor-General is going to appoint, do these Commissioners still fall under the authority of the PSRB, and so on? So, you could tell us.

I notice - in the section that speaks to - 5(a) - that speaks to…

> "*The Commissioner General may delegate in writing the exercise of any function conferred upon him to persons he thinks fit, and that person is now called the delegate".*

But, in the same section in Bulletin 4, I see here where we could have a problem, Prime Minister, because

> *"...the delegate shall be liable for any wrongful act or omission of the delegate occurring in the exercise of that authority which has been delegated to him by the Commissioner General".*

So, in truth and in fact, the delegate has no protection, because - I just want you to clear that up for me.

If the Commissioner General delegates his authority to the delegate, and the delegate, by omission or whatever, is liable for any wrongful act or omission, the delegate becomes liable. To me, it is leaving the delegate a little naked. I would have thought that if anything went wrong there, the Commissioner General who had delegated him should have some responsibility in the matter as well.

The other section has to do with the duty of the Deputy Commissioner General responsible for legal support. He does not have the responsibility for the enforcement of tax laws. And I find that very strange. If you have a Deputy Commissioner, who is responsible for giving legal support to the system, but he does not have the responsibility for the enforcement of tax laws, that to me, is something that I would like to get clarified as to why he has responsibility for all sorts of things, but the tax laws fall under the Deputy Commissioner responsible for operations.

So, I am wondering whether or not, you know, the enforcement of tax laws which is at Bulletin 4, would not really belong as a responsibility of the Deputy Commissioner General responsible for legal support, because you have a Commissioner responsible for legal support, but he is not responsible for the enforcement of tax laws. I don't know if there is anything that needs to be looked in where that is concerned.

Basically - and in 11, the savings - it says, I am not sure whether the word that was used here is - it says: "*subsisting any forms prescribed or other things done or commence under"* or by – *"this is...*

Mrs. NEITA-HEADLEY: Eleven.

Mr. KELLIER: Eleven.

(*Sotto voce* comment by some Members**)**

Mr. KELLIER: If you had used this you would see more quickly. It speaks about... *"any forms prescribed or other things done or commenced under, or by virtue of any provision that has been amended or repealed by this Act, and which was enforced or otherwise* ***subsisting*** *immediately before the appointed day".*

The PRIME MINISTER: Existing.

Mr. KELLIER: Yes, I was thinking that it was existing that you wanted to put there. You know, I was just wondering. It sounded kind of...

(*Sotto voce* comments by the Prime Minister/Laughter)

Mr. KELLIER: Existing. So, basically, Prime Minister, if you could address those few points, it will help.

Thank you.

The PRIME MINISTER: Mr. Speaker, I thank my colleagues on the other side, and I can express appreciation to the cooperation. A couple of issues that were raised. The Deputy Financial Secretary with responsibility for taxation, that position will continue to be retained - will be retained because that person in that position deals with tax policy, not tax operations, the monitoring of policy and the development of policy.

There is - as I tried to suggest when I was presenting the Bill - there is a deliberate reason why you have three Revenue Departments that will not report through the Commissioner General. One is Revenue Protection because of the nature of the work that it does. It is - I am trying to see if I can find a proper description - it's like your secret service.

(*Sotto voce* comment by Mrs. Neita-Headley)

The PRIME MINISTER: That's right, an investigative work. And sometimes some of those investigations have to involve the performance of the tax functionaries themselves. And therefore, that is a part, and that will report to the Financial Secretary.

The other two, I think, define themselves. *Taxpayer Appeals*: You can't appeal to the same person who is imposing the tax on you. That has to be a separate department altogether. And then, the third one was Customs, where, I think, from the very first report of the IMF review team in 2006, they recommended that we separate border taxes from domestic taxes, because the Customs Department was already undergoing its own programme of re-organization and reform, and so on. That has continued and they had performed well, but my understanding is that it's not just Jamaica. In most jurisdictions, there is a fair separation between your international taxes, your border taxes and your domestic tax machinery.

In relation to property taxes, I think some Members may be aware; we are now in the process of a re-valuation. The last one that was done, I think, was in 2001.

(*Sotto voce* comments by Members)

The PRIME MINISTER: Well, the reason why we have always used the unimproved value is because we have always been persuaded that you ought not to punish investment at the investment end; that there

are - you take it out at another end, but, I don't want to enter upon that discussion today. The feeling is that if you - first of all, it is horrendously complex. I mean, it is one thing to value land. You get approximate values in the area and so on, and you look at sales transaction. But, when you start trying to value my house as distinct from your house, you have to get inside my house and determine what sort of faucets I have, and that side, horrendously difficult something.

I don't want to take tales out of school but it will be appreciated, based on - the feedback that I am getting is that the increase in values is quite significant because it is a ten year period. And therefore, one of the things that we are going to have to do is to look at the rate of property taxes.

My own view is that I would like to see us reduce the number of bands, and just have a simple scale - simple application, so that if your land is more valuable than mine, and you own more land than I own, then you will pay more taxes than I pay, and to make it fairly simple.

Insofar as the administration of property tax is concerned, the comment made by the Member for South St. Andrew is correct. When we took the decision that 100 per cent of the property taxes would go to the local authorities, which is logical, the problem is that there is no longer the urgency or the incentive on Central Government to collect it, because Central Government doesn't get a penny out of it.

The local authorities have tried to help. They have actually tried to help in terms of distributing the notices, and so on. I got a call last week from somebody in Local Government, just reminding me of the property taxes that will become due on 1st of April, giving me the amounts and everything, and so on. So, they are trying to see if they can help to collect because they are the primary beneficiaries.

The truth of the matter though, is the local authorities do not have the sophisticated machinery that would be required to effectively collect the taxes. So, we are going to have to continue to work in some kind of partnership. Where I feel that we should have done - become much more strident - and my instruction to the Minister of State with responsibility for Local Government is that he is to proceed as rapidly as possible and bring to Parliament whatever changes are necessary.

This business where people can have property sitting down - this is not an asset that you can hide - and it is there, taxes are supposed to be paid on it; taxes has not been paid, and everything just proceeds in a perfectly normal way. In my view, it ought to be the easiest taxes to collect, because the property is there. And we are going to have to - part of the difficulty that they have now is that the legal processes are so unwieldy and cumbersome. And that's what we have to simplify. It's a burden on the State. Very often it is the local authorities that have to go in there to bush it so that criminals don't use it as a place to hide and prey on people. We are going to have to improve on that arrangement.

Some issues that were raised by the Member for South St. James, how are the

Commissioners going to be appointed? In the same way that public officials are appointed, by the Governor-General on the advice of the Public Service Commission. But they are going to be employed on contract - negotiated contract. And I am advised that it is proposed that they be advised on three-year contract so that there is a process of evaluation, based on their performance.

(*Sotto voce* comment by Mr. Kellier)

The PRIME MINISTER: I can't say, whether there would be applications. I mean, I really didn't query that level of detail. More than likely, there will be. That has now become almost a standard procedure.

The question of delegation is something that, I think, mirrors what was in the financial…

(*Sotto voce* comments by Members)

The PRIME MINISTER: …the legislation for the Financial Investigation Division. Where you are providing for delegation of functions, of responsibility - and the people that we are proposing would become these delegates are persons within the same Unit, Collectors of Taxes. The Commissioner General may very well say to the Collector in Hanover, this is a case, I am sending you the file, I am delegating to you my authority, for you to go and deal with that particular matter which may be something beyond what the Collector would normally have the power to do. But, what we are seeking to do deliberately is that where you delegate responsibility, you must also delegate - require accountability.

And, therefore, persons can't go out there and just do anything on the basis of well, they are just acting as an agent for the Commissioner General. They must be held accountable for what they do as well. And it is part of the re-alignment that we have been doing in this and a number of other things where you are saying, we are going to give you the authority, we are going to enable you to function, but you must be prepared to be held accountable for what you do.

And the question of the remit of the Deputy Commissioner General who will be responsible for legal services, there is a clear line between legal and enforcement, enforcing the law. The Constabulary Force, for example, enforces the law, but they don't provide the legal services that attend the law.

A lot of the tax issues that the revenue agencies have to deal with involve questions of law, questions of interpretation. Many of them are being challenged through the Court. There are many cases that have to be instituted by the Tax authorities themselves. I mean, just while I am sitting down here, I am seeing on my BB, an appeal that is being made to me by somebody who, when I checked it out, that matter had been through the Court, and the Court had ordered.

So there is a lot of that kind of work and the Deputy Commissioner General in charge of legal services will be primarily responsible for that, but the enforcement would be clearly part of the operational - follow me.

So Mr. Speaker, with those words I move for the second reading of the Bill and if there is any other issue that need to be clarified we can do that at Committee Stage.

The SPEAKER: The question is that the Bill be read a second time.

Put to the House and agreed to.

Bill entitled:

"AN ACT to amend the Revenue Administration Act; and for connected purposes",

read a second time.

The SPEAKER: The House will now resolve itself into a Committee of the whole House to consider the Bill clause by clause.

COMMITTEE STAGE

Clauses 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10.

Put to the House and agreed to.

The CHAIRMAN: I put Clause 11.

Mr. KELLIER: Mr. Chairman.

The CHAIRMAN: Clause 11.

Mr. KELLIER: Mr. Chairman. Prime Minister, are we accepting the subsisting or are we going to make it a slight change to existing.

The PRIME MINISTER: It's a legal term. You and I speak and write in plain English but lawyers do otherwise, so let's not interfere with them.

(*Sotto voce* comment by Dr. Davies)

Mr. KELLIER: While that is so if we said existing it would sort of convey more clearly what the law meant rather than have us to interpret the legal jargon.

The CHAIRMAN: No, I mean existing. Subsisting and existing it's the same thing. So if it says subsisting or existing you have to leave the existing thing in place you can't just change it like that. Subsisting means existing. Okay.

(Cross talk)

Dr. DAVIES: All right.

The CHAIRMAN: Okay, I put Clause 11.

Put to House and agreed to.

The Title and Enacting Clause put to the House and agreed to.

The CHAIRMAN: The question is that I do report the Bill as having passed Committee Stage without amendment.

Put to the House and agreed to.

RESUMPTION

The SPEAKER: I do report the Bill as having passed Committee Stage without amendment.

Prime Minister.

The PRIME MINISTER: Mr. Speaker, I beg to move third reading.

The SPEAKER: The question is that the Bill be read a third time.

Put to the House and agreed to.

Bill entitled:

"AN ACT to amend the Revenue Administration Act; and for connected purposes"

read a third time and passed.

The SPEAKER: Bill read and passed.

House Leader.

Mr. HOLNESS: Mr. Speaker, I'm looking at the time, but we still have one more matter…

Mr. PICKERSGILL: No, no!

Mr. HOLNESS: …that we have to do.

Mr. PICKERSGILL: PM, no! No, PM, no!

Mr. BUCHANAN: We can vote, you know, we're in a good voting position.

Mrs. HAY-WEBSTER: We're in a good voting position.

Mr. HOLNESS: Mr. Speaker, we—

Mr. BUCHANAN: We're in a good voting position. Watch your language now, House Leader.

Dr. PHILLIPS: Seriously though. Mr. Speaker, if the House Leader would yield a moment.

Mr. BUCHANAN: Experience.

Dr. PHILLIPS: I know and we support the urgency which attaches to the legislation, but it is also true that desirable though it is, it is going to be particularly back-breaking and does involve some extraordinary powers to be conferred on a Special Prosecutor. The general idea is that I think we ought to give serious consideration to all the clauses, and there have been a host of amendments proposed. I wonder, House Leader, through you, Mr. Speaker, whether given the urgency and given the seriousness if we ought not to consider maybe having the House Committee - the Committee of the whole House meet on a day to be determined. I mean to my mind we could easily take next Tuesday and sit from 10:00 o'clock in the morning and conclude to the very end to get all elements of this and if need be the House meets on Wednesday to pass it. But I think it is of such gravity that if we could do that we would then be able to have all the benefit of all the officials, the CPC office and everyone and be enabled to really go through all of it. It would mean that the Public Accounts Committee would have to postpone their meeting.

Mr. JACKSON: They're not meeting.

Dr. PHILLIPS: And they're not meeting and so I want to put that as a counter proposal.

Mr. BUCHANAN: As a proper proposal.

Mr. HOLNESS: The challenge we have is that we have to give the Senate enough time to review the changes that we make to the legislation.

Dr. PHILLIPS: We rush through it for that?

Mr. HOLNESS: They're already taking two days, I gather, to do the Charter of Rights. I'm not certain whether or not we would - they would be able to accommodate. We would have to have a firm undertaking that we would -

Mrs. HAY-WEBSTER: And we are prepared to give that.

Mr. HOLNESS: Well, all right. Mr. Speaker, from the *sotto voce* remarks I gather that this is a firm commitment that we would meet Tuesday at 10:00 o'clock until the Bill is complete.

Opposition MEMBERS: Yes.

The SPEAKER: Excellent.

The PRIME MINISTER: And then…

The SPEAKER: Meet at 2:00 o'clock.

Dr. PHILLIPS: If there is need.

The PRIME MINISTER: ….in committee and when we conclude -

Dr. PHILLIPS: If we conclude then we meet on the same Tuesday at that point, or the Wednesday.

The PRIME MINISTER: Sorry, I'm being a little too technical because it's not like the Standing Finance Committee of the House. This is the House in Committee on a Bill.

Mrs. SIMPSON MILLER: Right.

The PRIME MINISTER: And the Standing Orders would have to be suspended

in order to, I think, allow the House convene at a time other than 2:00 o'clock in the afternoon.

Dr. PHILLIPS: We can conclude that.

Dr. DAVIES: Let's do it on a Saturday, Andrew.

Mr. HOLNESS: Mr. Speaker -

Mr. JACKSON: Mr. Speaker, just further to the point that the Prime Minister makes in respect to the House meeting at 2:00 o'clock. If the House adjourns - if the Committee adjourns it will not be the House that is sitting at 10:00 o'clock in the morning or whichever time. It will be the Committee of the House and then at 2:00 o'clock when we're ready to take the Bill then the House would convene.

The SPEAKER: Mr. Fitz Jackson, that is correct, but we still have to move - Mr. Fitz Jackson, we still have to move for the suspension of the Standing Order for the Committee of the whole House to meet at 10:00 o'clock, which is what we're going to do shortly.

Dr. DAVIES: Like we do in the Standing Finance Committee.

Mr. HOLNESS: To perfect the requirement we have to go to Committee and then from Committee to resolve that we meet at 10:00 o'clock. I'm going to move the resolution, right.

Mr. Speaker, I invite you to resolve the House into a Committee of the whole House to enable us to continue consideration of Clause 11 and the remaining clauses of the Bill shortly entitled: **The Corruption Prevention (Special Prosecutor) Act, 2011**.

The SPEAKER: Members, the question is that the House resolve itself into a Committee of the whole House to continue consideration of Clause 11 and the remaining clauses of the Bill shortly entitled: **Corruption Prevention (Special Prosecutor Act) 2011**.

Dr. DAVIES: Montague, we meet inside here, you know.

Mr. MONTAGUE: Thank you for the information. I never knew.

The SPEAKER: Now Members, we will now resolve ourselves into a Committee of the whole House to consider Clause 11 and other clauses.

COMMITTEE STAGE

Mr. HOLNESS: Mr. Chairman, in light of the -

The CHAIRMAN: Members, please just follow the procedure.

Mr. HOLNESS: Mr. Chairman, in light of the discussion that we just had we would like to suggest that the Committee postpones the debate - the deliberations/considerations that we should have done today until next week Tuesday when we have agreed to meet to meet at 10:00 o'clock.

Dr. PHILLIPS: Start at 10:00 o'clock.

Mr. HOLNESS: Yes.

Dr. PHILLIPS: Exactly at 10:00 o'clock, not 11 or 12: 00 o'clock.

Mr. HOLNESS: Yes, yes.

The CHAIRMAN: Thank you very much Dr. Phillips for that emphasis.

Mr. HOLNESS: So, Mr. Chairman I would like to move for the suspension of Standing Orders to allow the Committee to meet at a time other than 2:00 p.m.

The CHAIRMAN: Members, at this Committee Stage, we're going to ask for the

suspension of Standing Orders to allow this Committee - I think, Members for proper procedure I'm going to report progress at Committee Stage and we now return to the sitting of the House.

Dr. DAVIES: So can you report no progress?

Mr. JACKSON: Good progress.

Dr. DAVIES: Can you be truthful?

The PRIME MINISTER: Well, if we work next week we keep it that way.

RESUMPTION

The SPEAKER: Members, I do report progress at the Committee Stage and now move for the suspension of the Standing Order to allow the House, the whole House to meet at 10:00 o'clock on Tuesday, April 5, to consider the Corruption Prevention (Special Prosecutor) Act, 2011. So we will meet 10:00 o'clock sharp and then thereafter we will have the House sitting at 2:00 o'clock. Very well.

Put to the House and agreed to.

Mr. HOLNESS: Mr. Speaker, the Minister of Information would like to give notice of the withdrawal of a matter that he tabled earlier.

The SPEAKER: Mr. Vaz.

Mr. VAZ: Thank you, Mr. Speaker. It's not often that I agree to change a Green Paper to any other colour, in this case a White Paper.

Mr. BUCHANAN: They're going to change it to orange, now.

Mr. VAZ: Maybe Buck, maybe you're right.

But, Mr. Speaker, based on my Opposition counterpart and the Member from East Kingston's earlier contribution, I must say that the deliberations have been long and tedious, and in some cases involved over a hundred stakeholders in these consultations; and therefore, Mr. Speaker, I seek to withdraw the Green Paper and replace it with a White Paper.

The SPEAKER: No, I think for procedural proposes the withdrawal of the Green paper.

Mr. VAZ: I propose the withdrawal.

The SPEAKER: No, Members the proposal before the House, and it is with the permission of the House, that the Green Paper earlier presented by the Minister be withdrawn, is it the wish of the House that that be so?

Put to the House and agreed to.

Dr. DAVIES: The moral of the story green means you're not ready.

The SPEAKER: Now, Minister Vaz, you now

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business. I therefore move that the House do adjourn until the 5th of April when we will meet at 10:00 o'clock.

The SPEAKER: The House meets at 2.00 p.m.

Mr. HOLNESS: No, no! The Committee meets at 10.00, but officially we're meeting at 10.00 as well.

Mr. BUCHANAN: The Committee.

Mr. HOLNESS: The Committee but the whole House.

Mr. BUCHANAN: The House meets at 2:00 o'clock.

Dr. PHILLIPS: Is all right, we will be here at 2.00 p.m.

The SPEAKER: No. no!

Mr. HOLNESS: At Two.

The SPEAKER: No, the meeting is at 2:00 o' clock but the Committee is at 10:00 o'clock.

Mr. HOLNESS: No, it is at 10:00 because the Committee will be meeting.

Mr. BUCHANAN: You didn't recall the Committee of the whole House.

The PRIME MINISTER: It's the Mace that determines it. The Mace makes it. The Mace is not in ordinary committees. The Mace has to be brought in and -

The SPEAKER: Oh, that's right. it is actually the meeting of the House at 10:00 and then we go to Committee Stage.

Mr. HOLNESS: I therefore move that the House adjourn until that time, Mr. Speaker.

The SPEAKER: Members, the motion before the House is that this Honourable House do adjourn until Tuesday, the 5th of April at 10:00 a.m.

Put to the House and agreed to.

The SPEAKER: This Honourable House stands adjourned.

The House adjourned approximately 6:16 p.m to resume its sitting on April 5, 2011 at 10:00 a.m.

TUESDAY, April 5, 2011

Pursuant to Notice of Adjournment the Honourable House of Representatives resumed its sitting at Gordon House, Kingston at 10.54 a.m.

PRESENT

THE SPEAKER

HON. DELROY HAWMIN CHUCK, (JLP), St. Andrew, North Eastern.

MRS. MARISA COLLEEN DALRYMPLE-PHILIBERT, (JLP), Trelawny, Southern, Deputy Speaker.

MEMBERS OF THE CABINET

THE HONOURABLES:

ANDREW MICHAEL HOLNESS, (JLP), St. Andrew, West Central, Minister of Education, Leader of Government Business and Electoral Matters.

ORETTE BRUCE GOLDING, (JLP), Kingston, Western, Prime Minister, Minister of Planning and Development and Defence.

DR. KENNETH LEIGH O'NEIL BAUGH, (JLP), St. Catherine, West Central, Deputy Prime Minister and Minister of Foreign Affairs and Trade.

RUDYARD CONRAD SPENCER, (JLP), Clarendon, South Eastern, Minister of Health and the Environment.

JAMES RUDOLPH EDWARD ROBERTSON, (JLP), St. Thomas, Western, Minister of Mining and Energy.

MINISTERS OF STATE

THE HONOURABLES:

MRS. SHAHINE ELIZABETH ROBINSON, (JLP), St. Ann, North Eastern, Minister of State in the Office of the Prime Minister.

NEVILLE ANDREW GALLIMORE, (JLP), St. Andrew, West Rural, Minister of State in the Ministry of Labour and Social Security and Deputy Leader.

OTHER MEMBERS

MR. GEORGE DELANO ARSCOTT, (PNP), Clarendon, South Western.

DR. OMAR LLOYD DAVIES, (PNP), St. Andrew, Southern.

MR. COLIN ALFRED A. FAGAN, (PNP), St. Catherine, South Eastern.

DR. MORAIS VALENTINE GUY, (PNP), St. Mary, Central.

MS. LISA RENE SHANTI HANNA, (PNP), St. Ann, South Eastern.

MRS. MAXINE ANTOINETTE HENRY-WILSON, (PNP), St. Andrew, South Eastern.

MR. DERRICK FLAVIUS KELLIER, (PNP), St. James, Southern.

MR. DESMOND GREGORY MAIR, (JLP), St. Catherine, North Eastern.

MRS. NATALIE NEITA-HEADLEY, (PNP), St. Catherine, East Central.

MR. PHILLIP FEANNY PAULWELL, (PNP), Kingston, Eastern and Port Royal.

MR. TARN ANDREW PERALTO, (JLP), St. Mary, South Eastern.

DR. PETER DAVID PHILLIPS, (PNP), St. Andrew, East Central.

MR. ROBERT DIXON PICKERSGILL, (PNP), St. Catherine, North Western.

THE MOST HON. PORTIA LUCRETIA SIMPSON MILLER, (PNP), St. Andrew, South Western, Leader of the Opposition.

MR. DERRICK CHARLES SMITH, (JLP), St. Andrew, North Western.

MR. ERNEST AUGUSTUS SMITH, (JLP), St. Ann, South Western.

MR. KERN O'MAR SPENCER, (PNP), St. Elizabeth, North Eastern.

REV. RONALD GEORGE THWAITES, (PNP), Kingston, Central.

PRAYERS

Prayers were offered by Reverend Ronald Thwaites.

The Honourable House resumed its sitting at approximately 10.54 a.m.

The SPEAKER: (Gavelling) Please be seated.

The Honourable House now resumes its sitting.

CALL OF THE ROLL

(See Listing)

ANNOUNCEMENTS

The Clerk laid on the Table of the House a copy of the following:

- **Ministry Paper No 24/11**
  Cabinet Agenda Issues for March 21, 2011
- **Ministry Paper No. 25/11**
  Information and Communications Technology Policy 2011
- The Urban Development Corporation (Belmont, Roaring River and Malvern Park (Designation) Order, 2011 under the Urban Development Corporation Act.
- National Investment Bank of Jamaica Limited Annual Report and Audited Financial Statements National Investment Bank of Jamaica Limited, Annual Report & Audited Financial Statements for the period April 1, 2005 to March, 31, 2006.
- Central Information Technology Office Limited, Annual Reports & Audited Financial Statements for the Financial Years, April 1, 2007 to March 31, 2008.
- Certified Appropriation Accounts:
- His Excellency The Governor-General, 2008/2009
- Houses of Parliament 2008/2009
- Office of the Public Defender 2008/2009
- Office of the Contractor General 2008/2009.
- Ministry of Finance & Planning, Pensions, 2008/2009
- Court of Appeal 2008/2009
- Director of Public Prosecutions, 2008/2009
- Supreme Court 2008/2009
- Post & Telecommunications Department, 2008/2008
- Electoral Commission of Jamaica Report to Parliament Entitled:
  Proposals to Amend Existing Legislation to Empower the Electoral Commission to Prescribe Electoral Division Boundaries And to Prohibit the Publication of a New List of Electors between Nomination Day and Election Day.

MOTIONS RELATING TO SITTINGS OF THE HOUSE

Rev. THWAITES: Mr. Speaker.

The SPEAKER: Yes.

Rev. THWAITES: I recall an undertaking the last time the House met, that all outstanding questions would be dealt with this week?

The SPEAKER: My understanding... maybe the House Leader can confirm that some of these will be dealt with when we resume in the afternoon.

Mr. HOLNESS: Mr. Speaker, I'm certain that at least one question will be answered today, that's Question 48, I believe, asked by the Member from Central Kingston... I will have...

A MEMBER: Thirty-eight.

Mr. HOLNESS: Thirty-eight or forty-eight? I think it's 48.

(Inaudible comments)

Oh, Mr. Speaker, I will have further information as the day progresses on the other questions.

The SPEAKER: Yes.

Mrs. SIMPSON MILLER: Mr. Speaker, I rise to ask why is it so difficult for me to receive answers to 47? If the Minister do (does) not know what happened in terms of my question at 47, then something is seriously wrong. And I need answers, because it's not coming off the Order Paper and I'm not bringing it back. I need the answers to this Question 47. Any Minister of Government with responsibility... It's not a difficult question to answer. She don't know what happen? Minister... Speaker, please, I need answers, Mr. House Leader, to my question, this afternoon.

The SPEAKER: House Leader, see what can be done. And please just check to see if any other outstanding questions... Up to today we would have a few questions. Just see how many of them we can respond to.

Dr. PHILLIPS: Mr. Speaker.

The SPEAKER: Yes...

Dr. PHILLIPS: I also have a similar concern. There is a question, Number 39, which was asked originally of the Prime Minister, as you will recall. The Minister of Finance...The House Leader suggested that it would be more appropriately asked of the Minister of Finance. I was told the answers were ready, by the House Leader. To date, we have heard nothing, and the matter is of some significance and currency at this point in time. And I think it's not...We ask these questions not because they are private matters between us, Mr. Speaker, but because we think they are matters of public interest. And I would appreciate hearing when.

(MR. LUTHER BARTLEY MONTEITH BUCHANAN, PNP, Westmoreland South-Eastern, entered and took his seat.)

The SPEAKER: We'll ask the House Leader in the afternoon session to bring us further...

Mr. HOLNESS: Mr. Speaker, if you may, in respect of Question 39, I will, at an appropriate time today, have words with the Finance Minister. He has informed me that he will be here, but he won't be here at the start. So I will have words with him towards getting this question answered today.

The SPEAKER: Okay. Very well. Yes, Mr. Fagan.

Mr. FAGAN: Mr. Speaker, I just wanted to find out if there'll be a recommittal later

this afternoon, at the next sitting, because the...

The SPEAKER: Yes, yes!

Mr. FAGAN: In view of the...

The SPEAKER: Yes, yes!

Mr. FAGAN: I was just thinking, sir.

The SPEAKER: In other words, if I might just say. My understanding is that the morning session will be devoted to the Standing Committee of the whole House and in the afternoon we are going to recommit most of these items and deal with them.

Mr. FAGAN: Right, so I can hold my question until then, sir.

The SPEAKER: Yes, preferably, if you don't mind.

PUBLIC BUSINESS

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, I invite you to resolve the House into a Committee of the whole House to enable us to continue consideration of Clause 11 and the remaining clauses of the Bill, shortly entitled:

"The Corruption Prevention (Special Prosecutor) Act, 2011"

The SPEAKER: (Gavelling) Members, the motion before the House is that the House to resolves itself into a Committee of the whole House to continue the consideration of clause 11 and the remaining clauses of the Bill, shortly entitled:

The Corruption Prevention (Special Prosecutor) Act, 2011.

Put to the House and agreed to.

(MR. CLIVE ARTHUR MULLINGS, (JLP), St. James, West Central, entered and took his seat.)

(MR. PETER MURCOTT BUNTING, (PNP), Manchester, Central, entered and took his seat.)

COMMITTEE STAGE

The CHAIRMAN: Members, when we last sat, last week Tuesday, it was agreed that we would meet this morning to complete the deliberation of the Committee, and I think we were considering Clause 11. My understanding is that if we finish before 1:00 o'clock we will adjourn until 2.00 o'clock. If we are not finished by 1:00 o'clock, we will adjourn the Committee and continue discussions at 2:00 o'clock, the Committee continues discussions at 2:00 o'clock. And then when the Committee is finished, we will resume the House. Okay. Is that right, House Leader?

Mr. HOLNESS: Yes.

The CHAIRMAN: So we are now on Clause 11 which is...

Rev. THWAITES: Chairman, are you sure? I thought we had dealt with 11 and 12?

Mr. HOLNESS: No, we had dealt with 11, Mr. Chairman.

The CHAIRMAN: I think we dealt with 11.

Mr. HOLNESS: But we were in the process of... 12 posed a certain difficulty and I believe we may have to.... (Inaudible)

The CHAIRMAN: Yes, my understanding though is that 11 was put and passed, so we are on 12...

Rev. THWAITES: No, no, no!

The CHAIRMAN: Oh, 11 was deferred. I'm sorry. Eleven was deferred and we were on 12 for some time. So, should we... Prime Minister, should e try to resolve 12 or should we start at 11?

Dr. GUY: Chairman, can I crave your indulgence to go back to Clause 2.

The CHAIRMAN: Sure.

Mr. HOLNESS: You want it recommitted?

The CHAIRMAN: Are you asking for Clause 2 to be recommitted?

Dr. GUY: Yes. I'm seeking some clarification here.

The CHAIRMAN: Members, the motion before you is for Clause 2 to be recommitted.

Recommittal of Clause 2 put to the Committee and agreed to.

RECOMMITTAL OF CLAUSE 2

The CHAIRMAN: Clause 2. Yes**.**

Dr. GUY: Thank you, Chairman. I refer to Page 7 under Clause 2 in the...

The CHAIRMAN: Page 7?

Dr. GUY: Yes. Public official means any person...

The CHAIRMAN: No. Oh, yes!

(Inaudible comments by Mr. Holness)

At the bottom, yes, yes.

Dr. GUY: And it goes over: Any person holding an executive, legislative, judicial or administrative office...

The CHAIRMAN: But wasn't that dealt with, to the best of my knowledge? Didn't we do some corrections?

Dr. GUY: That was under public function, Chairman.

The CHAIRMAN: No, if you look on Page 8, we had removed: ...*but does not include a parliamentarian or a person who*...

Dr. GUY: Yes, yes, but I'm not there yet.

The CHAIRMAN: Oh!

Dr. GUY: "...*whether permanent or temporary, whether paid or unpaid, any person who performs a public function*..." I have a little concern here because looking through further on, under Clause 54, I have a concern as to whether someone in the capacity of a School Board chairman, would be performing a public function, you're going to be requesting that under 54, Page 35:

> "*the Director of Administration may at any time in writing require any public official or parliamentarian to furnish a statutory declaration*".

What...

Mr. HOLNESS: No, just to be clear. I should assist the Member. There is a minimum payment level that is required for, my understanding, and now it is set at $2 Million.

Rev. THWAITES: There is a stipulation that whether you are paid or unpaid.

Mr. HOLNESS: Yes.

Rev. THWAITES: It involves everybody, not just the Chairman. It involves the School Board member, the dog catcher, everyone.

The PRIME MINISTER: My understanding, Mr. Chairman, is that there is a - as the House Leader is saying - there is a threshold above which all public officials are required to submit annual declarations.

The CHAIRMAN: But isn't that...?

The PRIME MINISTER: The reason for this, my understanding is, that in a particular instance where someone does not fall above that threshold and the Director of Investigations has reason in his investigations to want a declaration from that person, this would give him the right to do it. But it's not an obligation that is imposed for him to do it on an annual basis.

Rev. THWAITES: It goes much further than that though, Chairman. I invite the Prime Minister's attention to the stipulation, whether

paid or unpaid. Any person carrying out anything that can be described as under (2) of public function, 2(d), is caught by this.

The PRIME MINISTER: Well, the difficulty with that is, the chairmanship of, for example, the UDC, or the PCJ which has to do with decisions regarding huge resources, may very well be unpaid. And the question is, how do you separate that person from the chairman of a primary school board, other than leaving it to the responsible action of a statutory officer?

Rev. THWAITES: Mr. Chairman, the fear that I think - if I may adopt my friend's suggest or concern…

A MEMBER: One person.

Rev. THWAITES: …is that this will kill all voluntary service in Jamaica. It is a good idea to have a special prosecutor, but the breadths of these definition are such that anyone who is asked to carry out that which in its broadest ambit can be considered a public function, I pray you, look at it, yes; and their family, mind you, and falls under the rubric of a public official, can be brought under the full weight of this Act. It's not just a question of a declaration; it's much wider than that. It involves potential search, the monitoring of your accounts, and everything else.

The CHAIRMAN: The concern though, Reverend Thwaites, is how do you draw that line?

Rev. THWAITES: A subtlety of drafting which makes the distinctions possible. It is not beyond us. We certainly do not curb the mischief that this is going to unintentionally create by allowing these gross definitions to take over vital areas of service in the country.

Dr. PHILLIPS: Mr. Chairman, certainly, I understand where, as was said, you can have the situation where there is a category of persons that may not be required to report, but where there is this saving power, if you will, that would enable the Director of Administration to require any public official or Parliamentarian to furnish a statutory declaration. Speaking personally, I don't have a problem with 9(a)...

A MEMBER: Nine (a)?

Dr. PHILLIPS: …with 54(9)(a).

(*Sotto voce* comment by the Prime Minister)

No, because I can well understand where an official information comes to attention about a possible corrupt act taking place. And while that person may not be normally required to furnish a statutory declaration, there is a requirement - the power exists to say, can you furnish one? What is more problematic is 9(b).

(*Sotto voce* comments)

Dr. PHILLIPS: Nine (b) is more problematic because what you are doing is giving a single individual a power which belongs elsewhere. And I think that that is what we need to address.

Mr. PICKERSGILL: I am not happy with it.

Dr. DAVIES: Mr. Chairman...

The CHAIRMAN: Yes, Dr. Davies.

Dr. DAVIES: We have laboured long and hard for the eleven day, or twelve. We had thought we had gone through. Is there any...?

The CHAIRMAN: Before we get there, though, Dr. Davies...

