



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

12 June 2019

*Sitting number 15 of the 2018/19 Session
(pages 515–528)*

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

Disclaimer: The electronic version of the *Official Hansard Report* is for informational purposes only. The printed version remains the official record.

BERMUDA SENATE**OFFICIAL HANSARD REPORT****12 JUNE 2019****10:02 AM***Sitting Number 15 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 5 June 2019]

The President: The Minutes of the 5th of June 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 5th of June 2019, be taken as read.

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

Sen. James S. Jardine: Madam President, I move that the [Minutes of Wednesday, the 5th of June 2019](#), be confirmed as the correct record of that meeting.

The President: Is there any objection to that motion?
No objection. The Minutes of the 5th of June 2019 are confirmed.

[Minutes of 5 June 2019 confirmed]

ANNOUNCEMENT BY THE PRESIDENT**SENATE VISITORS**

The President: Before I go on, I would just like to acknowledge the presence of the Secretary to the Cabinet, Marc Telemaque, as well as Mr. Tannock, who is in insurance in the Cabinet Office. And they are with us today. Welcome to both of you gentlemen.

MESSAGES

The Clerk: There are no messages, Madam President.

The President: Thank you, Clerk.

REPORTS OF COMMITTEES

The President: There are none.

ANNOUNCEMENTS

The President: There are none.

NOTICES OF MOTION

The President: There are none.

PETITIONS

The President: There are none.

STATEMENTS

The President: There are none.

INTRODUCTION OF BILLS

The President: There are none.

FIRST READING OF PUBLIC BILLS

The President: There are none.

FIRST READING OF PRIVATE BILLS

The President: There are none.

QUESTION PERIOD

The President: I understand there were written questions to the Parliament for tabling through Senator Campbell.

Senator Campbell.

Sen. Vance Campbell: Good morning, Madam President.

The President: Good morning.

Sen. Vance Campbell: You are correct, and [written responses](#) have been provided to those questions.

QUESTIONS: BERMUDA INFRASTRUCTURE FUND

Sen. Vance Campbell: *With respect to the Bermuda Infrastructure Fund, would the Junior Minister please inform the Senate as to whether any projects have been initiated and completed through the Fund to date, and what projects, if any, are being considered for development over the 2019/20 Fiscal Year?*

Sen. Vance Campbell: *With respect to the Bermuda Infrastructure Fund, would the Junior Minister please inform the Senate as to the amount of Management Fees paid to the Fund Manager to date?*

Sen. Vance Campbell: *Would the Junior Minister please inform the Senate as to how many jobs for Bermudians have been created through Bermuda Infrastructure Fund projects since the Fund's announced launch in May 2018?*

The President: Thank you, Senator Campbell.

ORDERS OF THE DAY

The President: We have one Order of the Day, and it is the Second Reading of the Premier, Ministers and Opposition Leader Personal Staffs Act 2019.

Also, I understand we are going to go into Committee. So, that would be Senator Campbell. We will be going into Committee on this Bill.

[Crosstalk]

The President: No, no. You would present on the second reading.

Sen. Vance Campbell: We still go through the normal process, Madam President?

The President: Yes. We follow the normal process. Thank you.

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Premier, Ministers and Opposition Leader Personal Staffs Act 2019 be now read a second time.

The President: Is there any objection to that motion?
No objection. Carry on, Senator Campbell.

BILL

SECOND READING

PREMIER, MINISTERS AND OPPOSITION LEADER PERSONAL STAFFS ACT 2019

Sen. Vance Campbell: Madam President, the Bill before the Senate is the Premier, Ministers and Opposition Leader Personal Staffs Act 2019.

Madam President, when this Bill was tabled, the Premier gave a Ministerial Statement to the House setting out the rationale for the Bill. Madam President, very often there is a need for Ministers to have the benefit of political or expert advice. The public service is an impartial entity serving Ministers and the Government of the day.

The ability of Premiers and Opposition Leaders to appoint personal staff has been enshrined in law since 1983, while the advent of the Ministerial Code of Conduct has made provisions for Ministers to engage advisors and consultant experts.

Madam President, this Bill here today replaces the 1983 Act and now includes provisions modelled on section 9.1 of the Ministerial Code of Conduct, Advisors and Consultants, to permit Ministers, subject to the written approval of the Premier, to appoint a personal staff consisting of one or two persons. Madam President, the Bill ensures that those appointments are not part of the public service, but affords them the appropriate scope to properly advise Ministers by providing access to confidential information.

Madam President, it is important to note that this Bill will now require the Premier to make an annual report to the Legislature, specifying details of all persons appointed to the personal staffs during the previous calendar year.

Madam President, I can also advise Senators that a Code of Conduct for special advisors has been prepared, and the final draft will be made available to the public.

