



**2018/19 SESSION
of the
BERMUDA SENATE
OFFICIAL HANSARD REPORT**

17 July 2019

*Sitting number 18 of the 2018/19 Session
(pages 569–588)*

**Sen. The Hon. Joan E. Dillas-Wright, MBE, JP
President**

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BERMUDA SENATE**OFFICIAL HANSARD REPORT****17 JULY 2019****10:02 AM***Sitting Number 18 of the 2018/19 Session*

[Sen. the Hon. Joan E. Dillas-Wright, President, presiding]

The President: Good morning, Senators.
The Senate is in session; shall we pray?

PRAYERS

[Prayers read by Sen. the Hon. Joan E. Dillas-Wright, President]

CONFIRMATION OF MINUTES*[Minutes of 3 July 2019]*

The President: The Minutes of the 3rd of July 2019.

Sen. James S. Jardine: Madam President.

The President: Senator Jardine, you have the floor.

Sen. James S. Jardine: Madam President, I move that the Minutes of the meeting of Wednesday, the 3rd of July 2019, be taken as read.

The President: Is there any objection to that motion?
No objection.
Carry on.
Oh, I beg your pardon.
Senator Michelle Simmons.

Sen. Michelle Simmons: Madam President, just two little errors that need to be corrected. On page 3, at 10:19 am, the next paragraph says, "Senator K. L. Simmons relied . . ." It should be "replied." And also, on the last . . . On page 5 (sorry), in the penultimate paragraph, Ms. "Jordan Richardson" [should be] J-o-r-d-y-n Richardson. That is all.

[Inaudible interjection]

Sen. Michelle Simmons: In the penultimate paragraph, on page 5, it is about halfway through the paragraph.

The President: I see it.

Sen. Michelle Simmons: D-Y-N.

The President: Yes. D-Y-N.

Sen. Michelle Simmons: Thank you.

The President: Thank you, Senator Michelle Simmons.

Sen. James S. Jardine: Madam President.

The President: Senator Jardine, carry on.

Sen. James S. Jardine: Madam President, I move that the [Minutes of Wednesday, the 3rd of July 2019](#), with those amendments to be made, be confirmed as the correct record of that meeting.

The President: Is there any objection to that motion?
No objection. The Minutes will be confirmed once those changes are made.

[Minutes of 3 July 2019 confirmed, as corrected.]

MESSAGES

The Clerk: There are no messages, Madam President.

The President: Thank you, Clerk.

REPORTS OF COMMITTEES

**PARLIAMENTARY JOINT SELECT COMMITTEE
EXAMINING THE EVENTS OF THE 2ND OF
DECEMBER 2016 INCIDENT AT THE
HOUSE OF ASSEMBLY, BERMUDA**

The President: Senators, I hereby present for the information of the Senate the Report of the Parliamentary Joint Select Committee Examining the Events of the 2nd of December 2016 Incident at the House of Assembly, Bermuda.

Senators, please note that e-copies of the report have been forwarded to you and can be accessed on your tablets.

Thank you.

ANNOUNCEMENTS

The President: I think we have a number of announcements.

Senator Campbell?

BERMUDA DEPOSIT INSURANCE CORPORATION ANNUAL REPORT 2018

Sen. Vance Campbell: Madam President, I hereby present for the information of Senate the Annual Report of the Bermuda Deposit Insurance Corporation for the year ended 31 March 2018.

The President: Thank you. And we have the Activities and Audited Financial Statements. I believe that is your Bill [*sic*], Senator . . .

[Inaudible interjections]

The President: Oh, I beg your pardon, Senator Richardson. Senator Richardson, you have the floor.

Sen. Anthony Richardson: Good morning, Madam President.

The President: Good morning to you.

REGULATORY AUTHORITY OF BERMUDA REPORT ON ACTIVITIES AND AUDITED FINANCIALS 2014, 2015, AND 2016

Sen. Anthony Richardson: Madam President, I hereby present for the information of the Senate the Report of the Regulatory Authority of Bermuda on its Activities and Audited Financials for the year 1st of April 2014 to 31st of March 2015; the Report of the Regulatory Authority of Bermuda on its Activities and Audited Financials for the year 1st of April 2015 to 31st of March 2016; and the Report of the Regulatory Authority of Bermuda on its Activities and Audited Financials for the year 1st of April 2016 to 31st of March 2017.

And e-copies of the reports will be forwarded to Senators.

The President: Thank you, Senator Richardson.
The next one is the Annual Report of the National Training Board.
Senator Hayward, you have the floor.

NATIONAL TRAINING BOARD ANNUAL REPORT 2017/18 AND 2018/19

Sen. Jason Hayward: Madam President, I hereby present for the information of the Senate the Annual Report of the National Training Board for the years ended 31 March 2018 and 31 March 2019.

The President: Thank you, Senator.

BERMUDA SPORT ANTI-DOPING AUTHORITY 2019 ANNUAL REPORT AND MARCH 31ST, 2019 AUDITED FINANCIAL STATEMENTS

Sen. Jason Hayward: Madam President, I also hereby present the following reports for the information of the Senate: the Annual Report of the Bermuda Sport Anti-Doping Authority for the year ended 31 March 2019; and the Financial Statements of the Bermuda Sport Anti-Doping Authority as at 31 March 2019.

The President: Thank you, Senator Hayward.
Item number 6—

[Inaudible interjections]

The President: Oh, I beg your pardon. I seem to have missed this one.
Senator Richardson.

2018 HUMAN RIGHTS COMMISSION ANNUAL REPORT

Sen. Anthony Richardson: Madam President, the Human Rights Commission Annual Report. Madam President, I hereby present for the information of the Senate the Annual Report of the Human Rights Commission for the year ended 31 December 2018.

The President: Thank you, Senator Richardson.
I believe that is all the announcements this morning.

NOTICES OF MOTION

The President: There are none.

PETITIONS

The President: There are none.

STATEMENTS

The President: The first Statement is the National Training Board Annual Report.
Senator Hayward, you have the floor.

NATIONAL TRAINING BOARD ANNUAL REPORT 2017/18

Sen. Jason Hayward: Thank you, Madam President.
Madam President, in accordance with section 11(1) of the National Training Board Act 1997, "The Board shall, within three months after the end of each fiscal year, forward to the Minister a report on the activities of the Board during the fiscal year and on the Board's policy and programmes for future years." The Act also requires a copy of the report to be laid before both Houses of the Legislature.

Madam President, the report for 2017/18 is over a year late, and I apologise to the Senate for this delay. The report before you has consolidated the

2017/18 outstanding report with the 2018/19 report as one, divided between the years. The report highlights the important work carried out by the [National Training Board](#).

Madam President, since the last annual report, some of the significant results recorded by the department are as follows:

- a. [The] development of a strategic National Workforce Development Plan.
- b. Significant progress made with persons obtaining national certification due to training personnel in Prior Learning and Assessment Recognition [PLAR] in order to assess skilled tradesmen.
- c. Over 200 scholarships have been awarded during the two-year period.
- d. An increase in the number of apprenticeships and training programmes—six interns were sponsored to gain work experience in Canada as part of the airport [re]development project in April 2017.
- e. Since its launch, the Bermuda Job Board has grown exponentially, with some 155,335 job applications submitted, 1,524 employers registered, 9,300 candidates registered and 2,407 reported hires.
- f. In 2018, over 1,309 clients registered for career development services, and 114 individuals received funding from the national certification training programmes.
- g. The report also includes a sample of profiles showcasing success stories of individuals who received services from the department.

Madam President, I will provide further details on the significant results achieved from the 2017–2019 reporting period. The Bermuda National Workforce Development Plan was presented to the House of Assembly and the general public during fiscal year 2018/19. The plan outlines six high-level strategic priorities, which are critical to building a talent pipeline for Bermuda's workforce, a pipeline for all career levels across industries. The priorities include the following:

1. employer and industry engagement;
2. alignment of the workforce development system;
3. creation of career pathways;
4. youth workforce programmes;
5. universal access to education, training and career services; and
6. government resources and funding.

The National Workforce Development Plan [NWDP] prioritises employer and industry engagement, and embraces employers as partners within the workforce development system to gain a better understanding of employers' talent needs. Consequently, the work of the department will be driven by industry. The plan provides for increased strategic interaction between the workforce development system and the

business community in order to better understand the required skills, occupational growth, and barriers to Bermudians gaining employment and progressing in their careers.

Madam President, the National Workforce Development Plan recommends a framework for a One-Stop Career Centre. The centre will serve as the hub for the workforce development system or primary location of service delivery. The One-Stop Career Centre will provide comprehensive and coordinated services for adults, youth, employers and special populations (which includes people with disabilities), and for Financial Assistance clients.

During the fiscal year 2018/19, the Government advanced initial steps to streamline workforce development services by dissolving the Community Education and Development Programme. This resulted in transitioning staff and resources into the Department of Workforce Development, effective September 2018. The transition has allowed for better utilisation of human and financial resources in the delivery of services to the public. Further, it has reduced duplication of workforce services and has begun to lay the framework for the One-Stop Career Centre, as recommended.