Dr. DAVIES: No, no! I have forgotten what many of the changes made. So, I don't even know what I am agreeing to again.

The CHAIRMAN: No, but could we just...

Dr. DAVIES: No, I am just asking. I am not asking you to produce it, but was there anything written up?

The CHAIRMAN: For eleven and twelve.

Dr. DAVIES: No. All of those things - we have had time.

(*Sotto voce* comments)

Mr. PICKERSGILL: Then why you can't catch him in the air.

A MEMBER: Eeh?

Mr. PICKERSGILL: Why you can't catch him in the air?

The CHAIRMAN: Remember we had a set of amendments last week...

Rev. THWAITES: We went further.

Dr. DAVIES: Last week we went through a whole slot.

(*Sotto voce* comments)

The PRIME MINISTER: Mr. Chairman, it might be of some guidance. I was not a member of the Committee - the Joint Select Committee - but I am being shown that in the original Bill - draft that went to the Committee, it had a provision that says:

> *"The Minister may, by Order, subject to Affirmative Resolution, exclude from the definition of* ***public official****, any member of any council, board, committee, or other body, who would by virtue of his membership thereof, fall within that definition."*

…which would have allowed you, if you chose, for example, that you wanted to exclude chairpersons of school boards, or... I don't know what was the thinking of the Committee Members. It may be that in seeking to do that, you may be, sort of letting out some persons with - in the group.

Dr. DAVIES: Where was that?

The CHAIRMAN: No, it was at Committee Stage. In the original Bill; in the original Bill, Dr. Davies.

The PRIME MINISTER: This was for the definition of public official.

Rev. THWAITES: Chairman, I would have rather suggested it go the other way, that if the Special Prosecutor feels that there is some person in this category that we are concerned about including *au blanc*, then he ought to go before a Magistrate, present his evidence ex parte, and get that 14-day order to do his investigation. That is the way it should be done, rather than leaving it to him to bring excluded categories here. There is other legislation that works in that fashion, and work satisfactorily too.

Dr. PHILLIPS: I wonder… This provision is really a provision, as I recall it, that comes from the Corruption Prevention Commission Act in the main. And that provides for the changes in the categories and the change in reporting requirements. Now, essentially what you have is that that power rested in a set of Commissioners, and that the power now is being vested in an individual. And I believe that that may be the cause of some of the anxiety that we are hearing. And I wonder if the solution is not really to provide for a mechanism that doesn't just rest in the individuals named here to be able to change or to require different reporting requirements, whether by affirmative resolution or negative resolution, I would, myself be more inclined toward, but that it ought not, having removed the kind of supervisory role of the Commissioners that existed in the Corruption Prevention Act, and vesting it essentially in

one individual, whether we ought not to - and I think that that is part of the fear. I myself don't have a problem with having a reporting responsibility, and no matter how widely it extends, because I think that we mustn't have a view that corruption only takes place in high and rarified circles all the while. It often percolates down in all kinds of places.

(Mr. FRANKLYN ROBERT WITTER, (JLP), St. Elizabeth, South Eastern, entered and took his seat)

Rev. THWAITES: Chairman, I have no such illusion at all.

Dr. PHILLIPS: But, there are two options that strike me now. One, is vesting that power in the Parliament, subject to an affirmative or negative resolution, or two, there is a group that is - and I wanted to say that is to be constituted to invigilate the operations of the Prosecutor and Prosecutor's office, whether - which has a member of the Privy Council, a member... a High Court Judge - forget the clause now. I think it's Auditor General – whether…

Dr. GUY: Page 37.

Dr. PHILLIPS: Yes, page 37. whether we can contemplate that function involving this group in performing that function of changing categories and requiring reporting. But, those are thoughts.

Rev. THWAITES: Chairman, I plead with the Government. Bearing in mind the intensity of the scrutiny, the level of invasiveness that this Act of necessity imposes, if someone who is giving public service be under certain category is to be so treated, let the Special Prosecutor go before a Judge and get an Order. I trust the courts; I don't trust the bureaucrats.

Mr. PICKERSGILL: One moment, Mr. Chairman, what happens now? In the absence of this, what happens now? What is it curing? In this particular case, when it is we're not a public official as defined, what happens now?

(*Sotto voce* comment)

The PRIME MINISTER: What happens right now is that there is no power on the part of the corruption prevention to say to the Chairman of a statutory body who is not salaried, I want to see your account; I want to see your assets and liabilities. And what would happen is that if there is compelling information/evidence, then you can call in the police.

Mr. PICKERSGILL: Yes.

The PRIME MINISTER: If you don't have that you may never be able to get it.

Mr. PICKERSGILL: Or, you can fire him and put the police on him. What, the Minister has that authority?

The PRIME MINISTER: What basis are you going to use to put the police on him if you - the police will not have the power to examine his assets and liabilities either.

Mr. PICKERSGILL: No, but these public bodies have auditors who do audits annually.

Dr. PHILLIPS: This does not - all this is saying that they need a declaration. This does not get it to his accounts as was being suggested. It is just a declaration.

The PRIME MINISTER: Yes.

(DR. THE HON. HORACE ANTHONY CHANG, (JLP), St. James, North Western, Minister of Water and Housing, entered and took his seat.)

The CHAIRMAN: Turn on your mike, Dr. Phillips.

Dr. PHILLIPS: It is on.

The CHAIRMAN: Well, if too many mikes are on, you know, that's the problem.

Miss HANNA: No, I have turned mine on for him.

Dr. PHILLIPS: Thank you**.**

This only speaks about a declaration, at this point - furnish a statutory declaration such as we all do here, and such as a few thousand civil servants do elsewhere. If - one of the things that you - one of the things that would need to happen is that if there is an investigation, then you need to go to - then you have to - you can get access to information, and I believe the Proceeds of Crime Act provides a mechanism whereby there is an Order of the Court.

It wouldn't be 54(9) if there is a concern. Once you have made the declaration, then if the concern is access to information of the banks, et cetera, then if that is where for this category you want to place some further constraints, that, I think, is something that could be considered.

But I wonder whether, by taking out this - unless there is another point. I think there are some issues that this raises about just the structure of the Bill and the structure of the entity which could be discussed, but otherwise we would have to probably go in some sequence there. I mean, there are issues about the level of supervisory...

A MEMBER: Control.

Dr. PHILLIPS: …oversight, that I think is fundamentally raised in the concerns that the Member - that Reverend Thwaites raised. And a general discussion of that could pursue. I think that we are having a power - a set of powers which are vast...

Mr. PICKERSGILL: And invasive.

Dr. PHILLIPS: …and invasive. And, I think there needs to be some comfort that there is some supervisory mechanism that will prevent excess. And that is the consideration we should adjust our minds to.

The PRIME MINISTER: You are saying in matters like this the discretion should not be exercised by one person, it should be a commission? Before I go on though, Mrs. Maxine Henry-Wilson.

Mrs. HENRY-WILSON: Yes, I am a little confused. I think we are discussing probably two or three things at the same time. It would seem to me that the original point that was raised relates to not invading the - or not having persons who are below that threshold, not having them had to declare their - make a declaration of their assets, is that what we were discussing originally? Including them in the net of persons who would be required to declare their assets upon request. Is that what we were discussing originally? So that a board chairman normally does not - a board chairman of a high school does not have to declare under this, but that if you were to find that they have some kind of irregularity, that then you would ask them to do the declaration. Is that what we were discussing?

The PRIME MINISTER: Yes, that essentially - that's where we started.

Mrs. HENRY-WILSON: Yes, okay. So, my question then would be, we then have now tried to exclude a whole category of people as distinct from dealing with the particular instance of some irregularity by that individual. If that is so, why don't we go the route that was suggested by Member Thwaites? Because, if not, we are going to get

entangled into a whole category of people, as distinct from dealing with the misdemeanor of, and all the suspected misdemeanor of one individual?

The PRIME MINISTER: Well, I was wondering - I was contemplating going even beyond that. When I look at the provision of Section 62, I am wondering whether we need subsection (9) any at all, because under 62 the Director of Investigations has enormous investigative powers, powers to summon. There are certain things that he can only do with the order of a judge. And therefore, if he wants to see somebody's particulars, then let him do so under his - pursuant to his investigation, rather than a sort of...

A MEMBER: At large...

The PRIME MINISTER: ...at large power.

Dr. PHILLIPS: Yeah that, I think, could do it. But you would still need to have some provision caught in (b), which I don't think should rest with the Director of Administration, to alter the categories over time. I mean you're looking at ten years time you may need to -

The PRIME MINISTER: Rather than reserving that for Parliament?

Dr. PHILLIPS: Is it reserved now?

The PRIME MINISTER: Well, I mean if it's not provided in the law, then only Parliament could change the law and I believe it should remain there.

Dr. PHILLIPS: Yeah well, actually what would likely happen, I think, is that it should be enabled, I would prefer, for a change to be made and subject to parliamentary approval, affirmative resolution. Otherwise, what happens as you see with so many -

The PRIME MINISTER: By the oversight group, you mean?

Dr. PHILLIPS: By some oversight mechanism, which still needs to be settled.

The CHAIRMAN: Dr. Davies.

Dr. DAVIES: Mr. Chairman, in just reflecting we started with page 35. The Prime Minister points us to 62 on page 35 whatever that Clause 9, is it Director of Administration? And on 62 it's the Direction of Investigation, then on Clause 13 on page 13 you have,

"*where a public official:*

(a) owns assets disproportionate to his lawful earnings".

Mr. HOLNESS: We're getting there, we're getting there.

Dr. DAVIES: No, no. I'm just saying that the thing is all over the place. So we're getting this official—you could summon the Director of Administration can come at the person, the Director of Investigation can come at the person, and then the office can come at the person. We're all over the place.

Mr. Chairman, that's why I was asking for a summary of what we had agreed, I'm all over the place too because I don't know what we've decided. And the various issues don't seem to have been grouped in a coherent way such that you can go through the Bill.

The CHARIMAN: Yes, House Leader.

Mr. HOLNESS: Mr. Chairman, I want to focus on the issue of declaration. Now, declaration is an anti-corruption means. The question, Mr. Chairman is whether or not that can be practically applied to all persons within the public service. I think the principle is already established that there would have to be a threshold for reporting, which was established by negative resolution under the

previous laws at $2 Million annual emoluments including -

Dr. PHILLIPS: Just a question. It is done now by - I mean corruption prevention can change the category….

Mr. HOLNESS: The Minister.

Dr. PHILLIPS: The Minister can change subject to a - yeah.

Mr. HOLNESS: Right. So presently Principals of schools who would earn above that and some senior teachers are required, but School Chairmen are not required now. So the issue of expanding the legislation - let me just run through the point, the issue of expanding legislation would be to capture those persons who serve in a voluntary way in agencies, organizations that have a public function but who could possibly be involved in let us say, corrupt activities. So the same principle of applying a threshold to the individual employee could also be applied to an organization.

(The Chairman leaves the Chair -

Mrs. Dalrymple-Philibert presides)

So you could very well say that a public body in these areas, or a public body in control of threshold of resources, Board Chairmen, or persons who serve in a voluntary way in these organizations could be required to declare their assets; and I think that would solve the problem.

(Inaudible comment by Mrs. Henry-Wilson)

The ACTING CHAIRMAN: Member, it seems to me that in terms of section 54, it is saying that a parliamentarian and a public official at certain level, we would normally give our thing, to the integrity, our declaration to the Integrity Committee; and then if you turn to subsection (9) -

Mr. PICKERSGILL: Of 54?

The ACTING CHAIRMAN: Of 54, what it is actually setting out is that if you don't fall within threshold then you may be required.

Mr. HOLNESS: The only problem is that the definition of a public official says paid or unpaid.

Dr. GUY: Which, which—

The ACTING CHAIRMAN: No.

Dr. GUY: Madam Chairman.

The ACTING CHAIRMAN: No. go ahead.

Dr. GUY: Madam Chairman, it goes back to the original question I raised which is under the definition of a public official….

Mrs. HENRY-WILSON: Yes, that's really would you need.

Dr. GUY: …and I would need some clarification on this before I would want us to proceed.

The ACTING CHAIRMAN: But I'm not sure let us think about it. A public official—parliamentarian and a public official as it stands, we normally make a declaration under the thing.

Dr. GUY: The concern is not about the parliamentarian, Madam Chair.

Mrs. HENRY-WILSON: That's not the issue.

Rev. THWAITES: You must read the definition.

Mrs. HENRY-WILSON: Yes.

Mr. HOLNESS: Look, the principle of the Bill is to expand the persons covered. So clearly we can't go against the expansion into unpaid persons. The question is should all categories of unpaid public officials be captured? The answered clearly is no.

A MEMBER: The answer is no. because if it is -

Mr. HOLNESS: So then if the answer is no, the next question is what is the threshold that we're going to set, that would not individually. We're not seeking to individually but a threshold that would divide the categories…

Mr. MULLINGS: Madam Chair.

Mr. HOLNESS: …and I am saying that you could look at the organizations that they head as…

Mr. MULLINGS: Madam Chair.

Mr. HOLNESS: …one way of dividing.

Mr. MULLINGS: Madam Chair, I seek the indulgence of the Committee. And bearing in mind the issue about public officials and so on, but I urge the Committee to indulge me. If we look at section 38 - sorry, 31 of the Bill which purports to establish the Special Prosecutor and it purports to do so *via* the Public Service Commission with the Governor-General acting on the advice of the Public Service Commission.

Now, if we look in the Constitution, because the Public Service Commission derives its authority from the Constitution. And it speaks to the Public Service Commission appointing public officers. Now we have to look at the definition of public officers in the Constitution and public office. And public office, the Constitution is indicating is one where you get an emolument and you're engaged in the public service. The Constitution also defines what the public service is. And I ask you to look in the Constitution at public service which means,

> *"subject to the provisions of subsection (5) and (6) of this section, the service of the Crown in a civil capacity in respect of the Government of Jamaica."*

It says a "civil capacity". The point I'm making is this, if the Public Service Commission deriving its authority from the Constitution to appoint public officers engaged in a public service and is in a civil capacity, how then does the Special Prosecutor fit? We have a problem because while the Public Service Commission will appoint the Director of Public Prosecutions, it is the Constitution which deems that as a public office.

> (DR. THE HON. CHRISTOPHER CHARLES TUFTON, (JLP), St. Elizabeth, South Western, Minister of Agriculture and Fisheries entered and took his seat.)

And I urge the lawyers among us to indulge me, to look carefully at this. Because what it therefore means is that we would have to establish the Special Prosecutor as a public office. So the Constitution would have to be amended. Because the definition of 'public office' and 'public service' is clear in the Constitution and it is on those instances and in those stances that the Public Service Commission can appoint. I just went for a copy of the Constitution because it has been bothering me and when you look at it—and I urge, not to detain the committee, but if Members would seek to just look at the Constitution, because the Public Service Commission has to appoint public offices and it is defined as a public office, you have emoluments and you're engaged in the public service defined in the Constitution.

Mr. PICKERSGILL: So how does that relate to public service?

Mr. MULLINGS: Well, what I'm saying is this separate and apart from the issue of public official because we're trying to define that in the Act, but what we're saying is if the appointment is unconstitutional…

Mr. PICKERSGILL: Yes.

Mr. MULLINGS: …if the public Service has no power, if we don't correct that then we're wasting our time.

Dr. PHILLIPS: Isn't that corrected? Isn't the appointment now on the basis of the decision of the Public Service Commission?

Mr. MULLINGS: No, no! The Public Service Commission derives its authority from the Constitution. And it says public officer and it defines what a public office is and it also says engaged in the public service. The Constitution defines public service and that definition is as I read a while ago, acting in a civil capacity and it also has some exceptions. The exceptions being persons engaged in the Legislature, so the Speaker, the President of the Senate, Senators and so on, would not be covered, but that's an exception.

Mr. PICKERSGILL: And it doesn't speak of being unpaid.

Mr. MULLINGS: No, no!

Rev. THWAITES: It doesn't reach there yet, Bobby. But you're right we're moving to the next stage.

Mr. MULLINGS: So if we are not - if the process of establishing the Office of the Special Prosecutor isn't corrected, then we're wasting our time, with respect. We have to look at -

Dr. PHILLIPS: No, but that's was what I was asking. Isn't the provision here for the appointment to be made by the Governor General upon the recommendation of the Public Service Commission?

Mr. MULLINGS: Precisely.

Dr. PHILLIPS: And is that appropriate in your view?

Mr. MULLINGS: What I'm saying is that process, because under Chapter 9 of the Constitution, the public service derives its authority. Once you seek to engage the public service in an appointment it must be within the confines of what the authority is given in the Constitution to the Public Service Commission.

Dr. PHILLIPS: Yeah.

Mr. MULLINGS: So once you engage that process, they only have the power to appoint those persons so described in the Constitution. And the definition of public office - of the public service speaks of a civil capacity. It speaks of, I think, if you're so engaged in the colonies and so on. The difference with the Director of Public Prosecutions is that section 94, the DPP is deemed a public office. We are now creating the Office of the Special Prosecutor. So if we seek to engage the establishment utilizing the Public Service Commission you have to fit. You have to fit within the definition of the Constitution. You must, because the Public Service Commission derives its authority from the Constitution.

The PRIME MINISTER: Yeah, well I don't know what you're saying is in any way, I don't that is in conflict with what is in the Bill. It may be necessary, we would need to get some guidance, as to whether you should have an expressed statement that the position of Special Prosecutor is a public office in

accordance with section so and so of the Constitution.

Mr. MULLINGS: So, Prime Minister, we would have to amend the Constitution.

The PRIME MINISTER: No!

Mr. MULLINGS: With respect, you have to and I show you why.

The PRIME MINISTER: No, but government as gone around an established a whole heap of public offices since the Constitution was proclaimed.

Mr. MULLINGS: Sorry?

The PRIME MINISTER: We established public offices.

Mr. MULLINGS: Yes, yes!

The PRIME MINISTER: And in establishing public offices…

Mr. MULLINGS: Yes!

The PRIME MINISTER: …the appointments have to be done in accordance with the provisions in the Constitution.

Mr. MULLINGS: Yes!

The PRIME MINISTER: All that we'll be doing in this case is establishing another half a dozen public offices.

Mr. MULLINGS: The point I'm making is this that the exercise of the authority or the appointment of the Public Service Commission that can be exercised only over those who are deemed public officers.

The PRIME MINISTER: Yes.

Mr. MULLINGS: The Constitution defines that it says you're engaged in the public service. The Constitution also defines what the public service is and it says specifically a civil capacity and it also indicates that if it's obtained while in the colonies it will be incorporated here. The Special Prosecutor is not acting in a civil capacity, it is prosecutorial. So this is why it raises a serious question. So it could very well be that we would have to amend the Constitution just as how the DPP is deemed a public office that the Special Prosecutor would have to be deemed a public office.

Mr. PICKERSGILL: That would be too cumbersome.

(Inaudible comment follows)

Dr. PHILLIPS: But isn't it - the Special Prosecutor , I mean there was a big debate as I recall it in the thing, is subject to the powers of the Director of Public Prosecutions.

Mr. MULLINGS: Yes, Member, but that's not the issue, that's not the issue. The appointment, how do you start? It is the Public Service Commission, so once you engage the Public Service Commission....

Mr. PICKERSGILL: Certain things follow.

Mr. MULLINGS: ...certain things follow. They can only exercise that power of appointment consistent with the power given by the Constitution.

The PRIME MINISTER: The difficulty, the difficulty I am having is, we have had numerous instances in the past and current, where positions that are appointed by the Governor-General on the advice of the Public Service Commission if this is the point that my colleague is making. For example, I can think of a number of positions right now appointed by the GG on the advice of the Public Service Commission that are appointed on the basis of contracts.

Mr. MULLINGS: Yes, but....

The PRIME MINISTER: ...like three-year contracts.

Mr. MULLINGS: Yes, but the difference is that those are civil capacity, this is not civil and that is the problem.

The PRIME MINISTER: Well, how does the Governor-General on the advice of the Public Service Commission, for example, appoint legal officers in the DPP's Department?

Mr. MULLINGS: Because the DPP is deemed in the Constitution a public Office. The Constitution says it.

The PRIME MINISTER: Yes.

Mr. MULLINGS: So if you are going to take it out of the civil capacity...

Dr. PHILLIPS: No, but that's why I was asking the question, Mr. Mullings, if the fact that the powers of the Special Prosecutor are exercisable subject to the

Mr. PICKERSGILL: Constitution?

Dr. PHILLIPS: ....no to the direction of the DPP, to that extent they are subsidiary to and would constitute a public official in the terms similar to those applicable to the DPP. Of course, I would yield to a better view from Parliamentary Counsel.

Mr. MULLINGS: But that's the second step, because that assumes the establishment is under the Constitution. So the issue of the powers being subsidiary is the second step. The first step is, does the Public Service Commission have that jurisdiction?

Dr. PHILLIPS: Well, *pari passu* with the jurisdiction that they have in relation to the Director of Public Prosecutions.

Mr. MULLINGS: No, because, because what we have. We are establishing the office of the Special Prosecutor, that's what we are doing, and the appointment process engages the Public Service Commission, must be consistent with that. The DPP under section 94, is deemed a Public Office. So the Constitution having deemed it so and declared it so, would allow for it and, therefore the definitions that obtain elsewhere in the Constitution would be overriden by that.

Miss HANNA: Madam Chairperson, I am still trying to - I am not a lawyer, and so I am guided by the lawyers in the House, but I am trying to follow whether or not there would be a doubling up of the roles and responsibilities of the DPP and the Special Prosecutor, if what you are saying doesn't take place first.

Mr. MULLINGS: Well, one is not really following from the other. The concern I am expressing relates to the constitutionality, thank you, of the establishment. You have to get over that. Issues of doubling up may be administrative, but you have to get over that.

Miss HANNA: But Member, is it that you have to establish what you want them to do first as the roles and responsibilities before you constitutionalize that office?

Rev. THWAITES: You have to follow the Constitution in establishing a public office, that is the Member's point, and then after that other things flow.

My concern is not at all in contradiction to Member Mullings, but let me tell you. The more I look at that Charter of Rights Bill that we passed two weeks ago, yes, the more difficult it is going to be to go back to the original point of contention here regarding who is caught in the net of investigation. Because I just foresee that if it stays anything

like the way it is now, you are going to have a plethora of constitutional actions of people, on the part of people who remind us, that no law which infringes the right to privacy of communication - what is it now - *"protection of privacy of other property and of communication"*, section 13(3)(j), yes, all of these things are likely to come down on us.
We need to be far more sensitive and well defined in the categories of people who we are including in this legislation.

Mr. BUNTING: Member Mullings, when you raised it the first time I didn't have a Constitution in-front of me. Could you just point me to the sections that you were saying that prohibited this.

Mr. MULLINGS: Section 123 is establishing the Public Service Commission, and 125 in particular gives the power.

Mr. BUNTING: One twenty-five, yes.

Mr. MULLINGS: Now, it speaks to public offices.

Mr. BUNTING: Hmm, hmm!

Mr. MULLINGS: And if you look in the definition section that is really the early part of the Constitution, you will see public offices what it relates to.

Mr. BUNTING: Hmm, hmm! But, could you point me to the page just for.....

Mr. MULLINGS: Sure!

Mr. BUNTING: Page 28?

Mr. MULLINGS: One second, one second.

Mr. BUNTING: Is that page 28?

Mr. MULLINGS: That's correct. That's correct, 28. And you see "*public office*", public officer and the Public Service?

Dr. PHILLIPS: That's section 94?

Mr. MULLINGS: That's the DPP? Section 94 is the DPP.

Mr. BUNTING: Where it says:

"Public office means any office of emolument in the public service".

Mr. MULLINGS: Sorry?

Mr. BUNTING: That definition,

"Public Office means any office of emolument in the public service".

Mr. MULLINGS: Yes, yes, yes!

Mr. BUNTING: And then going down to public service it says:

"The service of the Crown in a civil capacity".

Mr. MULLINGS: Right.

Mr. BUNTING: Okay. So that's the point you are making that this is not a civil capacity?

Mr. MULLINGS: That's the point I am making.

Dr. PHILLIPS: What is the role, what is the role, is it judicial service, the DPP?

Mr. MULLINGS: No, no, the... I think it's the Public Service Commission I believe. But the DPP, the distinction I was making that in section 94, it is considered public office, and it states that specifically.

Dr. PHILLIPS: But that doesn't prevent you - if you are appointing someone under the - someone subject to the direction of the DPP, as all the staff are, they are also considered public officers in the view of the Act, eeh?

Rev. THWAITES: Their powers, Member Phillips, are entirely derivative of the public office so created. And where Member Mullings and respectfully, and I respectfully disagree...

Dr. PHILLIPS: But that is where I am asking the question.

Rev. THWAITES: The string that you are trying to stretch from the Special Prosecutor to the DPP won't fit.

Dr. PHILLIPS: Why?

Rev. THWAITES: It won't stretch long enough.

Dr. PHILLIPS: Why?

Rev. THWAITES: Because the Special Prosecutor has a whole variety of powers, yes, that go to people's rights under which Constitution which are quite different and distinct and separably inforced from that of the Director of Public Prosecutions. You can't say it is like him or that ultimately the DPP can overrule him, which is the most you can say. But the entire tissue of legislation depends upon the authenticity of the original appointment, which is the point Mullings is making.

Dr. PHILLIPS: No, but it can't - well, I mean I hear you, but it can't be...

The CHAIRMAN: Members, there is still a chair here. I am just going to allow Dr. Davies.

Dr. PHILLIPS: Could I just pursue that.... could I just respond?

The CHAIRMAN: And then after that Dr. Davies, right.

Dr. PHILLIPS: Because there is - none of these powers - these powers exist in the Proceeds of Crime for one, I am sure of that, subject to a court for the most part. So the powers are not unique and the direction of.....Certainly they have not been adjudged to be unconstitutional and the powers of the DPP supersede the Special Prosecutors, it says so explicitly in the Bill.

So I am not clear in my mind what it is that Reverend Thwaites is saying in relation to the inability to consider this a public office subject to the Director of Public Prosecutions.

Mr. MULLINGS: What this Bill is seeking to do is seeking to utilize the Public Service Commission as the means of appointment of the Special Prosecutor.

The Public Service Commission has its powers directly from the Constitution, which is spelt out. The first hurdle that we have to clear is - or the question we must ask is this: Is the Special Prosecutor....

A MEMBER: Civil.

Mr. MULLINGS: Indeed.

If the Special Prosecutor is not civil, in a civil capacity, we have to make it - we have to fit it to allow for the constitutional establishment....

The PRIME MINISTER: Could I ask, could I ask Member Mullings to yield?

I have been trying to see if I can understand what is this distinction between civil and prosecutorial.

My understanding is, that the DPP is part of the civil structure of government. Prosecution is part of the executive function of government, it's separate from the judicial functions. The Constitution speaks specifically to the DPP, I believe, in order to give the DPP the independence that is required to ensure that prosecutorial functions are not interfered with by any other branch of government. I am not sure I appreciate the distinction between prosecutorial and civil.

Mr. MULLINGS: Well prosecutorial is criminal. Civil speaks to those that are not essential. So that the DPP exercises a prosecutorial jurisdiction, which is criminal not civil.

The PRIME MINISTER: But if such a distinction is that weighty, then why does the Constitution have the DPP being appointed at the instance of the Public Service Commission?

Mr. MULLINGS: But in this instance....

The PRIME MINISTER: ....rather than the Judicial Service Commission?

Mr. MULLINGS: But the Constitution....

The PRIME MINISTER: For example, for example, for example, under the Constitution, it is the Judicial Service Commission that advises on the appointment of Registrars of the Court, I believe now Clerk of Courts, I just saw the section here awhile ago. The Judicial Service Commission has that particular remit, so.....

Mr. MULLINGS: No, the Constitution has deemed the DPP as a public office, because if the Constitution did not do that, by virtue of the definitions that are given and the powers given to the Public Service Commission.

The CHAIRMAN: Can I ask the gentlemen to yield to one lady and then Dr. Davies.

Mrs. HENRY-WILSON: Madam Chairman, it would seem as if we are confronted with a mischief or an agony that need something from our law officers. Because if what we have been debating here has any foundation, then we have wasted quite a few months. So could we get some kind of opinion from our law officers, rather than some of us non lawyers arguing about it.

The CHAIRPERSON: And while we do, Dr. Davies.

Dr. DAVIES: Thank you very much, Madam Chairman. Nothing wrong with ordinary commonsense, you know.

(Laughter)

Dr. DAVIES: But in addition to the critical points of law raised by Mr. Mullings, I am interested, Madam Chairman, and I don't know who could answer. I noted that the Director of Administration and the Director of Investigation are both given specific task name and given specific task and I am wondering, two questions. One, is this unusual and unique? There is a special prosecutor but they have named persons subordinates with specific responsibilities. We have looked at what the Director of Administration and there is the Director of….

The CHAIRMAN: Dr. Davies, is probably to keep the whole principle of separation of powers.

Dr. DAVIES: No, well the second question then, just in terms of an organization structure, is it that these two officers could take actions as contained here which are outside of any agreement by the Director of - Special Prosecution? Is there anything which.... Couldn't you establish a recipe for confusion in this department, whereby you have specifically named the Director of Administration, the Director of Special Investigation, could they take actions and proceed on….

Take, for example, what is the Clause, page 35,

> *"the Director of Administration may at any time in writing, require any public official or parliamentarian to furnish a statutory declaration",*

and they order a specific task, which has been assigned to the Director of Investigation. Can it be that these could be taken independent, without the knowledge of the Director of Special Prosecution and/or agreement? I am just asking that for somebody to explain.

Rev. THWAITES: In fact it's most awkwardly drafted, Chairman, if I could add to Dr. Davies' point, because it does not

indicate any tissue of permission or of sanction by the Special Prosecutor. And bear in mind that the functions of the Director of Administration and the Director of Investigations have far-reaching effect on anybody whose hand they touch. We are using extreme measures which have not been sufficiently clarified to reach a laudable end and we are likely to cause mischief which we will regret if we do this. This thing needs a most careful revision. I regret that it has gone through committee and we have to respect what they did. I didn't have a chance to read the Minutes of that committee, Chairman, but I am really suggesting that we need to go back to some very careful drafting on this thing. We haven't even got to Clause 12 yet and I can tell you almost every clause in the Bill hereafter warrants serious rethinking. It's not a partisan issue, Chairman. It goes to the heart of fighting corruption and maintaining the repute of the citizens of Jamaica and protecting the very rights that we passed two weeks ago.

Mr. HOLNESS: Madam Chair, in relation to the point made by Member Mullings regarding the distinction between, if I got the point correctly, the distinction between civil and prosecutorial, we have consulted with the SG, and I hope I am doing justice to your advice, SG, is that there is really no distinction between civil and prosecutorial. All functions are considered...

(*Sotto voce* remarks by Mr. Mullings)

Mr. HOLNESS: Prosecutorial, not criminal I said, all those functions are considered to be civil functions. There is a distinction between civil and military functions.

Mr. MULLINGS: With respect. Sorry, House Leader. House Leader indulge me please!

The CHAIRMAN: Member.

Mr. MULLINGS: One second. Civil….

The CHAIRMAN: Member!

Mr. MULLINGS: Madam Chair, please indulge me. You can't go and repeat this nonsense. Civil society with which we speak is everybody, you have civil and military. In this, it's no civil capacity. It's not against civil and military with respect.

The CHAIRMAN: Member Mullings, just allow the Leader of Government Business just to finish the point.

Mr. HOLNESS: My friend, Mr. Mullings, you will realize that I am merely a messenger.

Dr. DAVIES: You are dabbling.

Mr. PICKERSGILL: ….make him put it in writing. This little yes man thing can't work between him and Solicitor General.

The PRIME MINISTER: Madam Chairman, the point being conveyed by the Solicitor General is drawn from the definition in the Constitution. The Constitution on page 28 says the public service means

> "subject to the provisions of subsections (5) and (6) of this section, the service of the Crown in a civil capacity in respect of the Government of Jamaica and include public service in respect of the former Colony of Jamaica".

That's what it says. What I think we are seeking to do now is to attach a meaning to civil that goes beyond what the framers of the Constitution had prescribed right here. The point that - we are talking about civil as distinct from military is what this definition in

the Constitution implies. But what we are seeking to do now is to subdivide that civil into what is prosecutorial and what is judicial and what may be administrative and so on. I don't know that that is a distinction that we have a basis for making.

But you should remember how we got here, you know. It was the insistence on the part of the members of the committee, particularly the Opposition Members, that the appointment of the Special Prosecutor must rest with the Public Service Commission advising the Governor-General. Once you have done that you now have placed him in the same position that the Solicitor General is in, in a sense the same position the DPP is in, subject only to the fact that the DPP has constitutional protection.

So I am just trying to find out why we have been estopped by that. I thought we needed to go on now to determine how that Special Prosecutor would exercise the office. And I agree, for example, that some of the things that are stipulated here such as that question of requiring ability, the power to go beyond what Parliament says. Parliament says these are the persons who should declare and for the Director of Investigations or Administration to be able to go beyond that I think it is wrong. I think those are things that we can correct as we go through the various clauses.

Dr. PHILLIPS: Maybe procedurally we will be best advised, otherwise we will here 'till tonight, is to go clause by clause.

Mr. PICKERSGILL: If we go clause by clause is a calendar you need.

The PRIME MINISTER: There is a general point that I think needs to be made even before we get to the clause by clause. If I were to follow the line that the Member for Central Kingston is suggesting, for example, not only would we scrap this but, quite frankly, we would have to go back to the Corruption Prevention Act and take out some of what is there. Because what is in the current statute would run into collision with some of the very concerns that the Member is expressing about this. So, in other words, what we would be doing is softening the legislation rather than strengthening it.

Rev. THWAITES: No, Prime Minister. With respect, Chairman, what we need to do, having regard to what we did two weeks ago with the Charter of Rights, is to look not only at this Bill but to not shy away from looking at any previous legislation to ensure that it is consistent. And I humbly suggest to you that that is worth the time because what we do is going to be challenged by what we have previously done. We must not take comfort in the fact that because provision is in some other law, which has not been adverted to or challenge yet, that this somehow legitimizes a complaint that is here. Please!

The PRIME MINISTER: No, but it is wrong, it is wrong to suggest that the Charter of Rights has suddenly neutered the Parliament in terms of taking legislative action to deal with matters in the public interest. It has not. What we have done in restating those rights and, in fact, expanding those rights is to say that although Parliament may have to pass laws that affect those rights, in doing so, it must be demonstrably justified. And therefore somebody will have a cause of action, in the same way that somebody can have a cause of action as to what is the basis on which you

arrest me. I am going to test that because I am guaranteed freedom of movement under the Constitution. But we have to be able to demonstrate that in the public interest this intrusion on that Charter is necessary for the public good.