At this time, Madam President, I would like to take a closer look at the Bill itself.

The President: Mm-hmm.

Sen. Vance Campbell: The purpose of the Bill, Madam President, is to repeal and re-enact the Premier and Opposition Leader Personal Staffs Act 1983 with amendments to provide, in addition, for personal staffs for Ministers. So, many of the changes, Madam President, if you look at the Citation, you see the insertion of the word "Ministers." And in the Interpretation, there is the addition of section 4 when you compare that with the 1983 Act. So, many of the changes relate to the insertion of "Ministers" in the language.

Much of the language, Madam President, has not changed. So, I will go to one of the new inserts in this that is not contained in either the Ministerial Code of Conduct or the 1983 Act. And that would be clause 4, Personal staffs for Ministers. Madam President, with your permission, I would like to read that.

The President: You certainly may, Senator Campbell.

Sen. Vance Campbell: Clause 4 says, “(1) Subject to this Act, and to the written approval of the Premier, each Minister may, by instrument in writing, appoint a personal staff consisting of one or two persons to assist him.

“(2) The persons shall be either—(a) experts in their professional field; or (b) political advisers.

“(3) Before appointing a person to his personal staff, the Minister shall ensure there will be no conflict of interest between the matters on which the person will be providing advice and assistance and that person’s private or professional concerns.”

Madam President, with your permission, I would now like to read [section] 9.1 of the Ministerial Code of Conduct.

The President: Carry on. Certainly, Senator Campbell.

Sen. Vance Campbell: [Section] 9.1 states, “On the one hand, the employment of advisers”—and the heading is Advisors and Consultants. So, it states, “On the one hand, the employment of advisers and consultants adds a political dimension to the advice available to Ministers, and, on the other hand, it provides Ministers with the direct advice of distinguished experts in their professional field, while reinforcing the political impartiality of the Civil Service by distinguishing the source of political advice and support. Cabinet Ministers may, subject to budgetary approval, each appoint up to two Advisers and/or Consultants (political or expert). In appointing a paid adviser, the Minister must ensure that there is no conflict of interest between the matters on which the adviser will be providing assistance and his private concerns. All such appointments require the prior written approval of the Premier, and no commitments to make such appointments should be entered into in the absence of such approval.”

So, Madam President, what you see there is a lot of similar language. But at the end of the day, the two different documents are stating the same thing.

Again, Madam President, if we move down to clause 6, Financial provision, it states, “The total remuneration of whatever kind payable to the personal staff of the Premier, a Minister or the Opposition Leader out of public funds shall not exceed the amount provided for that purpose by the Legislature.” So, that language, Madam President, is consistent

with the 1983 Act, with the exception of the insertion of “a Minister.”

In clause 7, Madam President, Personal staffs not part of public service, again we have the scenario—with the exception of the insertion of “the Minister,” we have very similar language—updated language, if I might add, because of changes in some of the Act. But it basically states the same [language] as the 1983 Act.

If you look at clause 8, Madam President, Personal staffs personal to appointors. Clauses 8(1) and 8(2) are the same language as contained in the 1983 Act, with the exception of the insertion of “the Minister” in clause 8(2). So, clause 8(3) is new. It says, “For the purposes of this section, a Minister shall be deemed to have left office if the Governor amends his ministerial portfolio in accordance with section 61 of the Bermuda Constitution Order 1968.” So, again, similar language with an amendment based on the inclusion of personal staff for Ministers.

Clause 9, Madam President, is new in that it requires the Premier to “lay, in each House of the Legislature, an annual report listing the names of all persons appointed to a personal staff during the previous calendar year, indicating (a) their functions; (b) their remuneration; and (c) in the case of the personal staff of a Minister, whether each person was appointed as an expert in a specified field or as a political advisor.”

So, Madam President, we see very little that is new in this Act. And that which is new is basically language to accommodate the inclusion of Ministers, the right of Ministers in the law, to enshrine that in this law as opposed to having it contained in the Ministerial Code of Conduct.

So, Madam President, with that brief introduction, I would like to commend this Bill for the consideration of the Senate. And I would like to conclude with a quote from the Premier’s Statement last month in relation to this matter. And that is, “Bermuda is a complex society with a delicate economy, and is facing equally complex issues around economic diversification, social change and building a fairer society. We must ensure that Ministers can call upon the expertise and support required to properly discharge their responsibilities as demanded by the modern era of public service.” Thank you, Madam President.

The President: Thank you, Senator Campbell.

Would any Senator care to speak on this Bill?

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Thank you, Madam President. And thank you, Senator Campbell, for your concise summary of the Bill.

I certainly agree that this is basically a consolidation of section 9 of the Code of Conduct and the 1983 Act. There is not a whole lot different here. So, I do not see there being a massive amount of debate, quite frankly.