Madam President, the department has continued to provide professional development training to ensure that Bermudians meet the standards for national certification. During the fiscal year 2018/19, a two-day training course was held, through the Canadian Association for Prior Learning Assessment Recognition [PLAR], to train members of the Occupational Advisory Committees (OAC) and the Industry Assessment Panels (IAP). Participants developed a proficiency in methods for assessing individuals based on their informal learning, prior experience and on-the-job training. This created a pathway for skilled tradesmen to obtain national certification based on their work experience, demonstrating a high level of proficiency and work portfolios.

Madam President, as a result of the PLAR training, I am pleased to report that the department has made significant progress in certifying individuals in the four designated occupations—welding, automotive technology, electrical and landscape gardening—for the fiscal year 2018/19. To date, the total number of persons achieving national certification is 417, compared to 100 for the previous year. National certification provides a measurable standard for employers to gauge skill sets and has equipped hundreds of Bermudians with credentials attesting to their qualifications.

Madam President, the number of persons sponsored for training during the fiscal year 2018/19 was 114, compared to 100 during the fiscal year 2017/18. The training programmes create a career pathway for candidates to obtain industry-recognised certification. These included:

- Canadian Association for Prior Learning Assessment Recognition;
- Welding Inspector Training;
- Construction Association of Bermuda Safety Training;
- American Hotel and Lodging Education Association Guestroom Attendant Training;
- Bermuda College Horticulture for Landscape Gardeners Programme;
- National Fire Protection Association Electrical Coding Training.

Madam President, during the reporting period, the department provided scholarships and awards based on local workforce needs, particularly in the areas underrepresented by Bermudians. During the period 2018/19, the department awarded funding for 42 students for overseas studies, of which 29 were new recipients and 13 [were] continuing awards. There were 58 students funded locally at the Bermuda College, of which 34 were new recipients and 24 were continuing awards. Additionally, 17 students were funded for General Education Diploma [GED] programmes. The total number of students funded for the fiscal period 2018/19 was 117, a 23 per cent increase from the 95 recipients reported for the previous fiscal year, 2017/18.

Madam President, the Apprenticeship and Trainee Programme successfully engaged industry partners in developing opportunity for full-time employment and training for apprentices. The department has been keen to promote employer incentives for formalising apprenticeship and training opportunities. Employer incentives and trainee benefits also include:

- payroll tax waiver for the employers;
- subsidised wages and training for the employers;
- paid on-the-job training, work experience and an industry qualification for trainees; and
- sponsored education and professional development for trainees.

A total of 12 companies registered 47 apprentices during fiscal year 2018/19. The participating companies range in size, based on the number of employees they employ, and include:

- NRG Limited;
- the Department of Public Transportation;
- Pinks Salon;
- BAC Group of Companies;
- Crisson Limited;
- Noble Automotive;
- Efficient Technologies Bermuda;
- Otis Elevator Bermuda;
- Bermuda Telephone Company;
- BELCO;
- Fairmont Southampton; and
- Bermuda Energy Services Company Limited.

Madam President, the department also formed partnerships with industry for short-term train-

ee programmes for fiscal year 2018/19. These programmes are generally less than two years. The department successfully engaged six new companies to train Bermudians and obtain experience in the fields of information technology, computer programming, residential and commercial cleaning, heavy equipment operators and water waste management.

Madam President, the Bermuda Job Board remains a valuable tool to assist individuals with their search for suitable employment. There continues to be considerable activity with the 155,335 job applications submitted since the initial launch in 2013. Upgrades to the Job Board in 2016 provided the ability for employers to report on their recruitment activity. Since March 2016, there have been 2,407 reported hires through the Bermuda Job Board. The hires consisted of 972 in 2016. There were 753 hires for 2017, and 682 for 2018.

Madam President, a total of 1,499 persons were registered with the Career Development Section as either unemployed or seeking alternative employment. In the previous year, 1,309 persons were registered with the Career Development Section. There was a 15 per cent increase of persons registered from 2017/18 to 2018/19 fiscal year. This increase is attributed to hosting registration drives throughout the community, encouraging registration for unemployed persons.

Madam President, the Annual Report appropriately showcases a sample of success profiles for persons who utilised the department's services.

Samara Wilson matriculated through the department's Summer Employment Programme and assisted with coordinating the programme, which provided opportunity for her peers, college/university students, to gain meaningful experiences in their area of study. Samara also received funding to assist in the completion of her studies. She now holds a Bachelor's Degree in Business Administration and a Master's Degree in International Human Resource Management. Currently, she is employed with HSBC, UK, as a Customer Associate and Complaints Officer.

She credits the department with equipping her with administrative, organisational and project management skills that have helped her successfully navigate her academic and professional journey. Samara had this to say about working with the department: "My experience at Workforce Development was absolutely life-changing. It taught me valuable lessons on the importance of work ethic, networking and how to be a team player. I would definitely recommend the department to others."

Madam President, David Vernon-Bean also participated in the Summer Employment Programme and was awarded funding to complete a Maritime Operations Course in Barbados, and the Higher Learning National Diploma in Nautical Studies with—Warrish?

Warrish?

The President: Warsash.

Sen. Jason Hayward: *Warsash* Maritime Academy in the United Kingdom.

[Laughter]

Sen. Jason Hayward: David was named Apprentice of the Year and is now employed with the Department of Marine and Ports as a Leading Seaman for the Bermuda Ferry Service. He shared his thoughts about the department's services. "The services at the Department of Workforce Development are vital. I already had the aptitude to succeed; however, I needed the boost financially to enable me to continue reaching for success. Thanks for taking the interest to invest in Bermuda's future!"

Lastly, Madam President, Lavita Williams worked with our Career Development Section to assist with her employment goals and soft skills. When the opportunity arose for her to participate in the Room Attendant Training sponsored by the Training Section, in collaboration with the Bermuda Hospitality Institute, Fairmont Southampton and Hamilton, she was eager to participate. Ms. Williams successfully achieved the Certified Room Attendant credential through the American Hotel and Lodging Educational Institute, and found a new appreciation and passion for creating clean spaces. She developed her new skill set and passion into her own business, "Leave It to Lavita," a specialty cleaning company with discounted packages to benefit pensioners with fixed incomes.

She is delighted with the path that her career development journey has taken her. She shared the following on her experience with the department: "They sent me on a housekeeping training course for two weeks, where I excelled and became certified. It really boosted my confidence, and this encouraged me to start my own cleaning business." She is applauded for utilising the sponsored training and career development services to blossom as an entrepreneur and create a successful small business.

Madam President, I would like to take this opportunity to thank the National Training Board, the Department of Workforce Development and industry partners who work so closely with the Government to ensure that training and development programmes are successful. Their combined efforts will ensure that Bermudians gain access to opportunities and excel within Bermuda's workforce. Thank you, Madam President.

The President: Thank you, Senator Hayward.

And I believe you have a second Statement. You can proceed when you are ready.

BERMUDA SPORT ANTI-DOPING AUTHORITY 2019 ANNUAL REPORT AND MARCH 31ST, 2019 AUDITED FINANCIAL STATEMENTS

Sen. Jason Hayward: Madam President, I am pleased today to submit to the Senate the [Annual Report and Audited Financial Statements of the Bermuda \[Sport\] Anti-Doping Authority](#) for the year ending 31st March 2019.

Madam President, the International Convention Against Doping in Sport of 2005 came into force in Bermuda in June 2006. This was managed locally by the Bermuda Council for Drug-Free Sport, a charity. The Authority as we know it today was created by the Anti-Doping in Sport Act 2011 [the Act]. Its function is to facilitate the control and prevention of doping in sports and thereby enable our athletes to compete on the international stage, in addition to providing sample collection services for many international sporting events that put on competitions locally, including the International Triathlon World Series 2018, Junior Cycling Championships and the Bermuda Marathon, to name a few.

Madam President, this important work is done through a programme of education, doping control procedures and results management. This includes following the World Anti-Doping Agency [WADA] standards to establish and implement [the following]:

- comprehensive anti-doping rules, which must adhere to the WADA Code, international standards and many guidelines;
- an extensive education programme for athletes, athlete support personnel, administrators, participants and the general public on anti-doping and the promotion of health, fairness and equity in sport;
- detailed protocols for results management; and
- detailed protocols for therapeutic use exemptions.

The Authority continues to ensure all athletes are tested under the illicit policy, a domestic programme, prior to representing our Island either locally or internationally.

Madam President, the Act also establishes a board of the Authority, who shall monitor the administrative operations of the Authority; ensure that correct protocols are followed in the process of securing samples; ensure that the rights of everyone involved in the doping control procedures are respected; and assist in ensuring that the Authority receives and manages funds in a prudent manner.

Madam President, section 17 of the Act also requires the Authority to present to the Minister a report of its proceedings for the year, including the audited accounts, and for the Minister to lay the same within the House of Assembly.

Madam President, the Auditor General has signed off on the Financial Statements, stating that

they present a fair view of the Authority. I would like to take this opportunity to highlight a number of items from the report and audited accounts.

The Authority continues to be fully compliant with the World Anti-Doping Agency requirements. Through their sample collections at the local sporting events and in partnership with other national anti-doping organisations from around the world, the Authority has been able to ensure that the testing requirements of both local and overseas-based Bermudian athletes have been fulfilled. Their educational initiatives continue to be of paramount importance, including providing advice to athletes and coaches on all aspects of the illicit and anti-doping programmes.

