



**MINUTES**  
**OF THE**  
**HONOURABLE JAMAICA HOUSE**  
**OF REPRESENTATIVES**

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At a meeting of the Members of the House of Representatives held pursuant to adjournment at Gordon House in the City and Parish of Kingston on Tuesday, the

11<sup>TH</sup> DAY OF JANUARY, 2011.

The House met at 2:11 p.m. o'clock.

Prayers were offered by Mr. Desmond Mair.

**OATH OF ALLEGIANCE**

The Minister of State in the Office of the Prime Minister, the Honourable Shahine Robinson, took the Oath of Allegiance and her seat in as Member of Parliament.

Call of the Roll.

**PRESENT WERE:**

The Honourable Delroy Hawmin Chuck, Speaker

The Honourable Andrew Michael Holness, MP, Minister of Education & Leader of the House

The Honourable Orette Bruce Golding, MP, Prime Minister & Minister of Defence

The Honourable Dr. Kenneth Leigh O'Neill Baugh, MP, Deputy Prime Minister & Minister of Foreign Affairs and Foreign Trade

The Honourable Audley Fitz Albert Shaw, MP, Minister of Finance and the Public Service

The Honourable Pearnel Patroe Charles, C.D., MP, Minister of Labour and Social Security

The Honourable Neville Andrew Gallimore, MP, Minister of State in the Ministry of Labour and Social Security & Deputy Leader

Dr. the Honourable Christopher Charles Tufton, MP, Minister of Agriculture and Fisheries

The Honourable Daryl Wesley Phillip Vaz, MP, Minister without Portfolio in the Office of the Prime Minister, with responsibility for Information and Communication

The Honourable Clifford Everald Errol Warmington, MP, Minister of State in the Ministry of Water and Housing

The Honourable Shahine Elizabeth Robinson, MP, Minister of State in the Office of the Prime Minister

The Honourable Robert St. Aubyn Montague, MP, Minister of State in the Office of the Prime Minister

The Honourable Michael Anthony Stern, MP, Minister of State in the Ministry of Industry, Commerce and Investment

The Honourable Laurence George Broderick, MP, Minister of State in the Ministry of Energy and Mining

Mr. Peter Murcott Bunting, MP, Manchester, Central

Mr. Roger Harold Clifford Clarke, MP, Westmoreland, Central

Dr. Donald Keith Duncan, MP, Hanover, Eastern

Mr. Colin Alfred Alexander Fagan, MP, St. Catherine, South Eastern

Dr. Morais Valentine Guy, MP, St. Mary, Central

Mrs. Sharon Merle Hay-Webster, MP, St. Catherine, South Central

Mr. Joseph Uriah Hibbert, MP, St. Andrew, East Rural

Mr. Fitz Arthur Jackson, MP, St. Catherine, Southern

Mr. Derrick Flavius Kellier, C.D., MP, St. James, Southern

Mr. Desmond Gregory Mair, MP, St. Catherine, North Eastern

Mr. Phillip Feanny Paulwell, MP, Kingston Eastern & Port Royal

Mr. Dean Alexander Peart, C.D., MP, Manchester, North Western

Mr. Michael Anthony Peart, MP, Manchester, Southern

Mr. Tarn Andrew Peralto, MP, St. Mary, South Eastern

Dr. Peter David Phillips, MP, St. Andrew, East Central

Mr. Robert Dixon Pickersgill, MP, St. Catherine, North Western

Dr. Donald Gladstone St. Clair Rhodd, MP, Portland, Eastern

Mr. Derrick Charles Smith, MP, St. Andrew, North Western

Mr. Ernest Augustus Smith, MP, St. Ann, South Western

Reverend Ronald George Thwaites, MP, Kingston, Central

Mr. Franklin Robert Witter, MP, St. Elizabeth, South Eastern

The Minister of Education and Leader of the House, the Honourable Andrew Holness, took note of the passing of former Member of Parliament, Mr. Donald Buchanan and the father of the Member for St. Andrew, South Eastern. He informed the House that tributes would be paid in memory of Mr. Buchanan at the next meeting of the House.