But there are a couple of comments I have. First of all, the Code of Conduct which relates to the personal staff of Ministers that Senator Campbell mentioned in his comments was highlighted in another place. And there it was shared that there is a draft copy of this that is going to be ready by the end of June. Well, here we are at the middle of June debating the Bill without the accompanying Code of Conduct.

So, I do not quite understand the, I guess, rush, for lack of a better word, why these two documents could not be considered together in their whole, as they are kind of—one part complements the other. And it would have made a lot more sense, as legislators, to contemplate what is going to be in the Code of Conduct for these personal staff members at the same time as we change their statutory situation from basically consultants to, essentially, employees.

One of the elements that was also highlighted in the House was, I guess for lack of a better word, an inadequacy in the wording of the annual report. It stated—and I will not go into great length here, Madam President, because this will be more for the clause-by-clause Committee debate that we are going to have today—which says that the report only names those people who were appointed during the previous year. And that manner of wording would fail to publish in the report people who had been appointed, say, two years ago, but continued on as a personal staff member of a Minister or the Premier or the Opposition Leader.

The other things that I guess this Bill does not capture, but should possibly be considered in the future, are their remunerated committees that are outside of being personal staff members. Because this is where, when we are talking about transparency and the use of the public purse, these are the types of questions that the public are asking us every day.

Also, one of the main discrepancies—and I do not believe Senator Campbell said it in his statement—relates to some of the employment liabilities for the personal staff of Ministers. Presently, they are hired under more of a consultant contract than an employment-style contract. And so, health care, pension, and I am uncertain about redundancy obligations, are now going to be shouldered by the government, when they were not before under the—when they were hired under simply the Code of Conduct and not the Premier and Opposition Leader Personal Staffs Act 1983.

So, those are all my comments for now. I will save the beef of my comments for the Committee stage when we are debating the clauses. Thank you.

The President: Thank you, Senator Kempe.

Would any other Senator care to speak on this Bill?

Senator Jones, you have the floor.

Sen. Marcus Jones: Good morning, Madam President.

The President: Good morning.

Sen. Marcus Jones: Good morning, colleagues, and good morning to the wider radio audience.

As my colleague has already stated, we on this side of the aisle have no major issues with this particular Bill. We recognise that the Premier in his wisdom has made the attempt to put what has been in practice in a hard-coated, more up-to-date fashion, which in my opinion should lessen the amount of *gotcha* politics, where we ask questions, where we want to see the answers. I believe that with this direction, when the Premier gives his statements on the hirings of the past year, like I said, it should reduce a lot of the political back and forth.

I do want to raise one or two observations. You know, we are constantly on this side of the aisle looking at the expenditure of the Government. At a time when our economy is not doing as well as it could be doing, we have witnessed 12 consecutive months of drops in retail sales and the like. Of course, we are looking at the expenditures of the Government. And one would think at a time when even the private sector are tightening their belts, we would truly encourage the Government to take a page from the private sector and do their best to, as opposed to doing less with more, try to do more with what you have. And that is all about strict expenditure practices.

We also are concerned that, as good as this legislation is (it does cover up a few loopholes), the public is still going to continue having questions, Madam President, when we try to match requisite expertise and skills with the job requirements. We understand, through this Bill, that there are two different categories of appointees, one for those who have the professional expertise for that appointment, and for those who are political advisors.

Without going into the specific appointees that were made, the questions still may arise where we are going to want to ask the questions which were being asked on the street, which is, How does this person and their requisite skills match the appointment? A clarity of whether that person will fill either one of those roles would be very much encouraged.

Also, the question about how to determine the salary range of these appointees. We know that some people may be appointed for their research skills, to be able to provide support from that vantage point. And, of course, you may have those whose expertise is of a higher level, which we would consider paying them possibly at a higher pay scale.

So, I think, possibly, in the future, as we develop this particular legislation, there could be allowance for a more detailed description of the job requirement. And its respective pay scale would be very helpful, very helpful as well.

We definitely do not want to see this particular hiring of appointees as a back door into the civil service. We know that the Public Services Commission, when folks are hired in the civil service, there is the necessary vetting that is done. There is the necessary work that is done to scrutinise anyone who is hired. And so, there is a level of comfort that we know that the persons who are hired are going to be properly vetted. We know it is not there yet. We know that this is not a civil service position. But we on this side, we are going to be definitely watching the trends of this Government to make sure that, as an appointee, it is a position that is time sensitive. We do not want to see a situation where there is an unlimited stretch of time for which this appointee is going to be hired.

But, all in all, we agree with this Bill. And we think it is an added piece to this particular part of the appointment of political advisors and the like. And with that, I conclude my observations, Madam President.

The President: Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

No other Senator wants to speak on this Bill. Therefore, we will now go into . . . Oh, you have to move.