Madam President, under the Performance Enhancing Programme, some 83 samples were taken for testing during the year, 73 urine and 10 blood. There were two adverse analytical findings, both of which related to the Body Building and Fitness Federation's Night of Champions. There were four positive results under the illicit drug policy, where the substance in all four cases was THC (marijuana). The year saw an extensive compliance audit of the Authority, initiated by WADA, and the Authority were pleased to receive a letter stating that they were in compliance from WADA, in November.

Madam President, the Authority's revenue for the fiscal year is \$[658],600, which is mainly made up of a grant of \$650,000 from the Department of Youth, Sport and Recreation. Expenses include some \$271,590 for the performance-enhancement testing programme, and \$133,407 for the illicit drug screening programme.

Madam President, I would like to thank the board under the chairmanship of Mr. Michael Smith, and the staff of the Agency under the leadership of the Chief Executive Officer, Ms. Deborah Hunter, for their dedication and hard work during the year.

Thank you, Madam President.

The President: Thank you, Senator Hayward.

INTRODUCTION OF BILLS

The President: The Child Safeguarding (Miscellaneous Amendments) Act 2019 is on the agenda. And, Senators, that will be taken up under the Orders of the Day.

Sen. the Hon. Kathy Lynn Simmons: May I have permission?

The President: Yes, sorry.

Sen. the Hon. Kathy Lynn Simmons: That is fine, Madam President.

The President: Senator Madam Attorney General, to introduce the Bill.

Sen. the Hon. Kathy Lynn Simmons: Madam President, under the provisions of Standing Order 23, I [seek the] leave of the Senate to introduce the Bill entitled the Child Safeguarding (Miscellaneous Amendments) Act 2019.

FIRST READING

CHILD SAFEGUARDING (MISCELLANEOUS AMENDMENTS) ACT 2019

Sen. the Hon. Kathy Lynn Simmons: Further, Madam President, I hereby introduce and read for the first time, by its title, a Bill entitled the Child Safeguarding (Miscellaneous Amendments) Act 2019.

Madam President, as previously advised, at a later point in the meeting I will ask that the provisions of Standing Order 25 be granted so that the Senate may proceed to the second reading of the said Bill, under Orders of the Day.

The President: Thank you, Senator Kathy Lynn Simmons, Attorney General and Government Leader in the Senate.

FIRST READING OF PUBLIC BILLS

MEDICAL PRACTITIONERS AMENDMENT ACT 2019

HEALTH INSURANCE AMENDMENT (NO. 2) ACT 2019

PUBLIC ACCESS TO INFORMATION AMENDMENT ACT 2019

SUPERYACHTS AND OTHER VESSELS (MISCELLANEOUS) ACT 2019

The President: The following public Bills have been received from the Honourable House of Assembly and are now read for the first time: Their titles are, respectively, the Medical Practitioners Amendment Act 2019; the Health Insurance Amendment (No. 2) Act 2019; the Public Access to Information Amendment Act 2019; and the Superyachts and Other Vessels (Miscellaneous) Act 2019.

FIRST READING OF PRIVATE BILLS

The President: There are none.

QUESTION PERIOD

The President: Senators, we will now undertake questions on the first Statement which was given by Senator Hayward, and that is the National Training

Board Annual Report. Would any Senator care to speak on the Statement?

No?

Then . . . oh, I beg your pardon. Senator Michelle Simmons, you have the floor.

QUESTION 1: NATIONAL TRAINING BOARD ANNUAL REPORT 2017/18 AND 2018/19

Sen. Michelle Simmons: Thank you, Madam President. [I have] just a couple of questions for Senator Hayward, if I may, Madam President.

The President: Mm-hmm. You certainly may.

Sen. Michelle Simmons: On page 2 of the report, at the top—

Sen. Jason Hayward: Of the report or of the Statement?

Sen. Michelle Simmons: Oh, I am sorry. In the National Training Board Annual Report 2017–2019, in the Statement you read to the Senate—

Sen. Jason Hayward: Yes.

Sen. Michelle Simmons: —or that Senator Hayward read to the Senate. In item d., it was noted that “six interns were sponsored to gain work experience in Canada as part of the airport redevelopment project in April 2017.”

I was just wondering, of those six interns, how many have successfully completed the work experience, and how many have successfully found full-time employment? I believe we have heard some news with regard to a couple of the interns. But I wondered how many of the group of six have been successful?

And on page 3 of the same report, Madam President, at the bottom of the page, the last paragraph, the Statement was referring to the PLAR training. And it was noted “that the department has made significant progress in certifying individuals in the four designated occupations” The occupations mentioned were welding, automotive technology, electrical and landscape gardening.

My question is, How many more occupations in the technical area will be added to this group so that people employed or offering services in those areas can be certified? It is a way of giving the community an increased degree of assurance that the people whom they are employing to take on these tasks are able to do the work.

So, those are the two questions I had. Thank you, Madam President.

The President: Thank you, Senator Simmons.

Would any other Senator care to ask any questions?

No. Then, Senator Hayward, do you want to answer the questions that have been posed?

Sen. Jason Hayward: Madam President, I will endeavour to get the answers to both questions back to Senator Simmons.

The President: Thank you, Senator Hayward.

There are no other questions on that Statement.

And we will look at the second Statement, which is the Bermuda Sport Anti-Doping Authority Financial Statements.

Would any Senator care to ask any questions on this Statement?

No? Then, we will move on.

ORDERS OF THE DAY

The President: The Order of the Day is the consideration of the second reading of the Child Safeguarding (Miscellaneous Amendments) Act 2019. Senators, before I hand over to the Attorney General, I have a comment, myself, to make.

Good morning to you all again. I think it is incumbent on me to make a few comments on the process of this Bill we are about to debate this morning.

We will undertake all three readings of the Bill today. This course of action is an unusual one, as the Senate would normally undertake the first reading during one sitting, and the second and third readings the following week. However, the Attorney General, Senator Kathy Lynn Simmons, the Government Leader in the Senate, did advise the Senate two weeks ago that she proposed to do all three readings on the same day. Senate [Standing Order] 25 allows such a process to be undertaken. And while this is not a regular occurrence, this has occurred before under other Governments during my tenure.

Madam Attorney General also gave an undertaking that she would ensure that all Senators receive a full briefing on the particulars of the Bill, with input from the technical officers in Chambers, and questions and answers could be put to the technical officers. This was initially expected to be done last week; however, there were delays with the drafting work on the Bill in Chambers. Notice was sent out last week Friday re the briefing session, which was held on Monday over a two-hour period. There was a comprehensive briefing, and Senators asked many questions. And you were told at that time that you could ask follow-up questions after that time, and including yesterday, Tuesday.

It was my understanding at the end of the meeting, following the briefing, that Senators were in agreement that the debate of the Bill could take place today and that all three readings would occur so that the Bill could then be sent to the House of Assembly

for consideration and possible passage before the summer recess.

On Monday, Senators were advised during the briefing that the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse, known as the Lanzarote Convention, has been published by the Foreign and Commonwealth Office. And while the convention has not yet been ratified by the UK, it is expected to be done soon.

Senators, this is an important Bill for our Island, and, more particularly, for our children. I therefore now hand over to the Senator Kathy Lynn Simmons, Attorney General and Government Leader in the Senate, who will now present the Bill.

Senator Simmons, over to you.

STANDING ORDER 25

Sen. the Hon. Kathy Lynn Simmons: Thank you, Madam President.

I move that the provisions of Standing Order 25 be granted so that Senate may now proceed with the second reading of the Bill entitled the Child Safeguarding (Miscellaneous Amendments) Act 2019.

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Simmons.

[Motion carried: Leave granted for the Child Safeguarding (Miscellaneous Amendments) Act 2019 to be read a second time on the same day as its first reading.]

Sen. the Hon. Kathy Lynn Simmons: Madam President, I move that the Bill be now read a second time.

The President: Is there any objection to that motion?

No objection. Carry on, Senator Simmons, Attorney General.

Sen. the Hon. Kathy Lynn Simmons: Thank you, Madam President.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITORS

The President: And, Senator, sorry. Can I just acknowledge for all Senators here present that the Deputy Chief Parliamentary Counsel, Lorraine Welch, is with us?

Welcome to you.

[Child Safeguarding (Miscellaneous Amendments) Act 2019, second reading debate, continuing]

The President: Carry on, Senator Simmons.

BILL

SECOND READING

CHILD SAFEGUARDING (MISCELLANEOUS AMENDMENTS) ACT 2019

Sen. the Hon. Kathy Lynn Simmons: Thank you, Madam President.

Madam President, as stated in the 2006 UN Global Study on Violence Against Children, “No violence against children is justifiable; all violence against children is preventable.” Madam President, as a Government and as a community, we are all concerned about the safeguarding of our children. This Government is committed to doing everything that we can to prevent the maltreatment of our children and to protect their right to grow and thrive in a safe environment. Madam President, I am therefore pleased to introduce the [Child Safeguarding \(Miscellaneous Amendments\) Act 2019](#). This important Bill will help to usher in much-needed reform to our child safeguarding regime.

The Bill amends the Criminal Code Act 1907, the Children Act 1998, the Young Offenders Act 1950, the Evidence Act 1905, the Education Act 1996 and the Proceeds of Crime Act 1997 to enhance provisions and measures for the protection of children and other persons from sexual exploitation and sexual abuse. In particular, the Bill aims to:

- prevent and combat sexual exploitation and sexual abuse of children;
- protect the rights of child victims of sexual exploitation and sexual abuse; and
- promote national and international cooperation against sexual exploitation and sexual abuse of children.