Rev. THWAITES: Chairman, thank the Prime Minister so much for that and simply to make the point….

Mr. HOLNESS: Madam Chair.

The CHAIRMAN: Members, I am going to ask you please just to recognize that we have to do some order. Yes, and then after that you.

Mr. HOLNESS: Thank you for acknowledgment, Madam Chair. We have been moving from point to point to point without much structure and it will delay us. So the point that we were trying to resolve was the point raised by Member Mullings regarding whether or not there is a distinction between civil and prosecutorial, and whether or not we need to consider either an amendment to the Constitution or an amendment to the legislation. I believe the view that has emerged is that there need not be any amendment made and that there is no such distinction. Member Clive is satisfying himself .We would want to move on from that point, Madam Chair.

Rev. THWAITES: Take a vote on that one. Don't accept that. Much, much more than that.

Mr. HOLNESS: The proposal is that we move on from that point, Madam Chair.

Rev. THWAITES: Chairman, will you recognize me? I think I was next.

Mr. HOLNESS: No, I want to get back to the clause that we were discussing before.

Rev. THWAITES: Chairman, not acknowledging but moving beyond that, just for the purposes of this argument. I am replying to the Prime Minister and I am indicating that there is a strong case to argue that it is not demonstrably justified in a free and democratic society to take a person who is offering voluntary service to the public and make them subject, without more or without much more, to the kind of invasion that this Bill prescribes. That is the fundamental point and we should be so careful of that because what…

Mr. HOLNESS: Madam Chair.

Rev. THWAITES: May I? What we have done by passing the Charter of Rights is to widen the tense of the rights that apply to and are inherent among the Jamaican people. And therefore it is not a question of neutering Parliament or any such thing, it is a question of Parliament recognizing that we have extended those rights and that we must make sure that everything that we pass is consistent with them. That is not demonstrable here.

The CHAIRMAN: I don't agree with you, Member.

The PRIME MINISTER: Madam Chairman, I would only want to appeal to Deacon Thwaites to just extend his mind a little further. There is the chairman of a Board that reports to me right now that is dealing with a matter in which the Board has to make a decision. We are talking about something that involves multi-million US dollar decisions, and that Board is in a position where it can virtually determine, the Chairman of that Board is in a position where he can certainly direct an influence. Now are we saying that because he doesn't get paid to

serve on that Board, he must be excluded from the reach of this when in fact he has people who sit in positions like that, who have far greater opportunity if they were so inclined for corruption than Ministers of Government, some Ministers of Government.

Rev. THWAITES: Chairman, I am not saying anything that the Prime Minister imputes.

The PRIME MINISTER: How do we deal with that?

Rev. THWAITES: Here is what - two suggestions have been made by various Members. One is that you are more sensitive and acute in terms of making a distinction between that Chairman and the School Board member, to use the clichéd example, which is possible in the drafting; and secondly, that the mischief that is likely from a broad-brush approach be cured by ensuring that the Special Prosecutor, whenever he has a suspicion against anyone who does not fall into that higher category, yes, of acknowledged public official, should go before a court and, just as you do in any criminal proceedings, he gets an authority to investigate which is limited, circumscribed and subject to that judicial discretion. What could be the mischief in that?

Mr. HOLNESS: Member Thwaites.

The PRIME MINISTER: There is no mischief. We had agreed that we would take out (b). I am now proposing that we take out the whole of subsection (9) because I don't think that we need it. And I think that it perhaps overreaches and therefore I am suggesting let's take out the whole of subsection (9). But please, I beg of you, let's not so gut the provisions here that we end up with a useless piece of legislation.

Dr. PHILLIPS: That remark, I mean, I would say, in relation to collectively for all of us. The truth of the matter is going back into the 70s, we have brought integrity legislation - Parliamentary Integrity of Members, Corruption Prevention Commission, Corruption Prevention Act. The truth is that the phenomenon of corrupt behaviour in public life has continued despite those bits of legislation. And therefore, I for one I am more on the side of trying to do something that is effective, even if we have to make amendments by strengthening the powers, rather than being so tentative that we end up really labouring over this, but making very little difference to it.

The PRIME MINISTER: If I might. I think that it is beyond any, refutation…

Dr. PHILLIPS: I am not arguing against the decision to take out 9.

The PRIME MINISTER: I know, but I think that what has gone wrong, or what has caused the measures, corruption prevention of course even predated Parliamentary Integrity. It was updated, reviewed I think in 1994. All of these have lacked one essential element and that is the implementation machinery. The difference between this and the Contractor General, for example, is that the Contractor General has within that law the implementation, the investigating capability. It is true as well that much of that remained fairly benign prior to the appointment of this current holder. And quite frankly, I think it is true to say as well - and I am not unwilling to say it publicly - that some of the fears about - let's say overuse rather than abuse, of the powers that we are seeking to put in this legislation, derive from the fact that there are some people who feel that Contractor General

has been over zealous, no matter how well intentioned he might be, over-zealous in the way he conduct his activities and people are fearful that it is that kind over zealousness that sometimes lead you somewhere, but often leads you nowhere; but in the course of that, can impugn and damage the reputation of people who do not deserve to be so impugned and damaged. That is part of the concern.

We as legislators have to make a determination, where do we come down, where do we strike the balance to ensure that there are effective powers in there. And I ask all of us in his room to disabuse our minds of any notion that the thing is targeted at parliamentarians as if they are being singled out. The truth of the matter is, that there is - where corruption is rampant - I think the Member for East Central St Andrew made the point earlier, it takes place in all sorts of places where we might not even be inclined to look. And the intension was to establish the powers that would enable a fulltime office with the necessary resources and expertise to be able to pursue them and to pursue them diligently. I don't know that that is something that we need to sacrifice.

This matter incidentally, came up at a recent review of Jamaica's compliance with the UN Convention against Corruption. And what was reported back from that review, is even suggesting that some of the amendments that we are proposing here fall short of the UN requirements, I disagree. It has do with the question of what you do with those public officials who - remember the point we were discussing, have or have acquired assets disproportionate to their - and they are insisting on a rewording of that section that I do not myself accept, because I believe that what a person does outside of public employment is his business. What you do if you are a public officer, while you are a public officer is the public's business and that is a sharp line of distinction that I think needs to be drawn. But I am appealing to my colleagues, let's not - in some of the things that we are arguing here, and I am not saying that because we passed it before that it is chiseled in a tablet of stone. But some of the things that we are challenging here as if these are new departures that are going to make life so difficult for people, are actually lifted out of the Corruption Prevention Act of 1994, and put in here, simply because this Act is intended to repeal that; but not to repeal the provisions, all of the provisions. And therefore, we have lifted those out and we have simply inserted them in here word for word in many, many instances.

The CHAIRMAN: Just a moment. If I may, Members, just as the Chair; and many of us, just to open your minds to it. Many of us who sit on the PAC Committee, we complain bitterly that we go through the PAC and people come and nothing happens, so it's almost like a waste of time. And I think what we have to decide as Members too is whether or not - which is true - is whether or not we say we want to stem the corruption thing and whether we really say it or whether we don't, because in fact - I mean I have my own concerns as to so much power being vested in one person, but we have to balance it. Are we going to continue in a vein where, we talk about the corruption, we have an Act but nothing - we are not able truly to stem it. And, Member Thwaites, I see you looking at me, but you are one of the main people like myself who complain, we waste our time because

things come before us and people give explanations but we are not able to deal with it.

Mr. HOLNESS: Madam Chair, I would like to point out that we are now quarter past twelve, and I am afraid we may not able to report…

Mr. PICKERSGILL: That is not…

Mr. HOLNESS: Madam Chair, on this point, the proposal would be, Madam Chair, to take out Section 54 subsection (9).

Mr. PICKERSGILL: Whose proposal is that?

Miss HANNA: We have not heard the summary, you know.

Mr. HOLNESS: The summary of what, what summary is she talking about.

Dr. GUY: Madam Chair, before you go any further, I, with the greatest of respect would like to disagree with the last notion, your last notion.

I think all of us here are concerned about corruption. I think the concern that exists, and I want to say on both sides, is that inasmuch as we need to do something about corruption and to have this piece of legislation passed, I am speaking from a non-legal point of view. I have sat on so many committees before that have dealt with Bills that come before this House and I am concerned, Madam Chair, that this particular piece of legislation seem to be something like you take out of - and the Prime Minister said something, they are extracted, but this is cut and paste, this is what has happened and it does not flow. And this is the concern that some of us have here. It is not that we have a concern about not passing this piece of legislation, what we are concerned about is that it has to flow and with the greatest of respect, I suspect that it may have to go back to get some amount of drafting.

Mr. PICKERSGILL: ….it is invasive and that is the point that is being - and while you are here talking about balance, where is the balance? This thing is unnecessarily invasive.

A MEMBER: No!

Mr. PICKERSGILL: Don't tell me no.

Mr. HOLNESS: Madam Chair, I think we have to understand - that is what I want to return to - but the notion of the Bill being unbearably intrusive rather, Madam Chair, is - I think in modern public service we have to accept that there has to be disclosure as a means of preventing corruption. The point that is being debated now is at what level should there be disclosure.

The agreement that we have reached, Madam Chair, is that subsection (9) be taken out totally, Section 54 subsection (9).

Dr. DAVIES: Of what?

Mr. HOLNESS: Page 35, that that be taken out totally that would remove the ability of the prescribed officers to determine who the…

Dr. PHILLIPS: You are talking about?

Mr. HOLNESS: 54 (9) so we take that out. But I would also want to draw your attention to 54 subsection (4), that regulations can be made to determine what levels are required to report, which is really where we want to be. And I think that is acceptable, we could then move on to…

Mr. PICKERSGILL: Section what?

Mr. HOLNESS: We are dealing with Section 4, or Part IV rather, Section 54, subsection (9) (a) and (b) we are proposing to take them out.

The CHAIRMAN: Can we leave that to when we get to the section?

Mr. HOLNESS: Agreed, but I am just merely saying that in resolving the discussion about…

Dr. PHILLIPS: No, and I am hearing, and the question does arise, I mean, it may be in another section, may be you can tell me. What - these regulations are subject to Parliamentary affirmative. Okay.

Mr. HOLNESS: So when we get there we do the formalities of taking it out. So let's go back to Clause 11, or 12 rather.

The PRIME MINISTER: ...quite recently where we tabled regulations here even before the Bill came, was that the regulations cannot legitimately be placed before Parliament until the power to make those regulations has been passed. Remember last week we had to withdraw some?

Rev. THWAITES: I like when the regulations come you know, Chairman as the same time as the Bill so that we can see this thing in its totality.

The PRIME MINISTER: Well, in draft form, perhaps.

Rev. THWAITES: At least.

Dr. PHILLIPS: If there is not a problem with 12 then, I gather you have amendments proposing for 13?

Rev. THWAITES: If we take out 11…

Dr. PHILLIPS: Yes.

Rev. THWAITES: And 12, we have a difficulty, Chairman.

A MEMBER: No, we did not take out 11.

Rev. THWAITES: Yes, we did.

The PRIME MINISTER: Well, we have deferred 11, but quite frankly, I wouldn't be sorry to see it go.

Rev. THWAITES: No, 11 and 12 must go, come out.

But we are really hampered by not having a note of those amendments from the last time as Dr. Davies has said. But we seem to have - events have overtaken that. Are we at number 13 now?

The CHAIRMAN: Yes!

Rev. THWAITES: Or what is now No. 13 but will have to be renumbered. We are moving out 11 and 12?

The CHAIRMAN: The question therefore, is that we are going to remove 11 and 12?

Mr. BUNTING: Madam Chair, I really don't see why - I agree with 11, being removed but not 12. I don't see - why we are exempt making that distinction? We are creating this new offence, this undue advantage. Why are we exempting players in the private sector from it? I can't see the rationale for it. Are we saying private sector corruption is acceptable or permissible?

The PRIME MINISTER: I think the difficulty – remember when we discussed it the last time I felt - I made two points one is that under the Convention to which we are a signatory we are required to put in place measures to deal with corruption in the private sector as well, across the board.

And secondly, that I believe that there are members of the private sector, who would welcome legislative support for their own efforts to prevent corruption within their organization.

The difficulty that I have, and you have far more involvement with the private sector than I do, but the difficulty that I have is, there are some things that in public administration

are clearly taboo. In the private sector they may be regarded as good business. I mean, for example, if I as a public officer providing an advantage, a contract, whatever, to my brother then that is wrong. But who says it is wrong in the private sector. Who says that if I have a company and I need a haulage contractor and my brother is a haulage contractor, who says that it is wrong for me to engage the services. So, we would have to be very careful in terms of what aspects of transactions in the private sector are we going to say are wrong.

Mr. BUNTING: Prime Minister, using your example, it's speaking here of someone who works for a private sector entity and they, performing the function - let's say as somebody who procures haulage contracting services, who then gives that to their brother improperly, they didn't win it on any competitive tender or whatever - giving some undue advantage to his brother, in that circumstances he is robbing the shareholders of that company. And...

Dr. PHILLIPS: Unless ... (Inaudible)

Mr. BUNTING: No, no, no, no! What I'm saying whether it's a private company or not. If it's a private company, if it's a - you know, use Grace Kennedy and somebody who is performing a procurement officer function at Grace Kennedy, gives his brother undue advantage, he is robbing the shareholders of Grace Kennedy. So why should they not be guilty of an offence?

Dr. PHILLIPS: You have a range of companies. Suppose you and - you have two shareholders, you are one, and the majority, I mean the point simply is, you know, that if you want to draft a clause to catch the kind of thing you are doing this wouldn't do it.

Mr. HOLNESS: Why it can't?

Dr. PHILLIPS: Because it is so wide, it includes companies with a single shareholder, companies that are publicly listed, companies with multiple shareholders; and this eliminates every transaction.

Mr. HOLNESS: Madam Chair, just to make a point to the Member. When it comes to the commercial activities and economic activities, the Government's responsibility is in protecting the public good. Now to be clear. If they're anti competitive activities then you can have anti competitive laws to deal with that.

Dr. PHILLIPS: You have that.

Mr. HOLNESS: Which we do have, fair trading, antidumping and the like. If it is to do with fraud and embezzlement and misappropriation, there are laws to deal with that.

I suspect, Madam Chair, that for issues to deal with ethical practices in business, I think that's probably where such a law would be limited and that would of course now require some amount of exercise in coming up with the actual legislation to do it. But I don't think this captures what we want.

Dr. GUY: Madam Chair...

The CHAIRMAN: No please, no Member Hanna, she had her hand up quite a while.

Dr. GUY: Sorry.

The DEPUTY CHAIRMAN: Member Hanna first please.

Miss HANNA: Chairman, is it a point that Dr. Guy has related to that? Because I will yield until he is through with it.

Dr. GUY: I was saying earlier on, Madam Chair and Prime Minister, I see that

you've indicated that you are willing to take out 11. I was the one who raised the question regarding 11(a), but I don't see any reason why we should take out 11(b). Because the concern was, if our laws say that you have committed an offence, irrespective of what the international or other jurisdictions say, it is of no concern to us. We are concerned about a particular piece of - whether you have committed an offence or not, but I don't see any reason why (b) should be taken out.

The PRIME MINISTER: Maybe for good order if we could just - I know we've left it - but can we just finish 12 and then we go back and pick that up? We seem to be just jumping from clause to clause.

Mr. MULLINGS: Madam Chair ... I'm sorry.

The DEPUTY CHAIRMAN: Go ahead.

Miss HANNA: No, Madam Chair, I was just yielding until I got my time to follow up.

Prime Minister, my concern is a broader concern. The...

Mr. HOLNESS: No, but is it on 12?

Miss HANNA: It's - yes it has...

The DEPUTY CHAIRMAN: I'm going to ask Members, we seem to be going all over the place, can we deal with 11 and 12, because we will be going...

Miss HANNA: No, but that is what I'm dealing with.

The DEPUTY CHAIRMAN: Okay.

Mr. PICKERSGILL: The business is all over the place.

Miss HANNA: That is what I'm dealing with.

Madam Chairman, there is a perception, and I believe this is what 12 is dealing with. As MPs and politicians, especially when persons in your constituency or the public at large see one contractor, for instance, getting all the contracts for a particular thing, people have the perception that the MP is collecting based on that one person that they keep hiring, to do the roads and works, to do a number of things, whether in the constituency or outside of the constituency. And my concern is, as it relates to 11 - 12, undue advantage, financial benefit et cetera. How do you therefore - who gets charge, if it is that it is proved? Because if you go into an unlawful act, doing a deal, a backdoor deal, to say for instance, I will give you this road work, but I want X amount. That person who is getting the contract, whether or not they've won by tender or not, is that person held accountable based on...

The PRIME MINISTER: Yes, even without - because they are dealing with housing functions. Twelve was really to function outside, in terms of private economic activity and for the State to say well, we are going to provide some laws to regulate that as well. Now - and I'd love to - it's worth our spending even a couple minutes on it.

Two people meet at a restaurant...

Dr. PHILLIPS: Caymanas? (Laughter)

The PRIME MINISTER: ...I have a big job coming up, I'm going to need a lot of aggregates, I'm prepared to purchase the aggregates from you. But I understand that you own some lands over there and I've been looking for a place to expand my business, let's do a deal. Now within the public sector we would say no, no, no you can't do that. In the private sector they may feel that this is just a mutually beneficial arrangement that two private sector people are getting involved in. My question is, should the Government be

seeking to set rules for that, or should we leave that to the market to determine? If they are making decisions that are not in the interest of the consumers then hopefully at some point the market will punish them.

Dr. PHILLIPS: It may be that some of those activities could reach a threshold that is illegal. It may be anti competitive for example, but despite that being so, I don't think this clause can adequately address that type of problem and it would need something that would be much more...

A MEMBER: It should not be here.

Dr. PHILLIPS: ...it should not be here, right, and it would have to be something else, it's not for this Bill. So I support the notion of deleting 12.

Mr. MULLINGS: Madam Chair...

Mrs. SIMPSON MILLER: I am wondering, when we talk about private sector - and I heard somebody giving the example of a Grace Kennedy. But we have a number of persons in the private sector medium, small, large, and I'm wondering where would you find the personnel to be able to monitor across the country, the private sector, the large, the medium and the small? And I want to ask, if I had a - I can say it because I have nothing - if I have a small, for example, store down Princess Street and I got my goods in, paid my duty, but now I decorate my little store, put up my things, and then the boxes and the plastic and the containers, I now need to - and I am not going to be paying the Solid Waste Management to come, but I have a poor cousin, or a poor brother, or a poor nephew, would it be an offence for me to call my poor cousin or brother and say, I'm going to give you a day's work now, as long as you're going to do it properly and take it to the dump - to Riverton. Is it that I would be committing an offence by assisting - my own money paying a poor brother...

Mr. M. PEART: Jesus died for the poor.

Mrs. SIMPSON MILLER: ...a poor cousin to remove it? I would like to know how that would go.

Mr. HOLNESS: Madam Chair, just so that the Members are clear on what this section of the Bill is trying to do. This section of the Bill is trying to create the private officer function. So if you notice how the Bill is written in this part, it says:

> "Promise of, or give any undue advantage to any person who directs, or works in any capacity for a member of the private sector".

So it is creating an agency relationship and trying to regulate the relationship between the private sector and the private sector officers - workers - in the same way as it does the public sector and its officers. And the Government simply, would not have the resources to try and regulate the private relationship between the private sector officers.

Mr. MULLINGS: Madam Chair...

(Inaudible comments)

Mr. PICKERSGILL: Why the private sector can't leave it?

Mr. HOLNESS: Which is my point and there are other pieces of legislation which cover...

Mr. PICKERSGILL: If they don't want to do anything about it that's their business.

Mr. HOLNESS: So we'll take it out.

Mr. PICKERSGILL: We are not guaranteeing that you are going to do anything

about it, we are guaranteeing that the law is there.

Dr. PHILLIPS: It doesn't do anything.

Mr. PICKERSGILL: Right. Well so why you want to take it out?

Mr MAIR: It creates the offence.

Mr. PICKERSGILL: It creates the offence and it is for them to police it and prosecute it. Why you want to take it out?

(Inaudible comments)

Mr. PICKERSGILL: Them. It's the private sector.

(Inaudible comments)

Mr. HOLNESS: No, no!

Dr. PHILLIPS: No, it is a special prosecutor - this establishes the office of Special Prosecutor.

Dr. BARTLETT: No. It does more than that, it does more than that.

Mr. PICKERSGILL: Yea, yea.

Dr. BARTLETT: It does more than that.

Dr. PHILLIPS: Hold on a second. The implication and the structure of this Act is that all those offences thus created are offences subject to the investigative powers of...

The PRIME MINISTER: Not necessarily.

Dr. PHILLIPS: Not necessarily, but these offences exist in law already...

The PRIME MINISTER: Under 12?

Dr. PHILLIPS: ...bribery...

Mr. HOLNESS: Of course, that's what I'm saying, they already exist.

Dr. PHILLIPS: ...all of those offences exist in law.

Mr. HOLNESS: Yes, so the only thing is left would be your anti competitive, your antitrust and the ethical standards.

Dr. PHILLIPS: The purpose is to enable a special prosecutor to have these as the subject of their concerns.

A MEMBER: Let's take it out.

Mr. HOLNESS: But why would you want to? You can't manage the public sector already, you're going into the private sector?

Dr. PHILLIPS: So we don't need to deal with a man bribing a man to buy his aggregate or some such thing.

(Inaudible comments)

Dr. PHILLIPS: I need this because I'm giving the Special Prosecutor...

Mr. HOLNESS: His focus, I think it dilutes his focus.

Dr. PHILLIPS: ...I need this because I'm defining his specific scope - the definition of corrupt behaviour in a whole range of things and of who is subject. But for this private sector things you - because you are not clear as to what is the offence, who does it catch; it would be bad law I believe.

Mrs. SIMPSON MILLER: Precisely, precisely.

Mr. MULLINGS: Just a question, Madam Chair.

Would we be in danger of creating one law for the Medes and one for the Persians? If the legislation - and Member Phillips indicated that it exists elsewhere - if the legislation is seeking to ground jurisdiction in the Special Prosecutor to look at issues of corruption, are we saying that there are certain Acts that are deemed corrupt because it's done publicly by public officers, but not deemed corrupt because it's done in the private sector? Because the problem with that argument is this, that in dealing with the corruption in the

private sector it is to deal with any aberrations in the operations of the market. In other words, corrupt practices in fact undermine the market. And therefore I think that we ought to, in looking at this very carefully, one, could it therefore be pleaded that the offences that you are creating, that I am being unequally treated before the law? In other words, one sector is not an offence, but for me in the public sector it is.

(The Chairman re-enters at 12:38 p.m. and presides)

Where the offence itself is not essentially generic just to public sector. Because if, as was indicated before, bribery is one such offence, and if this in fact, encapsulates or expresses that particular view, can we at the same time argue that we ought not to - the Special Prosecutor ought not to be able to deal with it in the private sector? And I'm not convinced, with respect, I'm not convinced of the distinction, if the query is that it is difficult to monitor, with respect, I don't think that's an issue. It's an issue when it is brought to the attention of the Special Prosecutor and evidence is gleaned thereby. So you don't have to look at all transactions. I understand the issue that you're raising, with respect, I do.

But the question is, if we are seeking, therefore - because no law can countenance every possible scenario. And by the same extent, you ought not to expect any possible scenario in the law. But if, as the Convention is indicating, that Government be doing something to deal with corruption in the public and private sectors, if the offence is a corrupt one, then it ought to rest there.

Mr. HOLNESS: Mr. Chair...

Mr. MULLINGS: The response to that cannot be...

Mr. HOLNESS: Mr. Chair, may I assist the Member.

Mr. PICKERSGILL: This is the private sector PAC.

Mr. HOLNESS: What the Bill is proposing to do - and let's look at a practical example. A practical example, Mr. Chairman, would be a company selling tickets to a highly demanded event. If someone - and there is a queue and someone breaks the queue and bribes the sales officer to sell him the ticket above price, scalping, this law would be applicable to a situation like that. So the public sector sets their rules, this is how people are allocated whatever it is...

Dr. DAVIES: Scalping is illegal?

Mr. HOLNESS: But this is my point. So now, what this law is saying, once the public sector makes their policy known, and an officer - this is my difficulty with the law, it is creating a special officer relationship, an agency relationship. Once the person you employ in the private sector goes against your directions and gives an undue advantage, then that person would have committed an offence in the private sector. My issue with that is whether or not the Special Prosecutor would have the resources and the wherewithal to go and pursue that, when that happens in so many cases in the private sector. That has to be dealt with in my mind, in a separate piece of legislation, with separate infrastructure.

Mrs. HENRY-WILSON: Mr. Chairman...

Mr. HOLNESS: Mr. Chairman, if we go back...

Mr. PICKERSGILL: But right now we don't have the capacity to.

The CHAIRMAN: Mrs. Henry-Wilson.

Mrs. HENRY-WILSON: I worry about legislation that is ineffective, and therefore leads to people just, you know, violating it and nothing happens. I think it weakens the authority of the State.

I also believe that we should confine the Special Prosecutor to what is the classic definition of corruption, which is, using public funds for private gain for public officers. If we widen it, then the Special Prosecutor is going to take on every single misdemeanor that occurs. So we have to be very careful about making the law too broad.

Mr. BUNTING: Yes, but Mr. Chairman, Mr. Chairman, if we go back to the Memorandum of Objects and Reasons, it speaks to a coordinated national anti-corruption strategy. And the strategy indicates a comprehensive, multi-disciplinary approach which combines the resources needed to investigate allegations or complaints relating to corrupt conduct involving parliamentarians, public officials, and private persons. So this goes to the very objective of the Bill. So I don't see what is wrong. It creates the offence, the private sector firm has its auditors and whatever other investigative means they have to identify this offence, and to bring action to cause them to be prosecuted, whether by the police or whoever, once the offence is there. So why are we taking it out? Because it seems an integral part of the...

Mrs. HENRY-WILSON: With respect, where do we draw the line? Where do we draw the line, with the ticket officer or with somebody who is negotiating on something more substantive? You have to be careful of having such a general, poorly defined kind of misdemeanour.

Dr. PHILLIPS: The - if...

The PRIME MINISTER: The point that Mr. Bunting is making, that's a determination that the Special Prosecutor will make. The Special Prosecutor could very well say to a private company, look, I am stretched, I don't have the resources, I suggest that you ask the Director of Public Prosecutions to grant a fiat to your lawyer to pursue the matter. I mean, there are various things that can be done.

What I am - I am more concerned about whether or not, worded as 12 is, it is going to significantly disrupt what may be seen, not just in Jamaica, but in many other parts of the world, as normal business…

Dr. PHILLIPS: And that is…

The PRIME MINISTER: ...transaction. That's my concern.

Dr. PHILLIPS: If I may, and in taking the point raised by Mr. Mullings, I am not arguing, and I don't think anybody is here, that corruption in the private sector is of no significance. It is.

What arises, first of all, is that this 12, is in a sense so general and unspecific, as is being suggested by the Prime Minister, that it has the potential of encompassing practices that are not necessarily - that ought not to be criminalized, and that therefore, it would need to be refined, the provisions of 12 would need to be refined. So that's point one.

Point two is that what you - you are creating an office which is focusing on a particular range of corrupt activities in - among public officials, that if you include something that is unspecific and directed to the private sector, the effect is going to be to dilute the focus of this activity. And if we need legislation over and above what now

exists in things like Companies Act and Fair Trading Competition Act, and the other things, then we need to draft legislation which has the possibility of being effective, rather than having a kind of catchall clause which means - which says something but no one is quite clear.

Mr. HOLNESS: Chairman, just to be clear, Chairman...

Mr. MULLINGS: If I may respond to that - sorry, House Leader, just to respond to that. So the question is, or the issue is not just excising of section 12, full stop. What we must be saying, therefore, that we have to redraft a section dealing with the private sector. Because if you admit that there are certain acts...

Dr. PHILLIPS: Or draft separate legislation.

Mr. MULLINGS: If you admit that there are in fact instances of corruption in the private sector, and since we are not saying that we are ignoring that, the complaint must be that this section 12 may be too diffused to be effective. So, therefore, it must be for the draft persons or whoever, to come up with a suitably drafted section to deal with that of the private sector. But the answer can't be the excising of it, full stop.

Mr. HOLNESS: Mr. Chairman, on this sector, when it comes to the definition of corruption, the classic definition is, of course, as was said, the use of public resources for private gain. So in any definition of corruption extending to the private sector, we must include the public good, right. So there are private actions - the public good. So there are private actions which affect the public good. Anti-competitive behaviour affects the public good, misinformation in terms of advertising, that affects the public good, improper disclosure of information particularly affects the financial market, affects the public good. And we have the FSC and other organizations to deal with that.

There are, however, Mr. Chairman, instances in private operations where, for example, a determination is made about the allocation of something, and the person who is not going to be allocated, pays what we call in the public sector, "a bribe" for the person making the allocation to change his allocation decision. We are now saying that any change in the allocation decision that is subsequent on a bribe, would be an offence.

Now, in normal private sector operations people are cutting deals all over the place. Are we going to circumscribe that now? Now, I am saying that I don't want to get involved in that. However, there may be issues of private operations, such as people standing in a line to get a ticket, an allocation, and someone breaks that line.

Dr. DAVIES: That is a minor one.

Mr. HOLNESS: No, it's minor, but you could find other things. For example, the sale of scarce goods and services, where you have said we are going to sell based on who comes to us first, and then all of a sudden there is a change because a bribe was paid. So I would be prepared to accept section 12, if an accommodation were made such that - to say that the action affects the public good.

Mr. PICKERSGILL: So then, what is advocated when you...the memorandum?

Mr. HOLNESS: Well, I didn't put it. I think here it's too broad. I think here...

The PRIME MINISTER: It was to

conform with the UN Convention. And we were under some pressure recently, we were under some pressure. And what we are finding is that some of the policy-based arrangements are being attached to this. But I believe...

Dr. DAVIES: You should have talked to me before you signed them.

The PRIME MINISTER: Eh?

Dr. DAVIES: You should have talked to me before you signed them.

The PRIME MINISTER: Before we signed what, you mean...

Dr. DAVIES: The policy-based...

The PRIME MINISTER: You mean the Convention? (Laughter) You signed the Convention, you know.

What I do feel, if we are to extend this legislation to deal broadly with corruption in all its manifestations in private sector, that requires a special focus, a special time. It would, in my view, necessitate calling in the private sector and having consultations, right.

Mr. PICKERSGILL: I was about to ask you if that was done.

The PRIME MINISTER: So - not beyond simply putting out an advertisement and inviting submissions. And therefore, I have no problem with taking out both 11 and 12. We will simply have to say to the review team that that is something that we will have to focus on in separate legislation.

Dr. DAVIES: We don't believe in impotence.

Dr. GUY: But, Chairman, Chairman, Chairman, thank you, Chairman.

The CHAIRMAN: Dr. Guy.

Dr. GUY: Prime Minister, Prime Minister, the concern that 12 elicited a while ago, is it that we are not concerned about the relationship between the public official and the private sector?

Mrs. HENRY-WILSON: We have to be.

Dr. GUY: Yes, but would…

The PRIME MINISTER: If you will allow me. The address that would have to be given to deal with corruption in the private sector, with the greatest of respect, cannot be accommodated in one section of less than a hundred words?

Dr. GUY: And I am agreeing with you.

The PRIME MINISTER: So it would have to be treated on a different level.

Dr. GUY: No, I am suggesting that 12 need not be removed if it is reworded "a public official" instead of "a person".

The PRIME MINISTER: No, man, that is captured already, you know. No, that is dealt with already.

Dr. GUY: So why are you then...

The PRIME MINISTER: All of that was dealt with already. This was the - if you look at the marginal note it says, "offences related to undue advantage in private sector". So all of 12 was designed to address just private sector.

Mr. HOLNESS: Private sector to private sector.

The PRIME MINISTER: The instance that you are raising is already covered in other sections of the Bill.

Dr. GUY: So, can we - my concern about 11, now, sir - you said that you would...

The CHAIRMAN: Where are you? The proposal, Dr. Guy, is to remove 11 and 12.

(*Sotto voce* comment from Mr. Holness)

No, but the proposal is to delete them.

Dr. GUY: I had a concern.

Dr. PHILLIPS: ...words without stinger, man. Just go with it. We going bring future legislation to deal with it.

The CHAIRMAN: Mr. Pickersgill, you are saying that you are objecting to the removal of 12?

Mr. PICKERSGILL: Yes.

The CHAIRMAN: No, but I mean, as the Prime Minister said, later on you can do a more comprehensive and separate thing to deal with...

Dr. PHILLIPS: Twelve, as it is, adds nothing to the understanding...

Mr. MULLINGS: Absolutely.

Dr. PHILLIPS: ...or your investigative or implementation capabilities.

Mr. PICKERSGILL: It was not there to do that.

The CHAIRMAN: So let us agree to its removal.

(*Sotto voce* comments)

Dr. PHILLIPS: I know criminals when I see them.

Mr. KELLIER: Chairman...

The CHAIRMAN: Yes, Mr. Kellier.

Mr. KELLIER: Eighty-two...

The CHAIRMAN: Sorry.

Mr. KELLIER: Eighty-two says that the Act may be reviewed from time to time by a Committee of both Houses...

The CHAIRMAN: Yes.

Mr. KELLIER: ...of Parliament, appointed for that purpose. The fact that we have laboured so long in trying to sort this out...

The CHAIRMAN: It means we are not going to settle on...

Mr. KELLIER: ...you wouldn't get everything settled as clear as we want it.

The CHAIRMAN: Absolutely. So, Mr. Pickersgill…

Mr. KELLIER: As soon as the issues arise again, the Committee can be set up at any time.

The CHAIRMAN: So let us agree, then, that we...

Mr. KELLIER: ...to sort it out. And I don't think we should belabour it any longer.

The CHAIRMAN: ...by consensus to delete 11 and 12..

Dr. DAVIES: We made that decision a week ago.

The CHAIRMAN: Absolutely. So we now move to 13.

Dr. GUY: I have a problem with that

The CHAIRMAN: What's the prob – one second. Before we get to 13, 11. The proposal, Members, is to delete Clause 11.

Put to the Committee and agreed to.

The CHAIRMAN: Sorry, Dr. Guy.

Dr. GUY: I am against it, sir.

The CHAIRMAN: One objection. That's 11.

Now, I put Clause 12.