The Clerk: He can respond, if he has any comments.

The President: Senator Campbell, before we move into Committee, you have some comments?

Sen. Vance Campbell: Yes. I do have some comments, Madam President. But I will reserve them for when we are in Committee. So, at this point in time, Madam President, I would like to move that the Senate do now resolve itself into Committee of the whole for further consideration of the Bill.

The President: Thank you, Senator Campbell.

And I will now ask Senator Jardine if he will take the Chair.

Senate in Committee at 10:30 am

[Sen. James S. Jardine, Chairman]

COMMITTEE ON BILL

PREMIER, MINISTERS AND OPPOSITION LEADER PERSONAL STAFFS ACT 2019

The Chairman: Thank you, Madam President.

Good morning, Senators and listening public.

The Senate is now in Committee of the whole for further consideration of the Bill entitled [Premier, Ministers and Opposition Leader Personal Staffs Act 2019](#).

Senators, as you are aware, there is a proposed amendment to clause 9 of this Bill. And so, Senator Campbell, perhaps what you would like to consider is to make a motion to proceed on a clause-by-clause basis, or indeed by grouping clauses together.

Sen. Nicholas Kempe: Mr. Chairman.

The Chairman: Yes.

Sen. Nicholas Kempe: I have no objection if the Senator wishes to move en bloc everything save clause 9.

The Chairman: Thank you, Senator Kempe.

So, if you would like to make that motion, then obviously, I will put it to the Senate to approve such a motion.

Sen. Vance Campbell: Thank you, Mr. Chairman.

Mr. Chairman, I would like to move all clauses except for clause 9, as indicated by . . .

The Clerk: Move clauses 1 through 8.

The Chairman: Move clauses 1 through 8.

Sen. Vance Campbell: Clauses 1 through 8.

The Chairman: So, if you would just make that motion? I do not want to make it for you.

Sen. Vance Campbell: Okay. Well, I thought I just did.

[Laughter]

Sen. Vance Campbell: I will be more specific.

The Chairman: All right. I would just say it has been moved that clauses 1 through 8—

Sen. Vance Campbell: Clauses 1 through 8, yes.

The Chairman: —stand part of the Bill.

Does any Senator wish to speak to that?

The Clerk: Do you want to speak to those clauses first?

Sen. Vance Campbell: No. No.

The Clerk: Okay. So, just move that they be approved.

The Chairman: Right.

Sen. Vance Campbell: So, Mr. Chairman, I move that clauses 1 through 8 of the Bill be now approved.

The Chairman: It has been moved that clauses 1 through 8 stand part of the Bill.

Does any Senator wish to speak to that motion?

Are there any objections?

No objections.

So moved.

[Motion carried: Clauses 1 through 8 passed.]

The Chairman: Thank you, Senator Campbell.

If you would like to, proceed to clause 9.

Sen. Vance Campbell: Mr. Chairman—

The Chairman: You can just move that clause 9 stand part of the Bill.

Sen. Vance Campbell: I move that clause 9 stand part of the Bill.

The Clerk: If you have any comments, you can make them now.

Sen. Vance Campbell: Right.

The Chairman: I was going to suggest at the beginning of this, I think Senator Campbell has already made detailed explanation and comments on all of the clauses 1 through 9 during the general debate. And so, therefore, I would invite you, if you wish to make more, but I think you have made your general comments on clauses 1 through 9. But, please feel free to add more if you wish to do so.

Senator.

Sen. Vance Campbell: I do. I do.

The Chairman: Please proceed.

Sen. Vance Campbell: The first thing we must remember is that the Ministerial Code of Conduct and the draft Code of Conduct that we speak about having by the end of June are not statutory instruments and therefore are not subject to the scrutiny of the Legislature.

But I only say that to kick off the discussion about annual reports. We have many annual reports which are tabled in the Legislature. And they go through the process. There is usually no fuss about the fact that they do come at the end of the year. The process usually includes a budget, which is debated, and then the annual report at the end. So, the budget debate is at the beginning; the annual report comes at the end.

And Independent Senators in these Chambers and Opposition Senators have the opportunity to ask questions at that time, as well as during the budget debate process in the beginning. So, that is the case. This Bill does not change the Opposition's ability to ask questions throughout the year. So, they still have that ability to ask Parliamentary Questions. So, it does not change that. And we are trying to keep it focused on things pertinent to the annual report.

Those things which are contained in here we feel are reasonable. What are the functions? What is the remuneration? And in the case of the Minister, whether each person was appointed as an expert in a specialised field or as a political adviser.

In a previous place, the Premier of the country has stated that he intends to include the information based on this clause 9 for all persons—consultants, advisors—on personal staff in the annual report.

The Chairman: Senator Kempe.

Sen. Nicholas Kempe: Point of order, Mr. Chairman.