Madam President, this Bill will bring Bermuda into compliance with the internationally recognised standard set by the Lanzarote Convention. The Lanzarote Convention is the moniker ascribed to the 2007 Council of Europe Convention on Protection of Children Against Sexual Exploitation and Sexual Abuse. Its overarching purpose is to protect children against sexual abuse and to establish the various forms of sexual abuse of children as criminal offences.

It should be noted, Madam President, that the Lanzarote Convention is considered the universal gold standard for child safeguarding, and Bermuda can take pride that, while preparing for this extension, it was ascertained that Bermuda’s current legislation was predominantly compliant. The improvements we are seeking today with this Bill will further strengthen our child safeguarding regime and modernise our approach to sexual offences in general.

One of the primary requirements for compliance at the Lanzarote Convention, Madam President, is for the designation of “child” to be universally defined as a person under the age of 18 years. Accord-

ingly, the Bill seeks to amend the definition of “child” to reflect this new interpretation. We also took this opportunity to bring the language from older legislation, such as classifications of sexual offences, into the modern era by repealing and replacing the use of what would now be considered offensive or inaccurate terminology or language, ensuring this new legislation will be in line with current sensibilities.

For instance, Madam President, the archaic language in current sexual offences to “unnatural” and “against the order of nature” will be repealed, and the offence will now be named for what it is meant to criminalise—non-consensual anal intercourse. However, it should be noted that no change has been made to the penalty or the age of consent as it relates to this particular offence.

In addition, Madam President, with the previous offence of “intercourse with a defective,” we have modernised the terminology to refer to “severe mental impairment” and have defined this to mean a person suffering from a state of arrested or incomplete development of the mind. These updates of the language will not only modernise this legislation, but will also give the Government further latitude in prosecuting these types of criminal offences.

Madam President, there are many factors that a court needs to consider when faced with sentencing an offender for sexual crimes against children. This Bill will compel the court to consider the following factors as aggravating, which will therefore warrant more severe penalties: The offence seriously damaged the physical and mental health of the victim. The offence was preceded or accompanied by acts of torture or serious violence. The offence was committed against a particularly vulnerable victim. The offence was committed by a member of the family, a person cohabitating with the child, or a person having abused his or her authority. The offence was committed by several people acting together. The offence was committed within the framework of unlawful gang activity. And the perpetrator has previously been convicted of offences of the same nature.

Madam President, an important component of this Bill is that it addresses the circumstances of child sex abuse that could not be prosecuted due to jurisdictional issues. These usually entail evidence implicating local suspects having molested local children while overseas. Given the frequency of travel of our population to foreign jurisdictions, this issue is of particular concern. The Bill will amend the Criminal Code to allow prosecution in these particular circumstances.

Madam President, one of the barriers to the prosecution of sexual offences is that they often go unreported because the child victim does not feel that they can report it or has been coerced into not reporting it. Child victims find that decades later, when they are adults, the statute of limitations for the particular offence has run out. I am pleased to inform Senators,

Madam President, that the Bill removes the only statute of limitations that remained for any sexual offence.

Additionally, Madam President, the Bill amends the Criminal Code to create the specific offences of prostituting children, recruiting a child into participating in pornographic performances or causing a child to participate in such performances; coercing a child into participating in pornographic performances or profiting from, or otherwise exploiting, a child for such purposes and knowingly attending pornographic performances involving the participation of children.

Madam President, the proposed amendments extend beyond natural persons to bodies corporate. In particular, upon sentencing a body corporate for the offence of making or distributing child-abusing material or child pornography, the Bill makes provisions for the court, in addition to imposing a fine, to recommend the following with respect to the body corporate: namely, exclusion from entitlement to public benefits or aid, or judicial winding up order.

In addition, Madam President, provision is made for any money forfeited from persons convicted of child pornography offences to be paid into the Consolidated Assets Fund. The Bill proposes that the forfeited money be used for education and training of officials in the effective implementation of the new special measures provisions in relation to child witnesses in criminal cases relating to sexual exploitation of children and related measures, and for prevention and assistance programmes.

Madam President, the Bill introduces a new requirement that the DNA profile of a person who is registered as a sex offender be kept on the register. It also makes the penalty for the following offences against children 50 per cent higher than the penalty where the offence is committed against an adult:

- procuring unlawful carnal connections with a person by threat or fraud, or by administering drugs;
- obtaining prostitution from a child;
- exercising control over a child or other person with a view to prostitution; and
- intruding upon the privacy of women or girls.

Further, the Bill increases the penalty for incest, as suggested by the Court of Appeals in the *Shannon Lawrence* case.

Madam President, with reference to gender neutrality with regard to offences against children, it is important to note that there are currently many criminal offences prescribed in law that can only be committed against a female child. That is to say, if the same acts were committed against a male child, they would not be prosecutable. This is a long-standing omission in our laws attributable to social values and perceptions that pertained at the time these laws were enacted, which are not in alignment with current realities and sensibilities. The Bill ensures equal protection under the law for all children and increased penalties for the offenders.

Madam President, in keeping with the Throne Speech initiative to better assist children before the courts, child safeguarding has been a priority for the Ministry of Legal Affairs. Those familiar with cases involving the sexual abuse of children are aware of the complications faced by our current investigative and court procedures. Unfortunately, these procedures may have a detrimental effect on the children, who are required to endure those processes through no fault of their own. As such, the Bill requires the courts to treat all criminal proceedings for sexual offences relating to a child as a priority, for case management purposes. The Bill advocates for investigations for sexual offences, and any subsequent prosecution, to be progressed and concluded with as little delay as possible.

Madam President, it is important to note that, in order for the child safeguarding regime to be effective, it must also provide for amendments to the Children Act 1998 so as to ensure that awareness of the protection and rights of children is a priority, particularly among persons who have regular contact with children in the education, health, social protection, judicial and law-enforcement sectors, and in areas relating to sport, culture and leisure activities.

To achieve this objective, Madam President, the Bill gives the Minister additional responsibility for promoting and supporting the coordination of all Government departments responsible for managing, protecting, preserving and reducing the serious personal injury offences committed against children. To that end, the Bill empowers the Minister to establish the National Child Safeguarding Committee to make policy recommendations to the Minister regarding the safeguarding and welfare of our children. The purpose of the Committee also includes:

- the development of a national plan of action, to include making recommendations on effective mechanisms to enable the authorities in Bermuda to coordinate with each other concerning the development of policies and activities with respect to combating sexual exploitation and abuse of children;
- coordinating activities to identify, assess and better understand Bermuda's risks in relation to sexual abuse of children, and taking the necessary steps to ensure that such risk assessments are kept up to date; and finally,
- educating the public on, and increasing the public awareness of, the need to safeguard and promote the welfare of children.

Provision is also made for the Director of Child and Family Services to arrange for the delivery of physical and psychosocial assistance to a child who may be a victim of a sexual offence, as well as to a child who may have committed a serious personal injury offence. This includes those who are below the age of criminal responsibility (eight years old), with the aim of addressing any sexual behavioural problems.

As such, Madam President, this Bill ensures that training is provided on children's rights and sexual exploitation and sexual abuse of children for the benefit of all persons involved in court proceedings, including judges, lawyers and law-enforcement officers.

Madam President, child victims are particularly vulnerable, especially with regard to reporting their victimisation after the fact. Their innocence often blinds them to the harm caused to them. The influence and control of adult perpetrators is often decisive. And the fear factor is predictably likely to be more enhanced than for adult victims. This warrants exceptional legal measures to ensure the protection our children deserve. This Bill specifically states that investigations or prosecution of offences, where the victim is a child, shall not be dependent upon the report or accusation made by the child victim, and that the proceedings may continue even if the victim has withdrawn his or her statements.

Madam President, the Bill also amends the Education Act 1996 to require every aided and maintained school to provide children with appropriate information on the risks of sexual exploitation and sexual abuse, and how to protect themselves. This will ensure that our children receive information on the risks of sexual exploitation and sexual abuse, as well as on the means to protect themselves as the first line of defence. Furthermore, consideration will be given to adapting this information to the child's evolving capacity.

Madam President, the requirement for corroboration, which is evidence that confirms or supports the evidence of children, has been abolished in most Western countries, and Bermuda is behind in this regard. The prosecution process itself, especially the trial, can be daunting and stressful for children. There are risks of re-traumatising the child or causing the child unnecessary worry and distress. Bermuda's protections for children in the courts are outdated. Comparable jurisdictions such as the Cayman Islands, Jamaica, Australia, Canada and the UK have all modernised their evidence legislation to more adequately reflect the importance of achieving the best evidence from children.

Bermuda's laws in this regard have not been reviewed or updated for 25 years. Presently, as an example, where a 12-year-old is sexually exploited and cannot demonstrate that they understand the seriousness of a criminal trial and the particular responsibility to tell the truth, that 12-year-old will not be allowed to testify under oath. This means that the accused person cannot be convicted unless there is independent evidence to support what the child has alleged. This is a major stumbling block to justice in these cases, as by the very nature of these offences, there may be no witnesses to the acts and forensic evidence is often no longer available when a child makes the disclosure. Therefore, the Bill removes the requirement for corroboration of a child's evidence.