(*Sotto voce* comments)

The CHAIRMAN: Delete it. I am sorry. To delete 12, I said. Didn't I?

MEMBERS: No, no!

The CHAIRMAN: I am sorry. The proposal is to delete 12.

Put to the Committee and agreed to.

The CHAIRMAN: One objection.

A MEMBER: Two.

The CHAIRMAN: Two objections. The ayes have it.

A MEMBER: Four (4) objections.

The CHAIRMAN: Now, I put Clause 13.

The PRIME MINISTER: Clause 13 has...

The CHAIRMAN: Many... yes…

The PRIME MINISTER: The amendments were circulated.

(The Prime Minister consults with the Mr. Holness)

The PRIME MINISTER: The intention of the amendment to 13 - let me explain it as how I understand it - was to do couple of things. One, to ensure that in measuring your assets to determine whether they can reasonably be justified by your earnings, it would be - we would be talking about changing your assets that occurred during your period of public employment - employment as a public official. That was one.

Secondly, there was the constitutional issue as to what would happen when this law - this Bill, if enacted into law, comes into effect because there is the question of non-retroactivity. And therefore, we accepted that. What is proposed - and I will need some guidance from the drafters as to how that is to be done - is that there is going to be some saving of the provisions in the Corruption Prevention Act which would have applied. Because, if you don't do that, it means that if some corrupt acquisition took place a week before this comes into effect, then you would no longer be liable. So, we would save those provisions up to the point where this now trips in and this takes over.

The third point that arose had to do…

(The Prime Minister consults with the Mr. Holness)

Now, I must advise… this is the point I was referring to earlier. I must advise the Committee that some concern was expressed by the UN Review, which is a concern that, I am sorry, I am not in sympathy with. But, where - I am reading from a note here from the Solicitor General:

> *"In the course of the review, the Commission noted that this provision does not comply with Article 9 of the Convention which states* ***inter alia*** *that subject to its constitution on the fundamental principles of its legal system, each State party that has not done so, shall take the necessary measures to establish under its laws, an offence of a significant increase in the assets of a government official that he cannot reasonably explain in relation to his lawful earnings, during the performance of his function.*
>
> *In the review, the Committee noted that owning assets disproportionate to lawful earnings is not the same as increasing significantly his or her assets in relation to his or her lawful earnings during the performance of the function."*

Now, the Solicitor General is in sympathy with this view. I am trying hard, and I am not sure that I understand what is the...

(*Sotto voce* comments)

The PRIME MINISTER: Pardon me?

Dr. PHILLIPS: Isn't the purpose of the amendment to…

(*Sotto voce* comments by Mr. Holness)

Dr. PHILLIPS: Isn't the purpose of the amendment to bring it more in conform… bring the provisions of the Act in closer conformity to the UN view, so to speak.

The PRIME MINISTER: Yes, but I believe the amendment - I believe the text of the amendment was shared, and the view of

the Commission was that it still does not achieve what the Convention requires. They are putting emphasis on increasing assets. We are putting the emphasis on owning. And there is...

Dr. PHILLIPS: No, but the amendment makes a - the amendment is different. It speaks of the acquisition where the public official, (a) has acquired while serving….

The PRIME MINISTER: Yes, yes...

Dr. PHILLIPS: …property disproportionate to lawful earnings, which I think is in accord with the views that you are citing.

The PRIME MINISTER: Let me get some guidance on that.

(*Sotto voce* comment by Mr. Holness)

The PRIME MINISTER: I got a sense that… I was worried that if you're putting the emphasis on increase in value, increase in value can come about for all sorts of reasons…

Dr. PHILLIPS: Uummm…

The PRIME MINISTER: …that may have nothing to do with any actual transaction that you are involved in.

Dr. PHILLIPS: But, I believe - well, 13, you could - you see, I don't know that there is another way. The drafters - Chief Parliamentary Counsel could advise. But, what we are looking at here is, if you look at the structure of 13, all through, 13(1)… (2)...

(*Sotto voce* comments)

Dr. PHILLIPS: …amended, amended... what you are essentially saying, a number of conditions has to be satisfied.

(Consultation between Mr. Holness and the Prime Minister)

The PRIME MINISTER: Yes, go ahead.

The CHAIRMAN: I was hoping we could finish 13, and then we break.

The PRIME MINISTER: In fairness, Mr. Chairman, I don't think we are going to finish 13 because, arising out of the discussions that we had the last time, I am seeing for the first time, a re-draft of the amendment. And I would think that perhaps, we need to have to circulate it…

The CHAIRMAN: We have to circulate it, okay.

The PRIME MINISTER: …so during the lunch break. I still would like you to complete the point that you were making.

Dr. PHILLIPS: Yes. What I was saying is that, essentially, you must have a number of ingredients in the test of illicit enrichment.

The PRIME MINISTER: Yes.

Dr. PHILLIPS: First of all, is there an increase in wealth that is disproportionate to your earnings? Then, the next element is, can you give a satisfactory explanation? And quite frankly, I don't see a way you can get around that precisely for the reason that you cited. That is to say, there may be all kinds of explanation. My aunt died, my...

The PRIME MINISTER: But two things...

Dr. PHILLIPS: …left me $10 Million.

The PRIME MINISTER: …the Commission was not happy about this matter, this option for you to provide satisfactory explanation. The Commission was - the view of the Commission was that if you have an explanation, go and give it to the Judge. We disagree. We disagree. But, the other issue was…

(*Sotto voce* comment)

The PRIME MINISTER: The other

issue was - take a hypothetical case. Let us say I am a public official. I own these three pieces of property, and the value of the property...

(*Sotto voce* comment by Mr. Pickersgill)

The PRIME MINISTER: Eeh…?

Mr. PICKERSGILL: Appreciates.

The PRIME MINISTER: No. But, let us say that the value of the property is $50 Million. In the course of a year, I acquire a new piece of property that may be worth $20 Million. But I lost one of the three properties that I had… fire… burn down. My value network may still be at $50 Million.

(HON. KARL GEORGE SAMUDA, CD, (JLP), St. Andrew, North Central, Minister of Industry of Commerce, entered and took his seat.)

But then, I really ought to be called on to explain how you could, on your little salary acquire this $20 Million property during the course of the year. We sympathize with the fact that you lost one.

A MEMBER: It insured?

The PRIME MINISTER: It may not be insured. It may not have been insured. So, when you say about increase, I believe that that is a little weak. If you said, acquired property.

Mr. BUNTING: But Prime Minister, the amendment we are looking at uses that word, has acquired.

The CHAIRMAN: No, but that is the original...

Dr. PHILLIPS: But, that is an additional…

Mr. BUNTING: It's changed?

The PRIME MINISTER: That's the original amendment.

Mr. BUNTING: Oh, it's changed.

The CHAIRMAN: …the original amendment.

The PRIME MINISTER: Lets… Mr. Chairman, let's have this circulated; let's have the adjournment. Now, let's look at this over lunch.

(*Sotto voce* comment by Mr. Pickersgill)

The CHAIRMAN: Well, because of the new amendment, which very few persons have seen, I think we should take the adjournment now.

A MEMBER: So, what's the purpose of that?

(*Sotto voce* comment)

The CHAIRMAN: To come back at 2:00 o'clock.

A MEMBER: To do what?

Mr. HOLNESS: To go back to Committee.

The CHAIRMAN: To continue. So, we would adjourn...

(*Sotto voce* comment)

The CHAIRMAN: Yes. Parliament is in session, you know, though Parliament is...

(Consultation)

The CHAIRMAN: Members, the position is now that we have to report progress to the House.

Dr. DAVIES: We were exactly here a week ago.

(Laughter)

The CHAIRMAN: And therefore, we will resume the sitting of the House, okay.

RESUMPTION

The SPEAKER: (Gavels) Members, the House is now resumed, and we report progress on the Bill before the Committee of the House.

We are now on Clause 13. And at this time we ask for the...

Mr. HOLNESS: Mr. Speaker, at this time, I would move for the suspension of Standing Orders to ask that we suspend the sitting of the House for one hour, for... and we will re-convene at 2:00 - at six past two.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow for the suspension of the sitting of the House until 1:10 this afternoon.

MEMBERS: No, 2:10!

The SPEAKER: 2:10. (Laughs)

Put to the House and agreed to.

The House accordingly suspended its sitting at 1:06 p.m.

RESUMPTION

The House resumed its sitting at 2:20 p.m.

The SPEAKER: The House now resumes its sitting.

Mr. HOLNESS: Mr. Speaker, I'd like to move for the suspension of Standing Orders to ask for the recommittal of the Item Announcements.

The SPEAKER: The motion before the House is for the suspension of Standing Orders to allow for the recommittal of the item, Announcements.

Put to the House and agreed to.

ANNOUNCEMENTS

(Recommitted)

The Clerk also laid on the Table of the House today a copy the following:

- **Ministry Paper No. 24**
  Cabinet Agenda Issues for the 21st March 2011.
- **Ministry Paper No. 25**
  Information and Communication Technology Policy and the Information and Communications Technology Policy.
- The Urban Development Corporation Belmont Roaring River and Malvern Park designation Order under the Urban Development Corporation Act.

Mr. HOLNESS: Mr. Speaker, I'm proposing that we resolve immediately into the Committee to continue review of the Bill.

The SPEAKER: Members, the House will now resolve itself into a Committee of the whole House to continue deliberations on the Bill before us on the Special Prosecutor Act.

COMMITTEE STAGE

The CHAIRMAN: PM was that thing circulated the new proposed amendment to 13? Members, did you get a copy of the ….? Members?

Okay, so before I put the amendment to the amendment to Clause 13.

Rev. THWAITES: Mr. Chairman.

The CHAIRMAN: Yes, Reverend Thwaites.

Rev. THWAITES: Will the Committee of the House please advert to this possibility. Whereas the amendment to subsection (1) (a) appears to cure some of the menaces that were set out previously look at what follows. The Director of Investigation please—

The CHAIRMAN: Are we on Clause 13?

Rev. THWAITES: Yes. The amendment to Clause 13 that which was circulated.

Mr. MULLINGS: That was circulated?

The CHAIRMAN: The new amendment?

Mr. MULLINGS: (1) (b)?

Rev. THWAITES: Yes, new amendment I'm looking at (1) (b), yes. Now, I don't know if anybody can remind me but the Director of Investigation what are his qualifications? He's not necessarily even an attorney, yes, but he is going to have the power to determine that somebody has got more property than they might reasonably have been anticipated and on the basis of an explanation or the lack thereof to him, he is going to institute prosecution or recommend to the Special Prosecutor that this happened?

Bear in mind, Mr. Chairman, the proceedings in respect of an indictable offence in criminal law, where even when the prosecution raises a case under normal circumstances and traditionally you go before a Magistrate to make out a prima facie case before you go to trial. In this instance which, I believe, is comparable, in fact, some would say a serious crime, an indictable crime, would be even moreso, you are having proceedings that are taking place without any judicial intervention which can in fact seriously compromise, seriously compromise the repute and regard of the person concerned. It is too wide; it is too broad for us to accept without question, Mr. Chairman.

The PRIME MINISTER: Mr. Chairman, can I just a simple question. I'm no lawyer, but what powers does a policeman now have if he's investigating a matter of fraud or embezzlement? He investigates and if he is satisfied that there is a case to be made out, he arrests. Why are we so unwilling to focus similar powers on an area that is of such great concern to governance.

Mr. PICKERSGILL: Because you can sue him for false arrest.

The PRIME MINISTER: Pardon me?

Mr. PICKERSGILL: You can sue him for false arrest.

Rev. THWAITES: You have remedies against…

Mr. PICKERSGILL: But this one you can't.

Rev. THWAITES: …you have no remedies here.

The PRIME MINISTER: You can sue him for false arrest…

Mr. PICKERSGILL: Yes.

Rev. THWAITES: Yes.

The PRIME MINISTER: …not because he arrested you…

Mr. PICKERSGILL: Yes.

Rev. THWAITES: Yes.

The PRIME MINISTER: If he did so maliciously.

Rev. THWAITES: No.

The PRIME MINISTER: If he did so without cause.

Mr. PICKERSGILL: Yeah, but you have to prove that, but this doesn't have any provision for that. You can't sue them.

The PRIME MINISTER: I don't know that at all.

The CHAIRMAN: No, but I think there's a later section that-there's a later section—

Mr. PICKERSGILL: It says that.

Rev. THWAITES: This Bill is very specific.

The CHAIRMAN: No, there's a later section PM….

Rev. THWAITES: Completely indemnified.

The CHAIRMAN: …that in the event the investigation proves to be benign a certificate will be issued.

Rev. THWAITES: And no remedy.

(Laughter)

Mr. PICKERSGILL: And that time the damage is done.

(*Sotto voce* comment by Dr. Davies)

Mr. PICKERSGILL: That's nonsense.

The CHAIRMAN: No, no to say that—

Mr. PICKERSGILL: To say that irreparable damage is done.

The CHAIRMAN: Well, at least it cancels out—

Mr. PICKERSGILL: You would like, Mr. Chairman?

The CHAIRMAN: I wouldn't mind.

Mr. PICKERSGILL: You wouldn't like that, so don't bother preach it.

The CHAIRMAN: No, but the point about it is that when…

Mr. PICKERSGILL: Bout certificate.

The CHAIRMAN: …an investigation starts if it proves to be malicious or if it proves to be reckless then at least you have something to show.

Mr. PICKERSGILL: That time yuh name gone aboard.

Rev. THWAITES: You've already reversed the burden of proof.

Mr. PICKERSGILL: Yes.

(*Sotto voce* comments by Government Member)

Rev. THWAITES: Of course you have. You have, Reverend, you have the burden of proof. You indemnify the official who does it under circumstances of administrative functioning rather than judicial review and that is what we need to staunch corruption in this country. That is what the penalty of offering public service. That is the recourse that not only applies to you, Chairman, but it applies to your wife and your family.

The CHAIRMAN: No, every one of us. But what would be the alternative? You know, we've been trying to look at the problems, what would be the alternative, Reverend Thwaites, any view?

Rev. THWAITES: Certainly sir, I have a suggestion.

The CHAIRMAN: There's no doubt that we want to be able to get the rulings, the position as clear as possible and hopefully by consensus. The question is, Reverend Thwaites, what would be your alternative to what is there.

Rev. THWAITES: Once there is an allegation of corrupt conduct and Director the Investigation is seized of certain facts, he goes before a Magistrate and seeks an order to proceed further.

The PRIME MINISTER: Proceed to investigate?

Rev. THWAITES: No. In respect of the prosecution of the offence and he gets directions regarding any investigation he is taking. I trust the Courts, I don't trust bureaucratic procedure.

The PRIME MINISTER: Directions from the Courts?

Rev. THWAITES: Certainly, you go before a Magistrate seeking directions. I have this allegation, as you know we have this procedure in many different statutes and you go before the Court and you say, this is the allegation I have, this is against who it is; I'm seeking your directions and orders as follows. We do this in any civil matter; we do this in many criminal cases as well.

The CHAIRMAN: But isn't that just the same exposé, Reverend Thwaites? Are you

saying that before the Magistrate in chambers?

Rev. THWAITES: Sure justice is provided for elsewhere in the Act regarding disclosure of information.

Mr. HOLNESS: Member Thwaites, just for clarity, you're saying the Direction of Investigation upon becoming aware of certain information regarding a possible corrupt act would have to get the approval of the Court in order to proceed with investigation?

Rev. THWAITES: Chairman, my own view is that it would be illicit for the Director of Investigation to call upon the public official and say this is my concern, here's what I require an answer from you about. But in terms of any further process, yes, it ought to be on the order of a judicial officer.

The CHAIRMAN: Well, are you proposing then, Member Thwaites, where it says the public official shall be liable subject to a Magistrate hearing to prosecute for the offence of illicitly enrichment.

Rev. THWAITES: Chairman, I have a real difficulty in drafting in this kind of a context, but you do appear to be reflecting what my thought is.

Mr. HOLNESS: But, Chairman, I'm still clear as to the intention of the proposed amendment.

Rev. THWAITES: The intention of the proposed amendment is as follows: one, it elevates to the level of a summary judicial enquiry the allegation of corrupt behaviour. It removes it from the possible arbitrariness of a single administrative individual. Yes. Since that single administrative individual is not necessarily of legal training, what it does is to give a structure of law around that which follows. It, in fact, benefits the purpose of the Bill rather than derogates from it and it also protects the individual against some misapplication of this extremely wide power, which involves an investigation of his entire wherewithal and assets.

The PRIME MINISTER: Mr. Chairman, I'm trying to see if I can understand. I understand that a Judge can be approached for authorization to make discoveries, to do searches and so on. I'm not aware, I know it perhaps exist in certain European jurisdictions, but I'm not aware that the Judge can be asked to either:

(a) direct you and tell you what to investigate or;

(b) tell whether or not you are to law the charge

I don't understand that.

Mr. HYLTON: My intervention, Mr. Chairman, in support of the point made by the Member from East Kingston is that -

The CHAIRMAN: Central Kingston.

Mr. HYLTON: Sorry, Central Kingston - is that at critical stages in the process that if the notion or the concept of having judicial safeguards to move from one stage to the next is accepted as a valuable device to ensure that there is not or a reduced likelihood of a abuse of authority and to give satisfaction to those who may be subjected by this process - bearing in mind that all of this may be happening ex-parte meaning - well, there may be a difference in how the Reverend, how the Member, explained it for me as currently stands where the Director…

(*Sotto voce* comment by Rev. Thwaites)

Mr. HYLTON: ….goes and carries out these activities without the person subjected being aware, I believe that the provision in the

Act which gives some threshold, or some safeguard I believe that is comforting. I believe it is critical. I believe it is fair. I believe it's just.

Mr. HOLNESS: Member from Western St. Andrew. There are two steps in here which would involve the discretion of the Director of Investigation. The first step is identifying the allegation that there is a corrupt act of illicit enrichment and that would use the exercise in determining that someone has assets over and above their means. The second step is having asked that person to substantiate is to make a determination as to whether or not the evidence put forward in defence is sufficient to substantiate the asset.

What I'm trying to find out from the Member from Central Kingston is where would he want the Courts to intervene? In terms of limiting the discretion of the Director, is it in the first instance in identifying the corruption or on the second instance alleged corruption, which would be whether or not the evidence put forward in defence is sufficient? That's what I'm trying to figure out.

The CHAIRMAN: The other thing, too, Reverend Thwaites, Reverend Thwaites, if you do not like it to be in the one person, in the opinion of the Director of Investigations, suppose it was changed to, '*in the opinion of the Office of the Special Prosecutor'* ?

Dr. DAVIES: No, but Chairman, it comes to the point I asked in terms of how would this office operate, because there are so many different tasks which are specifically assigned to persons other than the Special Prosecutor. So I would like to know, and I sought the answer to this question, why is it that.....

(Inaudible)

...in several instances - and I can cite them all - the Director of Administration and the Director of Investigations, they are listed. Not the Special Prosecutor.

The CHAIRMAN: It seems to me that it would be consistent to say the Office of the Special Prosecutor.

Dr. DAVIES: No, I just feel that there must be a good reason for the drafting.

Mr. BUNTING: No, I think the intention was to get some separation of the functions of the Office and in a sense create silos, so you wouldn't be making your regular statutory declaration to a Prosecutor. You'd make that to the Director of Administration. And then, arising out of that, if there were some questions or concerns, then the Director of Investigations would follow through on that. And I think it was an attempt to try and look at the three functions of the Office and create some Chinese walls between the various departments.

Dr. DAVIES: Is there a parallel position to all this?

Mr. BUNTING: No, well the Special Prosecutor is also the Director of Prosecutions, so the three things...

Mr. HOLNESS: When we get to Part III, Section 26, which deals with the establishment and the structure, those questions could be answered.

(Inaudible comments by the Prime Minister)

Well, raise them at that point.

Dr. DAVIES: But we not gwine reach there, so... (Laughter)

Mr. PICKERSGILL: Prime Minister, what protocol governs this?

(Inaudible comments by the Prime Minister)

Every now and again I hear you mention, ehm...

Dr. DAVIES: UN.

Mr. PICKERSGILL: ...UN, or something or...

Mr. HOLNESS: Inter-American.

Mr. PICKERSGILL: What, what...?

The PRIME MINISTER: No, we are signatories to the UN...

Mr. PICKERSGILL: Yeah, signatories...

The PRIME MINISTER: ...Convention against... Is it UN or Inter-American?

Mr. HOLNESS: Inter-American.

The PRIME MINISTER: Inter-American Convention against...

The CHAIRMAN: Both.

The PRIME MINISTER: Well, both...

Mr. PICKERSGILL: Against? Against?

The PRIME MINISTER: Against corruption. And States are required to comply. We are one of those States that have not fully satisfied the requirements of that...

Mr. PICKERSGILL: How long ago we signed it? And I'm not trying to be political. How long ago we signed these things?

The PRIME MINISTER: Oh, early 1990s, I believe.

Mr. PICKERSGILL: And they came here, in Parliament?

Mr. HOLNESS: Two Thousand and One.

The PRIME MINISTER: Two Thousand and One.

Mr. PICKERSGILL: Two Thousand and One?

The PRIME MINISTER: Hmm-hmm.

Mr. PICKERSGILL: You - they came in the Parliament here?

The PRIME MINISTER: I don't remember. You remember?

Mr. PICKERSGILL: No, but it's something we mus' look on because you sign these things...(Cross talk)

The PRIME MINISTER: You were in the Cabinet at the time. Did you bring it to Parliament?

Rev. THWAITES: Treaties never do.

The PRIME MINISTER: When we found it signed, we didn't question the authenticity of it. (Inaudible comments)

Dr. DAVIES: I thought you'd rectify all the wrong acts carried out.

Mr. HOLNESS: Mr. Chairman, let's get back to the proposed amendment made by the Member from Central Kingston. We were at the point where we were trying to establish where the Court's intervention would be useful, whether it is at the point of establishing the allegation or at the point of defence.

Rev. THWAITES: Chairman, I'm interested in it at the earlier stage. I'll tell you plain and straight, ah don't trust the officials, I trust the Judge. Let the Judge say if there is something *prima facie* there that can go ahead.

The CHAIRMAN: No, but let me ask you another question, Reverend Thwaites. Suppose...

Rev. THWAITES: What we're doing is ceding rights...

The CHAIRMAN: No, no!

Rev. THWAITES: ...and placing the public official... remember who that can be...

The CHAIRMAN: No, but remember...

Rev. THWAITES: ...under the burden of proof on the say-so of an individual without legal training and without the impartiality of a Judge.

The CHAIRMAN: But you want the Judge to be the sort of supervisor of the Prosecutor. Would it make better sense, let us say, to refer it to the Director of Public Prosecutions for a fiat to prosecute?

(Cross talks)

Rev. THWAITES: What happens with a preliminary enquiry? What is the principle behind a preliminary enquiry, Chairman?

The CHAIRMAN: Eh?

Rev. THWAITES: What is the principle behind a preliminary enquiry?

The CHAIRMAN: To say whether a case has been made out.

Rev. THWAITES: Thank you very much, sir.

The CHAIRMAN: Right. No, but the question arises, why are we... Are you saying then...You know, Reverend Thwaites, that preliminary enquiries are basically on the way out.

Rev. THWAITES: The principle of them is not on the way out. There are different ways that are being interposed to ensure the same end, Chairman, that a person is not accused and put to his trial in circumstances where there is not a strong case or that case is suspect in some direction. And I'm saying to you that having regard to the breadth of who is a public officer and what constitutes public functions, it is vitally important not to leave it open to administrative arbitrariness, especially when that administrative arbitrariness is beyond any penalty or recourse.

Mr. HYLTON: To concur.

Mr. HOLNESS: Your argument then, Member from Central Kingston, is that you would want to see the Court exercise discretion in both the - or assist the Investigator in both instances. So the Investigator would have to bring to the Court the allegation and then when the defence is put forward they would have to bring that as well?

Rev. THWAITES: I would prefer that it were both. You ask which of the two?

Mr. HOLNESS: You prefer both.

Rev. THWAITES: I would prefer it from the earlier stage for the reasons I have given.

Mr. HOLNESS: All right, we could move...

The PRIME MINISTER: Might I suggest, might I suggest, if we could agree on the application of 13, exactly what powers are to be there, and then we square bracket the question as to whether or not a judge's imprimatur or something would be required before the particular action can be taken. Can we approach it that way? So if we can agree on the basic substance of it, let's square bracket it and come back to how we would exercise that particular function.

Mr. HOLNESS: So would we then therefore find the remaining parts of Clause 13 acceptable?

Mr. BUNTING: I just have one other question. Earlier, the Prime Minister mentioned that there was some transitional type of provision which would ensure that this insertion here, the hand-written amendment to the amendment, Prime Minister, where it says, after the appointed day...

The PRIME MINISTER: Yes.

Mr. BUNTING: That that doesn't operate to effectively give an amnesty...

The PRIME MINISTER: No.

Mr. BUNTING: ...to things done before the appointed day.

The PRIME MINISTER: ...(Inaudible) ...there's another clause, the clause where it

says... (Inaudible) ...savings clause... (Inaudible)

Mr. BUNTING: So the amendment will be made to Clause 87?

The PRIME MINISTER: Yeah, yeah!

Mr. BUNTING: Okay.

The PRIME MINISTER: So that at least those powers that would have otherwise come to an end would still apply in relation to anything that took place up to that time...

Mr. BUNTING: Before.

Mr. HOLNESS: Member from Central Kingston, I just had a chance to speak with the SG, PM, you might want to. Would there be, in your mind, in having a judge being involved at that early stage, would there be a breach of separation of powers of that doctrine, in your mind?

Rev. THWAITES: No, Mr. Chairman. Not at all.

The PRIME MINISTER: I'd like us to return to it. I think the concern - I haven't spoken with him myself - but I think the concern that the Solicitor General has is that a judge ought not to be involved in making any determination as to how a case should be brought before the Court. That is essentially the Investigator and the Prosecutor...

Mr. HOLNESS: That's a DPP function.

The PRIME MINISTER: Yeah. Where I know we have made provision is to avoid abuse of powers, we have said, now, look, in your investigation, if you want to intrude on people's privacy, people's private documents, you have to go to a judge and make out to the judge that there is just reason for you to, valid reason for you to do it and you can't do it without the authorization of a judge. But not for the judge to get embroiled or immersed in the investigation and the case itself.

Mr. PICKERSGILL: But, Prime Minister, you think it's a JP? (Inaudible)

The PRIME MINISTER: No, no, we took that out. We took that out. We took that out.

(Inaudible comments)

Mr. HYLTON: Prime Minister...

Rev. THWAITES: Well, maybe we need to have the benefit of some of those later amendments. But my understanding is that the investigation can go on and the invasion and the seizure and the scrutiny and the requirement will, on the say-so of the investigative officer by himself. If not, please show me the relevant sections.

Mr. HYLTON: Prime Minister, I hear the point that you make. But there are two critical determinations that have to be made in 13, whether the disproportionate, the asset is disproportionate to the - is the public officer's lawful earnings, on the one hand. And then you have to make that determi.... The other point is, at (2), you have to make that based upon a wide range of factors, some of which are not adumbrated here. So what are these other things that the official can rely on in making that determination? And I believe that the Court needs - you need to interpose the Court at that stage to say whether the reliance placed in making that determination is, first of all, itself lawful.

The PRIME MINISTER: My worry is if you are going to ask the judge for authority to go and charge, that's getting into a whole new ball game there.

Mr. HYLTON: Prime Minister, I don't think that that is the supposition. What is being suggested is that you want to make sure, given the inherent...given the discretion inherent in what is set out, that you want to

make sure that it is not so broad and so wide as to include things that ought properly not to be part of that process. I'd be satisfied, for example, if the bases for that determination was settled in the document. But it is not. It says they can have resort - they can rely on things other than what is included here. I don't know what that is. And it's probably that we can't define everything. There may be things...

The PRIME MINISTER: Yeah, but without the definition, I think there's a deliberate reason why the drafters didn't seek... Because if you start specifying...

Mr. HYLTON: Right.

The PRIME MINISTER: ...there are so many possibilities that may be excluded. But what I'm trying to see if I can understand is, what...The Investigator can't approach the judge for advice. You can't approach the Judge for an opinion. You can only approach the Judge for permission to do something which you do not in your normal course of investigation have the power to do, like, for example, to go search somebody's place. So in a case like that you go to the judge and say now, I need your authorization to conduct the following activity. That Judge is not going to pass any - express any opinion about the validity of... The judge may simply say you have not satisfied me that this is necessary, and therefore I will not give you that authority.

But when it comes to the issue now of whether or not an investigation should be continued, or whether or not that investigation should now culminate in a charge being laid, the Judge has to stay as far from that as the sun is from the moon. The Judge can't be involved in that.

Mr. MULLINGS: Mr. Chairman, the section as it relates to the Director of Investigation, subsection (6), maybe I should backup. Subsection (1) speaks about.....

Dr. DAVIES: Subsection (1).

Mr. MULLINGS: Thirteen (1) (13)(1).

The CHAIRMAN: You are speaking of the proposed amendment?

Mr. MULLINGS: Amendment, sorry, the proposed amendment, yes.

The CHAIRMAN: Now remember now, Mr. Mullings, we have an amendment to the amendment, is that the one.....

Mr. MULLINGS: The one that you circulated?

The CHAIRMAN: Okay, very well. Good.

Mr. MULLINGS: That is subsection (1)(b) of section 13. Now it says:-

> "In the opinion of the Director of Investigation or any person duly authorized"

But it goes down and says, you have acquired property and you cannot reasonably in all the circumstances have been afforded out of his lawful earnings. So it's been a reasonableness there.

In subsection (c) it says now, where

> "*the public official fails to substantiate or explain satisfactorily to the Director",*

which suggest, that's a subjective test now coming from the Director. And I am not sure whether the test ought not to be one made of reasonableness and consistent with that, since we are speaking of criminal possibilities as, against introducing a subjective test where the Director is concerned.

(*Sotto voce* comments)

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The PRIME MINISTER: As a matter of fact, I hope that I understood the point that the Member is making. I think this was put in there to ensure that the Director can make that judgement. And in making that judgement the Director may very well come to the conclusion that I am satisfied based on what has been presented to me.

What is coming from the Commission review is that they want to remove that, that must go to the judge. So, in other words, even if the explanation is reasonable, you don't take that on yourself, you place him before the court and let the court decide that it is reasonable. That is the issue to which I objected. And I said, no, no, we have to give some discretion. Somebody may have assets, that can be very convincingly explained as to how they came by these assets. You don't want somebody to say well, boy, you know, even though it sound plausible, still put you before the court so that you can go and explain to the judge.

Mr. MILLINGS: The difficulty though, Prime Minister, is that going to the court now in terms of the evidence, the court now is caught between, is it the reasonableness of the situation or is it the subjective test that the Parliament intends coming from the investigator. And which is why legislation, especially criminal lawyers concern ed tries to, as far as possible, go with the reasonable test. In fact, that obtained and there was a change where the charge of murder was concerned, that person mounts a defense. And in mounting that defense, the question was it reasonableness or was it subjective test and so on, so there has always been that kind of tension.

The PRIME MINISTER: Huh huh!

Mr. MULLINGS: What I am uncomfortable with is that in subsection (b), it purports to rely on a reasonableness, and it is subsection (c) it introduces a subjectivity and it can be a problem.

The PRIME MINISTER: Yes, but in the reasonableness, is that reasonableness in the mind of a reasonable person or is that something that is still the subject of judicial determination?

Rev. THWAITES: It's subject to judicial determination down the road. But what one is apprehending, is to ensure that there are the elements of a *prima facie* case before the investigator goes to prosecute. And it is no mingling of the judicial function with an administrative one to ask a Judge to determine and to play a part in that. It is precisely because of the difficulties that Mr. Mullings raises that that becomes all the more necessary.

(*Sotto voce* comments by Opposition Members)

Dr. DAVIES: I was trying to get a layman non-legal issue. Mr. Chairman, in looking at (1)(a) of the amendment - Mr. Chairman, Mr. Chairman, Mr. Chairman, Mr. Chairman. Yes. In looking at (1)(a) of the amendment, it speaks to the property owned by or under the control of a public official has increased significantly to an extent that is disproportionate to his lawful earnings in that period. But you are required to submit, if you have a spouse, with the spouse, so why is the link solely disproportionate to his lawful earnings? Why is that enough to arouse the suspicion, since you are required to declare your spouse's assets also?

Mr. MULLINGS: And family.

Dr. DAVIES: And family too, right. So why is (1)(a) so restrictive, in that it says that - it's not just own, you know, or under the control, it's a broader question here.

The CHAIRMAN: To the spouse.

Dr. DAVIES: Well, that raises another thing. So is the spouse liable to be prosecuted here too.

(*Sotto voce* comment by Rev. Thwaites)

Dr. DAVIES: The public official includes spouse and children? No, well, so you have - no, it can't be that broad.

Mr. PICKERSGILL: Let's look.

Dr. DAVIES: Yes, I am looking now.

(Discussion - short break)

Mr. HOLNESS: Explanation, Member. You were saying that in the first instance you are required to report both your assets and assets that might be related to you under your control. And then the determination is made based on your lawful earnings.

The position is that you make one declaration and that declaration is the public official's declaration, which outlines everything. But the determination is made in the judgement of the Director based on your lawful income, and if there is a question as it relates to assets over and above, then you are given the opportunity - this is how the law is set up to say well, I acquired this by virtue of my partner's income or her business or by virtue of some estate being bequeathed. You could given explanations and then that should satisfy if there is an allegation made.

Rev. THWAITES: I wouldn't like to test that, you know, Mr. Chairman, because Dr. Davies is correct. Section (a) speaks of his lawful earnings alone. The property is under control might be family assets, but his lawful earning is the test of unjust enrichment. That surely needs to be broadened.

Mr. HOLNESS: Yes, but the Declaration would, in the first instance, or should, in the first instance, report income which then would explain the property's control.

Rev. THWAITES: Mr. Chairman, think of it. That need not necessarily be so. The Declaration can't take precedence over the writ of the legislation.

The PRIME MINISTER: I am not quite sure what the difficulty is. The Declaration has to be confined. At the moment it is confined to spouse and children under the age of 18 living with you. But if somebody is versed in the art of corruption, they can acquire assets which are placed in the name of a brother for whom you don't you are not responsible for declaring assets. They can be placed under the control in the custody in the name of a girlfriend. The legislation was framed in order to give the investigator sufficient room that if he can see where this property was acquired through corrupt, illicit means, that he can chase it down. And the fact that the Title is not in your name, it is under your control by some arrangement, he has that room for investigation.