### **STATEMENTS BY MINISTERS**

The Prime Minister, the Honourable Orette Bruce Golding, made the following Statement on the ***Proposed Sale of Sandals Whitehouse Hotel:***

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 Ltd., assigned to and operated by Sandals Whitehouse Ltd. 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 mystique about the proposed transaction.

By way of background, it is to be recalled that in July 2001, the UDC and NIBJ entered into a joint venture with Gorstew Ltd. for the construction of the hotel. A joint venture company, Ackendown Newtown Development Company Ltd. (ANDCo), 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.

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

The project was plagued by disputes, delays and massive cost overruns. When construction was practically completed in 2005, the costs had escalated to US\$117 million, an overrun of US\$43.3 million. 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 liability 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 claims 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. 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.

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 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 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 October 31st 2010 of US\$18.5 million. Interest alone on the remaining debts of US\$55.5 million is accruing charges of US\$2.6 million per year. Insurance coverage, which ANDCo as landlord is required to provide, costs US\$1.1 million per year. ANDCo's real costs, therefore, excluding principal repayment of US\$55.5 million are approximately US\$7.7 million per year. However, 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 contributions, and the funding of such deficits have been, 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 4 years have amounted to US\$7.9 million (not including the US\$3 million spent to remedy defects to which I earlier referred.

This also does not include the cost of periodic replacement 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 from any cost overrun attributed to the management of the project and, therefore, the only portion of the overruns that may be recovered from Gorstew is that portion attributable to design changes that were specifically requested by Gorstew.

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, i.e., by way 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 14½ 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 at a 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 it a “hard sell” especially in a period of economic recession.

The government, therefore, decided to enter into negotiations with Gorstew for the sale of its interest in the property. In April 2010, with the agreement of the parties, Cabinet approved the appointment of the Hon. R. Danny Williams O.J. 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. This valuation was done on a Net Present Value basis, i.e., the value to an investor of the cash flows to be generated by the investment. There were discrepancies in the assumptions which informed this valuation, namely, the omission from the calculations of the Landlord’s obligations under the lease agreement to insure the buildings and contents and fund the replacement of equipment during the life of the lease.

Ernst & Young, therefore, reviewed and adjusted its original valuation and in October 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) Deposit of US\$7.5 million on signing;
- (b) Vendors mortgage of US\$32.5 million for 7½ years amortized over 30 equal quarterly instalments of principal and interest at a rate of 6% per annum;
- (c) Security: A first charge mortgage on the property plus the corporate guarantee of Gorstew Ltd.;
- (d) Gorstew will surrender its shares in ANDCo for an amount of US\$1.00.

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

The effect of the proposed sale will be to eliminate the operational losses being incurred by ANDCo including the cost of insurance and equipment replacement. The deposit of US\$7.5 million will allow for the immediate liquidation of the OPEC loan as well as cover the transaction costs. 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! 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.

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 cauterize and minimize 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 decisions are 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 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.

(The Minister of Energy and Mining, the Honourable James Robertson, entered and took his seat).

(Ms. Lisa Hanna, M.P., St. Ann, South Eastern, entered and took her seat).

(The Minister of Industry, Commerce and Investment, the Honourable Karl Samuda, entered and took his seat).

(Dr. St. Aubyn Bartlett, M.P., St. Andrew, Eastern, entered and took his seat).

(The Minister of Youth, Sports and Culture, the Honourable Olivia Grange, entered and took her seat).

(The Minister of Transport and Works, the Honourable Lester Michael Henry, entered and took his seat).

(Mr. Clive Mullings, M.P., St. James, West Central, entered and took his seat).

(The Minister of Tourism, the Honourable Edmund Bartlett, entered and took his seat).