Madam President, the Bill also provides for an entirely new and modern approach to special measures available to the court to receive the evidence of children. The Bill permits a child's evidence to be pre-recorded in the absence of the jury and the accused, and that recording may be accepted as evidence during court proceedings. By so doing, child victims will be afforded the protection of being heard in the courtroom without being present, through the use of appropriate communication technologies.

The new special measures provide that, where the child witness is a person other than the accused in criminal proceedings relating to a sexual offence, the child's evidence is to be pre-recorded. In the event that the pre-recording for some reason cannot occur, the child's evidence is to be given with the use of an audio-visual link or with the benefit of a screen. The court also retains the power to exclude the public from the courtroom. At all times, the fairness of the trial procedure, the rights of the accused, and the interests of justice are to be considered by the court.

Madam President, the Bill creates a new regime that protects the privilege of sexual assault counselling communications. Presently, such communications are automatically disclosable to the court and to counsel for the defence. This causes distress and discomfort to victims who, consequently, either do not seek counselling and remain in a traumatised state, or choose to withdraw their complaint rather than expose themselves to questions about their counselling. The Bill, therefore, prevents automatic disclosure and requires the leave of the court hearing the proceedings to be obtained to:

- compel another person to produce a protected counselling communication;
- produce to a court, adduce evidence of or otherwise use a protected counselling communication; or
- otherwise disclose, inspect or copy a protected counselling communication.

Madam President, the current sexual offender provisions in the Criminal Code are designed for adult offenders. This Government is not blind to the fact that sometimes it is a child who assaults other children. In such cases, both children are causes of concern warranting systemic intervention relative to each child. Therefore, the Bill amends the Young Offenders Act 1950 to ensure that intervention programmes or measures are developed or adapted to meet the developmental needs of children who sexually offend.

It is also of note, Madam President, that this Bill ensures that those professionals who have regular contact with children have not been convicted of acts of sexual exploitation or abuse of children. The listening public is invited to take note that this means that no person whose name appears in the Child Abuse Register or in the Sex Offender Register will be employed as a health care professional; a school princi-

pal, teacher or counsellor; a social worker, youth leader or recreational leader; member of the clergy or child care worker; or a police officer, probation officer or youth care worker.

I have no doubt, Madam President, that the Bill will provide Bermuda with the tools to ensure that we are among the most progressive nations in the world pertaining to our child protection regime. These measures attest to the value we place on our children and our appreciation that their proper development is indispensable to the future of our society.

Madam President, as I close, I would like to acknowledge the team that has worked tirelessly to bring this very important initiative to fruition, namely, our Deputy Chief Parliamentary Counsel, [Diana] Lorraine Welch; Deputy Director of Public Prosecutions, Cindy Clarke; Policy Analyst, Livingston Wedderburn; Assistant Parliamentary Counsel, Lovette Tannock; Permanent Secretary, Marva O'Brien; and Deputy Solicitor General and National Child Safeguarding Committee Chairperson, Shakira Dill[-Francois]. And, Madam President, special appreciation must be extended to the heads of government departments, namely, the Director of Court Services, the Director of Child and Family Services, the Commissioner of Police, the Director of Public Prosecutions, the Commissioner of Prisons, the Commissioner of Education and the Chief Medical Officers, and in particular, their officers who are responsible for safeguarding our children and whose continued collaborations will underpin this important legislative initiative and ensure its success.

Thank you, Madam President.

The President: Thank you, Senator Kathy Lynn Simmons, Attorney General.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITORS

The President: And before I open the floor, I would just like to acknowledge the presence of the Permanent Secretary, Ms. Marva O'Brien, as well as the Assistant Parliamentary Counsel, Lovette Tannock, and Ms. Gina Hurst-Maybury, who is the Director of Court Services. Welcome to you all.

[Child Safeguarding (Miscellaneous Amendments) Act 2019, second reading debate, continuing]

The President: And now I would ask if any Senator would care to speak on this Bill.

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Thank you, Madam President.

Certainly, the Opposition welcomes the enhancing of safeguards for protections of children, both

from the Joint Select Committee from last year with the Child Protection Committee Report and the November Sex Offenders Management Act. We spoke to, as did the Joint Select Committee, a number of the inherent biases in our law that we hoped would also be further advanced and corrected after the Sex Offenders Management Act, such as the questions of biases on gender and age, and these kinds of things as relates to consent.

It is also good that the language has been corrected not only for the exploited, but also as it relates to exploiters. When you look at the sections on prostitution, for example, it was an act that could, if you were the facilitator, was only judged to be for one gender, as were questions of certain sex acts were deemed to be [that] only certain genders could be the victim. So, we certainly welcome the correction and improvement of these.

Certainly one of the questions we have, I guess in the House, or in another place, is that the Children Amendment Act 2018 has been on the Order Paper since November 2018. And I notice that this Act amends the Children's Protection—

The President: The Children Act.

Sen. Nicholas Kempe: —the Children Act 1998. And it does not have any reference to section 30. I am not sure if the Bill which is in front of the House, or has been on the Order Paper since November, is going to be removed, or if it is still going to be considered to be taken forward, seeing as that waters down the protection of children. And I just want to know what the Government's intentions were with that.

Obviously, this Bill is a rather large omnibus Bill that amends and draws together a number of other pieces of legislation and, as the Attorney General rightly pointed out, required great coordination between a number of departments, which is what made it that much more regrettable that we could not have the due process allowed for a fuller vetting process. At the presentation that was offered on Monday, what was handed out for the very first time was a working draft that was branded "confidential." Unfortunately, the Members who sit in another place did not receive an invitation to attend. And more importantly, the public did not get a copy to allow their input prior to our debating and representing their greater interests.

I understand the Government's desire to go on recess at Cup Match. But, quite frankly, for a Bill of this importance and this comprehensiveness, the Opposition certainly would have preferred that, if we had to come back and meet again after Cup Match, so be it. But that the due process and the availability for the public to see the final drafts and for us to see the final drafts before we debate them, to allow for that public input, would have provided a much better confidence that there were no omissions or errata of content.

But the spirit and the closing and modernising of language and inherent cultural biases that this Bill seeks to correct we wholeheartedly support.

Thank you.

The President: Thank you, Senator Kempe.

Would any other Senator care to speak on this Bill?

Senator Jardine, you have the floor.

Sen. James S. Jardine: Thank you, Madam President.

There is no question that this is a very complex and important piece of legislation. Safeguarding the children in our society is absolutely critical, and this legislation is very much welcomed.

We have had the benefit of a presentation by the technical advisors and draftspersons from the Ministry who led us, clause by clause, through this Bill, taking some two hours, explaining the reasons for the various amendments and answering the many questions we had. And I would just like to say there were a lot of questions. Certainly, there was a lot of participation from the Senators who attended that session.

So, I first want to thank them for the many, many hours that they have, obviously, put into this legislation. I believe that consideration started way back in March, or drafting started back in March, from what I hear. So, this is not something that has been thrown together in five minutes; this has taken a very long time and has had a lot of input from various areas.

I was impressed by the time and the great comfort of their knowledge, not only with respect to this piece of legislation and the issues surrounding this Bill, but also their deep knowledge, familiarity with other key pieces of legislation that are impacted by this Bill, such as the Criminal Act 1907.

A lot of the questions we had were basically because of our ignorance of some of the legislation that already exists. And one individual was able to quote verbatim from various sections, obviously deeply imprinted in her mind as to what the codes are with respect to criminal acts in the 1907 Act. And certainly, that gave me a high degree of comfort that we have people who are involved in the drafting of this legislation who have a deep appreciation and understanding of current legislation, and also some of the more up-to-date pieces of legislation that exist outside Bermuda. So, I took a lot of comfort in that.

As we have heard from the Madam Attorney General, this Bill seeks to amend six pieces of legislation; these are existing pieces of legislation. And there are four key pieces of legislation that are significantly impacted by this. And of course, they are the Criminal Code Act 1907, the Children Act 1998, the Evidence Act 1905 and the Young Offenders Act 1950. There are, obviously, two other pieces of legislation, but

those are the key pieces that seem to be significantly impacted by this.

Now, Madam President, I do not intend to repeat a lot of what Senator the Attorney General Kathy Simmons has already provided this morning. The amendments proposed are many and, in some cases, very significant, such as being able to prosecute, for example, in certain circumstances, those who commit offences against a child while abroad. And I think that is a significant change, and there are others.

I was also pleased to see the change from “may” to “shall” in [clause 39, which inserts new] section 11A(1), on page 15, with respect to the constitution of the committee. And I appreciate the Attorney General’s consideration. That was a comment that was raised by, I believe, Senator Michelle Simmons when we had our discussion back on Monday. And I am pleased to see that this change, a small but significant change, has been made to the legislation.

We were told during our session by the Ministry’s technical advisers and by Madam Attorney General that many of the amendments were adopted from the Lanzarote Convention, which is considered to be best practice. And I did go online to find out what that was all about, having not heard of it before, myself, and found that it has been adopted as enforced by 45 EU countries, including, as I understand it, the UK, according to what I found on Wikipedia.

Bermuda, we were told, already follows many of the recommendations that are contained in the Lanzarote Convention, and this is further involving and in acceptance of other items which are contained in that convention which are relevant to Bermuda. And so, we are, where at all possible, following best practice.