Ultimately of course, all of this has to be determined by a court. But at least it gives them the room for the investigation that if he can make out a proper case, that case can be put before the court. Otherwise, we will end up as I think where we have been for many, many years, where the legislation is so toothless that anybody with a modicum of sense can just run rings around it, which is of the Special Prosecutor to explain his position

what has been happening, I believe, over many, many years.

Dr. DAVIES: But you don't want it have so much that only the honest people get pulled in.

Mr. HOLNESS: The truth is if you have a chance to explain the acquisition of the asset and to give a satisfactory explanation.

The PRIME MINISTER: You want to..... May I just indicate that a suggestion was being made that as in the case of the Independent Commission of Investigation where provision was made that before you can move to the next step you must at least conduct a hearing and give the person an opportunity to say now here. And the person of course at that hearing, can have legal representation and so on, before you could then move on. Now that's a possibility. I don't have a formulation of it, but it is something that maybe we should consider.

The CHAIRMAN: Prime Minister, this is what I am wondering. If we put in (c) '*fails to substantiate or explain satisfactorily to the Director or the authorized person*', instead of to the Director or the authorized persons, couldn't we put to like to the Office of the Special Prosecutor? In other words, yes, rather than "*to the Director or the authorized person".*

So, just as you said, he would be brought before a Committee from the Office

Mr. HOLNESS: Mr. Chairman, what we would be proposing is, broadening the term office in my mind doesn't solve the problem. I mean, you still need to have a person in that office who is responsible, so I don't have a problem with the Director of Investigation. But the issue is whether or not the discretion should just lie in that office alone without specifying further operational things such as having a hearing, where the person who is accused could carry, let's say, witnesses on his behalf or have his lawyers deal with the matter as well, before they proceed to the next phase of proffering a charge.

Mr. WITTER: Mr. Chairman, who will adjudicate during that hearing?

The CHAIRMAN: Well, this is the point you see. The Leader of the House is suggesting that there could be a *quasi* judicial body before it actually goes to the judicial body.

Mr. HOLNESS: Obviously, Mr. Chairman, it is the Director along with - and you could specify, you could say at that point then the Office could.....

The CHAIRMAN: You see, why I say the Office, Leader of the House, is that if the Office is not satisfied that they have a good case and they take it to court and lose it, their office will be in jeopardy of, you know, losing reputation in bringing matters before the court. So in a sense, the Office of the Special Prosecutor would need to be sure that they had a strong case before they take it to the court.

Rev. THWAITES: What would happen to the public official in the meanwhile?

The CHAIRMAN: Well, if he doesn't have a strong case, Reverend Thwaites, then he shouldn't take it to the court.

Rev. THWAITES: What about the public official I the meanwhile?

The CHAIRMAN: No, no, but remember I am saying that the public official would be brought before officers of the - Office of Public Prosecutions to explain how he acquires the property. If he fails there and he

is prosecuted, he has the opportunity to explain it to the judicial body, the Magistrate Court.

Mr. HOLNESS: So what we are proposing, Mr. Chairman, is to put in a third layer.

The CHAIRMAN: No!

Mr. HOLNESS: So the first layer is the suspicion, allegation in the discretion of the Director, then the Director would ask the public official to submit an explanation.

The CHAIRMAN: Which is what is there anyway.

Mr. HOLNESS: Which is what would be reviewed by the Director. If it doesn't satisfy him then you go to a hearing.

The CHAIRMAN: No!

Mr. HOLNESS: Which is what I am saying, you would go to a hearing.

The CHAIRMAN: No, what I am saying is that, what 13 (c) has or explain satisfactorily to the Director or the authorized person.

Mr. HOLNESS: Yes.

The CHAIRMAN: I would leave that to the Office of the Public Prosecutor, that is the Special Prosecutor.

Mr. HOLNESS: Yes, but what I am saying is it requires you to submit an explanation. So you submit the explanation, it's not satisfactory, then now you move to the third stage which is a hearing.

The CHAIRMAN: Yes, the Court.

Mr. HOLNESS: No, a special hearing before you go to the Court.

The CHAIRMAN: My understanding, too, Leader of the House is that there was put in that third - or second/third the corruption tribunal before - and the committee removed it.

Mr. HOLNESS: Well, which is why I am saying we probably should put something in as we have in the INDECOM legislation for a hearing, which would give the third - well, a second opportunity for the accused person to explain before they are liable for prosecution for illicit enrichment.

Rev. THWAITES: Mr. Chairman, while you are contemplating that, look at the amended section 13(2)(ii), yes, where we are saying that the decision regarding unjust enrichment can be done on information, hunch - my words - suspicion and is not solely on the basis of information, book, record or document. Now I understand that there can be instances where people cover their paper trail. But the capacity for badmindedness is so obvious, Chairman, for us to write into legislation. Do we know what has happened and what - Chairman, I really call on you personally. You know happens in the criminal courts of this country, all too often, yes, and the jeopardy, the amount of people in prison who shouldn't be there, the amount of people who are put to their trial at huge expense on the basis of spurious evidence. What does this say?

The CHAIRMAN: No, but, Rev. Thwaites, why don't you read…

Rev. THWAITES: Why don't I read what?

The CHAIRMAN: Two (2) carefully.

Rev. THWAITES: Yes, I have read it.

The CHAIRMAN: Two (2) carefully is not to give more power to the Special Prosecutor, you know, it is to give some assistance to the accused person in determining whether a public official has

substantiated, not whether the Director of Investigations has substantiated.

Rev. THWAITES: No, I beg your pardon, Mr. Chairman. I read that too, you know. But that it opens….

The CHAIRMAN: No!

Rev. THWAITES: Please, don't go there, sir.

The CHAIRMAN: Please.

Rev. THWAITES: It opens the same possibility. Because what it says is that in determining it, once it opens, once it opens the door to the admissibility of evidence outside of the normal evidentiary rules, then this is what it does.

The CHAIRMAN: My understanding - looking at it I did read it carefully.

Rev. THWAITES: Me too, sir.

The CHAIRMAN: Yes, but I think (2) is just saying to the Director of Investigations that if you hear an oral presentation, you must have regard to that oral presentation unsubstantiated by record books.

Rev. THWAITES: And what it says, too, sir, is if he hears some kind of bad mouthing of a particular individual he can take that into account similarly.

The CHAIRMAN: No, no, no!

Rev. THWAITES: Why not?

The CHAIRMAN: No, no, no!

Rev. THWAITES: Where does that not say that? Where that door is closed, Chairman?

The CHAIRMAN: The Director of Investigations has to prove his or her case in court. But what (2)(ii) is saying is that you can't ignore - a person coming to Court or coming to the Director of Investigations by saying that I acquired it a, b, c, which he has no documentary evidence, but he may have oral evidence from friends who can substantiate his case.

Dr. PHILLIPS: Chairman, if your reading, which accords with mine, is correct, it is beneficial…

The CHAIRMAN: To the accused person.

Dr. PHILLIPS: …to the accused or investigated person…

The CHAIRMAN: That is correct.

Dr. PHILLIPS: …because the oral evidence without more would not be admissible in the court.

The CHAIRMAN: That is correct.

Dr. PHILLIPS: So it is in order to determine whether going forward or not that what this is really saying is that investigator….

The CHAIRMAN: Must listen to some more evidence.

Dr. PHILLIPS: …can listen to the oral evidence because they are the ones making the determination.

The CHAIRMAN: That is correct.

Dr. PHILLIPS: That's how I interpreted this.

Rev. THWAITES: I am really sorry. The years as a trial lawyer have changed, have given me a particular bent. The matter is eventually going to be adjudicated by a court is one thing, Mr. Chairman, but as you well know - and, again I rely on your experience - the mischief to the public official, particularly given the breadth both of the definition of public functions and of public official is not when he gets a conviction, it is what takes place beforehand which can wreck a career and which can be influenced by evidence

according to this subsection, yes, beyond any book, record or document.

The CHAIRMAN: Rev. Thwaites, what this section is doing is to say that the public official could bring together a priest, a JP, some friends, to come and put to the Director of Investigations that he acquired this property by lawful means but he has no records to show it. It is to help the public official.

Rev. THWAITES: No, I don't believe that.

Mr. HYLTON: Mr. Chairman, that may we very well be what is intended but I think we ought to be able to find language to put it beyond peradventure, beyond peradventure as to what that section really admits.

The CHAIRMAN: No, but it is saying so, Mr. Hylton, in determining whether a public official has substantiated or explained satisfactorily the source or circumstances, et cetera, then you can go beyond the record books or documentary evidence, you can basically use oral evidence.

Dr. PHILLIPS: It can only apply one way.

The CHAIRMAN: One way.

Rev. THWAITES: No, Peter!

The CHAIRMAN: That's my understanding.

(*Sotto voce* remarks by some Members)

The CHAIRMAN: No, no. Rev. Thwaites, no one could use just oral evidence and come to the Director of Investigation and say that the public official has acquired property and he can't substantiate it. He has to give a written statement to the….

Dr. PHILLIPS: It would be unlikely, although I yield to my friend's greater experience, but it would be unlikely that a court would convict simply on the basis of such oral evidence.

The CHAIRMAN: That is correct.

Rev. THWAITES: The mischief is not when you get to the stage of the trial. The mischief is long before. Why open yourself to this because it does not inure to the prosecution of corruption.

The CHAIRMAN: Rev. Thwaites, if any person should come forward and say orally that the public official has acquired a BMW or has acquired a piece of property, the Director of Investigations has to have some documentary evidence that that person in fact owns the BMW or owns the piece of property. What this is doing is saying that the public official can bring some oral evidence as to how he acquired the BMW. It could have been a winnings at poker game for which he has no documentary evidence.

Mr. HOLNESS: Mr. Chairman, going back to….

The CHAIRMAN: Thirteen.

Mr. HOLNESS: Thirteen (13) but going back to (1)(c) where we are proposing to place in there the amended - these words to amend it:

> "upon being requested by the Director of Investigations or the authorized person, the public official after a hearing pursuant to the subsection - that describes what the hearing would be and how the hearing would be conducted - fails to substantiate or explain".

So now we would specify a hearing.

The PRIME MINISTER: What we would in effect be doing is simply putting in a provision similar to what we have in INDECOM which makes provision for such a hearing.

The CHAIRMAN: Okay.

The PRIME MINISTER: Ultimately, of course, I don't know whether that satisfies the concern that was raised by the Member for West Central St. James. I doubt if it will satisfy the concern being raised by the Member for Central Kingston. Ultimately, somebody has to decide whether this thing goes forward for adjudication or whether it is killed, and that is an administrative decision that has to be made.

The CHAIRMAN: So what you are saying here "*the public official*", in the second line, "*the public official upon a hearing*"…

Dr. PHILLIPS: Second line of which?

The CHAIRMAN: Second line (c), "*upon being requested by the Director of Investigations or the authorized person, the public official after a hearing*".

Dr. DAVIES: Describe the hearing or the hearers.

Mr. HOLNESS: We would prescribe how the structure - we could specify who can be there, *et cetera*.

The CHAIRMAN: Well after a hearing.

Mr. HOLNESS: And who will hear. I think we need to bear a point in mind, Mr. Chairman, and that is we would still be in the investigative phase and one of the things that….

Dr. PHILLIPS: Director of Investigations.

Mr. HOLNESS: Precisely. So we have to be careful that we don't move into the judiciary right away because we are still in the investigative phase.

Dr. PHILLIPS: What you are specifying is that a procedure has to be followed by the Director of Investigations before he can satisfy himself one way or the other.

Mr. HOLNESS: Precisely. But we couldn't move it into the courts to make the decision.

Dr. PHILLIPS: No, not at that point.

Mr. HOLNESS: Not at that point.

The PRIME MINISTER: And again the point that was made by the Member for Central Manchester earlier, the drafters have sought to very carefully, within the single statute, to separate the functions of administration, investigation, prosecution. So, for example, the impression I have from this is that they don't want the prosecutor to interact with the person under investigation until the matter is before the Court. The investigator does that interaction, prepares the case and then when you get the case now is when you meet the prosecutor.

Dr. DAVIES: So the prosecutor who is the boss doesn't have a say in whether they shall go forward?

The PRIME MINISTER: No. I imagine that the prosecutor - the investigator can consult the prosecutor in the same way that the police will consult the DPP, but the actual face-to-face relationship between the prosecutor and the person who may be charged, there is an effort made to avoid that.

Dr. DAVIES: What you are saying makes sense but the way the various references to the Director of Investigations and Administration, is almost as if they are independent offices themselves.

Mr. HOLNESS: Well they have the protection….

The PRIME MINISTER: An attempt was made to put some insulation, if not firewall at least some insulation.

Dr. DAVIES: I don't support it.

The PRIME MINISTER: And it can be done because if the law specifically vests powers in a person bearing a particular title it is that person….

Dr. DAVIES: This thing sounds to me like a recipe for clashes and confusion.

Mr. HOLNESS: No, you have the almost firewall. It's when there is no firewall then….

Mr. JACKSON: But let me ask though, let me ask, do you really want a firewall? Because to begin with, when you start at the level of investigation it's the presumption that something awry has taken place and you are going to investigate with the intention that if you can substantiate it you prosecute. You are not going to investigate for the mere purpose of just investigating or harassment, you are going to prosecute….

Mr. HOLNESS: No, no, incorrect because the prosecutor's whole goal is to prosecute, is to prosecute, they are not looking to determine innocence; they are just looking to prosecute. The investigator now must make a determination as to whether or not the evidence gathered is sufficient to meet the standard of the law to bring a case.

Dr. DAVIES: Can you give me any other office with this separation of powers within the same office?

Dr. PHILLIPS: DPP and police.

Mr. HOLNESS: Which is why we are….

Dr. PHILLIPS: DPP and police.

Dr. DAVIES: In the same office? In the same office, can you give me any other example where you have the persons reporting to the head having independent authority?

The PRIME MINISTER: I can call the National Contracts Commission and the Office of the Contractor General right now.

Opposition Member: DPP.

The PRIME MINISTER: We are fixing that right now. But up to now that's what happens.

The CHAIRMAN: There are other possibilities, Prime Minister. Under Section 54 subsection (15) could the hearing be before that committee?

The PRIME MINISTER: I am sorry.

The CHAIRMAN: Section 54 subsection (15). I am just wondering, we have after *"hearing"* but we didn't say before whom, after *"hearing";* could it be before that committee in section 54 (15).

The PRIME MINISTER: I am not quite sure that, that is the purpose of that committee, you know. You make the point because I am still thinking it out. I'm not sure…

Dr. PHILLIPS: I don't think we should determine - to my mind, I would say a hearing - a hearing I think after a hearing, presumably by the Director of Investigations. Because it was like it was in - when you would be required to have a hearing in a firearm appeal in times yore even now. It is saying that the people empowered must give you a hearing, you are entitled to a hearing. And it is the entitlement that is being given.

What I wanted to say in relation to that group, and maybe we can deal with it when we get there at 54, is just that we have to think of the overall supervisory accountability mechanisms especially given the enormity of the powers, and might need to give some

further thinking to the role of that committee to broadening it. But let's wait until we get there.

The CHAIRMAN: Okay, well with that, Members, you have before you the amendment to the amendment to the amendment.

Mr. HOLNESS: Could you read the amendments?

The CHAIRMAN: 13, as I have it, I will just go through.

(b) "*Where*…,

that is Clause 13 (1)(b).

"…the amount of property owned by or under the control of a public official has, during any period of his service as a public official after the appointed day, increased significantly to an extent that is disproportionate to his lawful earnings during that period;

(b) in the opinion of the Director of Investigation or any person duly authorized to investigate an allegation of corrupt conduct against the public official, the acquisition of the property during the period in question cannot reasonably in all the circumstances have been afforded out of his lawful earnings up to that date; and

(c) upon being requested by the Director of Investigations or the authorized person the public official after a hearing, fails to substantiate or explain satisfactorily to the Director or the authorized person the source of or the circumstances surrounding the acquisition of the property in question, the public official shall be liable to prosecution for the offence of illicit enrichment.

(2) - 13 (2) remains as is.

Those in favour…

Dr GUY: No, no, Chairman.

The CHAIRMAN: Mr. Hylton then Dr. Guy.

Mr. HYLTON: Mr. Chairman, I beg to go back to the point that was being discussed earlier which is, your interpretation of 13 (2) which says that what is there now is for the benefit of the public official. I want to say to you, Mr. Chairman, if that is the intention I believe a simple statement that reads something like this, that says:-

The public official may have recourse to other forms of evidence which substantiate his claim.

I think that would make it very clear, because on the reading as is, it suggests that the Director of Investigations can go beyond that which is provided by the public official which it lists, the books, the documents and all of that suggesting that he can have resort to other kinds of evidence. So it is for the Director of Public Prosecutions. And I simply suggest…

The CHAIRMAN: But, Mr. Hylton, all that the draftsman has done, you know, is to put it in typical legal language, in the negative.

Mr. HYLTON: I know, but I am saying no, but the interpretation that is where - I am saying to you, since that is the intention, since that is the intention and I accept that that is the intension but to make it clear and to avoid the mischief, I believe an additional sentence that goes on to say:-

the public official may have recourse to other forms of evidence which explains, which substantiates his claim…

I think that would make it pellucidly clear that the intent is for the public official to benefit from other than the documentary or other - and the…

The CHAIRMAN: Well, you know, I have to, subject to what the draftsmen are saying, it is easily done, you know. It can be said, shall have regard to the fact that the issues can be determined on oral, or other evidence.

Mr. HYLTON: In favour of the public official, that is the point.

The CHAIRMAN: Well, I mean it is obvious, it would be.

Mr. HYLTON: No, it is not obvious, Mr. Chairman.

The CHAIRMAN: So you would like:-

The issues can be determined to the benefit of the public official...

Mr. Hylton,

...that the issues can be determined to the benefit of the public official, on the basis of oral and other evidence.

Can we get something like that? The draftsman is doing something.

Dr. PHILLIPS: So why we don't go now to Clause 14?

The CHAIRMAN: Can we, Members, until that is adjusted. Can we put Clause 14.

Dr. GUY: You did recognize me, Chairman, yes, down here, catch my eye here, yes thank you.

The CHAIRMAN: Yes, Dr. Guy.

Dr. GUY: Can you read (c) as amended again, Chairman?

The CHAIRMAN: (c) as amended would read:-

Upon being requested by the Director of Investigations or the authorized person, the public official after a hearing…

Dr. GUY: After a hearing with whom?

The CHAIRMAN: It doesn't matter.

Dr. GUY: No, but it does matter because it says:-

after a hearing fails to substantiate or explain satisfactorily with the director.

Mr. HOLNESS: The hearing is with the Director of Investigations, it has to be at that point.

Dr. GUY: But it doesn't change what it says, is here just now. After a hearing or fails to explain to the Director; what is the difference?

Mr. HOLNESS: It is a major difference.

Dr. GUY: Tell us.

Dr. PHILLIPS: The difference would be - that putting the words after a hearing if that is the appropriate combination…

The CHAIRMAN: There must be a hearing.

Dr. PHILLIPS: …what it does is give an entitlement to the person - to the public official, to a hearing, it is an entitlement. That entitlement….

(*Sotto voce* comments by Member)

Dr. PHILLIPS: No, it is in the same way. We have done it in lots of legislation. When you say a person whose firearm has been withdrawn...

The CHAIRMAN: He is entitled to a hearing.

Dr. PHILLIPS: …and you give them an entitlement to a hearing; it does not give them the entitlement to get the firearm, but at least it gives them the entitlement to state their case.

The CHAIRMAN: That correct, Dr. Phillips.

The PRIME MINISTER: The Member for East Central St Andrew is correct. There are many, many instances in which statutory

power is created. I know as a Minister, for example, there are certain things that I have the power to do, but there is an entitlement in the law before exercising that power, I am required to give the person in relation to whom that power is to be exercised a hearing. So what this is saying is that the Director of Investigations can't just sit down and decide, he must at least allow the person to come in, to sit before him and to be represented by counsel, if necessary, if they so choose, argue the case, make their presentation, after that it is still his decision.

Mr. PICKERSGILL: What about the legal principle you can't be a judge in your own cause?

Mr. HOLNESS: No, no, this is helping him to make a decision.

Mr. WITTER: Mr. Chairman, it comes back to... the law is…

The CHAIRMAN: Yes, Mr. Witter.

The PRIME MINISTER: The law is replete.

Mr. WITTER: No, I say it comes back to my question about who will adjudicate at the hearing. Because it is the same person who comes to investigate you in the beginning, it is the same person you are going back to for the hearing.

The CHAIRMAN: No, but Mr. Witter, the only point at that stage, the point at that stage is that the Director of Investigations may have a case, but he should at least allow the public official to present his side or a hearing before he prosecutes.

Dr. GUY: Chairman, indulge me.

The CHAIRMAN: Yes.

Dr. GUY: What is the difference that you have just explained to the Member from South East St. Elizabeth, and the public official fails to substantiate or explain satisfactorily to the Director or the authorized person, wouldn't they be in a discussion and they explain to him?

The CHAIRMAN: No, because it could be by way of documentary evidence and at the hearing, he may well have his lawyer and accountant.

Mr. MULLINGS: But, Mr. Chairman, it was said before you carried a judge in your own cause. I wouldn't want to represent my client before the very Director who is going to prosecute my client. What you are going to be doing is that you are now laying forth your defence, in exposing your hand. That can't be fair and neat.

The PRIME MINISTER: Can I ask, Mr. Chairman, a simple question. When the police is investigating a matter now, and it is a matter that they think that they need to get the guidance and direction of the Director of Public Prosecutions, anybody getting a hearing? Anybody is being given an opportunity to present any documents to say, well, don't bother prosecute me because here is the stuff? They don't have that.

Mr. MULLINGS: But there is a difference with respect here, Prime Minister.

Dr. GUY: But, for what was explained - you can sue the police can't do it in this case.

The PRIME MINISTER: I don't know that that is so, you keep making that point, and I don't know that that is so. I do not know. We were very careful in the draft to take out the word "*absolute privilege"*. It means that if the person is acting in good faith…

The CHAIRMAN: That is correct.

The PRIME MINISTER: …they are

protected, if they are acting maliciously…

The CHAIRMAN: They can be sued.

The PRIME MINISTER: …with reckless - they can be sued.

The CHAIRMAN: The Office can now be sued because "*absolute privilege"* was removed at 54 something - at 51 (2) where it has absolute privilege…

The PRIME MINISTER: The Director of Public Prosecutions can be sued and has been sued.

The CHAIRMAN: So 51(2) *absolute* will be removed. So, the Office can be sued if there is malicious prosecution.

Rev. THWIATES: Read the rest of the same section. Read the rest of the same section. What about (3), you are taking out that too?

The CHAIRMAN: No, but it is privilege not absolutely privileged…

Rev. THWAITES: Against defamation?

The CHAIRMAN: No, malice removes everything in that section.

Rev. THWAITES: I see. So what recourse you have?

The CHAIRMAN: Sue, if you can prove malice. Remember, if the prosecution is brought maliciously which, as you know, Mr. Pickersgill, include a bit of recklessness, if it is done that way then the Office can be sued by removing "*absolute"* in subsection (2).

Dr. PHILLIPS: Chairman, powers greater than this are given to public officials….

The CHAIRMAN: Absolutely.

Dr. PHILLIPS: …and ministers exercise them every day in relation to their portfolio responsibilities, whether persons are fit and proper, for example, to be entitled to operate financial services. And we can't want to exercise those powers.

Mr. HOLNESS: And to be clear Member, just to assist your point. Charging is an Executive - it comes under the Executive of the government, bringing a charge against somebody that has to be done by an official, yes. The DPP is considered to be a part of the Executive of the Government. So this business, of saying that someone - it would be unfair that a judgment is going to made on someone, this is a judgment of whether or not to charge. The courts will have the final say…

Dr. PHILLIPS: Precisely.

Mr. HOLNESS: …as to whether or not the person is guilty or innocent and there is no prejudice on the...

Dr. PHILLIPS: That is precisely the case. And in fact, what I am saying you cannot operate the law on the basis that you will never have a public official who will discharge their responsibilities with integrity, you can't make law on the basis of cynicism.

Rev. THWAITES: Neither can you make law - neither can you do it on the basis which places the repute of the citizen in a jurisdiction where trials can take up to three, four years, yes. When that can happen on the basis that there is always going to be fairness and goodwill, there has to be a balance, there has to be checks and balances which is all, and its totality, what I for one am asking for.

Mr. HOLNESS: But Member, we are putting it.

Rev. THWAITES: You are telling me that Ministers have that discretion in another way doesn't deal with the vulnerability. Remember again, Chairman, the depth of this issue and the breadth of the definition; this is

not talking about (inaudible) or fraud. This is talking about all manner of conduct that falls under the definition of public function. It is because of the breadth, the closeness of the questioning and the further definitions are required.

Dr. GUY: Precisely, I'm going to support the Member on that.

But, Mr. Chairman, there's something - Mr. Chairman ...

Mr. HOLNESS: By putting in the amendments, we are putting in the cheques and balances. By putting in the amendments and asking for a hearing, I believe we would have been satisfying the Member.

The CHAIRMAN: Mr. Hylton and Reverend Thwaites. Mr. Hylton, when you finish your phone call just...

(Laughs)

(Inaudible comments by Members)

Dr. GUY: Mr. Chairman, Mr. Chairman, Mr. Chairman.

(Inaudible comments by Members)

The CHAIRMAN: Mr. Hylton.

Dr. GUY: Oh, sorry.

The CHAIRMAN: What is being proposed in 13(2) subsection (2) - sub subsection (2). Now listen carefully - Dr. Guy just listen carefully. In determining whether public official has substantiated or explained satisfactorily, the source of, or circumstances surrounding the acquisition of the property in question, the (a) - now remember it's going to be split now the

(a) the Director of Public Prosecutions, or the person so authorised shall have regard ...

Mr. PICKERSGILL: The Director of Public Prosecutions?

The CHAIRMAN: Sorry. The question-

(a) the Director of Investigations, or the person so duly authorised, shall have regard to the fact that the issues need not be determined solely on the basis of any information, book record or document provided or omitted to be provided by the public official.

(b) the Public Official shall have recourse to any form of evidence that is available to him.

So, in other words, what is being proposed is the addition of a new sub subsection (b) ...

Dr. PHILLIPS: And you are going to circulate that?

The CHAIRMAN: ...which makes it... Well it's here, which makes it clear. It's just an...

(Inaudible comments by Dr. Phillips)

The CHAIRMAN: No fair enough, it is just proposed to me, Dr. Phillips...

Dr. DAVIES: How does (b) help us?

The CHAIRMAN: The public official can have oral evidence, can bring oral evidence or persons...

(Inaudible comments by Dr. Phillips and Mr. Holness)

Dr. DAVIES: Doesn't (a) implicitly... (Inaudible)

The CHAIRMAN: It does, but they wanted it clearer, Dr. Davies, the Members wanted it explicitly clear that the public official can bring friends, bring in oral evidence in support.

Mr. HOLNESS: Yes that will be the hearing, so in defining... (Inaudible)

The CHAIRMAN: Yea, yea, yea!

Dr. PHILLIPS: (Inaudible)

A MEMBER: Could you repeat the amendment? Chairman, could you repeat the amendment?

The CHAIRMAN: What is being proposed is an addition to sub subsection (2)(ii) (a) and (b), where (b) is: The public official shall have recourse to any form of evidence that is available to him.

(Inaudible comments)

The CHAIRMAN: Oral evidence.

Dr. PHILLIPS: Oral evidence?

Mr. MULLINGS: Mr. Chairman, that doesn't add anything? It follows by natural justice, you must have a recourse to any evidence available to you.

The CHAIRMAN: That's what?

Mr. MULLINGS: You must have recourse to any evidence available to you.

The CHAIRMAN: Well what, Mr. Mullings - is that Mr. Hylton was saying that the first section was in the negative, he wanted something explicit, and what is being proposed is being made very explicit by saying any form of evidence available to him.

Mr. MULLINGS: Natural justice as you know, Mr. Chairman, it follows, you can't - it follows. And just as how can oust the discretion of a court, it follows that you have to...

The CHAIRMAN: No, this is at the point you know, before a decision is made whether to prosecute.

Mr. MULLINGS: Yes, yes!

The CHAIRMAN: So that the Member - the public official can bring friends, any other form of evidence to the Director of Investigation to stymy, or waive the prosecution.

Mr. MULLINGS: But one would expect that.

The CHAIRMAN: Huh?

Mr. MULLINGS: One would expect that.

The CHAIRMAN: Yes!

Mr. HUTCHINSON: (Inaudible)

Mr. PICKERSGILL: What happen to the chick?

(Inaudible comments by Members)

The CHAIRMAN: Mr. Hylton, is that now satisfactory?

Mr. HYLTON: Yes, yes, yes, Mr. Chairman, yes.

The CHAIRMAN: No...

Dr. PHILLIPS: He has said yes.

The CHAIRMAN: Yes, so the amendment basically, is just the addition of an explicit statement.

A MEMBER: Yes.

The CHAIRMAN: Members, I read again, that the public official shall have recourse to any form of evidence that is available to him. Okay?

Mr. HOLNESS: During the hearing.

The CHAIRMAN: Yes, yes it's implicit.

Mr. HOLNESS: So you can be subject to a hearing?

The CHAIRMAN: No, no same thing. So can I then put 13 - the amendment to section 13?

(Inaudible comments)

Dr. DAVIES: Mr. Chairman, help me, I like real thing.

Rev. THWAITES: Mr. Chairman, we are going to pass laws that we don't have the writing of? Really and truly I understand.

The CHAIRMAN: Could I read it to you and you write it?

Rev. THWAITES: No, anyway you like, Mr. Chairman, you seem disposed to go ahead whatever. Is it the norm of this Parliament to do it that way, to pass laws that are going to bind every Jamaican, where we draft it in this fashion where you read it out and that is the

only record we have? Really, why are we doing this?

The PRIME MINISTER: Yea, but with respect, the amendment is proposed by one of your colleagues.

Dr. DAVIES: Yes, but still ... (Inaudible)

The PRIME MINISTER: And under the rules of the House, when you propose amendments you are supposed to make copies available.

A MEMBER: Yes!

Dr. DAVIES: I thought as the Chairman... (Inaudible)

Dr. PHILLIPS: I understood the Leader of the House was going to - the Leader of the House going to get it typed up. Didn't you?

Mr. HOLNESS: (Inaudible)

Dr. PHILLIPS: So it's going to get typed, so just explain that you're going to do that.

A MEMBER: What is the question?

The CHAIRMAN: All right, Members, what we're going to do is to put in the amendments to Clause 13 and circulate them and then we'll return to Clause 13. Is that okay? So can we then move to Clause 14? When we have the amendments circulated we will have it passed.

Clause 14, I now put Clause 14. We are returning to Clause 13 as soon as it is circulated.

Rev. THWAITES: Mr. Chairman, Clause 14, could you explain to me the import of 14(2)?

(Inaudible comments)

The PRIME MINISTER: Mr. Chairman, we had discussed this before and I think we made reference to it earlier today. If all that this legislation is going to seek to do is to target, sequester - whatever is the word – property that is in your name or in your wife's name, then quite frankly the persons who are really intended to be corrupt are going to just laugh at us. Because property will find its way into companies in which you are not necessarily a shareholder or director. The intention here was to give the legislation sufficient reach, bearing in mind that ultimately it's a court that has to make that determination it's not no administrator or bureaucrat sitting in an office, it's the court. But if the Court can establish that this property was suddenly transferred into this person and that person has a connection and this is how that connection - once you satisfy the Court. If you look at the - if we ever took this kind of tiptoeing approach in relation to the Proceeds of Crime Act, it would've been useless, it would've been useless.

Mr. MULLINGS: Mr. Chairman, section 14, with respect, is unsound on two bases. One, it requires the person to provide evidence to the contrary for things he does not have in his possession. And therefore, not only that it changes the burden of proof, it places an onus on you to establish evidence to the contrary for property in somebody else's name and possession. That, with respect, cannot be counted as in the criminal law, neither can it be philosophically sound. And I think that looking at the...

Dr. PHILLIPS: Would the Member indulge me a minute? Can you just tell me what you're referring to here, what, 14 (2) and (3)?

Mr. MULLINGS: Fourteen (2) and (3). Resources or property shall, in the absence of evidence to the contrary, be presumed to have been in the control of the accused in the circumstances set out in subsection (3).

Dr. PHILLIPS: Yea!

Mr. MULLINGS: What are those circumstances?

"Having regard to the closeness of the relationship between the accused and another person, and to other circumstances there's reason to believe that the other person:

(a) was holding pecuniary resources or property in trust for or otherwise on behalf of the accused, or

(b) acquired such resources or property as a gift from the accused."

So what we have is property in the possession and/or control of another person, and then a burden is placed on you to rebut a presumption to the contrary. That, with respect, is something that not only is it draconian, but it turns the criminal law on its head and the rights of an accused person. I cannot support it.

Dr. PHILLIPS: But this accords pretty closely with the legislation already passed by this Parliament in relation to Proceeds of Crime.

Mr. MULLINGS: Such a tragedy, because the complaint would still hold.

Dr. PHILLIPS: No, no, no, it takes account of the fact that in many instances - and there have been instances demonstrated subsequent to the passage of POCA where property has been moved into the possession of third persons as a means of hiding it.

Mr. MULLINGS: There is no gainsaying that, there is no gainsaying that. But what you are now doing is that you have removed the presumption of innocence from the person, you have the presumption of guilt that you must now rebut on property belonging, or in the presence of someone else.

Rev. THWAITES: Chairman, there was no doubt about the mischief you know, that needs to be curbed, the question is the way we're doing it. As often in philosophy it is not the *id quad* it is the *modem quo*.

Dr. PHILLIPS: Is there any specific - does the Member have any specific - you have a form of words that would satisfy it?

Mr. MULLINGS: No, I must confess I don't. I have to look at it very keenly and see how.

Rev. THWAITES: But that is exactly what we are asking to be able to do. These issues that have been raised really require some additional thought. I realize how awkward that is, having regard to the time, the process and the obligations that we seem to have and the pressures that are being brought, but they require careful thought. It is not something that can be done by a committee such as this, with any elegance and finality.

(Inaudible comments by Members)

Mr. PICKERSGILL: Speak no evil of the dead.

The CHAIRMAN: Now Members, while we are contemplating 14, we now have 13 and I think Members may have seen the correction to the addition, or the amendment to 13. Can we now approve 13?

Dr. DAVIES: Where is it? I didn't get it.

(Inaudible comments by Members)

The CHAIRMAN: You didn't get a copy?