## **ANNOUNCEMENTS**

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

### **Ministry Paper No. 1/11**

Cabinet Agenda Issues for December 6, 2010  
*(Cabinet Offices)*

### **Ministry Paper No. 2/11**

Cabinet Agenda Issues for December 13, 2010  
*(Cabinet Offices)*

### **Ministry Paper No. 3/11**

Cabinet Agenda Issues for December 21, 2010  
*(Cabinet Offices)*

Auditor General's Department Report  
on the

Appropriation and other Accounts of Jamaica  
For the financial year ended 31<sup>st</sup> March 2010  
*(Auditor General's Department)*

Overseas Examinations Commission (OEC)  
Annual Report and Audited Financial Statements  
For the year 2008/2009  
*(Ministry of Education)*

Housing Agency of Jamaica Limited (HAJL)  
Annual Report and Audited Financial Statements  
For the year 2009/2010  
*(Ministry of Water & Housing)*

Police Public Complaints Authority  
Annual Report and Audited Financial Statements  
For the financial year 2008/2009  
(Ministry of Justice)

Trade Board Limited  
Annual Report and Audited Financial Statements  
For the financial year 2009/ 2010  
(Ministry of Industry, Investment & Commerce MIIC)

Central Information Technology Office (CITO)  
Annual Report and Audited Financial Statements  
For the financial year 2005/2006

Spectrum Management Authority  
Annual Report and Audited Financial Statements  
For the financial year 2008/2009

**Certified Appropriation Account**

| <b><u>Head 2800B</u></b> | <b><u>Ministry/Department</u></b>                     | <b><u>Financial Year</u></b> |
|--------------------------|---|------------------------------|
| 2800B                    | Ministry of Justice<br>(Auditor General's Department) | 2007/2008                    |

(The Leader of the Opposition, the Most Honourable Portia Simpson Miller, entered and took her seat).

(Mrs. Natalie Neita-Headley, M.P., St. Catherine, East Central, entered and took her seat).

(Dr. Fenton Ferguson, M.P., St. Thomas, Eastern, entered and took his seat).

**QUESTIONS AND ANSWERS TO QUESTIONS**

Ms. Lisa Hanna asked the Minister of Youth, Sports and Culture the following question:

Will the Minister please list all the contracts issued by all the divisions of the Ministry of Youth, Sport and Culture from June 2009 to December 2010 and the beneficiaries of said contracts?

The Minister of Youth, Sports and Culture, the Honourable Olivia Grange, responded as follows:

A detailed list is provided. The Government's procurement process was followed in the awarding of these contracts.





(The Deputy Speaker, Mrs. Marisa Dalrymple Philibert, entered and took her seat).

(The Minister of State in the Ministry of Agriculture and Fisheries, the Honourable William J. C. Hutchinson, entered and took his seat).

### **MOTIONS RELATING TO SITTINGS OF THE HOUSE**

Reverend Ronald Thwaites enquired of the status of the Report of the Standing Orders Committee and the recommendations contained therein. The Speaker informed the House that a response was still being awaited from the Office of the Parliamentary Counsel in relation to the drafting of the recommendations and their incorporation into the Standing Orders.

### **PRESENTATION OF BILLS WITHOUT LEAVE OF THE HOUSE FIRST OBTAINED**

The Minister of Labour and Social Security, the Honourable Pearnel Charles, moved to introduce and have read a first time a Bill shortly entitled "*The Minimum Wage Amendment Act, 2011.*"

Clerk read Bill a first time.

Notice of second reading given.

The Minister of Labour and Social Security further gave notice that at a later stage that day he would move for the suspension of the Standing Orders to enable him to move for second reading of the Bill and to take it through all its concluding stages.

(Mr. George Anthony Hylton, M.P., St. Andrew, Western, entered and took his seat).

(The Minister of Health, the Honourable Rudyard Spencer, entered and took his seat).

### **PUBLIC BUSINESS**

The Minister of Finance and the Public Service, the Honourable Audley Shaw, moved that the Bill entitled "*An Act to Amend the Deposit Insurance Act*" be now read a second time.

Seconded by: Mr. Joseph Hibbert.

Agreed to.

Clerk read Bill a second time.

The House resolved itself into a Committee of the whole House to consider the Bill Clause by Clause.

Clauses 1 to 11 agreed to.