There is naturally a careful balance that has to be struck or kept between the need to protect our children while at the same time upholding the rights of all persons, as defined under our Constitution. And the draftspeople have attempted to do this throughout the Bill. And that is a difficult thing to do, as we know. Our Constitution is an important document for all of us. So, while they are trying to, obviously, protect our children, they also have to recognise the rights and privileges granted under the Constitution to everybody.

Having said that, clause 48 also addresses the matter of privilege as it relates to counselling. And I think this is an important point, too, where the concept of a “protected counselling communication” is defined. It should be highlighted here that the definition of a “counsellor” specifically means—and Madam President, if you will allow me to quote from clause 48.

The President: You certainly may, Senator Jardine.

Sen. James S. Jardine: It says, [new Part IIIAB, section 42X “counsellor means”] “a person who—(a) has undertaken training or study, or has experience, that

is relevant to the process of counselling other persons; and (b) in the course of the person’s paid or voluntary employment, other than as a religious representative, counsels another person.”

So, it would seem to me, Madam President, that the litmus test here is that any person who thinks he or she is a counsellor under this Bill, and therefore believes to be protected under counsellor privilege, must be able to demonstrate proper, adequate training or experience and has, and is, in the habit of counselling other persons—an important point, I think, in determining sexual assault counselling privilege. And again, here it is treading a fair and balanced line of what is and what is not acceptable as far as privilege is concerned, because we are dealing with children here and it has to be taken very, very carefully.

Further, in clause 48 [new Part IIIAB] section 42Y(2), and if I may quote again from that, Madam President?

The President: Yes, you may, absolutely. You certainly may.

Sen. James S. Jardine: It says, “a communication made to or by a medical practitioner about a physical examination of the counselled person conducted” (and this is key) “in the course of an investigation into an alleged sexual offence is not a protected counselling communication.” So, I think it is important that readers look at the various clauses and understand the significance of them, because they are there for a reason.

So, Madam President, this is a very comprehensive Bill, which brings forward many new and relevant additions to the various Acts which are impacted by it, while at the same time making numerous other changes to wording which is obsolete in today’s world, such as the many gender-neutral changes appearing throughout the Bill. So, Madam President, I am therefore very pleased to be able to support this Bill.

Thank you.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Campbell, you have the floor.

Sen. Vance Campbell: Thank you, Madam President.

Madam President, we sat here not that long ago debating the Bermuda Economic Development Corporation Amendment Act 2019. And I made mention at that time that it is not that often that we get to debate a Bill that is a continuation of an evolutionary process. More often than not, we are debating Bills that are updating antiquated legislation, outdated legislation.

Today I am actually pleased to be sitting here debating this particular piece of legislation, which, as the Attorney General stated, brings much-needed reform to our child safeguarding regime. Our children,

Madam President, are our most vulnerable in the community. And it is our responsibility to pass measures which provide greater safeguarding for them. The Attorney General, Madam President, began her brief with a quote from the 2006 UN study on violence against children. With your permission, Madam President, I would like to restate that quote.

The President: You certainly may, Senator Campbell.

Sen. Vance Campbell: It stated that “No violence against children is justifiable; all violence against children is preventable.”

Madam President, it is my belief that the measures introduced by this Bill will go a long way in preventing harm to our children. And where harm does occur, it ensures that the perpetrators will receive increased and more severe penalties for their actions.

Madam President, I believe, and I am sure all Senators will agree with me, if only one child is harmed, that is one child too many. And I will repeat that: If only one child is harmed, that is one child too many. This Government, this PLP Government, spearheaded by the Attorney General and her team, remains committed to the safeguarding of our children. And we use [the term] “safeguarding” here because safeguarding, as opposed to protection, is a broader and deeper concept in child welfare than simply child protection. So, you have heard that [word] “safeguarding” used continuously today, Madam President.

Madam President, the changes provided by this Bill are in alignment with the Lanzarote Convention. And [as with] many Senators, this was a new concept to me. And you have heard that this is the gold standard, it is considered the gold standard for child safeguarding. And the measures of this Bill, we have been advised, we had heard, are in accordance with the Lanzarote Convention.

We have heard the different concepts of this Bill. It has modernised its language. It amends six pieces of legislation, as highlighted by Senator Jardine. It compels the court to consider certain factors as aggravating when dealing with the actions of child abuse against . . . well, child abuse. It addresses the challenges previously held as it relates to jurisdictional issues. It removes the statute of limitations. These are significant things, Madam President. We are not talking about small matters. These are significant.

It creates specific offences under the range of prosecuting children and around pornography. As I mentioned before, it increases penalties. It is now gender-neutral. So, for the young male children, this is a good thing, you know. It covers them. We do not have to refer (I believe we were told) to assault, sexual assault. They were covered under that before. But now this specifically deals with gender neutrality.

There have been provisions made for the possibility of a child giving evidence, which is important, as highlighted by Senator Kempe. There are provisions when the child is the perpetrator and not the victim.

Madam President, this Bill is the culmination (and I stand to be corrected) of four to five months of work by the Attorney General and her team. But I think the concept was born a lot longer ago, I believe nine, ten, twelve months ago. But the drafting work, I am told, began four to five months ago. And I would like to thank them for their efforts because this is a very important Bill as it relates to the most vulnerable in our community.

Madam President, I will conclude with something I said earlier. And that is, if only one child is harmed, that is one child too many.

Thank you, Madam President. I support this Bill.

The President: Thank you, Senator Campbell.

Would any other Senator care to speak?

Senator Michelle Simmons, you have the floor.

Sen. Michelle Simmons: Thank you, Madam President.

This morning (I think it is still morning) I am going to begin by commenting that I am delighted that Government has taken so seriously the need to protect and safeguard our children. As a couple of Senators have already said, we have seen an Amendment to the Criminal Code. That is the Criminal Code (Sex Offender Management) Amendment Act 2018, which became law in February of this year. That was step number one.

Today the Bill before us is the next phase of the actions we, as a community, need to take to ensure the safety of our children. Government, through this Bill, is strengthening several aspects of our legal framework so the children, and indeed the whole community, can have an improved degree of safety.

I think all of us were researching the Lanzarote Convention since Monday’s meeting, and many of us before that, as well. But it is interesting to note that this convention was first signed in 2007. And the UK Government, very recently, Madam President, in June 2018, I believe, finally ratified the convention. So, this means that, as a Government, they have said, *We intend to subscribe to this convention*. And therefore, their laws and their policies and practices will take Lanzarote into consideration.

We are saying, through this Bill today, that we too intend to take the Lanzarote Convention to heart and make sure that our laws, our legislation reflect the seriousness of these crimes that are being perpetrated against our children.

According to the Lanzarote Convention, as has already been stated . . . and I will just repeat a small part of it. The intention was to criminalise all

kinds of sexual offences against children whether committed at home or abroad. This includes the exploitation through prostitution, grooming and offences related to child abuse material. The convention, Madam President, also was enacted to protect the rights of child victims and to promote national and international cooperation so that, indeed, we could come together across countries to support each other in our efforts to protect our children.

Sometimes, we tend to bury our heads in the sand. But this is not the time for that, because we need to acknowledge as a community that, on a regular basis in this community, in this wonderful paradise in which we live—we are blessed to live here—children are being abused. They are being sexually abused. They are being sexually exploited. In fact, you only need to refer to any of the local news media outlets on a daily basis to see instances through the courts or people disclosing information regarding things that have occurred to them either as young children, as teenagers, or even as adults.

In many instances when children have been abused in the past, Madam President, they have not come forward, for various reasons. But after years and years of suffering from the consequences of the abuse perpetrated against them, they have, as adults, as mature adults, been able to come forward and deal with what has happened in the past. We have seen a few stories recently.

The Bill before us today, Madam President, attempts to ensure the rights of children without discrimination on the grounds of sex, race, gender, religion, social or national origin. There are lots of component parts in this Bill. And these issues have been thoroughly addressed.

We have heard about the six Acts that are being amended under the Bill. And I would like to thank . . . as every Senator who has spoken so far has, I too would like to thank the Attorney General and all of the staff in her Chambers, the Deputy Director of Public Prosecutions, the Deputy Chief Parliamentary Counsel, the Permanent Secretary and everyone else for all of their hard work. Because they have ploughed through a lot of Acts. They have been thorough. And they have given us a wonderful briefing session earlier this week. So, thank you, thank you, thank you. The beneficiaries will be our children and the whole community.

Because very few people beyond this room have seen the [Bill], I am going to repeat a few things. I call it some of the highlights for me from the Bill. And I will be brief. But these things need to be stated so that those listening to us will know that the rights of our children, the rights of adults are being taken seriously and they are protected. So, perhaps those who have not come forward up to this day, in hearing about some of these amendments, will also find the courage and the support that they need to step for-

ward and declare so that these matters can be dealt with.

First highlight: The Bill strikes a great balance, and I believe I am almost quoting (I am not quite quoting) either the Deputy Parliamentary Counsel or the Attorney General from the briefing on Monday when they said, *This strikes a balance between persons' constitutional rights and the need to safeguard the public*. I liked that expression, especially when it comes in relation to our children. For example, the amended Criminal Code will require judges and magistrates to take into consideration, before passing sentence, the seriousness of the crimes, as well as aggravating circumstances, which seemed to not have been considered in the past.

Next highlight: The Bill removes all of those archaic expressions, and it updates the language. And the Attorney General delivered on some of that this morning. "Defective"—we cannot refer to people in our community in that way—"unnatural offences," "offences against morality."