Dr. DAVIES: No!

(Inaudible comments by Members)

The CHAIRMAN: There are three additions to 1(a) - 13(1)(a) ...

(Inaudible comments by Mr. Holness)

The CHAIRMAN: ...three (3) amendments – two.

Mr. HOLNESS: Two.

The CHAIRMAN: Two plus an addition. Is that okay now Mr. Hylton?

Mr. HYLTON: Yes.

The CHAIRMAN: What about other Members, is it okay?

MEMBERS: Aye.

The CHAIRMAN: Okay. I now put the amendment to the amendment to section 13.

Put to the Committee and agreed to.

The CHAIRMAN: I now put section - Clause 13 as amended and now renumbered as Clause 11.

Dr. DAVIES: In (c), you have after public official, after hearing, when are we going to clarify this hearing?

Mr. HOLNESS: No, it's clarified here.

Dr. DAVIES: Where? Where is it clarified?

The CHAIRMAN: The public official after a hearing fails to substantiate.

Dr. DAVIES: Yes, but what...

The CHAIRMAN: That's (2)(b).

Mr. HOLNESS: ...and this was effectively defined.

Dr. DAVIES: What effectively defines it? This is His Worship's question.

The CHAIRMAN: The hearing has not been defined.

Dr. DAVIES: When will it be, and where will it be?

Dr. PHILLIPS: Where you are?

Dr. DAVIES: (C), subsection (c).

Dr. PHILLIPS: The hearing is the Director of...

Dr. DAVIES: No, no, they have not defined it anywhere.

Dr. PHILLIPS: After a hearing. After a hearing.

Dr. DAVIES: So you can just say after a hearing?

The CHAIRMAN: The hearing could be before the Director of Investigation, you know.

(*Sotto voce* comments)

Dr. DAVIES: We should make it the PAC. Decisive.

The CHAIRMAN: The main thing, as Dr. Phillips has pointed out, is that he got a hearing.

Dr. DAVIES: I hear that. But are we just going to leave it like that?

The CHAIRMAN: Yes!

Dr. DAVIES: After a hearing?

The CHAIRMAN: Yes!

Dr. DAVIES: Suppose the Director of Investigations says I am the hearing.

The CHAIRMAN: No, he could well be the hearing.

Dr. DAVIES: No?

The CHAIRMAN: Yes!

Dr. DAVIES: But I thought His Worship was pointing out that he wanted some panel or some...

The CHAIRMAN: A quasi-judicial body?

Mr. JACKSON: No, it's not a trial, you know.

Dr. DAVIES: No, but then what advance have we made?

Dr. PHILLIPS: No, the advance - maybe at the time Dr. Davies...

The CHAIRMAN: Was not listening.

Dr. PHILLIPS: ...was not following the discussion as closely...

Dr. DAVIES: I was trying to follow the confusion.

Dr. PHILLIPS: ...as he usually does. The issue is that what this confers is an entitlement...

The CHAIRMAN: To a hearing.

Dr. PHILLIPS: ...to a hearing.

The CHAIRMAN: A formal hearing.

Dr. PHILLIPS: The Director cannot make a finding now without having given you a hearing.

The CHAIRMAN: A formal hearing.

Dr. PHILLIPS: A formal hearing. And that means you are entitled to go with your lawyer to be heard, and to put your case as it is. You may or you may not satisfy. And I use, on the basis of, - well, many Ministers...

The CHAIRMAN: That is correct.

Dr. PHILLIPS: ...have the obligation in law to provide a hearing. It used to be so with the Minister of Security, in relation to Firearm Appeals, it was so in relation to...

The CHAIRMAN: Many instances.

Dr. PHILLIPS: ...Development Orders, it is so in relation to a number of things.

The CHAIRMAN: But the point, Reverend Thwaites, is that apart from the initial investigation, the initial contacts, the going and froing, that there is a formal hearing.

Mr. BUNTING: Yeah. Also, Mr. Chairman, I think the hearing here is more by way of say, an auditor who would do an audit query and issue a letter to the management and say, we have come up with these fifteen questions. And the management would respond, and on the basis of the response perhaps eliminate twelve of the fifteen. It's that type of a hearing, because it's really at an investigation stage. Some anomaly has come up on the basis of the statutory declarations. They are looking into the anomaly...

The CHAIRMAN: And there is a hearing.

Mr. BUNTING: ...to determine whether it warrants going forward or not.

The CHAIRMAN: Yes!

Mr. BUNTING: That's all the investigation is at this stage.

Mr. JACKSON: And further, Mr. Chairman...

Mr. BUNTING: It hasn't made any determination, is not biased one way or the other. An anomaly has risen from the declaration, they are trying to get to the bottom of it, and they are giving the person, the public official an opportunity to explain…

The CHAIRMAN: An opportunity to disabuse himself.

Mr. BUNTING: That's all it is.

Mr. JACKSON: Mr. Chair...

Dr. DAVIES: Now, when you say he is not biased one way or the other, this is the person who has decided that there should be an investigation.

Mr. BUNTING: No, no, no!

Dr. DAVIES: Yes. The Director of Investigations is having the hearing.

Mr. JACKSON: Mr. Chairman, I want to further submit, from where I am, the opportunity for the hearing will better allow for an evaluation or an assessment of the decision subsequently made.

The CHAIRMAN: Absolutely.

Mr. JACKSON: Because for the record, whatever decision is made to go forward to prosecution, for example, you would have on the record that those other issues that the accused person or the investigated person, would have been on the table to be taken into consideration. In the absence of the hearing, one could always say that the decision that

they otherwise made was plausible, because it never had the benefit of these submissions.

The CHAIRMAN: In fact, I go further. The hearing allows the public official to be able to say the fact that the prosecution took place, it was malicious, because he had everything to explain satisfactorily how he came by...

Mr. JACKSON: And he didn't.

The CHAIRMAN: And the Director of Investigations still went ahead, which means that there is something behind it.

(*Sotto voce* comment from Rev. Thwaites)

The CHAIRMAN: No, but, Reverend Thwaites, what is more - what more can you ask of the law than to say that the public official has been given a hearing after all the investigations.

Rev. THWAITES: There is no point in my repeating my earlier statements, Chairman, the direction of the Committee is clear.

The CHAIRMAN: No, but what more would you want, Reverend Thwaites?

Rev. THWAITES: I stated in detail all of the objections and what the remedy I thought was. It has been dismissed, so you want to move on.

The CHAIRMAN: Okay. So I put Clause 13 as amended, now the new Clause 11.

Put to the Committee and agreed to.

We go back now to 14.

Dr. DAVIES: Forward.

The PRIME MINISTER: The original 14.

The CHAIRMAN: The original 14 now 12.

Dr. DAVIES: No, no, don't confuse me.

Rev. THWAITES: Mr. Chairman, will you please take into account the points made by Mr. Mullings in this headlong...

The PRIME MINISTER: Mr. Chairman, subsection (1) of 14 makes it clear that a person has a defence to demonstrate that these assets were not derived from any illicit means.

Subsection (2) says in the absence of evidence to the contrary, the person shall be presumed to have been in the control of the accused - the assets shall be presumed to have been in the control of the accused in the circumstances set out in subsection (3). And that is what gives you the opportunity to go round the corners and go through the trap doors, where these assets may be hidden. It is similar to legislation that exist now. There is, perhaps not spelt out as much as this, but the question of illicit enrichment was dealt with in the Corruption Prevention Act.

In POCA there is provision if you cannot explain how you came by all of these assets, and particularly if you are associated with one of the crimes, and an application is made before the Court, POCA can lay hand - through POCA, hand can be laid.

What keeps coming out in some of the submissions and interventions that have been made seems to me that they would be equally justified, if they are justified any at all, in relation to other statutes that we have passed here, right.

Rev. THWAITES: Like what?

The PRIME MINISTER: Like POCA. Like POCA, for example.

Rev. THWAITES: Sure, why not.

The PRIME MINISTER: And other

legislation where we have felt the need to go this distance, because that's the only way you can keep up with persons who are either bent on or have developed the expertise to undermine the system of justice, or the system of Government, or the system of law, and so on. And we have done that.

So I am a little nervous when we appear now to be so careful, because this one now affects us. I am a little nervous at the appearance that is being given.

Rev. THWAITES: No, why you do that.

Mr. HYLTON: Prime Minister, my understanding is that in the instance of say the POCA that comes at the end of a determination that you have been involved in some sort of criminal enterprise, or activity. That means you are convicted, already been convicted, and the issue now is how you go in pursuit of the proceeds.

The PRIME MINISTER: My understanding is that if you are convicted of an offence, then whatever are the assets that can be associated with that offence that becomes immediately seizable. But under POCA, if you are - if a Court is satisfied that you live a criminal lifestyle, criminal lifestyle...

Dr. PHILLIPS: And POCA even applies for - even provides for civil forfeiture even where you have not been convicted. And I would add that POCA is modeled on legislation that is in force in the UK, in Canada and other Commonwealth jurisdictions, which treasure themselves - treasure individual rights to the same degree that we treasure them. But it is recognized that in today's circumstance where these activities of criminal collaboration are so rife as they are in Jamaica, that you need this kind of legislation to enable us to get at it.

Mr. MULLINGS: Mr. Chairman, we are not comparing apples and apples...

Mr. PICKERSGILL: That's true!

Mr. MULLINGS: We are not doing that. What this section purports to do is to put you before the Courts for property in the ownership or possession of someone else, because you are unable to provide evidence to the contrary. So you start the process in that regard. I put forth this hypotheses or this example.

Dr. PHILLIPS: No, but...

Mr. MULLINGS: No, please, please, please, please! I heard you. Please, it's very important. Are we saying that you therefore change the balance in terms of the criminal law, the onus of proof? Are we saying that? Are we saying that we are removing the principles of intention being *mens rea* and the actuality be *actus reas*? Are we doing that? So if we are doing that, I would have to be convinced on what authority this Parliament has to do that, having passed just last week, the Charter of Rights.

So let us examine the argument or the thesis. Let us examine the thesis that says, for instance, you have been convicted of an offence, which means that evidence has been led and you have not been able to meet that, and then the proceeds of that follows. In fact, in the civil for forfeiture you are entitled to raise a defence. What this is purporting to do is to place a burden on you. And I put forward this possibility, and it does not apply to me, I am a born-again Christian. Let us say that a person - it's very important - a person forms an alliance, a dalliance, say, with a young lady,

but this young lady has two lovers, you being one, and that other lover is involved in nefarious activities, but she is enjoying the fruits of that. Are we saying that you, having formed this dalliance are now under a burden to show - because you are close with her - to show that it doesn't belong to you? How would you do that?

(*Sotto voce* comments)

Mr. HOLNESS: But, Member, that...

The PRIME MINISTER: Hold on, hold on!

You know, we can cite so many analogies, right, but the thing can't be too abandoned. The thing can't be for us to say, well, it is too challenging to try to deal with it.

Let me cite a situation. I am a public official - I don't even have to go to girlfriend. I am a public official, I am in a position where I can exert influence over the direction of huge resources. My income doesn't - my assets don't go up. I earn Four Million Dollars, ($4M) a year, and what you see there is what you get, Four Million Dollars, ($4M) a year. But all of a sudden my brother, who is not employed to the Government, not a public official, all of a sudden he owns property all over the place, assets have just swollen. We have no basis on which to require him to make no annual declaration, because he is not a public official. If you don't provide a means to say, but now, you have a relationship with this person, and our investigation suggests that something funny is going on, we can't see - we can't produce the actual transaction documents, but we are presuming.

Now, let your brother come forward to demonstrate that the way in which his assets grew so large is because he won this Powerball jackpot in New York that paid him US$300 Million, and that's how he bought all these things. But, in the absence of that, what do we do? Do we simply abandon it and say, boy we suspect, we have good reason, we are almost there but we don't have court-ready proof, and therefore, we just have to back off? I mean, the people who really want to be corrupt are smarter than that, you know.

Mr. MULLINGS: But, Prime Minister, my brother might very well be a rogue. My brother might very well be a rogue, and not me.

The CHAIRMAN: Hold it, Mr. Mullings. Dr. Phillips.

Mr. BUCHANAN: So, what happen to your individual rights?

Dr. PHILLIPS: If I might, Chairman, if we read - if we read carefully, 14 - if we read carefully, 14, it says, 14(1), it shall be a defence...

The PRIME MINISTER: Yes.

Dr. PHILLIPS: ...to a person charged with the offence of illicit - to show that you came by the assets.

(*Sotto voce* comments by Members)

Dr. PHILLIPS: Hold on, how you came by it? The Powerball example, or your deceased aunt in Birmingham left £500,000, you didn't work for it but you got it and you can demonstrate it. Now, (2), says that...

Dr. DAVIES: Two, is the dalliance.

Dr. PHILLIPS: Two (2) says, in the absence of evidence to the contrary, resources shall be presumed to have been under your control, resources in third party hands.

(*Sotto voce* comments)

Dr. PHILLIPS: Hold on, hold on. Section 3 provides that, in making any

assertion that you are the beneficial owner of that property, evidence has to be provided to a court. That's the first thing.

Dr. DAVIES: Where is all this?

Dr. PHILLIPS: Section 3 says - subsection (3) says "*subsection (2) applies where a court is satisfied in proceedings for an offence under Section 13*" - that's the illicit enrichment – "that having regard to the" - and these are things now to be proved to the Court. "*the closeness of the relationship between the accused and the third party, and to other circumstances*" - which again, you would have to specify to the court. Which lead you to believe now - and the proof would have to be given in those other circumstances, and the relationship to, one, that you are holding pecuniary resources in trust for, or otherwise, on behalf of the accused, and you acquired it as a gift from the accused. In other words, for the third party, you have to demonstrate the link between the property and the accused, and the third person, not speculatively on the basis of evidence adduced and challengeable in a court of law.

Mr. MULLINGS: So, who asserts this?

Dr. PHILLIPS: The Special Prosecutor would have to assert it.

Mr. MULLINGS: That...?

Dr. PHILLIPS: That there is property which is in the control of a third party…

Mr. MULLINGS: Yes!

Dr. PHILLIPS: …but which in actuality, belongs to the accused.

Mr. MULLINGS: No, but what it say, in subsection (2), that there is a presumption, because if you don't lead evidence to the contrary, there is a presumption say is fi yu.

Dr. PHILLIPS: Yes, but the basis of the presumption is what is specified in (3).

Dr. DAVIES: But, why don't we take - if that is true, Dr. Phillips, why don't we take out (2) and place... no, and place the onus of proof on the Special Prosecutor.

Rev. THWAITES: Sure.

Dr. DAVIES: Why don't we do that?

(*Sotto voce* comment by Members)

Dr. DAVIES: Because if what you are saying that there has to be proof in the court, take out (2).

Mr. HYLTON: Correct. I believe that, that... I believe, Mr. Chairman, that that would go a long way to re-balance what this attempts to upset in the criminal court and criminal proceedings, and in constitutional law.

Dr. PHILLIPS: On this, I think we would need to hear from Parliamentary Counsel in this, to see if it addresses the specific concerns.

The CHAIRMAN: You would re-adjust (2) and (3) to make it - put the burden on the Prosecutor to prove, rather than the public official to disprove.

Mr. BUNTING: But, Mr. Chairman, I don't think that makes sense. The…

The CHAIRMAN: To prove that the third party is holding property in trust.

Mr. BUNTING: But, Mr. Chairman, the whole offence of illicit enrichment is to reverse the burden to say, if you have all these assets that you can't explain, then it is going to be presumed that they are yours - or, sorry, that you came by them…

Dr. DAVIES: No, no, they are two separate things, Peter.

Mr. BUNTING: …that you came by them by unlawful means.

Mr. PICKERSGILL: How you mean by all the assets?

Mr. BUNTING: If you have - the offence of illicit enrichment says that if you have assets, way beyond what your lawful income can explain, or that you came by lawful means, then it is assumed that you got them through illicit enrichment.

Dr. DAVIES: Peter, read (3); (3), is a third party.

Mr. BUNTING: I know, but what I am saying is, if in the case of you giving it to somebody else to hold in trust for you, then you reverse it now, where you then - where the Special Prosecutor - you are reversing the whole concept of illicit enrichment, because you are reversing it now and say they now have to prove that your proxy didn't come by lawful means.

Mr. HYLTON: But, that's a conclusion.

Dr. DAVIES: Use either Mr. Mullings' dalliance or the Prime Minister's brother example. What - the Special Prosecutor is saying, that the brother or the...

Mr. BUNTING: The Special Prosecutor is saying that….

Dr. DAVIES: The assets held by the brother…

Mr. BUNTING: …the assets held by the brother, unless the brother can explain how he lawfully came by it, will be assumed, or can be assumed in the course of this investigation, that he is holding it as a *proxy* for you.

Mr. PICKERSGILL: No!

Dr. DAVIES: But he could have come by it unlawfully, but not through the brother.

Mr. PICKERSGILL: Right!

Dr. DAVIES: It could be somebody else.

Mr. BUNTING: The brother could be in his own illegal racket?

(*Sotto voce* comments by Members)

Dr. PHILLIPS: I am not certain, Chairman, that this notion of the reversal of proof in this is in fact a valid proposition as has been said, because it may be that it can be drafted more felicitously. But, the fact is, that what is stated here simply says, you have a defence if you can show.

Dr. DAVIES: That's one.

Dr. PHILLIPS: And then it says, the property - in effect, the property that we are entitled to look at is not just that that is in your name, but if we find that property held by persons who are close to you...

The CHAIRMAN: Your friends, your associates...

Dr. PHILLIPS: …and that the closeness first has to be demonstrated to a Court. And then you would have to demonstrate the other circumstances that say, well, here is a pattern of giving money to the person; here is a pattern of - there was a point at which the actual property was in the hands of A, and is now in the hands of person B. Those are matters that have to be proved to Court, to the Court. All that this says is that you are entitled - the investigators are entitled to look behind the veil of formal ownership, and to…

(*Sotto voce* comments)

Mr. MULLINGS: No, no, no! With respect, it doesn't say that at all.

Mr. HYLTON: It is a presumption; they shift the burden.

The CHAIRMAN: Okay, one at a time. Yes, Mr. Hylton.

Mr. HYLTON: I hear my colleague and friend, and let me say that it goes beyond looking beyond the veil. I think it is entirely appropriate to look beyond the veil. What this does is to shift the burden to the person to

prove that - to provide evidence that this was not to the - but that the third party has...

The PRIME MINISTER: But, what is new about that?

Mr. HYLTON: What is new about that, Prime Minister...

The PRIME MINISTER: Let me quote you, Mr. Chairman, from the existing Corruption Prevention Act:

> "*Where a public servant owns asset disproportionate to his lawful earnings, upon being requested by the Commission to provide an explanation as to how he came by such assets, fails to do so, gives an explanation which is not considered to be satisfactory, he shall be liable for prosecution."*

Mr. HYLTON: Yes, but that's a different thing, Prime Minister.

The PRIME MINISTER: Shall be liable...

Mr. HYLTON: Different thing Prime Minister, different thing.

The PRIME MINISTER: Shall be liable...

Mr. HYLTON: Different thing, Prime Minister.

The PRIME MINISTER: But the Burden of proof is on him to explain.

Mr. HYLTON: Yes, but... no, Prime Minister, the problem here is that we are being told that the... one, there is a relationship that is being introduced. So, there is a relationship. On the basis of that relationship, you now start to examine property in the possession of these relational things.

The PRIME MINISTER: Yes, yes!

Mr. HYLTON: Then, you say, if the person - because you establish the relationship, if that person cannot satisfactorily show where he got the property then it is deemed that it belongs to the official. Supposing that he holds for another, yet a third person, you mean you can make the presumption that it is the official that it belongs to? I think it is quite a dangerous thing, Mr. Chairman.

Mr. PICKERSGILL: The Prime Minister's example does not involve the third person.

(*Sotto voce* comments)

The CHAIRMAN: No, I think the Prime Minister was dealing with the reverse burden.

The PRIME MINISTER: Can I ask the Member for North West St. Catherine, whether you can hope to even begin to tackle the problem of corruption, if you are going to leave this door open, where so long as they don't actually catch you stealing, so long as you can steal in quiet and dump the resources all over the place, just keep them one step from your wife...

(*Sotto voce* comment)

The PRIME MINISTER: …then what are we talking about?

Mr. MULLINGS: Do it. We can do it, we can do it.

The PRIME MINISTER: Look at anti-corruption legislation in other parts of the world and see if you don't see provision in there to deal with that.

Mr. MULLINGS: We can do it.

The PRIME MINISTER: What you are saying is that we are not criminalizing the possession; we are not criminalizing the possession by the third party. We are putting the penalty on the person who is using the third party as a hiding place.

Mr. HYLTON: It's a conclusion, Prime Minister. That has to be proved. That's a conclusion; that's my point.

(*Sotto voce* comment by Members)

Mr. HYLTON: But it can't be by basis of a presumption, Prime Minister. You can't shift the burden in that way, that's the point.

(*Sotto voce* comments)

The CHAIRMAN: Now, Prime Minister... Prime Minister, what I think the Members are saying is that if the investigator says that the third person is holding property for you, the public official, it is not for the public official to negative it. It is for the Special Prosecutor to show that a third person got the property from the public official.

A MEMBER: That's right.

Another MEMBER: For, and on behalf...

The CHAIRMAN: In other words, what they are saying is that the burden must be on the Prosecutor - the Special Prosecutor to show that say at a relevant time, because a contract was being done in North East St. Andrew, this third person got the property, and it must have come from the MP. In other words, rather than to say that it is the public official that must negative it, you have to show a direct...

(*Sotto voce* comments by Dr. Bartlett)

A MEMBER: Bomb shot, Speaker.

(Laughter)

Dr. PHILLIPS: That is Central Kingston language.

(Laughter)

Mind the violent analogies there.

The CHAIRMAN: Suppose they could make it more positive?

Mr. PICKERSGILL: Take off the Speaker's cap and put on the law cap.

(*Sotto voce* comments)

The CHAIRMAN: Okay, we are going to get a re-draft of 14 to make it clear. Okay. So, the burden…

Mr. PICKERSGILL: You have to get several re-drafts.

The CHAIRMAN: While we await 14, can we move to 15 which is now the new 13.

Rev. THWAITES: You want to give us five minutes then to stretch, or something?

The CHAIRMAN: No, no, no! Now, 15... yes, Mr. Mullings.

Mr. MULLINGS: Sorry, Mr. Chairman. Might the drafters look carefully as well, as to whether subsection (2) is indeed a subsection.

The CHAIRMAN: No, they are going to re-draft (2) and (3) to make it...

Mr. MULLINGS: Yes, yes, because it doesn't follow.

The CHAIRMAN: No, that's right. (2) and (3) may become a new subsection (2). So, we now move to Clause 15 which is going to be a new 13. Can I put it? I put the new - I put Clause 15 which is the new Clause 13.

Put to the Committee and agreed to.

The CHAIRMAN: I put Clause 13 as re-numbered.

Put to the Committee and agreed to.

The CHAIRMAN: I now put Clause 16, the new Clause 14.

Rev. THWAITES: Chairman, can we look at that closely? Sixteen (1) says, a person who is an intermediary, or is acting as an intermediary, or through a third person who seeks to obtain a decision from any public body whereby he illicitly obtains for himself, or for another person, any advantage, how does that square with the profession of lobbyists? Does the term illicitly obtain, what does that imply? It is a genuine question for information. There is a reputable function, not as well-developed in Jamaica as elsewhere, but indeed extant in Jamaica as well, where people, acting as intermediaries of another,

seek to influence decisions in certain ways, decisions of government in respect of legislation, in respect of governmental decisions. And I am seeking to know what is - what does this section - how does this section impinge upon that occupation?

Mr. HYLTON: That's a widespread occupation, particularly in countries we have close working relationship with...

(*Sotto voce* comment by Dr. Bartlett)

The SPEAKER: We are at the original 16, Dr. Bartlett.

The PRIME MINISTER: Could it be suggested, Mr. Chairman, that there's any circumstance in which an advantage can be obtained illicitly, but yet it would still be sanctioned? What this law is saying, it's not saying if it's obtained in an illicit lawful way, which is a determination ultimately that the Court will have to make.

(Inaudible comments by a Member)

Rev. THWAITES: But, I'm anxious to have clarity as to the circumstances of illicitness.

The PRIME MINISTER: You mean charities? I'm sorry?

Dr. PHILLIPS: No, what would constitute illicit?

The PRIME MINISTER: Slipping somebody an envelope with some money. In other words, what I think this is trying to do is to try-or since the official is afraid of getting caught let him have somebody have a word with the man, and when he's leaving the man leaves the envelope on the table.

Rev. THWAITES: So the illicit benefit would be that which constitutes by itself a criminal offence?

The PRIME MINISTER: I don't know that it would necessarily constitute a criminal offence. I don't know.

Rev. THWAITES: That's exactly why we need clarity on this.

The PRIME MINISTER: If the intermediary is just offering a benefit and is at a great pains to let him understand that look this benefit has nothing to do with—I don't know that that would run afoul of any existing statute, it would run afoul with this one. Because it's tied to -

Dr. PHILLIPS: I didn't hear the example, sorry.

The PRIME MINISTER: Ehh?

Dr. PHILLIPS: I didn't hear the example.

The PRIME MINISTER: No, there are some benefits that can be offered that from my recollection of the - I can't remember which statute it is whether it is the, it's not the offence it's the Larceny Act or whatever it is that deals with bribery. There are many situations where I can see somebody offering a benefit that would not strictly fall within that. Because that in a sense hangs by itself, it is not tied as this one seeks to do to tie it to the performance of some public function, some exercise either omitting or doing something, or omitting to do it. This seeks to tie it a little further. But what I'm not quite sure about is, if you look at 16 (1) without even going on to (2), why would there be any hesitation about making this an offence?

Dr. PHILLIPS: Well, I don't have a problem with this as it is, but listening to Members, I think what is being anticipated is the circumstance of lobbying. Now some

jurisdictions make lobbying very explicit and require -

(*Sotto voce* comment by a Member)

Dr. PHILLIPS: Yeah, no! Have a set of preventive and reporting arrangements. Now, what you have here is an acknowledgement that lobbying does take place. And I think the policy issue that arises is whether and to what extent is that a legitimate function. Now it would seem to me that it is entirely legitimate for a third person to come on behalf of somebody selling buses or port equipment to say, here we have the best port equipment and encourage you, and to receive payment from the vendors of such equipment. What would be entirely improper is in trying to get you to take the decision to come and say, well, for every million dollar you spend there is ten per cent for you, and that presumedly has to be proven. And if I heard the Member from Central Kingston properly, it's wanting to know that the simple act of seeking to encourage a decision is not in and of itself deemed to be improper.

The CHAIRMAN: No, the point though, Dr. Phillips - and maybe it can be made even more abundantly clear, we can put illicitly and unlawfully. In other words, I think if you remove the word "*illicit*" it would be no offence. So what you really want to emphasize is that to get the undue advantage it must be illicit and unlawful.

Dr. DAVIES: What makes it illicit?

The CHAIRMAN: Well, at this point illicit, I think, is a bit weak.

Mr. BUNTING: But isn't it this clause that makes it unlawful?

Rev. THWAITES: This is the point I was making earlier. If you saw unlawful it becomes quite clear and quite proper but illicit is…

The CHAIRMAN: Is a bit weak.

Rev. THWAITES: …is a poetic word.

The CHAIRMAN: Yes. Prime Minister, I just wondered I think it would make it clear if we said whereby he illicitly and unlawfully.

The PRIME MINISTER: What I have asked you to look at there is the provision in the Corruption Prevent (Special Prosecutor) Act, 2008 at the moment.

The CHAIRMAN: At the moment in the Corruption Prevention (Special Prosecutor) Act, 2008 Prime Minister, it only says illicitly.

Dr. PHILLIPS: There is a – and there may be other guidelines and things. I don't know - I haven't thought it out sufficiently but look, Chairman, it is the Act but we know there is a whole gray area that I don't if regulations or what can spell it out. Using the example of the vendor, on one level it obvious that leaving the envelope or promising ten per cent of X in to the account of the public official is unlawful. Question, saying would you like to come and look at equipment like this that I have in…

(Inaudible comment by Mr. Jackson)

Mr. BUNTING: Dom. Rep.

Dr. PHLLIPS: No, let's say a more exotic place. Yeah, you know exotic places.

The CHAIRMAN: Antarctica.

Mr. BUNTING: Tahiti.

Dr. PHILLIPS: Yeah, in Tahiti, and I will pay all your expenses and put you up so you can look at the thing. Is that illicit and unlawful? There may be existing legislation, I don't know. But what I'm saying is that given the weight of this kind of entreaty, which is becoming even ever more prevalent in today's

world, there needs to be a closer clarity, at least in our minds, as to what is permissible and what is illegal and unlawful. And it may need some research for us to be clear on this. But I think that there is a certain kind of worry, given that today you have a lot of people who just make it their business to come out and purvey goods on behalf of others that we need to be - and services, we need to be clear what is on and what is not.

Mrs. HENRY-WILSON: But that can be defined, Mr. Chairman. Mr. Chairman, is that something that would be left to regulations.

The CHAIRMAN: What's that?

Mrs. HENRY-WILSON: Defining what's considered illicit because you're not going to be able to expand on that in the legislation but certainly you can use the regulations.

The CHAIRMAN: No, to be fair illicit is a legal term.

Mrs. HENRY-WILSON: Or if you say unlawful.

The CHAIRMAN: Yes.

Dr. DAVIES: Illicit is a good term.

Mr. BUNTING: No, you can't use unlawful -

The CHAIRMAN: I'm trying to get from the draftsman.

Rev. THWAITES: Look at the etymology of illicit. '*licēre*' means that it is permissible. '*Illicit*' means that it is not permissible. That is different from unlawful and therefore your suggestion is far more apposite.

Dr. PHILLIPS: There is also a connection with '*leche*' which is milk, but not of the human kind.

(Laughter)

The CHAIRMAN: Reverend Thwaites, Prime Minister.

Rev. THWAITES: Yes, sir.

The CHAIRMAN: The draftsperson is saying wherever "*illicit*" appears we can put unlawful in the Bill.

Dr. PHILLIPS: But not both?

The CHAIRMAN: Well, instead of illicit we'll put unlawful.

Dr. PHILLIPS: I understood it to mean unlawful from before.

The CHAIRMAN: Yeah, but they are now proposing that we - so wherever we have illicitly we put unlawfully.

Mr. PICKERSGILL: Why not both?

The CHAIRMAN: Sixteen.

Mr. BUCHANAN: What was that, Chairman?

Dr. DAVIES: Throughout the whole Bill or just for this clause,

The CHAIRMAN: They're proposing throughout the whole Bill, in fact.

Mr. BUNTING: Yeah but, Mr. Chairman.

The CHAIRMAN: Well, at the moment for 16(1), the present 16 (1) we're proposing "*whereby he unlawfully obtains*".

Mr. BUNTING: But, Mr. Chairman.

Dr. DAVIES: But is this detrimental or not to the government?

The CHAIRMAN: No once he unlawfully obtains that's the end of it.

Mr. BUNTING: Now, Mr. Chairman, just for clarification…

Dr. DAVIES: Even if it's to the benefit of the government?

The CHAIRMAN: No, it doesn't matter. The process is wrong.

Mr. BUNTING: Mr. Chairman, it seems to me, though, this is a bit circular because this

clause is the clause that is creating the offence without this clause it wouldn't be unlawful. So if we are relying on it to be unlawful, it wouldn't be unlawful, you know…

The CHAIRMAN: No. no!

Mr. BUNTING: It seems we're going in a circle because this is the clause that is creating - making it unlawful. So it wouldn't be unlawful.

The CHAIRMAN: No, no, with due respect, Mr. Bunting. What it is saying -

Mr. BUNTING: It seems circular to me.

The CHAIRMAN: No, no, not at all.

Mr. BUNTING: It seems circular to me.

The CHAIRMAN: No, no, not at all. No, Mr. Bunting. What you're saying is that the process of unlawfully obtaining is the offence.

Mrs. HENRY-WILSON: No, but what constitutes unlawfully obtaining?

Mr. BUNTING: Yeah, but what I'm saying is without this clause there's nothing there that would be unlawful. It is this clause that is creating the offence to make it unlawful. So it can't be unlawful before you know. It can't already be unlawful. It is this clause that is making it unlawful. This is creating the offence.

The CHAIRMAN: Yes, yes!

Mr. BUNTING: I don't know if you see my reasoning, Prime Minister. We're creating a circle, you know, it wouldn't be unlawful without it being illicit.

(Inaudible comment by Mr. Holness)

Mr. BUNTING: We have to use illicit, we have to use illicit.

The CHAIRMAN: You see what the draftspersons are saying, Mr. Bunting, using the term '*unlawfully*' in legislation is a term of art that is used in legislation—

Dr. PHILLIPS: And is it the view that unlawfully in legislation says something different than illicitly?

The CHAIRMAN: It adds, it adds.

Dr. PHILLIPS: It adds.

The CHAIRMAN: It makes the point because if you don't put that term.

Mr. BUNTING: Well, I'll have to yield to the -

Dr. PHILLIPS: Chairman, that sounds like a North Street point.

Miss HANNA: But, Chairman, Chairman, just to see if I can...

The CHAIRMAN: Yes.

Miss HANNA: Wouldn't you have to prove first that the act was unlawful before this clause can be enacted? I think that's what **Member** Bunting is trying to say, "*without illicit...*"

The CHAIRMAN: Well, you know, illicitly, the problem with illicitly, another term could be, wrongly, you know.

The PRIME MINISTER: I'm wondering... I think that the point that was made by the Member for Central Manchester is correct. I mean you can't...

A MEMBER: Strong, strong!

The PRIME MINISTER: You can't have a section that says something is unlawful unless you have first of all established it as being unlawful. But, I was wondering, if all that 16 purports to do - and I say, 'wondering', because I'd like to find out from the drafters if that is all it purports to do. If all it purports to do is to criminalize the action of an aider and an abettor...

Dr. PHILLIPS: Yes.

The PRIME MINISTER: ...then if that is all it seeks to do, why not just simply say that

in relation to the offences here, anybody who aids and abets in that offence is also liable...

The CHAIRMAN: That is correct.

The PRIME MINISTER: ...in those offences. Right?

(Inaudible comments)

Couldn't we do it that way?

Rev. THWAITES: Sure.

Dr. GUY: ...is saying it is chakka-chakka. (Inaudible comments)

(Inaudible comments by Mrs. Henry-Wilson)

The CHAIRMAN: No, that... In fact that is what is intended.