The Chairman: What is your point of order?

POINT OF ORDER

[Misleading]

Sen. Nicholas Kempe: I believe the Member may be inadvertently misleading the House. I do not believe that there was ever a commitment about consultants. It was simply about personal staff which relates to this Bill.

The Chairman: Thank you, Senator Kempe.

Sen. Vance Campbell: Now, Mr. Chairman—

The Chairman: Senator Campbell.

Sen. Vance Campbell: Can I read from the Hansard?

The Chairman: Yes, please.

Sen. Vance Campbell: Okay. This is the Hansard for the debate in the other place, which I believe took place on May 31st.

The Chairman: Please proceed.

Sen. Vance Campbell: I am just finding that location. And this is the Honourable Premier, E. David Burt. If you look just below, halfway down the page . . . on the left-hand side on ¹page 39 [of the Members' Proof Hansard], the left-hand column.

[Pause]

¹ [Official Hansard Report, 31 May 2019](#), page 1689

Sen. Vance Campbell: The Premier states, “I thank the Member for her question and her point.”

And the question revolved around a similar reason for, I assume, the proposed amendment to the language.

So, this is the Premier. “I thank the Member for her question and her point. I would see it a completely different way. But I will state the undertaking which I will give. And given that the Hansard is recording this . . . on each and every time that this report is given it will show the persons who were hired under this Act under that calendar year, whether or not they were appointed that year or appointed the year before and all the rest. I am not going to, all of a sudden, not report someone who was being paid out of the public purse.”

The Chairman: Thank you, Senator. Please proceed.

Sen. Vance Campbell: Thank you, Mr. Chairman.

So, on this side we see no reason, based on the commitment of the Premier of this country on record, for making any amendment to this [clause]. And with that I will conclude my comments.

Thank you, Mr. Chairman.

The Chairman: Thank you, Senator.

Does any other Senator wish to speak to this clause?

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Yes, Mr. Chairman.

I would like to move a motion to amend the clause.

The Chairman: Please do.

PROPOSED AMENDMENT TO CLAUSE 9

Sen. Nicholas Kempe: In clause 9, which we are debating, I would like to replace the language with the following—

The Chairman: I believe every Senator has a copy of the proposed amendment in front of them.

Sen. Nicholas Kempe: But for the listening public—

The Chairman: Please proceed, Senator Kempe.

Sen. Nicholas Kempe: I am sure you would like me to read it?

The Chairman: Yes.

Sen. Nicholas Kempe: “Annual report [clause] 9. On or before 31 May” (because I am looking to replace “March” with “May” so that this report aligns with the fiscal year, which makes it more transparent for the

public to follow along with the Government’s spending year) “the Premier shall lay in each House of the Legislature a report listing the names of all persons” (removing “appointed to a” and replacing with) “who have served or are currently serving on any personal staff during the previous” (and again, replacing “calendar” with) “fiscal year, [indicating]—(a) their functions; (b) their” (inserting) “gross” [before] “remuneration” (inserting) “for the entire fiscal year; and (c) in the case of the personal staff of a Minister, whether each person was appointed as an expert in a specified field or as a political adviser.” Which, again, is as per the original legislation.

And just for clarity, I have also provided how the Explanatory Memorandum—and I know this is not the binding portion—would be updated to now read . . . And I will just read it at this point, Mr. Chairman, if I may?

The Chairman: Please do, yes.

Sen. Nicholas Kempe: “Clause 9 requires the Premier to make an annual report to the Legislature within two months of the close of the fiscal year, specifying details of all persons who have served or are currently serving the personal staffs during the previous fiscal year.”

And may I provide some commentary on that?

The Chairman: Yes. Please do, Senator Kempe. Please proceed.

Sen. Nicholas Kempe: So, again I am going to quote the same part of the Members’ Proof of the Hansard. And this is not the approved Hansard, but I was also listening to the debate, and I feel it is an accurate recounting of what was said in the House on Friday.

This is the Honourable E. David Burt, on page 39 of the Members’ Proof.

The Chairman: So, this is the Members’ Proof, Senator Kempe, and not the final approved Hansard copy?

Sen. Nicholas Kempe: Correct. It is about 2:40 in the afternoon on that Friday.

The Chairman: And there is the difference between the [Members’] Proof and the final Hansard copy?

Sen. Nicholas Kempe: There may be. It comes down to approval in the House, or by the Members.

The Chairman: There appears to be a difference. Anyway, please proceed.

Sen. Nicholas Kempe: I believe that Senator Campbell was quoting from the [Member’s] Proof. I do not believe the final Hansard is available.

[Crosstalk]

The Chairman: Senator Campbell, would you clarify?

Sen. Vance Campbell: That is correct. That is correct, Mr. Chairman.

The Chairman: You were quoting from the [Members'] Proof, as well?