Another highlight: The Bill is gender-neutral. Boys and girls. Girls seem to have had far more protection in the past than our young boys, but now the Bill is gender-neutral, so unlawful carnal knowledge will apply to both boys and girls. The crime of incest has been more tightly defined, and relationship tests are very clearly elucidated in this Bill.

The Bill removes something very important, and that is the time barrier that existed, because it will now no longer be the case that the prosecution of an offence has to occur within 12 months after the offence has been committed. That [is] gone. And I think that one is worth repeating. It will no longer be required to begin the prosecution for an offence within 12 months after the offence has been committed.

Another highlight, for me, Madam President, was that the Bill enables Bermuda authorities to have jurisdiction in cases where an offence has been committed against a child outside of Bermuda. We know of instances where that has happened, and people have escaped prosecution. But they will not any longer.

Very importantly, the Bill will require the Director of Child and Family Services to . . . and, Madam President, may I quote this part?

The President: You certainly may, Senator Simmons.

Sen. Michelle Simmons: The director will have to "arrange for the delivery of physical and psychosocial assistance to a child . . ." (That is the end of the quote.) And this child may either be the victim or the perpetrator of sexual crimes. We have acknowledged that, yes, we have child victims. But we also, unfortunately, have child perpetrators. And both of them will be eligible to receive support and services through the office of the director.

Another important aspect of this Bill, Madam President, is that anyone who is registered as a sex offender must also, as part of his or her registration, have a DNA profile attached. This is important because it will be clear who the offender is, without any doubt.

Another highlight of this amending Bill: The Minister, at his or her discretion, shall establish (and thanks to Madam Attorney General, it was changed to “shall” establish), as a statutory body, a National Child Safeguarding Committee. There is already an excellent group, an excellent committee hard at work. But I think this just gives that committee even more teeth to ensure that their recommendations are taken to the highest level.

I have almost reached the end, Madam President, but just a couple more highlights. The Bill provides that in cases where the victim or complainant is a child, prosecutions may proceed without a statement from the victim. But the law will also enable children under the age of 14 years to provide unsworn testimony. That was not allowed for in the past. So, I think it is an important piece.

Finally, I am hoping that the passage of this Bill will also provide a platform for Government to provide more resources to pursue those who commit these crimes against children and also to provide more assistance to the victims of sexual abuse. We know that there are victims who have not had any counselling, who have not had support, for various reasons. But now this will allow Government to direct more resources to people who have been victims.

As far as I am concerned, this is a critical piece of legislation that we, hopefully, will pass today. It will ensure—it will help to ensure the safety of the most vulnerable population in Bermuda. However, I am urging parents to take the issue of sexual abuse of children as seriously as possible. It is not something that we should just feel will never apply to our children. It is an issue in this community. And I also want to mention SCARS, which has been offering training courses. They are three-hour training courses which support parents, teachers, guardians, relatives, friends, anyone who wants to be part of the solution to this problem. It will be three hours well spent because you will come away enlightened. You will come away more knowledgeable. You will come away with more tools which will help you to protect the children in our community.

Thank you, Madam President. I think it is quite clear I do support this Bill.

The President: Thank you, Senator Michelle Simmons.

Would any other Senator care to speak on this Bill?

No? Then, over to you, Senator Kathy Lynn Simmons, Attorney General, to respond.

Sen. the Hon. Kathy Lynn Simmons: Thank you, Madam President. And thank you, Senators, for your comments.

You will recall some months ago in, I believe, one of my motion to adjourn speeches, I did notify the Senate that I would be bringing initiatives pertaining to the children. And I think I went so far as to say that I expect bipartisan support. I was probably in one of my moods where I was being demanding. But I appreciate the support. I had no doubt that Senators would support this initiative, given the importance it has with respect to safeguarding our children.

In terms of the urgency of the initiative, let me be clear. We are going to have a long, hot summer. There are children in our community who are not supervised, who are not protected. And these measures go a long way in acknowledging that we must protect them.

To Senator Kempe, the public will have a full understanding of this Bill because we intend to do outreach. [There are] fifty-nine clauses I think we have here, amending six Bills, which are very difficult for anyone to wade through. So, to release this in its present form would not have been useful for anyone. So we intend to make sure that the public is well aware of the rights that the children have under this legislation and the protections that are afforded to them, and the support that will be afforded to children during the court process.

Madam President, Senator Kempe asked about the status of another Bill that had been tabled with regard to children. And that Bill is the Children Amendment Act that was tabled in the House of Assembly in November. I will say categorically that the intention of the Ministry is always to ensure that we have the best model for any initiative. And the Bill that was tabled is a very narrow amendment. And I have undertaken to ensure that, in reviewing the scheme appropriate to litigation guardians, it will be the best scheme that will reflect the best standards for that particular protection that is afforded children in the court process. So, Senators will stay tuned, and rest assured that, as we have done with child safeguarding, we will ensure that international best practices are Bermudianised to achieve a sustainable model for our children.

The Child Safeguarding Committee has to be acknowledged. And Senator Simmons mentioned the good work that they do. This was actually an ad hoc committee that I came upon when I took office that did not have any statutory mandate or any teeth. And it is a collaboration of the agencies that are listed in the Bill and that I mentioned in my Statement that have worked together to share common experiences and to support each other in their mandates to safeguard our children. They will be pleased to see that they now have a statutory mandate. And this legislation has been circulated to all of the agencies. And we will definitely be monitoring their progress and their opera-

tions. But at least they have a formalised springboard to continue their work.

Senator Jardine was very thorough in his comments, as usual, and acknowledged that we do, in fact, follow many of the requirements under the convention already. What is important to note . . . and mention was made of the time-consuming process of drafting this legislation. I have an unsung hero sitting behind me. That is the Chief Parliamentary Counsel, Lorraine Welch, who actually pressed “pause” and advised that there were constitutional issues that had to be addressed, that had to be addressed. And those issues pertained to ensuring that we acknowledge that the accused also has rights in the process. And so, I am happy to say that under her stewardship (and that is Lorraine), she has achieved that balance and effectively prescribed it in legislation. So, many thanks to her.

And the voice of knowledge that was at the briefing was none other than our Deputy Director of Public Prosecutions, Cindy Clarke, who lives criminal prosecution and who was able to, as Senators will recall, speak to this from a position of huge knowledge and expertise. And I cannot thank her enough for the support that she provided in drafting this legislation, from a practical point of view, because, of course, it has to be able to be implemented.

Senator Campbell has acknowledged that our children are our most vulnerable citizens. But the Bill also effectively acknowledges that we have vulnerable citizens in our mentally challenged population who also need to be protected.

The resource issue, Madam President, was raised by Senator Simmons. We always review our programmes to ensure that they are properly funded and that the allocation of human resource is appropriate to the task at hand. In this particular instance, I can say that the agencies responsible for child safeguarding, Madam President, are up and running, are properly resourced and will continue to deliver the service that they do with regard to the subject matter.

Without more, I will say that Senators enjoyed their briefing. And I am pleased that they have come to the table with a full understanding of what we are advancing today. Members in another place, the House of Assembly, will be invited to a briefing. It was deemed that a very protracted session was not advisable for the first go-round, given the number of questions that would probably arise from this Bill. So, we are more than happy to invite other Members to participate and avail themselves of the expertise from our technical team.

With that said, Madam President, I can ensure Senators and members of the listening public that the Government will continue to bring measures to further protect our children and that our commitment in that regard remains undaunted.

And with that, Madam President, I move that—

Sen. Nicholas Kempe: Just a point of clarification, if I may?

The President: Yes. Go ahead.

POINT OF CLARIFICATION

Sen. Nicholas Kempe: It was not clear from your response to the . . . sorry.

Madam President, it was not clear from Madam Attorney General’s response about the Children Amendment Act sitting in another place if it was the Government’s intention to proceed with that Bill as is.

Sen. the Hon. Kathy Lynn Simmons: That is not a matter for this Senate at this time.

Thank you, Madam President.

The President: Thank you, Senator Attorney General, and Senator Kempe.

Sen. the Hon. Kathy Lynn Simmons: I believe that I . . . shall I move the second reading again?

The President: Yes. Please do that.

Sen. the Hon. Kathy Lynn Simmons: Yes. I move, Madam President, that the Bill entitled the Child Safeguarding (Miscellaneous Amendments) Act 2019 be read now a second time.

The President: Is there any objection to that motion?
No objection.

SUSPENSION OF STANDING ORDER 26

Sen. the Hon. Kathy Lynn Simmons: Thank you, Madam President.

I move that Standing Order 26 be suspended in respect of the Bill.

The President: Is there any objection to that motion?
No objection.

[Motion carried: Standing Order 26 suspended.]

Sen. the Hon. Kathy Lynn Simmons: I move that the Bill be now read a third time, Madam President.

The President: Is there any objection to the third reading?

No objection.
Carry on, Senator.

BILL

THIRD READING

CHILD SAFEGUARDING (MISCELLANEOUS AMENDMENTS) ACT 2019

Sen. the Hon. Kathy Lynn Simmons: Thank you, Madam President.

I move that the Bill entitled the Child Safeguarding (Miscellaneous Amendments) Act 2019 do now pass.

The President: Is there any objection to the passing of this legislation?

No objection.