(Inaudible comments)

The CHAIRMAN: But then you don't even need it because at common-law, aiding and abetting is an offence, at common-law.

(Inaudible comments)

Mr. BUNTING: No, but that is what unlawful would mean in this case.

The CHAIRMAN: Oh. My understanding is that...I'm being instructed that - informed that intermediary is more than an aider and an abettor.

Mr. PICKERSGILL: Why? How? How?

Mr. BUNTING: A functionary.

Mr. PICKERSGILL: You have professionals who do these things.

Dr. PHILLIPS: Precisely, precisely.

Mr. PICKERSGILL: You have professionals who get these together and you have to pay them.

Mr. MULLINGS: AJ!

Mr. BUNTING: They're acting as a lawyer.

Mr. PICKERSGILL: Including lawyers. Including companies set up for that.

Dr. PHILLIPS: There's a drafting issue, Chairman, because the way it is written, one is not clear - or, I am not clear...

Dr. DAVIES: Well, you are one.

Dr. PHILLIPS: No, but it may be singular to me.

Dr. DAVIES: Okay, good.

Dr. PHILLIPS: And others may be...

A MEMBER: Peculiar to you.

Dr. PHILLIPS: Yeah. But whether the act of being an intermediary in and of itself is being viewed as somewhat illicit...

Mr. PICKERSGILL: And that can't be so.

Dr. PHILLIPS: ...which ought not to be so. Right?

Mr. PICKERSGILL: Cannot be so.

Dr. PHILLIPS: And so, if it is that it is the unlawful intervention or intermediation, then that makes you somebody abetting in the terms used, abetting the offence. But there is a... the way it is drafted seems to move between the kind of suggestion that intermediation in and of itself is somehow illicit..

Mr. PICKERSGILL: That's what it is doing.

Dr. PHILLIPS: ...rather than...

Mr. PICKERSGILL: And it is wrong.

Dr. PHILLIPS...and without defining what it is in the intermediation that makes it improper.

(Inaudible comments)

The PRIME MINISTER: We can't...One of the things that we can't do, and I hope this was not the intention of the draftsmen. We can't criminalize or even make unacceptable the practice that there are persons who provide services. They are called

various things: facilitators, a whole range of this.

Mr. PICKERSGILL: Yes.

A MEMBER: Lawyers.

The PRIME MINISTER: And in some cases this is a valid service. They may know the processes in a way that the beneficiary doesn't know the processes and they are engaged to do that. So that has to be allowed. I would be more comfortable, subject to, I would be more comfortable, if having determined what are the things that...

The CHAIRMAN: Ah, PM...

The PRIME MINISTER: ...constitute corrupt offences. We say that... (Inaudible comments)...

The CHAIRMAN: Ehm, PM...

The PRIME MINISTER: And anybody who aids and abets or whatever.

A MEMBER: But, Chairman, Chairman.

The CHAIRMAN: One second, one second. PM, the draftspersons are recommending for this section instead of the word, *illicitly*, we put, *he corruptly obtains*.

Mrs. HENRY-WILSON: But that is not, that is not...

The CHAIRMAN: Finally...

Mrs. HENRY-WILSON: Mr. Chairman, Mr. Chairman, I'm not sure that is what the issue on which this clause turns. My understanding of this clause is that if you influence a decision which then accrues to the benefit of some, you know, an intermediary, and then you are engaged in some act which then benefits you. Let's think about a contract. A contract is going to be awarded. You have somebody who influences the decision in such a way that you ultimately benefit.

Mr. BUNTING: That's a lobbyist.

Mrs. HENRY-WILSON: That is the illicit act.

Mr. BUNTING: No!

Mrs. HENRY-WILSON: Right? That is my understanding of this, that it is a decision made by a public body which allows you as a public official to benefit. It's not the intermediary so much as the result of that intervention. That's my understanding of what this clause aims - the mischief aims to correct.

Mr. HOLNESS: But there is a further issue with this section because there's a distinction between advantage and undue advantage, where we had said earlier that an advantage could be acceptable. It is the undue advantage. This now says...

(Inaudible comments by Mrs. Henry-Wilson)

Mr. HOLNESS: No, but this says, any advantage whatsoever. So I think we need to look at that carefully as well.

(Cross talks)

Mr. HOLNESS: I think we might have to make the amendment to return to the undue advantage in this to say, whereby through corrupt conduct.

(Cross talks)

Rev. THWAITES: Chairman, wait a minute...

The CHAIRMAN: Members, it's being proposed that instead of *illicitly*, we put...

Mr. HOLNESS: '*Whereby through corrupt conduct'*.

The CHAIRMAN: '*...he corruptly or, through corrupt conduct'*.

Mr. HOLNESS: '*Whereby through corrupt conduct'*.

The CHAIRMAN: '*Whereby through corrupt conduct...'*

Mr. HOLNESS: ...and insert in there, '*undue advantage'*, instead of '*advantage*'.

(Cross talk)

Dr. PHILLIPS: Corrupt is defined in...

Mr. HOLNESS: Corrupt conduct is defined in the legislation.

Rev. THWAITES: It is defined by so many words? It's hard to tie it down. But fine. Could I suggest, there's one stylistic thing of grammatical? Look at 16(1): *'Any person who is an intermediary or is acting as an intermediary or through a third person...*' and then we say, '*who seeks'*. We don't need that second '*who*'.

The CHAIRMAN: You mean, remove, '*through a third person"*?

A MEMBER: '*Who*'.

The CHAIRMAN: Oh.

The PRIME MINISTER: Take out the word '*who*'.

Rev. THWAITES: It should read, *'any person who is an intermediary or is acting as an intermediary or through a third person seeks....'*

The CHAIRMAN: You're right. Remove '*who*'.

Dr. PHILLIPS: H-m-m.

The CHAIRMAN: *'...seeks to obtain a decision from any public body through corrupt conduct'*. Can we agree to that?

Mr. HOLNESS: Yes, yes.

(Cross talks)(Inaudible comments by Dr. Phillips and Dr. Davies)

The CHAIRMAN: Yes, that's right. Can we agree to this? Instead of...remove '*whereby'* and put '*through corrupt conduct he obtains for himself...*'

Dr. PHILLIPS: Yes.

The CHAIRMAN: Is that...?

Mr. HOLNESS: And '*undue*'.

(Inaudible comments by Dr. Phillips)

The CHAIRMAN: *Corrupt conduct. Through corrupt conduct.*

Mr. HOLNESS: ...and insert, '*undue',* before '*advantage'*.

(Inaudible comments)

Mr. PICKERSGILL: What, what's that?

Mrs. HENRY-WILSON: What is corrupt practice?

A MEMBER: That…. (Inaudible) ...the... (Inaudible) ...of corrupt conduct.

The CHAIRMAN: Is there.

Mr. BUNTING: But, Andrew, if '*it's corrupt conduct'*, you wouldn't need '*undue advantage*' anymore. You wouldn't need *'undue'* anymore, if through corrupt conduct he gains an advantage, would be fine. If you put '*through corrupt conduct'*, it would be like a redundancy because any advantage he gets through corrupt conduct would be illegal.

Mr. HOLNESS: Yes, yes, yes!

The CHAIRMAN: Okay.

Dr. PHILLIPS: ...if... (Inaudible) ...the judge is to make it an offence for an intermediary to be engaged... (Inaudible)

The CHAIRMAN: Through corrupt conduct. That is correct. So, Members, the section would then read...

Mr. KELLIER: Chairman, before you conclude....

The CHAIRMAN: Yes.

Mr. KELLIER: ...what would we do were...

The CHAIRMAN: We are at 16(1).

Mr. KELLIER: Yes, yes, yes! We were fiddling with the word, '*unlawful...*'

The CHAIRMAN: No, forget that. We didn't. No.

Mr. HOLNESS: We have passed it.

Mr. KELLIER: So we have dispensed with that.

Mr. BUNTING: Corrupt.

The CHAIRMAN: So the present position is this: '*Any person who is an intermediary or is acting as an intermediary, or through a third person, seeks to obtain a decision from any public body through corrupt conduct, he obtains for himself or for another person any advantage...*' and so on. Is that clear everyone?

Mr. BUNTING: The whole section is.... (Inaudible) Why can't we just take it out?

(Cross talks)

Mr. KELLIER: Through corrupt conduct...

(Inaudible comments by Members)

The CHAIRMAN: *'Whereby...*' Sorry, I'm being instructed that: '*Whereby through corrupt conduct...*' So we remove '*illicitly...*'

Mr. KELLIER: So you keep whereby?

The CHAIRMAN: ...and we put before he... '*through corrupt conduct'*.

Mr. PICKERSGILL: Isn't this covered elsewhere in this Bill?

The CHAIRMAN: What?

Opposition MEMBER: No.

Mr. PICKERSGILL: It's not covered elsewhere in this Bill?

Opposition MEMBER: No.

Mr. PICKERSGILL: About third parties doing things...?

The CHAIRMAN: No.

Dr. DAVIES: That section in the...What's the value of it?

The CHAIRMAN: Well, it doesn't matter whether the Government loses or gains.

Dr. DAVIES: Yeah, I know that, I know what it says, but what does it add to the...?

The CHAIRMAN: Because there's no need for the Prosecutor to prove that the Government is affected in any way...

Dr. DAVIES: Oh.

The CHAIRMAN: ...or that it was detrimental to the Government.

Dr. DAVIES: No, but if you left it out it just tells you that as long as they prove the corrupt practice...

The CHAIRMAN: That is correct.

Dr. DAVIES: So what is the issue?

The CHAIRMAN: All right, Members, therefore, I now put the amendment to...

(Inaudible comments by Dr. Phillips)

Dr. DAVIES: No, he didn't...he said they'd gain... (Inaudible)

Dr. PHILLIPS: It's still a crime.

The CHAIRMAN: I put the two amendments, that is, the removal of who and also the addition of those... (Consultations) ...No, we not putting undue again, (Consultations) ...through corrupt conduct. I put the amendment to section 16(1), which will be numbered Number 14.

Amendment to section 16(1) put to the Committee and agreed to.

The CHAIRMAN: I put the new section 14 as amended.

Section 14 as amended put to the Committee and agreed to.

(Inaudible comments by Mr. Holness)

The CHAIRMAN: It's the new Clause 14.

Mr. HOLNESS: Oh, Clause 14.

The CHAIRMAN: Yes, sir. So I now put Clause 17.

Dr. DAVIES: Can someone explain to me what 17 is about...?

(*Sotto voce* comments by Mr. Holness)

The CHAIRMAN: I will put it at the end.

Dr. DAVIES: Mr. Chairman, what is 17 about?

The CHAIRMAN: Where are the changes?

(The Chairman consults with the Clerk)

Mr. BUNTING: Mr. Chairman, you will recall, this is essentially coming back to the issue of private sector.

Dr. DAVIES: Yes, yes!

Mr. BUNTING: It puts it even more squarely, '*an agent commits an offence'*. So contrary to what we were saying earlier when we were dealing with Clause 12, clearly, private sector offences are a central part of this Bill. Seventeen deals with it extensively, and this section 17, really reproduces a section from the existing Corruption Prevention Act which is section 14 subsection (10). And therefore, if we are going to take the approach that we are not dealing with private sector corruption, what we are doing we'd have to take this out and we'd be reversing even the legislation already in place which makes corruption a private sector offence. So, you know, which...

Dr. DAVIES: You mean corruption in the private sector an offence.

Mr. BUNTING: Yeah, which makes corruption in the private sector an offence.

Dr. PHILLIPS: No, nobody was against...

Mr. BUNTING: No, no, no, with respect, your argument was it needed a totally different Bill to deal with it. Right.

Dr. PHILLIPS: No, my argument was that 12 wouldn't add anything. Twelve was so unclear that it didn't assist you in any way. But nobody was arguing...

Mr. BUNTING: No, no, you're revising your argument now. Your argument was you needed a separate piece of legislation for private sector or for corruption in the private sector.

The CHAIRMAN: No, but... okay, Mr. Bunting, what's your position? You have a problem with 17 then?

Mr. BUNTING: No, I am just...

Dr. DAVIES: If you take 12 out you have to take 17 out.

(Cross talks)

Mr. BUNTING: No, I'm saying... I'm supporting 17 that it should stay there.

The CHAIRMAN: Yes.

Mr. BUNTING: But I'm saying now that we've looked at 17, you may want to recommit 12.

A MEMBER: You may redraft 12.

The CHAIRMAN: No, no, no!

A MEMBER: We can now redraft 12.

The CHAIRMAN: Now, Members, there's one amendment to Clause 17, to put undue before advantage. That's in the third line of 17(1)(a).

Dr. PHILLIPS: But Chairman, I suggest that you need a (s) on solicit.

The CHAIRMAN: Where?

Dr. PHILLIPS: Solicit(s), (a), (a) corruptly solicit(s). Treat it as a typo.

The CHAIRMAN: Editorial. Therefore I

put the amendment to section 17...

Mr. BUNTING: No, hold on, hold on! '*Undue*' doesn't work there because you need to go back to the definition of advantage. Advantage is on Page 2, section 2, a whole series of things: any gift, loan, sponsorship, *et cetera*. So if he corruptly solicits any gift, loan, sponsorship, *et cetera*, so you don't need undue advantage. You don't need the word undue there. It's any advantage. Look at the definition of advantage, anyone of these. So it doesn't work with '*undue*' there.

No, to corruptly solicit the advantage. It's not an advantage, is to corruptly solicit it. So you don't need to add undue before advantage.

The PRIME MINISTER: I hear you.

The CHAIRMAN: Okay, with the typographical correction I now put Clause 17.

Mr. HOLNESS: No, but there is still an issue here with 17. If we took out 12 and left 17, the two would have to - we would have to look back at 12.

A MEMBER: That's why I say we have to redraft 12.

Dr. PHILLIPS: If you want to redraft 12 so that it has clarity then you can go and do that.

Mr. MULLINGS: That's what we were saying.

Dr. PHILLIPS: But 12 as it was does not - it could constitute an impairment of normal commercial operation. It was unclear.

Mr. HOLNESS: You see, the term 'agent', and this is my problem now, the definition of agent is so broad.

The CHAIRMAN: But it includes to any public official.

Mr. HOLNESS: Well....

The CHAIRMAN: So it doesn't affect 12.

Dr. BARTLETT: There is a definition of agent, you know.

Mr. HOLNESS: But it doesn't specify, it doesn't specify that this is a private sector person.

The CHAIRMAN: But it doesn't, so?

Mr. HOLNESS: Yes, but when we use the term 'agent', it could possibly mean.....

The CHAIRMAN: Now look at the definition at page 2.

Dr. BARTLETT: The definition is there for agent.

The CHAIRMAN: No, but House Leader, look at the definition at page 2 of agent, private sector doesn't come in there.

Mr. HOLNESS: It would appear to me to be a public sector definition of agent, not the private sector.

Mr. BUNTING: No, no, no, no! Because the first thing in the definition it says it means, "*any person employed by or acting for another"*. So that would clearly include the private sector.

The PRIME MINISTER: I think what he is saying everything after that.

Mr. BUNTING: No, and then it says, '*and includes'*. But the first thing is, everybody...

Mr. HOLNESS: I have no difficulty in including the section on the private sector so long as it is defined by the public good.

Dr. PHILLIPS: I would urge you don't go back there. (Laughter)

Mr. HOLNESS: No, but the Member from Central Manchester's interpretation is that this will capture private sector.

Dr. PHILLIPS: As well as public.

Mr. BUNTING: It will, and it was the intention.

Dr. PHILLIPS: As well as public.

Mr. BUNTING: If you go back to the original Corruption Prevention Act, Section 15.

Dr. PHILLIPS: That is 12?

Mr. BUNTING: Section 14, sorry. In Section 14 of the original Corruption Prevention Act it has acts of corruption, right, and then it goes to subsection (1) which says: "*A public servant commits an act of corruption if he (a), (b), (c), (d), (e)".* But when it reaches to Section.....

Dr. PHILLIPS: What page is that?

Mr. BUNTING: The Corruption Prevention - page 11; 14 is the clause that defines acts of corruption generally, and 14(1), 14 subsection (1) speaks to the public servant committing an act of corruption. But then it goes on, later on, where it..... sorry.

The PRIME MINISTER: Subsection (10).

Mr. BUNTING: Yes, if you go to subsection (10), now it speaks generally to an agent. And even before that it speaks to some of these issues, for example, the intermediary that we are talking about now, any person.

Dr. PHILLIPS: Yes.

Mr. BUNTING: But (10) in particular doesn't restrict itself to public sector. It speaks to where a public servant commits, but it also goes on to 'any agent'. And speaks to agent and principal, or the affairs of the principal, or the business of the principal.

So it clearly included in the 2001 Act the private sector, and it would be a retrograde step for us in 2011 to be trying to remove.....

Mr. HOLNESS: The point is that I haven't seen and I know of no prosecution or cases brought under this section.

Dr. PHILLIPS: No, I think…

Mr. HOLNESS: It's there, it's not used and, you know, I am expecting it to be used here.

Dr. PHILLIPS: Seventeen, you are proposing that 17 remain?

Mr. HOLNESS: But I am saying that if 17 remain, we will have to re revisit 12.

Dr. PHILLIPS: No, no!

Mr. BUNTING: Why?

Dr. PHILLIPS: No, no, it does not follow because of.... It does not follow for the simple reason that 12, the problem with 12 was its lack of precision. Now, if you want to delay to deal with all of that...

Mr. HOLNESS: It's either we revisit 12 or we make 17 explicit to the private sector.

Dr. PHILLIPS: No, you don't have to do it at all. Seventeen...

Mr. HOLNESS: Or we make the third agent explicit to the private sector.

Dr. PHILLIPS: The Corruption Prevention Act at the point, was specifically trying to catch the agent who was corruptly inducing a public sector official, a public official to do or not to do something on their behalf, it does have applicability otherwise. But as you correctly said, there has been no prosecution, no means at getting.....

And in fact - but, I am not suggesting that by virtue of that we alter it.

Mr. HOLNESS: No, my problem is this. Under 12 - and I agree with your original statement that 12 was not clear, but it would be - 12 duplicate 17, 17 duplicates 12, my view. What we could do is make 17 more

explicit by including the private sector. The challenge....

(*Sotto voce* comments by both sides)

Mr. HOLNESS: But no, but just to be clear. There is a problem.....

(*Sotto voce* comments)

Dr. PHILLIPS: The fundamental issue.....

Mr. HOLNESS: No, but just let me finish the point. There is a problem with the Government seeking to be the regulator of private economic commercial business activity. There is a great difficulty with that, unless that private activity has a general impact on the public good. So if my agent who I - if I hire.... My employee does something outside of the instructions that I gave him, how does the State get involve with that?

The PRIME MINISTER: The difficulty I have with that, Mr. Chairman....

Mr. MULLINGS: Mr. Chairman, the State has a vested interest in ensuring that the cancer of corruption doesn't affect not only the State but private enterprise.

(*Sotto voce* comments)

The CHAIRMAN: Members, Members. (Gavels) Prime Minister.

The PRIME MINISTER: What worries me, what worries me about it is that corruption is not one of those non-communicable things, very contagious; and I don't know that we can hope to put a sanitary ring around the public sector that is not going to be undermined if the practice of corruption is allowed to go unchecked elsewhere.

Now, looking at the provision of 17, which is in large measure a reproduction of part of what is now 14 in the Corruption Prevention Act, just reading it through and I certainly would not want, I wouldn't want to be associated with removing it but reading it, I am not sure that we need 12. It seems to me, it seems to me that the things that would criminalize private sector conduct are already covered in this without, in my view, overreaching to the point where some things... Again, because of the lack of clarity in 12, where some things that are normal business practices might be caught when that was not the intention.

Mr. BUNTING: And I am willing to accept that, I just did not want the same logic that made us remove 12 remove 17 as well. (Laughter)

The PRIME MINISTER: Yes.

The CHAIRMAN: So we are all agreed that 17 should remain. May I put it?
Those in favour of 17?

Put to the Committee and agreed to.

The CHAIRMAN: The new 17 renumbered 15 put to the Committee....

Mr. HOLNESS: Mr. Chairman, for 17 I am still uncomfortable with it as it is without putting in the public good.

Dr. PHILLIPS: Could I, could I make....

Mr. HOLNESS: There must be something in there that limits it to the public good.

The CHAIRMAN: But where you want to put the public good?

Dr. PHILLIPS: I think it is clear as it is, but one of the things.... I think it is clear as it is, but one of the things - just procedurally - I think we have to be careful about making policy that breaks new ground on the hoof so to speak, kind of as we charge along, I think we have to be very careful. If you are breaking new ground this way that at least you think it through, think it through all the elements.

So I would go with 17. But to alter it and then to set standards of proof and thing in different ways and - is dangerous. Not that I would necessarily disagree, but I just don't think we have thought through all the implications.

The CHAIRMAN: Thanks, Dr. Phillips. Members, I just want to put.... Members, I am now putting 17 as the new 15.

Mr. FAGAN: But, Mr. Chairman. Mr. Chairman, Mr. Chairman, Mr. Chairman!

The CHAIRMAN: Yes, Mr. Fagan.

Mr. FAGAN: Mr. Chairman, I realize that there seem to be a - we have been here since morning and there is an anxiety to just move through, right, and as we go along, sir, I realize that we are just sort of picking up and I want to agree with the Member that.....

The CHAIRMAN: Members, Members, please.

Mr. FAGAN: ....that maybe, maybe at this point, we need to just....

The PRIME MINISTER: Might I preempt you? (Laughter) Might I preempt you?

Mr. FAGAN: Secondly, before the Prime Minister preempts. Secondly, I believe that, for example....

The PRIME MINISTER: Maybe after you make your point I will change my mind. (Laughter)

There is one concern that has been raised which cannot be ignored, and that is that, in passing legislation but even moreso, when we are passing legislation that is so complex and so far-reaching that we have to be very clear in our minds what we are doing, even if we don't agree, even if we don't agree, even if it is something that the majority will eventually carry, but we must be very, very clear.

It is quite obvious now and at 5 o' clock it's not going to be possible to have that done this evening. Today is likely to be the last sitting of the House before prorogation and, therefore, much as I had hoped to avoid it, this is going to fall off. I hope that the work that we have done and those areas that we have been able to agree on will not perish. What I would certainly want to ask the Chief Parliamentary Counsel and his staff to do is (a), to take a note of those issues that we debated, where we may not have, because we don't have the competence to do it, we may not have actually formulated the wording, they have the competence to ask them to try and prepare that wording consistent with the agreement that we arrived at.

We have only been through 17 of 87 clauses, which is a little under 20%. Hopefully, the clauses that are to come up will not be quite as problematic everyone as we go along. There is an urgency that attaches to this, it is going to affect certain draw-down that we had hoped to secure. Pardon me?

Dr. DAVIES: Tell them that democracy.... (Inaudible)

The PRIME MINISTER: Well, the good thing is that because of the way in which we've been running business we are not so all that desperate.

(Dr. Davies laughs)

(The Prime Minister laughs)

But, we have to do it carefully and we have to do it properly. And, therefore, I am going to ask that the Chief Parliamentary Counsel catches up with us in terms of what it is that we have proposed and so on. We are going to have to reintroduce the Bill after the House reconvenes. It would have had to go back to the Senate in any case, so we are going to

introduce..... But this time I am going to want to introduce it here. I.....

Dr. PHILLIPS: Prime Minister, Prime Minister, I don't know, on this, we might need advice from the Clerk. But I seem to recall that in relation to Bills that previously reached this point, that we moved a resolution that enabled the matter to be resumed in the new Parliament at the point from which it ceased. And if I could get advice from the Clerk.

Mr. PICKERSGILL: Carry over provision.

Dr. PHILLIPS: I would, I would - quite frankly, I think no, quite frankly, I mean, far be it from me to tender gratuitous, what maybe gratuitous advice, but I believe our conclusion of what is before us, our consideration of what is before us would be enhanced by simply picking up where we ended. If you start again you are inviting all those debates again.

Mr. HOLNESS: The suggestion is that it is easier just to be clear.

Mr. PICKERSGILL: My question is, my questions is are there provisions for carrying over? So why we don't use it?

The PRIME MINISTER: If it can be done, and to achieve the best of both worlds what I would ask is that they could perhaps prepare for us, not as the Bill before us, but as a side sheet, the 17 sections that we have done so far in terms of what those would look like based on our.....

Dr. PHILLIPS: As a companion document.

The PRIME MINISTER: Yes, as a companion document. But if it is possible, so that we don't have to give notice of first reading and...

Dr. PHILLIPS: It is going to end up in December if you do it that way, probably all election keep and you don't know. (Laughter)

Mr. HOLNESS: Mr. Speaker, I don't think we can go any further today, so I....

Mr. FAGAN: Mr. Chairman, Mr. Chairman....

The CHAIRMAN: Yes, Mr. Fagan. I was also thinking, sir, that if there could be a - I don't know if it is possible, but could there be a sub-committee? I know we had gone through it already.

(*Sotto voce* comments by Members)

The CHAIRMAN: The Bill in itself, sir, seem to be so problematic and there are eminent lawyers here in the House, so probably, if a sub-committee could sit just before we meet again as the whole House, as a Committee, so as not to...

The CHAIRMAN: Mr. Fagan, I'll ask the Leader of both sides to confer.

The PRIME MINISTER: Mr. Chairman, I am sorry, I cannot support that. I cannot support it for two reasons. One is, I am looking at the attendance record of the committee that went into it. At least two of the Members who were most active in their interventions and disagreements were Members of the committee who attended one out of 11 meetings each. Secondly, the fact that a committee may meet on it and arrive at consensus doesn't mean that when it comes to the House, Members are not going to have problems and they are going to want to pursue those issues in the Chamber. So I say, let's continue. We have done 17. Some of the clauses, I believe, are not going to be quite as problematic. Let us resume as soon as we can

and let us try and see if we can complete.

The CHAIRMAN: Okay. Members, I do report progress in the Bill.

Mr. PICKERSGILL: Yes, progress!

Mr. HOLNESS: Slow progress but progress nonetheless!

The CHAIRMAN: The question is that I do report progress in the Bill.

Put to the House and agreed to.

RESUMPTION

The SPEAKER: Okay, Members, I do report progress in the Bill.

House Leader, recommittal.

Mr. HOLNESS: Mr. Speaker, I would like to ask for the recommittal of the item Questions.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Order to allow for the recommittal of the item 'Questions and Answers to Questions'.

Put to the House and agreed to.

QUESTIONS AND ANSWERS TO QUESTIONS

The SPEAKER: Mr. Fagan, you had a question.

Mr. FAGAN: Mr. Speaker, I was just trying to find out if there was a Statement in light of *the Gleaner* report that states that disgraceful situation at the Golden Ages Home. I was wondering if there was a statement by the Minister.

The SPEAKER: No. Well, now is not the right time.

Mr. HOLNESS: Mr. Speaker, the Minister of Youth, Sports and Culture will be answering the question posed by the Leader of the Opposition, Question 47.

The SPEAKER: Question, this is Question 47. Mrs. Simpson Miller, Question 47.

Mrs. SIMPSON MILLER: Thank you very much, Mr. Speaker.

I would like to ask the Minister to answer questions standing in my name.

The SPEAKER: Thank you.

Minister Grange, Question 47. Could you please circulate the answers, Miss Grange.

Miss GRANGE: Mr. Speaker, the…

The SPEAKER: No, before you begin, could you circulate the answers?

Miss GRANGE: Well I have asked for copies to be made.

The SPEAKER: No, hold. Let the answers be circulated first.

Miss GRANGE: They may be making the copies. Would you like me to wait?

The SPEAKER: Yes. Where are the copies?

Miss GRANGE: So, Mr. Speaker, you want me to wait?

The SPEAKER: Where are the copies?

Mr. KELLIER: Mek she wait.

Mr. SPEAKER: Miss Grange, we have emphasized this. We want copies of the answers.

Miss GRANGE: Mr. Speaker….

Mr. KELLIER: Just a point, Mr. Speaker.

The SPEAKER: Yes, Mr. Kellier.

Mr. KELLIER: Since we are awaiting time for the Member, could I just ask, since we are on the matter of questions. In light of the intervention made by the Member from South East St. Catherine, on the motion of adjournment, could you allow him.

The SPEAKER: Yes, let's deal with that at that time.

Mr. KELLIER: …because the matter is so important, we ask that you consider it at that time.

The SPEAKER: Okay, no problem. The copies, Miss Grange, are they available?

Miss GRANGE: Mr. Speaker, the copies are being made by the staff here. You want me to proceed in the meantime?

The SPEAKER: No, no!

Mr. HOLNESS: All right. Mr. Speaker, we have another matter. While we await, could I then, Mr. Speaker, ask for the recommittal of the item Statements By Ministers and allow Minister Charles to….

The SPEAKER: Very well. Sorry, one second. Is that the copy. (Referring to the documents in the Orderly's hand) Now could we just take this now then since it's available?

Mrs. SIMPSON MILLER: Yes.

The SPEAKER: Yes, let's take it now before we move on.

Miss Grange, you can proceed now.

Miss GRANGE: Thank you. Yes, Mr. Speaker.

Question 1 - I am going to in fact respond to 1 and 2 at the same time.

Question 1: Does the Minister recall making an announcement that the Government of Singapore will be assisting Jamaica with the laying of a new track, a new running track at the National Stadium?

Question 2: Under that agreement, was the track to have been a gift from the Government of Singapore?

Answer: I did not announce that it was the Government of Singapore that would give or assist with financing for a new track at the National Stadium.

I did say, and I quote from the news release sent from the Ministry of Youth, Sports and Culture, dated January 12, 2010, that I was in the process of finalizing, and I quote:

"funding arrangements for the repair of the running tracks at the National Stadium in Kingston under an agreement which was negotiated with the Singapore private sector.

Question 3: Will the Minister give details on the financing of a trip of a delegation from Jamaica to Singapore in regard to this agreement?

Question 4: Who were the Members of that delegation?

Answer: Aside from advancing arrangements for the financing of a new track at the National Stadium, the mission to Singapore was also geared at -

(a) advancing our excellent bilateral relations with this strategically important Asian nation by supporting their efforts to promote the Inaugural Youth Olympic Games; and

(b) executing a market penetration initiative to

promote Jamaican music and culture which has been rapidly growing in popularity in South East Asia. I saw a tactical advantage of leveraging our Jamaican music in order to give exposure for some of our young and up-coming artistes, in effect, making the mission a multifaceted initiative that presented a more comprehensive picture of our cultural heritage to the Singaporeans.

The delegation included officers of the Ministry, Independence Park Limited, Jamaica Trade and Invest, as well as sports and music stars.

It was decided to pursue grant funding from the Private Sector Development Programme, the PSDP Programme.

Question 5: Will the Minister

a) indicate the current status of that agreement/proposal?

b) has it been aborted?

Answer: We have not aborted this funding option and we are making efforts to finalize the arrangements to access those funds.

Question 6: Will the Minister give full details on the financing and contracting arrangements for the laying of the new track?

Answer: Work completed at the National Stadium Complex:

a) replacement of main running tracks include repairs to drainage system, raising height on the football field, raising height on long jump pits, raising area for steeple chase, replacing take-off boards for pole vault, triple jump and long jump and replacing rings for shot put and discus;

b) repairing of Stadium East Track; and

c) interim financing secured through the Sports Development Foundation until arrangements are finalized by the offices of the Jamaica Trade Council in Singapore.

Mrs. SIMPSON MILLER: Mr. Speaker, I am a little disappointed that I have received no specifics in terms of the response to my questions. And I would like to do follow-up by asking the Minister who were the members of the delegation, the names? That is Question 4.

The SPEAKER: Well let her answer that one first. She could answer that one first.

Minister Grange.

Miss GRANGE: I will not be able to give you the specific names now, but I can provide you with the list.

Mrs. SIMPSON MILLER: I would like to do another follow-up, Mr. Speaker.

The Minister indicated in her response that the interim financing was secured from the

Sports Development Foundation and I would like to know how much?

Miss GRANGE: There were two lines of credit secured by the Sports Development Foundation. Total amount being J$75,885,000. And it's a period of 180 days, over a period of 180 days. We have 75 days left through which those funds are to be drawn down, if not, the Sports Development Foundation will provide the interim payment until we access the funds from Singapore.

I must add here that the track that has been installed allows for easier repairs and it is more cost effective than the track that was previously there. It's a Regupol track as opposed to a Mondo track. And we have secured material in storage, we have material in storage that when repairs are necessary we do not have to send for the specialist, but we are able to do the repairs here in Jamaica, by a team that was trained from the communities surrounding the National Stadium.

I also want to add that the track that was there previously was over 10 years old and we would not have retained our IAAF accreditation if we did not replace the track. We would not, of course, been able to hold internationally recognized meets.

I just want to add that the head of the team that we negotiated with for the Regupol track, Peter Broer, I recently received, in fact today I received an e-mail from him where he has indicated that he is currently in discussion with the University of Houston about them installing new Regupol track for the university and that the head coach wants to visit Jamaica, just to look at the Usain track and our track.

Because what has happened now is, since Usain ran on the blue track, it has become the popular track. It is in fact referred to as the Jamaican track. And the one that was laid at the stadium they have improved the technique and so they would want to come to Jamaica to look at both tracks.

When Peter Broer comes to Jamaica, he will also have with him the certificate because the track have to be tested by a company hired by the IAAF to ensure that the track was of the standard. And we have passed the test. The certificate is now in the hands of the IAAF and he will be collecting the certificate when he comes at the end of the month to have an official handing over to us. (Applause)

Mrs. SIMPSON MILLER: Through you, Mr. Speaker, I would like to ask the Minister, if she could indicate the - who were the contractor or contractors that carried out the work at the National Stadium?

The SPEAKER: Miss Grange.

Miss GRANGE: The Company is BS&W out of Germany and the necessary procedures were followed in terms of the procurement and the contract was approved by Cabinet.

Mrs. SIMPSON MILLER: Another follow-up question. Minister, I know the difficulty the sporting associations face from time to time and they are largely dependent on the Sports Development Foundation to assist with the funding of their development programmes. And I would like to know the fact that the interim financing will have to be drawn from the Sports Development Fund - it will not? Okay. How it will impact the allocation to the sporting associations?

Miss GRANGE: This will have absolutely no impact on the sporting associations. It will not affect their subventions. We provide subventions to over 40 sporting organizations and in addition to

the subvention we also provide funding for special projects. The funds that are being used to secure this line of credit are funds that were held by CHASE. As you are aware that CHASE holds funds - it used to be two years, but now it is one year they hold on deposit for the SDF, and those funds are what we drew down on to provide the security.