Sen. Vance Campbell: I was quoting from the Members' Proof.

The Chairman: Thank you.
Please proceed, Senator Kempe.

Sen. Nicholas Kempe: Again, this is the Honourable E. David Burt. "But I will state the undertaking which I will give. And given that the Hansard is recording this . . . on each and every time that this report is given it will show the persons who were hired under this Act under that calendar year, whether or not they were appointed that year or appointed the year before and all the rest."

And that basically comes down to the change in the language that we are proposing here by a written motion. One of the reasons why the Government seemed to choose not to correct it in another place was because there was not a written motion available. So, I have gone through that trouble to provide that to this House.

I think, seeing as the whole point of this legislation is simply to strengthen the codifying of existing practices, there is really nothing substantially new here that is going to change the laws. One would think that we would want to, seeing as we have this legislation or this Bill in front of us, correct it while we can. Having the assurance of a person is a far less important layer of good governance for the public than actually codifying that undertaking in the Bill that we are debating today.

So, I do not believe this [amendment] is anything that the Government disagrees to, certainly not given the wording of the Premier in another place. And so, I move that the motion that I have presented pass.

On a separate note, though, and again I just want to provide some clarity around *personal staff* and *consultants*. And I noticed Senator Campbell quoted this same section. This section specifically speaks to people appointed under this Act. And those are not consultants. It was actually a matter of discussion, and seemingly some confusion, in another place. This refers to political advisers and experts who are personal staff to the Premier, the Opposition Leader and the Ministers. *Consultants* are an entirely different animal, and they are not, as termed as such, a part of this Act.

The Chairman: Thank you, Senator Kempe.

Before we entertain any debate on the amendment itself, I would like to give Senators the opportunity to speak to clause 8 [*sic*] first—

[Inaudible interjections]

The Chairman: Sorry, clause 9 first. And if there are any other amendments that are wished to be made from the floor, those have to be considered first before we return to the amendment which is sitting before us at the moment.

So, would any other Senator wish to speak to clause 9?

Senator Kathy Simmons, you have the floor.

Sen. the Hon. Kathy Lynn Simmons: Thank you, Mr. Chairman.

Just a procedural point of view, and I welcome clarity on this point. With regard to the debate in another House, was it actually the case that an amendment was proposed? And does the Hansard reflect that? And I will say that I have not looked at the proof or the final. I am assuming that we are basing our debate today on a document that is not the final.

The Chairman: I will seek some clarification from Senator Kempe.

Sen. Nicholas Kempe: Yes. And again, I listened to the entirety of the debate on this Bill in another place. And there was no formal motion laid in the House. There was a highlighting of inadequacies in the wording and an undertaking that the person who presently sits in the role of Premier would, effectively, mitigate that inadequacy through a personal undertaking. But there was no correcting of the legislation itself.

In fact, on . . . and again, going back to the Members' Proof . . . and this is all in this period, for those who want to go back and listen. So, this debate goes on between about 2:30 and three o'clock on the Friday afternoon. And again, I am going to quote the Honourable E. David Burt.

"If you have . . . if you have an amendment that you wish to bring during the Committee, the Standing Orders require that said amendment to be typed and done."

So, this inadequacy was highlighted in the Committee debate. But there was not a written motion available at that time. So, again, one of the beauties of our system is that we have a second chance to get it right in this Chamber.

And I have provided that written motion so that we may correct the inadequacy in the wording.

The Chairman: Thank you, Senator Kempe.

Would any Senator wish to speak to clause 9?

Hearing none, I will then move to the motion which has been put forward by Senator Kempe with

respect to an amendment to clause 9. Does any Senator wish for me to read that amendment again, or are you satisfied with the written amendment in front of you?

Is there no further debate on that?

Then I will put the motion.

Senator Kempe, if you would like to put the motion?

Sen. Nicholas Kempe: Yes. I move the motion . . . (Sorry, Mr. Chairman. I will turn on my microphone so that everyone can hear.)

I move that the motion tabled pass as presented.

The Chairman: It has been moved that the amendment to clause 9, as circulated to Senators, be approved.

Is there any objection?

An Hon. Senator: Yes.

The Chairman: One objection.

An Hon. Senator: More than one, Mr. Chairman.

The Chairman: I detect more than one objection. So, there needs to be a division. There will be a division, Senators.

Sen. the Hon. Kathy Lynn Simmons: Mr. Chairman.

The Chairman: Yes.

Sen. the Hon. Kathy Lynn Simmons: If I may for the sake of clarity. The amendment to the Explanatory Memorandum does not pertain to any vote on this, as we cannot amend those. Just so that people understand that. We are just talking about the content of clause 9.

The Chairman: That is right. Thank you very much for that clarification.