The Bill entitled the Child Safeguarding (Miscellaneous Amendments) Act 2019 is now passed.

[Motion carried: The Child Safeguarding (Miscellaneous Amendments) Act 2019 was given a third reading and passed.]

The President: Thank you, Senators, for your support.

MOTIONS

The President: There are none.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The President: Would any Senator care to speak on this?

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Thank you, Madam President.

I would certainly like to extend my congratulations to the Bermuda Debate Team who represented us in the Czech Republic. They got the highest placing Bermuda has had to date, with a second place overall. They won seven of their eight preliminary round matches. They ended up with the most wins in the tournament, the highest judge's ballots, at 21, and the highest speaking point totals. Both as the team and individual members won a number of speaking prizes. The team of Kate Tobin, Genevieve Lau and Hailey O'Donnell should certainly be congratulated, as should the coach and former neighbour of mine, Coy Kijaun Millett.

Thank you.

The President: Thank you, Senator Kempe. I am sure we all join you in those congratulations. That is quite an achievement.

Would any other Senator care to speak?

Senator Campbell, you have the floor.

Sen. Vance Campbell: Thank you, Madam President.

I will add to Senator Kempe's comments by saying that Hailey O'Donnell was ranked as the best overall speaker at the tournament, while Genevieve Lau ranked third, and Kate Tobin ranked fourth.

Madam President, I would like to congratulate the 24 young women who completed the first-ever She Leads: A Real World Readiness Programme in a public/private partnership offered to the students of the BHS (Bermuda High School), the Berkeley Institute and CedarBridge Academy. It was a weeklong programme, Madam President, that taught the girls tools, frameworks and mind-sets necessary for them to take ownership of their education, employment and beyond.

Madam President, I would also like to congratulate our Adult National Jump Rope Team for their good performance in representing Bermuda at the World Jump Rope Championships in Norway. They go by the name as the Berym Bounce Backs, and the team consists of Kendia Gill, Lawriette Thomas, Safiya Dyer and Keitha Hodgson. And the coach was Toni Dickerson. They participated in 14 events, in which they placed first in one, second in another and received two third-place finishes. So, I would like congratulations to go out to them.

I continue, Madam President.

The President: Carry on.

Sen. Vance Campbell: I would like to congratulate Mr. Kairo Morton, who received sponsorship from Premier David Burt and CCS Ltd., both in the amounts of \$2,500 each. Mr. Morton will be working on an artificial intelligence PhD project administered by Assistant Professor of Computer Science, Ruzica Piskac, and this is run at the Yale University with the ROSE Group. And Kairo attended the Code 441 Bermuda Hackathon, where he impressed the Yale computer science faculty, Mr. Mark Santolucito, PhD candidate. And he was invited as a result of his performance there. So, congratulations to him. I am sure his parents are proud of that.

Lastly . . . well, not lastly. Two more, two more.

[Laughter]

The President: You are on a roll.

Sen. Vance Campbell: I would like to congratulate Rockal Evans, who sailed to victory in the 2019 International Finn Queensland Championship Regatta in Australia. He won the seven-race series with 12 points. And he finished with three wins and three third-place finishes, never finishing out of the top four. Participants were from Bermuda, Hong Kong, Sydney, Melbourne, Adelaide, Perth and Queensland.

Lastly, Madam President, the Corrections Department held their GED graduation recently. And I

would like to congratulate the young men, Daymon Simmons, Dion Cholmondeley, Detre' Ford, Andre' Richardson and Mikiel Thomas for successfully completing and receiving their GED. Hopefully, they will use that as a springboard to better things for themselves, going forward. Thank you, Madam President.

The President: Thank you, Senator Campbell.
Would any other Senator care to speak?
Senator Richardson, you have the floor.

Sen. Anthony Richardson: Madam President, just briefly, I want to acknowledge the recent passing of Mr. James Parsons and send condolences to his sister, Valerie. And for me, he was one of those persons whom I met when I was a lot younger. And [he] introduced [me] into the work world and taught me about proper decorum and good work ethic.

On a different note, I want to actually, I guess, acknowledge Ms. Debra James, as I want to call her a community hero. She is actually one of the Crossroads soccer moms. And she had some concerns that she wanted to bring to clean up the neighbourhood, effectively. She did make some requests of Government and others. And in an instance whereby they were not able to do what she wanted to get done, she undertook it herself to do it. And in my mind, it came down to the idea that the Government starts with the people. And she was very effective in making sure that there was a lot of community clean-up this weekend, also assisted by Ms. Celine Talbot, who is really responsible for the whole Crossroads soccer programme. And I will also give acknowledgement to MP Sylvan Richards, who was also present at the time to help us get some work clean-up done.

So, those are my comments, Madam President.

The President: Thank you, Senator Richardson.
Would any other Senator care to speak?
Senator Michelle Simmons, you have the floor.

Sen. Michelle Simmons: Thank you, Madam President.

Senator Campbell, you stole one of mine. But that is okay. I forgive you.

[Laughter]

Sen. Michelle Simmons: Madam President, I would like to thank the Premier for seeking, and I would like to thank the Governor for granting. And I think everyone knows what I am referring to. It is the posthumous pardon for Rev. Charles Vinton Monk, obviously, former Pastor of Allen Temple AME Church in Somerset, as well as Pastor of Mount Zion AME Church in Southampton.

When he was assigned to Bermuda by the Bishop of the First District of the AME Church, he was sent to pastor both of those churches. Living in the West End, he saw first-hand many of the injustices that were being suffered by imported workers from Jamaica who were helping to extend the area in the west. A lot of people think it was just Dockyard; but in fact, it was Ireland Island, Boaz Island, all the way down to Watford Island. There was a lot of work being undertaken during that period.

And it was quite clear from the research that Ira Philip did, the painstaking research that he did in at least three countries—in the United States, in the United Kingdom and certainly here in Bermuda—that there was a story to be told. Most of us had never heard of the detailed story. If you do not know it, try to get a copy of *Freedom Fighters: From Monk to Mazumbo* and spend some time reading it because it will really give you a good look at how Bermuda operated in the late 1800s, early 1900s.

I believe that this is the first time that a Governor of Bermuda has actually acknowledged that there have been grave injustices committed against people of colour in this country. Therefore, I just wanted to take a moment today to thank the Premier for seeking this pardon and to thank the Governor for granting it. I am sure they both did their homework. They both did their research. And in the end, they have stood up for justice.

Thank you, Madam President.

The President: Thank you, Senator Michelle Simmons.

Would any other Senator care to speak?
No?
Senator Simmons, Attorney General.

[Crosstalk]

The President: I thought Senator Simmons was going to speak on condolences. And so, I would just like to say that I would like for the Senate to send condolences to the family of former Senator, Mrs. Jeannette Cannonier, who was gazetted today as having passed. And so, I think on behalf of all Senators, we should send condolences to her husband, George, and her two children.

With that, I will now hand over to Senator Kathy Lynn Simmons for the adjournment.

Sen. the Hon. Kathy Lynn Simmons: Thank you, Madam President.

Before I adjourn, I would like to acknowledge the success of the martial arts group that travelled recently to San Jose [California] and came back with seven medals. Their accomplishments are near and dear to my heart because one Kaelin Cox, whom I have seen from a youngster, excelled along with his teammates in that competition. And I would like to

point out to Senators that the martial arts are a sport that is very under-acknowledged in our country. We come here week over week, and we applaud football, we applaud cricket. And I encourage Senators to have an eye out for the youngsters who are doing great work internationally in representing Bermuda in the martial arts. So, to Kaelin Cox and Garon Wilkinson and the other teammates who represented us so well, we send our congratulations.

The President: Thank you, Senator Kathy Lynn Simmons.

And now you . . .

ADJOURNMENT

Sen. the Hon. Kathy Lynn Simmons: Thank you, Madam President.

I move now that we adjourn Senate until July 26th [*sic*].

The President: July the . . . oh, the 24th.

Sen. the Hon. Kathy Lynn Simmons: Anthony's. . .it looks like the 26th. . . July 24th.

The President: July 24th. Thank you.

Would any Senator care to speak on the motion to adjourn?

Senator Kempe, you have the floor.

DEPARTMENT OF CHILD AND FAMILY SERVICES INVESTIGATION

Sen. Nicholas Kempe: Thank you, Madam President.

I would just like to take advantage of my time allotted to restate some questions that were raised three weeks ago that we have yet to get answers to. And they were directed ¹three weeks ago to Madam Attorney General. And it is, Under what Act or other instrument was the first investigation started under Minister Weeks carried out? And which outside entity performed the investigation?

Two, Was that investigation completed after former Minister Weeks was removed and DCSF [Department of Child and Family Services] moved under the Attorney General's charge?

We did get an answer to the third question I asked about who decided to use the Internal Audit Act for the second investigation. And apparently, it was the former director.

And the fourth question was, Did the Attorney General know that the results of investigations under the Internal Audit Act 2010 could not be publicly disclosed prior to the start of the investigation? Thank you.

The President: Thank you, Senator Kempe.

Would any other Senator care to speak on the motion to adjourn?

No?

Then, Senators, Senate stands adjourned until the 24th of July, next week Wednesday. Thank you all for your work this morning.

[At 11:55 am, the Senate stood adjourned until 10:00 am, Wednesday, 24 July 2019.]

¹ [Official Hansard Report](#), 26 June 2019, page 537