(*Sotto voce* comments by Mr. Robertson)

Mrs. SIMPSON MILLER: I don't think we need to respond to him because a track was there before, no matter what the condition was, I don't think we need to. Because the Sports Development Foundation indeed was founded by someone in this Parliament, that the present Minister can now - you know some years to come some other Minister will have to replace the track that is presently there. So I don't know what is the thing about -

Minister - I would like through you, Mr. Speaker, to the Minister again, to find out how the interim financing arrangement or agreement was finalized? And will it be possible Minister for us to get some information on this particular issue because I would love to know how it was done and whether we could access a copy of it?

Miss GRANGE: It is not - there is no difficulty providing you with the details that we had put in the Cabinet submission. Everything was aboveboard signed off by the Sports Development Foundation, approved by the Ministry of Finance, approved by Cabinet and all the procedures necessary for procurement were observed. Everything is aboveboard and I can provide you with the information.

I want to just add that, its been very difficult working with limited resources. And I want to use the opportunity to commend the staff of Independence Park Limited, the Board of the Sports Development Foundation, the men from the communities Nannyville, Back Bush and all those communities who came on board and in record time were able to have the track finished within the time we had stipulated. We had a delay because of act of God and the weather overseas, but I must also thank God for making it possible. So it did not affect the season.

And I also want to say, that as a former Minister of Sports, I appreciate your efforts. And there were challenges when I took over, there continue to be challenges but I ensure that I stay on top of things so that we will continue to be centre-stage in recognition of the achievements of our athletes.

Thank you.

Mrs. SIMPSON MILLER: Through you, Mr. Speaker, I would like to thank the Minister. I look forward to receiving the additional information and to say it was good that the Minister persisted and the track was laid before so that it could host the championship over the weekend, which I think was an excellent championship. And we look forward to receiving the information.

The SPEAKER: Thank you very much, Mrs. Simpson Miller. Mr. Bunting.

Mr. BUNTING: Mr. Speaker, I had indicated I had a couple follow-up questions.

Mr. Speaker, you know, with respect to the Minister. Questions 3 and 4, are not answered. I think it is quite straightforward. What was the cost of the trip, and what agency paid for it with respect to Question 3.

Miss GRANGE: I did answer; from the PSDP, well let me just elaborate a little.

Mr. BUNTING: No, the sentence in your answer says it was decided to pursue grant funding. That doesn't tell us whether you got the grant funding, how much it was, what was the cost of the trip.

Miss GRANGE: It was decided to pursue grant funding from the Private Sector Development Programme which administers support through the music cluster and through JTI. What had happened was, it was brought to our attention that the funding through the PSDP was coming to an end and that there were funds available that would have been returned. As a result, I decided to leverage, the fact that we were going to support the Youth Olympic, the first Youth Olympic Programme, I decided to leverage the funds to also take a music delegation. And, in terms of the cost of the travel and accommodation for the musicians and the performers, was partially covered by the PSDP.

The bill for the travel and accommodation of the athletes who accompanied me on this mission was shared between the Singapore private sector and the organizing committee for the Youth Olympic Games. I can provide you again with the figures. I don't have them here. I thought they were here but I can provide you with the figures in terms what was made available through the PSDP programme.

Mr. BUNTING: I look forward to that Minister.

And finally, in terms of the members of the delegation you don't recall who the Members were; but I am assuming you were a member of the delegation Minister? Could you give us an idea of the size of the delegation?

Miss GRANGE: I said earlier that I will provide those details. I said I will provide those details, it is not a secret. Press releases went out, but I said I do not have the information here and I will provide the details. What I can tell you, among those who were there Asafa Powell, Veronica Campbell Brown, their management. There were musicians and performances, Abijah, Aheshia Davis; there were the technical people, Major Brown from IPL, you know, so I can provide you with the specifics, it is not an issue. I am sorry?

(*Sotto voce* comments by Mr. Bunting)

Miss GRANGE: Yes, because it was a sports and music delegation. And I just want to highlight something here.

The highlight of the mission was as follows; and I think, you know, we would - you would consider this commendable once I give you the details.

Now the highlights, the commitments from the Singapore organizers from the Youth Olympic Games for Jamaica to showcase its music and culture, "**Jamaica Night**" as a main event during the staging of the games. The live performance…

(*Sotto voce* comments by a Member)

Miss GRANGE: In fact, he did sing. Asafa did sing, at the workshop that we had. And then the live performances of Jamaica reggae artistes during the mission presented the Singaporeans with a special treat as it was the first time that they could recall having real Jamaican, authentic reggae music and artists performing in Singapore. There was also identification of specific opportunities and commercial ventures and events that would provide Jamaica with the vehicle to

strategically promote Jamaican culture and develop commercial links particularly in the music industry, but not limited to the music industry.

And I also want to highlight the fact that we used the opportunity to strengthen the school training programme which actually exists between some primary schools in Singapore and in Jamaica.

What are some of the spinoffs as well? Promotion of Jamaican cuisine at a newly established Jamaican café which provided an opportunity for Singaporeans to sample Jamaican cuisine; and opportunities for Jamaican postsecondary students to obtain scholarships to study in Singapore in specific vocational areas.

We also had discussions about the opportunities that exist for Jamaican coaches to work in Singapore because they showed an interest in hiring our coaches. And we also went into discussion with regard to the twinning of GC Foster College with the equivalent college in Singapore and the possible exchange of students and teachers.

Thank you. (Applause)

The SPEAKER: Thank you Miss Grange. Yes, House Leader.

Mrs. SIMPSON MILLER: Mr. Speaker, I just want to make a comment that the Minister has so much information, on the other things that she could give us, but I got no specific response to my questions.

The SPEAKER: But she promised you.

Mrs. SIMPSON MILLER: I am looking forward to receiving them.

The SPEAKER: Very well, House Leader…

Miss GRANGE: Mr. Speaker….

The SPEAKER: (Laughter) Wait, Miss Grange. Now, but…

Miss GRANGE: Mr. Speaker, the Minister will have the last word. The details I have given. In terms of the specifics as to the line of credit I have indicated that that information will be extracted from the Cabinet submission and provided. You all know that I cannot bring a Cabinet submission document to Parliament, but the details I will extract and provide the details.

The SPEAKER: Very well, Thank you, Miss Grange. Yes, House Leader.

Mr. HOLNESS: Mr. Speaker, I now ask for the suspension of Standing Orders for the recommittal of Statement by Ministers. The Ministry of Labour and Social Security has a statement.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Order...

Mr. HOLNESS: Mr. Speaker, it is just more practical to, at the same time, ask for the recommittal of the item Notices of Motions Given Orally as well as Statements and Bills Brought from the Senate as well.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Order to allow for the recommittal of the items Statements by Ministers, Bills Brought from the Senate and Notices of Motions Given Orally.

Put to the House and agreed to.

STATEMENTS BY MINISTERS
(Recommitted)

The SPEAKER: Minister Charles.

Mr. CHARLES: Mr. Speaker, on Monday, the 4th of April 2011, we mark the

45th Anniversary of the National Insurance Scheme. As many of you are aware, NIS emerged as one of the major social institution which symbolised our independence as a nation. The NIS was introduced to provide protection for all workers and their families during their vulnerable period when they are not able to provide for themselves. At that time the country was changing from one marked largely by self employment to one in which the wage earning class began to feature more prominently.

The NIS was established on the 4th of April, 1966, under the direction of the then Minister of Labour and National Insurance, the HONOURABLE LYNDEN G. NEWLAND. The scheme was regulated under the National Insurance Act and Regulation of 1965.

At that time, Mr. Speaker, there were many persons who did not fully understand the concept of a social insurance scheme, as it was being introduced in Jamaica for the first time. This caused some amount of distrust among workers and led to widespread protest. Some persons changed the name NIS around and called it SIN, others put a different meaning to NIS and instead called it 'Newland Intent to Steal'. Some of those were persons who are among us. Ninety-seven thousand of them now receive pension under the Scheme, which paid out $11 Billion in benefits last year alone. Today the Scheme provides a wide range of benefits, including Retirement Pension, Widows and Widower Pension, Invalidity Pension, Funeral Grant, Maternity Allowance for domestic workers and the NI Gold Health Plan for NIS pensioners.

Mr. Speaker, the 45th Anniversary presents a golden opportunity to celebrate the achievements of the NIS and its importance to the workers of this country. In doing so, I am very pleased to announce that the decision has been made to honour the memory of Lynden G. Newland, the founding father of the NIS. Later this year, Mr. Speaker, all pension books issued by NIS pension, or for pensioners, will bear the image of LG Newland, similarly to how the image of other late stalwarts are placed on bank notes.

This, Mr. Speaker, will honour and keep him in memory to those who are receiving it.

(Applause)

I think it would be fair, Mr. Speaker, to say that former Minister of Labour and Leader of the Opposition, consulted - had discussion with me, that we must find a way to honour Lynden Newland for this great opportunity given to the workers of this country.

A MEMBER: Hear, hear!

Mr. CHARLES: This major milestone also represents an important point to which we should take note of the challenges being faced by social insurance system like the NIS across the world. Major demographic changes caused by rising life expectancy, improved healthcare and lower birth-rate have resulted in significant growth in the population of older persons in the world.

For example, Mr. Speaker, in 1966 when the NIS was introduced, life expectancy at birth in Jamaica was 69 years for females and 65 for males. Today, Mr. Speaker, life expectancy at birth is estimated to be 77 years for females and 71 years for males. The population of older persons, 60 years and over, is estimated to be close to 300,000. It is projected, Mr. Speaker, that by the year 2025, that number will increase to over 470,000 persons.

In light of these changes, some reforms of the NIS have taken place during the past year, which are aimed at ensuring the long-term viability and sustainability of the NIF. These include increase in insurable wage ceiling from 500,000 to one million per annum; increase in flat rate contribution from $20 to $50 per week; unification of retirement age for female and male at 65 years; and adjustment in benefit rates including the NI Gold. These reforms were guided by the actuarial evaluation of the National Insurance Fund that was commissioned by this Minister. It is my intention to table the actuarial evaluation in this Honourable House during the sectoral debate to inform Members, for future discussions, on what else need to be done.

We are confident, Mr. Speaker, that the National Insurance Fund is being prudently managed, and contributions of our workers are safe. We do recognise, however, that a coverage gap exists, as there are many persons in the informal economy who need to participate in this project and to their own benefits and retirement future.

With the recent amendment to the NIS now being passed, we intend to embark on a major public education campaign, to encourage these persons to contribute to the NIS. I want to make an appeal to all persons who are standing outside of the social safety net, to become a part of this programme. And I appeal to my colleagues, parliamentarians and leaders of organisations island wide, to make the NIS an item on their agenda to encourage all Jamaicans to participate in this programme.

Remember, Mr. Speaker, NIS is not a tax, it is a social insurance scheme in which your contribution represents savings which are invested on your behalf for your retirement. As our revised motto says, Mr. Speaker, "NIS is always working for you".

Thank you. (Applause)

The SPEAKER: Mrs. Simpson Miller.

Mrs. SIMPSON MILLER: Thank you, Mr. Speaker.

I rise to support any recognition that can be given to the memory of the founding father of the National Insurance Scheme, the now deceased, Honourable Lynden G. Newland.

(Applause)

MEMBERS: Hear, hear!

Mrs. SIMPSON MILLER: And I'm happy that during my tenure at the Ministry, I did not wait until he was gone to do something, but had a function in his honour, because I felt that the National Insurance Scheme is very important.

I want to make a point though, Mr. Speaker, in that successive Ministers paid special attention to the National Insurance Scheme, and it was visioned - perhaps the present Minister would not be able to be doing what he is now doing in terms of increasing and lifting the ceiling and increasing the benefit to the pensioners.

The National Insurance Fund is what is giving up the opportunity to the Minister and the Ministry to do some things. There were other countries with similar programmes - the Scheme - that went bankrupt because there was no vision in terms of investment. And had we allow the fund to just rest in the Bank of Jamaica with no investment on the money collected from pensioners - and I'm happy that we live to see the day when the pensioners benefit, because once upon a time pensioners were paying more to collect the pension benefit than the benefit that they were getting.

And I'd like to encourage the Minister and the Ministry and staff, to ensure that we continue to pursue an aggressive investment path for the NIS, so that we can have, continue to have periodic adjustment to the pensioners benefit and to ensure that the future of the NIS will be secured for the thousands of contributors on this programme. And so I would like to congratulate the Minister and the Ministry for recognising the - what is it 45th year - of the National Insurance Scheme. But I'd also like to encourage the Minister and team, to ensure that you put a proper public education programme in place, not only for the contributors, but also to encourage self-employed persons to make a contribution to join this Scheme, so that later on they will be able to benefit from this programme. It is a very important programme, and again, I don't think any honour can be too great to bestow on the Minister, whose vision it was to establish the National Insurance Scheme.

He was someone that I became very close to and it was his vision that drove me then as Minister, to ensure investment of the funds and also to put in place additional programmes to benefit, like NI Gold and what, because I feel - I felt then as I feel now, that it was very important and it is something that we should continue to push and to ensure its growth. Once again, congratulations to the Minister and the Permanent Secretary and staff for continuing the programme and for pushing for further advancement.

Thank you very much, Mr. Speaker.

The SPEAKER: Thank you.

Dr. Ferguson then Reverend Thwaites.

Dr. FERGUSON: Thank you, Mr. Speaker.

I, too would want to identify and support the decision to honour LG Newland. LG Newland served the constituency of Eastern St. Thomas from 1956 until 1976. And it is interesting that the Minister, who today is announcing this decision to honour LG Newland, served also the constituency of St. Thomas Eastern for 13 years and five months.

And I believe that taking all of that into account, the benefits of the NIS and the NI Fund have been oftremendous value, not only to the people of St. Thomas, but across the country.

We look forward to the celebrations. We hope that along the way something will happen in St. Thomas to mark those celebrations.

And once again, Mr. Speaker, congratulations to the Government, to the Ministers that serve in that Ministry, for the decision to honour L.G. Newland.

The SPEAKER: Thank you, Dr. Ferguson. Reverend Thwaites, then Mr. Kellier. Remember, short tributes.

Rev. THWAITES: Mr. Speaker, I have no tribute other than to endorse what has been said previously.

But I would like to ask the Minister if he would tell us, in an instance where the country needs desperately to improve domestic savings, and where the National Insurance Fund has gained the luster and the reliability of which he speaks, over 45 years, why on earth do we restrict contributions to the first million dollars of earnings? Why on earth don't we accept contributions from persons, of whatever earning, and treat this as a really replete pension scheme?

The SPEAKER: Yes, Mr. Kellier, you go ahead.

Mr. KELLIER: Thank you, Mr. Speaker.

I wish to - just to endorse what the Minister has said and my colleagues on this side.

However, I would just like to indicate that in respect of the Actuarial Report, as you will recall, Mr. Speaker, we, the Opposition, had raised the matter of it being tabled. I am happy to see that the Minister has now indicated a time when he will actually be bringing it to the Parliament. That is during the upcoming Budget Debate, and we are very happy for that. And the fact that he is now going to also engage in a major public education campaign, again, the Opposition had suggested that to him and he accepted it. And I am happy to see that he has decided to go forward with it. We are in full support of those efforts.

However, in celebrating this Forty-fifth Year of Mr. Newland's - Honourable L.G. Newland's act of bringing the NIS to the Parliament, I would think that we should have gone a little further in respect of what we were doing for him. And I would have thought, Minister - and I put it for your consideration and that of the Ministry if it does not currently exist - but 45 years, I think you should give forty-five scholarships to some students to indeed mark the occasion. I think it may be something that was being considered some long time ago, but I think you could think about giving one scholarship for every year gone so far, in respect of his contribution, so that the young people coming up could also learn a little more about L.G., in respect of this great NIS Programme that he brought into force.

Just to say, there is one concern that is lurking in the air, Minister, and you may be able to clear it up for me now. It's not in your Statement, but the - there has been a news item recently in respect of one of the N.I. properties, that is, Braco. I wonder in your retort if you could tell us exactly what is the status of that property which earns money for the Fund. Now that Breezes is attempting to relinquish its lease on the property, are we going to be losing some money in the interim, or do you have a lessee ready to occupy the property? This is something the Parliament needs to know like now, because we would not want the Fund to be in any way shortchanged of income because of any lapse, in terms of earning from that very important asset that is owned by the Fund in Braco, the hotel.

So you could tell us exactly what is the status of it, and whether or not we are going to be losing any earnings in this period when Breezes surrenders the lease.

But, overall, we are in full support of the move. And anything that the Opposition can do to assist the Ministry in promoting this event, or the events during the year, we will be willing to work with you on it.

The SPEAKER: Thank you, Mr. Kellier. Mr. Charles.

Mr. CHARLES: Mr. Speaker, let me answer the last question first. I am going to crave the indulgence of the Member to allow me to report on the Braco situation at a later date. Negotiation and discussions are taking place. And I have already advised that it is the will of the parties that all workers' jobs be protected, and a continuation of business. I will be very happy if you allow me to report, a comprehensive presentation at a later date.

Mr. KELLIER: I look forward to that.

Mr. CHARLES: The next question was from the Member from Central Kingston. I understand the passion in which you have presented. But the way that the NIS is operated, it's contribution from not only worker but the employer. And we moved from Two Hundred and Fifty Thousand dollars, ($250,000), in which a percentage of that is contributed by the employee - we moved to Five Hundred Thousand, ($500,000), and the employer has to contribute to the overall workforce, plus that. And so it was decided to go to a Million, ($1M) at this stage, bearing in mind that all the other contributions come from the employer alone. And we think that going to a Million, ($1M), at this time balances the situation. It doesn't in any way say that we will not go further.

But let me say, as a trade unionist, a man who earns Fifty Thousand Dollars, ($50,000) a month, a man who earns Fifty Thousand Dollars, ($50,000) a month has a specific programme of how he is going to handle his Fifty Thousand, ($50,000). A man who earns a Hundred and Fifty Thousand, ($150,000) has a similar project. And so, we must not just look at because a man earns Two Million, ($2M), that we can overburden him.

But the position is what has brought us from Two Hundred and Fifty Thousand Dollars, ($250,000) to a Million, ($1M), at this time.

Rev. THWAITES: You need more savings, less borrowings.

Mr. CHARLES: What's that?

Rev. THWAITES: You need more savings, less borrowings.

Mr. CHARLES: Yes, but then, remember, Mr. Member, that it is the man's savings, and the fact that he is putting in a major part of his money, is not going to entitle him to any more than the man who is putting in One Hundred Thousand, ($100,000).

I want to ask you to look at the fact that we must now start to look at paying people based on what they have put in. That is being looked at from the actuarial point of view.

The SPEAKER: Thank you, Mr. Charles.

Mr. CHARLES: Mr. Speaker, I must acknowledge that it is probably the second time within the month that both sides are united on a presentation. And I feel very proud that the former - two former Ministers and - from that side and this side, are united on this project, and former trade unionist, done by Newland, who was himself a worker representative. I think the House should feel good tonight that we are united on this position.

Thank you very much.

The SPEAKER: Thank you very much, Mr. Charles.

(Applause)

BILLS BROUGHT FROM THE SENATE
(Recommitted)

The following is a message from the President of the Senate:

To the Honourable House of Representatives:

I have the honour to advise the Honourable House of Representatives that on the first day of April, 2011, the following Bills were passed in the Senate.

A Bill entitled AN ACT to Amend the Constitution of Jamaica to provide for a Charter of Fundamental Rights and Freedoms; and for connected matters;

A Bill entitled AN ACT to Amend the Constitution of Jamaica; and

A Bill entitled AN ACT to Amend the Revenue Administrations Act, and for connected purposes.

Signed: Oswald G. Harding
President of the Senate.

NOTICES OF MOTIONS GIVEN ORALLY
(Recommitted)

Mr. HOLNESS: Mr. Speaker, I beg to give notice that at the next meeting of the House I will move:

BE IT RESOLVED that the Urban Development Corporation, Belmont, Roaring River and Malvern Park Designation Order, 2011, which was laid on the Table of the House on the 5th day of April, 2011, be referred to the Regulations Committee of the House of Representatives for consideration and report.

And two:

BE IT RESOLVED with reference to the Sessional Joint Select and Select Committees which are appointed in the current session of Parliament, and where these Committees have not completed their deliberations, that further consideration of the Bills, Motions and Reports before them be suspended, and that in the new session of Parliament the House be empowered to enable these Committees to proceed with the issues referred to them from the stages reached before prorogation.

AND BE IT FURTHER RESOLVED that the composition of all the Committees remain unchanged except where necessary by further motion taken and approved by this Honourable House.

AND BE IT FURTHER RESOLVED with reference to items number 2, 3, 6, 7 and 8, which are included in the Order of Business in this session of Parliament, and on which debate has not been completed, that in the new session of Parliament the House be empowered to proceed with the items from their present stage.

Mr. Speaker, I further beg to give notice that at a later stage today I will move for the suspension of Standing Orders to enable me to take these motions.

The SPEAKER: Thank you, House Leader.

PUBLIC BUSINESS

Mr. HOLNESS: Mr. Speaker, at Public Business, I now move for the suspension of Standing Orders to enable me to take the motions, notice of which I gave earlier.

The SPEAKER: Members, the motion before the House is for the suspension of Standing Orders to allow the House Leader to take the motions, notice of which he gave earlier.

Put to the House and agreed to.

The SPEAKER: House Leader.

Mr. HOLNESS: Mr. Speaker, just so that Members are aware of the procedure. We have just asked that the Motions and Bills be carried over. And we are carrying over the Bill

that we just dealt with today, and we will start from where we left off.

So I am asking, Mr. Speaker, that the motions be approved.

The SPEAKER: Members, the motions as presented by the House Leader are before you.

Put to the House and agreed to.

Rev. THWAITES: Mr. Speaker, why don't you carry over all the unfinished business of the House?

The SPEAKER: Effectively, in terms of - the only ones that have not been carried over would be the Questions and Answers.

Rev. THWAITES: And what about the Private Members Motions?

The SPEAKER: They are carried over.

Rev. THWAITES: Well, you know, we really have to change the procedure quickly, you know, because all of this is a feat. If the business of the House isn't done, then we carry it over. This prorogation and then re-rogation, is pure...

The SPEAKER: We understand. We hope it will be done this year, sometime shortly.

Rev. THWAITES: God save the Queen.

The SPEAKER: It will be done this year. Very well. House Leader.

Mr. HOLNESS: Mr. Speaker, before we move the adjournment, today is the final sitting of...

The SPEAKER: Present session.

Mr. HOLNESS: ...the Lower House in this Parliamentary year. We had a very active year, Mr. Speaker. We passed thirty-six (36) Bills, including some major ones, just to bring to the attention of the House. We passed the Credit Reporting Bill; remember those Crime Bills that took us quite a long time. We did the Tourism Duty-Free Shopping, the Protected Disclosure, in fact, we passed all the legislation having to do with fiscal responsibility. This year was a momentous year, in terms of legislation to manage the economy. (Applause) And then, of course, we eventually passed the Charter of Rights.

We answered - Mr. Speaker, we answered fifty-eight (58) questions.

Mr. JACKSON: Out of how many?

Mr. HOLNESS: We answered a little over 80 per cent of questions asked, which is... (Applause)

Mr. Speaker, we debated 12 motions, and that is an area that we are not pleased with. I have spent quite a bit of time trying to figure out a way, Mr. Speaker, of incorporating debates in the general planning of the business of the House. The challenge is always, Mr. Speaker, that we would have to meet more than one day per week to keep up with the number of motions that are brought to the House. So, for the next Parliamentary year, Members would have to get comfortable with the idea of sitting more than once per week if we are to keep up with the number of motions, which we have carried over to the next Parliamentary year.

Mr. Speaker, just to bring Members up-to-date on the schedule. Parliament prorogues the 11th of this month, and the official opening, the Throne Speech, will be on April 14. And then we will consider the Estimates of Expenditure in Standing Finance Committee on the 19th, 20th and 21st. On the 28th, the Budget Debate will commence with the Minister of Finance. That will be followed by the Opposition Spokesman on Finance on the

3rd. The presentation by the - well, a Government Minister and an Opposition Spokesperson, that will be on May 4, the Leader of the Opposition on May 5 and the Prime Minister, May 10, and the closing on May 11. So, Members should bear those dates in mind.

ADJOURNMENT

Mr. HOLNESS: Mr. Speaker, it is not proposed to do any further business. I therefore, move that the House do adjourn *sine die.*

Mr. KELLIER: Mr. Speaker, since we are at the end, I crave your indulgence to say a few words on behalf of the Opposition, in respect of us having completed a year that we can characterize as sometimes turbulent, and sometimes difficult. We have not distinguished ourselves to the best of our ability in certain areas as we well can - as we all well know, and we look forward on this side, Mr. Speaker - and I am sure, even the Members on that side will look forward to the coming year as one which will see us lifting the standards of our debate and decorum in the Parliament, to ensure that John Public who watches us very closely is satisfied with the way we operate and control ourselves in the House.

And I want to say to you, Mr. Speaker, that, indeed, you have had very trying times to manage the affairs of this House - you and your Deputy - over the period as well. And the Opposition will continue to give you full support, and your Deputy, to ensure that the running of the business of the House is done in an orderly way.

(Applause)

And the staff, Mr. Speaker, that's the Clerk and the staff, we want to thank everyone for having worked so hard and stayed with us, and endured some of the difficulties that arose from time to time.

(Applause)

And we really look forward to a very productive session coming up in the next Parliament.

And the PBCJ who gives us the coverage, we want to thank them for informing the nation about what goes on inside here.

(Applause)

The SPEAKER: Thank you very much, Mr. Kellier.

Mr. KELLIER: For too long, it has been a secret, and now everyone knows what goes on inside the Parliament. So, everyone watches what happens now. So, we are very happy, Mr. Speaker, that they are here. We want to hope that they'll continue the coverage.

The SPEAKER: Absolutely.

Mr. KELLIER: So, I thank the Press in general for their support to the Parliament.

The SPEAKER: Thank you very much, Mr. Kellier.

Mr... sorry… Now... well, Mr. Fagan, go ahead.

Mr. FAGAN: Yes, sir, on the motion of the adjournment, sir, I just wanted to - there is a matter that I brought forward earlier which was not germane at the time sir, I would like now to find out, sir, if the - in view of the damning report that has been reported in *the Gleaner* on Sunday, can the Minister with responsibility for Local Government say - tell the House how he plans to proceed with this matter, or if an investigation has started.

The SPEAKER: Very well. Minister, are you in a position to respond?

Mr. MONTAGUE: Mr. Speaker, the Member well knows that the Golden Age Home is a limited liability company with its own Board. And the Board was asked to meet in an extraordinary session which they did, and they have ordered certain investigations. And it would be very premature to make a conclusive statement until those investigations are complete. As a matter of fact, if you check the records, advice from the Member from South West St. Andrew is always, due process must be observed.

The SPEAKER: Very well. Thank you, Mr. Montague. Yes...

Mrs. SIMPSON MILLER: Thank you, Mr. Speaker.

Any Minister that has the responsibility for the infirmaries and a number of other areas, ministries like Local Government, will always have some challenges. And, as a former Minister of Local Government, I am aware of some of the challenges. What I would like to recommend - and the challenges exist no matter which Government is in power, in terms of the kind of budgetary allocation that is given to the Ministry for those institutions.

MEMBERS: Hear, hear!

Mrs. SIMPSON MILLER: I would like to make a recommendation, however, in that I started to pay special attention to the Golden Age Homes because - I don't know what it was but something came upon me to begin to look at them. And then I had someone who went across the country visiting and reporting to me. And some of the conditions were really very terrible. I mean, not by way of the workers, but because most of the workers are overworked. And I would like to make a recommendation that we have a proper audit done of the homes, and also how we can look at the staffing. I mentioned over and over, and we discussed, Minister, the question of the menu, and that people who are suffering from any kind of illness that should not be consuming - then that should be taken - their diet, into consideration with particular focus on people who are diabetic.

But, I think that we also need to look at - in terms of the auditing staff, the number of staff per person at the institutions, and the kind of training, because those areas are what you call wings, or accommodation for persons who suffer any kinds of disability, whether it be mental or otherwise, they need specialized care. And very often, the Government does not have, on the staff of those institutions, people who are trained to deal properly with.

And so, I would like to make a recommendation for an audit. I am not here to be critical of anyone. I am not here to be critical of the - can you imagine if you have staff who have to serve a number of - and by the time, after perhaps, two, three hours, and they get tired, then you know they are going to be... So, I am just saying that, for us to be able to offer - no matter what, we have a responsibility because they are under our care, meaning Government, and it doesn't matter who is in power, we have a responsibility. And this is not about a criticism; this is about how we can do some things to make the lives of the people who are in these institutions much better, because they are poor. And then, to institute where there are families, how they can chip in to assist, in terms of the kind of care, and for us to offer quality care to the less fortunate among us.

And, Minister, I would just like to suggest that an audit be done, going through a number of things including the staffing. And we need seriously to look at the allocation to these infirmaries. Apart private support that they might get, what would be, really, the kind of allocation that the people who are in charge will be able to carry these institutions. I think the time has come when it's not only the big things, but we also need to, while we focus on the big things to look at the little things that affect our people, and particularly, when it affects the majority of our people.

And while the infirmaries are not the majority, they are people that we need to pay special attention to. And I am sure that the two first verses of Psalm 41 will do well, if as legislators, we all can see to it that something is done to make life more comfortable for those persons in their senior years, and also to look at the accommodation across the country.

Thank you very much for allowing me.

The SPEAKER: Thank you, Mrs. Simpson Miller.

Yes, Mr. Fitz Jackson.

Mr. JACKSON: Very brief...

Mr. MONTAGUE: Mr. Speaker, the Member from South West St. Andrew made some very valid recommendations. And, in my interaction with her on matters of the elderly, she has always made very valuable recommendations. And I intend to take on board her comments.

I will also add that the report that she mentioned, that she had ordered, we had looked at it, and we had engaged Mrs. Pearl Barrett, a former Inspector of Poor, who has gone around and had looked at the infirmaries. And she is compiling a report. And quickly to inform you, Mr. Speaker, we have entered into an arrangement with the FAO to provide gardens into the infirmary, starting with the St. Thomas Infirmary. And that has gone very well.

We have also entered into a partnership with HEART/NTA to offer training to the caregivers in the infirmaries, and I am happy to tell you that 95 per cent of the caregivers have completed that training programme, in terms of improving the level of care.

(Applause)

We took seriously her recommendations with regards to the diet and we have discussed and taken recommendations from a dietician with regard to the menu in the infirmaries.

We have also engaged on a programme to provide industrial stoves, industrial washing machines and solar water heaters in the infirmaries, as well as we have done some work at the St. Thomas Infirmary and we have begun a new model, because this government believes in a smaller unit rather than a more institutional care. And the Hanover Infirmary, once completed, will form the basis of the way forward. This Government that I am a part of, Mr. Speaker, believes and is committed to the proper care and treatment of the elderly. And, on a very personal note, in the last two years of my dear mother's life, I was her principal caregiver. So, matters towards the elderly, I take very personal.

(Applause)

The SPEAKER: Very good. Thanks, Mr. Montague.

Mr. Fitz Jackson.

Mr. JACKSON: Without detaining the House, Mr. Speaker, I felt compelled. The House Leader indicated the accomplishments of the House and I applaud it. And just to indicate that those achievements are shared

achievements on both sides. But, I want to make the point, Mr. Speaker, that I believe much more could be achieved in the year. And as we close this legislative year, I trust that the House Leader as a Cabinet member, will ensure that the allocation to the House will enable us to meet - there are times when many committees are unable to meet to deal with many matters in the House. And I pray and I beg, Mr. Speaker, that the efforts of my colleague and House Leader will ensure that the business of the House is not detained by inadequate allocation.

And lastly, Mr. Speaker, I want to use this opportunity to implore Members belonging to the committees to participate more because more business could have been done if we had Members paying more attention to their obligation to the committees. And it happens on both sides; both on the Government and the Opposition side. And if we, individually, can do that, we can make the House far more productive.

The SPEAKER: Thank you, Mr. Fitz Jackson.

Reverend Thwaites.

Rev. THWAITES: Mr. Speaker, I hope I'm not an ingrate, but while the congratulations and the approval of our efforts are coming from both the House Leader, and the Leader of Opposition Business, I would frankly prefer if it came from the people who we serve. And I beg to draw attention because it is a serious matter to an article in this morning's Press that describes us as '**the two gangs of Gordon House'.**

I, for one, am not a member of any gang in Gordon House, but it is extremely important, it is extremely important that we just don't ignore, or take umbrage to a very distinct extent of public opinion that feels that while we may have passed so many Bills, and answered so many questions that we are failing to deal with the central questions that concern the people of this country. And that this Parliament, through this past year has been singularly unable to discuss, and to deal and to give hope in respect of the issue of unemployment. The quality of education has been dealt with only sporadically. There are issues to do with personal responsibility, with crime and violence that the public feel that we need to deal with in a far more comprehensive fashion. And I ask us that in the midst of our own efforts and perhaps a justified level of self-satisfaction as we break now, we should be mindful that it's not just the agenda that we bring here, but it is rather the palpable concerns of the people that justify our existence and of whom we are the servants.

The SPEAKER: Thank you, Reverend Thwaites.

Mr. HOLNESS: Mr. Speaker, without…

The SPEAKER: Prolonging.

Mr. HOLNESS: …detaining the House and prolonging the debate.

Mr. BUCHANAN: Good words.

Mr. HOLNESS: We have brought to this House several pieces of legislation which are fundamental to the rights and concerns of the citizens of Jamaica. And I don't want that to be glossed over or overlooked.

(Inaudible comment by Mr. Mair)

Mr. HOLNESS: And let's be clear, we have done great work in this House, on both sides, which the media has not carried and they have not covered it.

Mr. MAIR: Yes.

Mr. HOLNESS: We have a duty to publicize it, but we don't carry the media's

agenda. The media has a role to carry the good things that we have done here as well.

(Applause)

I'm sure that it will not be a part of the report of the papers that we started and we spent the entire day and we went through a piece of legislation, not in a frivolous way. That is not carried. The nights that we stay here to twelve and two in the morning that is not carried. So let's not berate ourselves for the work that we have done. I agree there's more to be done and especially as I have said earlier, we will have to meet on more days, but I believe we have done significant work for this year.

The SPEAKER: Thank you. Members, the motion before the House is that this Honourable House do adjourn *sine die*.

Put to the House and agreed to.

The SPEAKER: House adjourned *sine die.*

The House adjourned at approximately 6:24 p.m, *sine die*.