The Clerk: Okay. So, we are voting now on the amendment. So, those in favour will say Aye. Those against will say Nay. Okay?

DIVISION

[Proposed amendment to clause 9]

Ayes: 6

Sen. Nicholas Kempe
Sen. Marcus Jones
Sen. Dwayne Robinson
Sen. Michelle Simmons
Sen. Hon. J. Dillas-Wright
Sen. James S. Jardine

Nays: 5

Sen. the Hon. K. L. Simmons
Sen. Anthony Richardson
Sen. Jason Hayward
Sen. Crystal Caesar
Sen. Vance Campbell

The Clerk: Okay. We have the vote then. It is six to five, Mr. Chairman. So, the motion for the amendment to clause 9 is affirmed by six.

The Chairman: And I declare that the motion is successful by a vote of six to five. It has been affirmed.

[The amendment] to clause 9 has been approved.

[Motion carried by majority on division: The proposed amendment to clause 9 was approved.]

The Clerk: So, we now need to move clause 9 as amended, it has been approved as amended.

The Chairman: Clause 9, as amended, has been approved.

Sen. Vance Campbell: So, I now need to—

The Chairman: You need the move the preamble, the title—

[Crosstalk]

The Chairman: Yes, as well, yes.

Sen. Vance Campbell: Mr. Chairman, I move that clause 9, as amended, be approved. Is that the language I would use?

The Chairman: It has been moved that clause 9, as amended, be approved.

Are there any objections?

No objections.

So moved.

[Motion carried: Clause 9 passed as amended.]

Sen. Vance Campbell: Mr. Chairman, I move that clauses 10 and 11 be approved.

The Chairman: It has been moved that clauses 10 and 11 be approved.

Are there any objections?

No objections.

So moved.

[Motion carried: Clauses 10 and 11 passed.]

Sen. Vance Campbell: Mr. Chairman, I move that the preamble be approved.

The Chairman: It has been moved that the preamble be approved.

Are there any objections?

No objections.

So moved.

Sen. Vance Campbell: So, Mr. Chairman, I move that the title stand as part of the Bill.

The Chairman: It has been moved that the title stand part of the Bill.

Are there any objections?
No objections.
So moved.

Sen. Vance Campbell: Mr. Chairman, I move that . . . would I say the Bill as . . . as amended?

The Chairman: As amended.

Sen. Vance Campbell: As amended, be adopted.

The Chairman: It has been moved that the Bill, as amended, be adopted.

Are there any objections?
No objections.
So moved.

[Motion carried: The Premier, Ministers and Opposition Leader Personal Staffs Act 2019 was considered by a committee of the whole Senate and passed as amended.]

The Chairman: Senators, that is the conclusion of our debate in Committee.

Senate resumed at 10:48 am

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

BILL

REPORT OF COMMITTEE

PREMIER, MINISTERS AND OPPOSITION LEADER PERSONAL STAFFS ACT 2019

The President: Senator Campbell, now that the Bill has been amended in Committee, you will make a motion to have the Bill returned to the House—

The Clerk: To the Senate.

The President: To the House from here.

The Clerk: Oh, to the House.

The President: As amended. Thank you.

Sen. Vance Campbell: Madam President, I move that the Bill, as amended, be now returned to the House.

The President: You are requesting the House—

The Clerk: You are requesting the House's concurrence.

The President: Concurrence.

Sen. Vance Campbell: Requesting the House's concurrence—

The President: With the amendment that has—

Sen. Vance Campbell: That is amended, yes.

The President: Thank you.

Any objections to the Bill being returned to the House as amended?

No objections.
Agreed to.

[Motion carried: The Premier, Ministers and Opposition Leader Personal Staffs Act 2019, as amended by the Senate, returned to the House of Assembly for concurrence.]

The President: Thank you, Senators, and thank you, Senator Jardine, for chairing the Committee.

The Bill will be returned to the House as amended, with a suitable message. Thank you.

MOTIONS

The President: There are none.

CONGRATULATORY AND/OR OBITUARY SPEECHES

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

Senator Michelle Simmons, you have the floor.

Sen. Michelle Simmons: Thank you, Madam President, and good morning to everyone.

I would like to spend a moment or two to thank all fathers, all stepfathers, all surrogate fathers, all of the fathers around this table this morning and all those listening to us over the airwaves. In fact, I am going to put there *all men* who play any kind of fatherly role to children or even, may I say, to young adults, and even adults.

I am going to wind the clock back to 1986 when my father died. Unfortunately, it was rather sudden. And I was still quite young, in my opinion, early 30s. And there was a great void in our family as a result. I remember my godfather, and I remember my sister's godfather, stepping up to play an important role as surrogates, because they knew we still needed that support of a fatherly figure. And, of course, we had uncles and cousins who also stepped up.