The Title and Enacting Clause agreed to.

The question that the Chairman do report the Bill to the House was agreed to.

The Bill having been reported as having passed Committee stage without amendment, the Minister of Finance and the Public Service moved that it be read a third time.

Seconded by: Mr. Clive Mullings.  
Agreed to.

Clerk read Bill a third time.

Bill passed without amendment.

The Minister of Education and Leader of the House moved:

BE IT RESOLVED that the Electoral Commission of Jamaica Report to Parliament regarding Continuing Legal Reform dated October, 2010, which was laid on the Table of the House on the 7<sup>th</sup> day of December, 2010, be approved.

(The Minister of Water and Housing, the Honourable Dr. Horace Chang, entered and took his seat).

(Mr. Othneil Lawrence, M.P., St. Ann, North Western, entered and took his seat).

(Dr. Kenneth Wykeham McNeill, M.P., Westmoreland, Western, entered and took his seat).

(Dr. Omar Davies, M.P., St. Andrew, Southern, entered and took his seat).

The Minister of State in the Ministry of Water and Housing, the Honourable Everaldo Warmington; Mr. Robert Pickersgill; the Prime Minister and Dr. Donald K. Duncan also spoke on the motion.

Further debate on the substantive motion was, by leave, deferred.

The Prime Minister moved:

BE IT RESOLVED that the Report of the Joint Select Committee of Parliament which was set up to consider and report on the Report on the Review of Jamaica's Defamation Law, which was laid on the Table of the House on the 21<sup>st</sup> day of December, 2010, be approved.

Reverend Ronald Thwaites and Mr. Clive Mullings also spoke on the motion.

Further debate on the substantive motion was, by leave, deferred.

The Minister of Labour and Social Security, having obtained suspension of the Standing Orders, moved that the Bill entitled "*An Act to Amend the Minimum Wage Act*" be now read a second time.

Mr. Derrick Kellier and the Leader of the Opposition, the Honourable Portia Simpson Miller also spoke on the motion.

Seconded by: Dr. St. Aubyn Bartlett.  
Agreed to.

Clerk read Bill a second time.

The House resolved itself into a Committee of the whole House to consider the Bill Clause by Clause.

Clauses 1 to 2 agreed to.

The Title and Enacting Clause agreed to.

The question that the Chairman do report the Bill to the House was agreed to.

The Bill having been reported as having passed Committee stage without amendment, the Minister of Finance and the Public Service moved that it be read a third time.

Seconded by: Mr. Clive Mullings.  
Agreed to.

Clerk read Bill a third time.

Bill passed without amendment.

The Minister of Education and Leader of the House moved for the recommittal of the item "**Questions and Answers to Questions**" he further moved for the suspension of

the Standing Orders to enable Questions and Answers to Questions to be taken after 3:15 p.m.

Seconded by: Dr. Donald Rhodd.  
Agreed to.

### **QUESTIONS AND ANSWERS TO QUESTIONS**

Mr. George Anthony Hylton gave notice that at the expiration of 21 days he would ask the Prime Minister the following question:

- Part 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 Economic Partnership Agreement (EPA)?
- Part 2: If the answer to Part 1 is in the affirmative, could the Prime Minister state clearly the basis on which he arrived at this conclusion?
- Part 3: If the answer to Part 1 is in the negative, 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 Enterprises (MSME) to take advantage of the possible benefits under the EPA?
- Part 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?
- Part 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?
- Part 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?
- Part 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?
- Part 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?

Part 9: If the answer to Part 7 is in the negative, could the Prime Minister state the reason(s) for the Government's decision?

Part 10: Would the Prime Minister indicate what measures, if any, is the Government 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.

### **ADJOURNMENT**

At 5:57 p.m., the Minister of Education and Leader of the House, moved that the House do now adjourn to Tuesday, January 18, 2011 at 2:00 p.m., o'clock.

Seconded by: Mr. Fitz Jackson.  
Agreed to.

The House adjourned accordingly.

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Delroy H. Chuck, MP  
**Speaker**