Sometimes, men may not always realise how important they are in the lives of children and in the lives of families. But we can take some time this weekend coming, since Father's Day is on Sunday, June 16th, to celebrate the contribution of fathers in our community. So, to all stepfathers . . . I will say it again—fathers, surrogate fathers, uncles, all men in this community who are nurturing, who are supporting, who are educating, who are mentoring, who are there for our young people, our children, thank you. And please be encouraged, because you are making a difference.

Thanks, Madam President.

The President: Thank you, Senator Simmons.

Would any other Senator care to speak?

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Thank you, Madam President.

I would like to extend my congratulations to Mr. Jeremy Cox on the 50th anniversary of the BMA [Bermuda Monetary Authority]. He was recognised recently at the Bermuda Captive Conference. He has been the CEO now for some 18–19 years. And we recognise, certainly, the ever-increasing role the BMA has in safeguarding Bermuda's reputation as a jurisdiction, with the ever-moving goalposts that the world keeps putting in place for us. So, I would like to recognise his contributions to Bermuda.

The President: Thank you, Senator Kempe. I am sure that the entire Senate body would agree with your comments.

Would any other Senator care to speak on congratulatory and/or obituary speeches?

Senator Campbell, you have the floor.

Sen. Vance Campbell: Madam President, just some quick words. Following on from Senator Simmons on talking about fathers, we have the Bermuda National Team, who will be playing their first game in the Gold Cup on Sunday. And many of the support staff and players are fathers. And they will be away from their families, some of them in order to represent Bermuda and also to make a name for—you know, further Bermuda's name in the sporting field, but definitely put Bermuda further on the map as a very small country that, quite often, delivers well above its weight. So, I would like to commend them for their dedication to the cause, especially on the day when I am sure they would enjoy being with their families.

Thank you, Madam President.

The President: Thank you, Senator Campbell.

Would any other Senator care to speak?

No?

Then I would like to just say a few words, first of all for congratulations to Bermuda's Ombudsman,

Victoria Pearman, who organised . . . she is actually the President of the regional Ombudsman Association. And there was a regional conference that was held just recently. And it really proved to be highly successful. There were a number of people who were invited to attend the open sessions. And I think there were two mornings in which there were open sessions, and I was able to attend. And so, it was really excellent. And I think Bermuda certainly pumps above its weight. And it was really very good. So, congratulations to her.

I also would like to acknowledge and send congratulations to Merle Brock Swan. She had her 90th birthday recently. And she decided to (I am sure she will not mind my saying it), but she has a love for the Gombey. And she decided to dress up as a Gombey. And she walked into the party gathering. It was held at Astwood Park. And it was a wonderful occasion. And I thought, *Well, you know, she really—at 90?* She actually danced in, you know.

[Laughter]

The President: So, that was really wonderful.

So, I think also, I would like to acknowledge or send obituaries—congratulations—not congratulations, but sympathies (sorry), sympathies to Beunice Crockwell. As you know, she worked in the Cabinet Office. And she died just recently. And she will be a miss because she really was a person, when you went into the Cabinet Office, she greeted you so warmly with her big smile and always words of encouragement to everybody who came in, and particularly new ones. And I remember 11 years ago when she said certain words to me, and each time I went into the Cabinet Office. I am sure we would all want to send condolences to her family.

With that, we will move on to adjournment.

ADJOURNMENT

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

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

I move that the Senate do now adjourn until Wednesday, June 19th (if I am correct).

[Crosstalk]

Sen. the Hon. Kathy Lynn Simmons: Until next week.

The President: All right. So, the Senate is adjourned until next week, June the 19th.

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

Senator Michelle Simmons, you have the floor.

“FREEDOM FRIDAY” COMMEMORATION

Sen. Michelle Simmons: Madam President, thank you.

This is just to encourage all of us and all those who are listening to come and support something which I think this entire community really has benefited from. And that is, I am referring to the commemoration which will take place on Friday of this week at City Hall, starting at 12:30, as we remember what happened 60 years ago, when under the leadership of the Progressive group an end was put to legalised segregation in this country. The men and women in that group really went out on a limb because they felt very strongly about the way in which this country was at that time.

We have come a long way in Bermuda. There is more to be done. But I think that this is a community event, organised by Glenn Fubler, which all of us can support at some point during that period on Friday. So, on Friday at 12:30 at City Hall, I hope that the community will come out and support the commemoration for the end of legalised segregation in this country. Thank you.

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

DEPARTMENT OF CHILD AND FAMILY SERVICES, REPORT OF INVESTIGATIONS INTO

Sen. Nicholas Kempe: Thank you, Madam President.

I would like to speak to something that we heard last week in the motion to adjourn, but did not have a chance to respond to, and which has also been, I guess, rather conveniently highlighted in today's *Royal Gazette*. Madam Attorney General spoke about requesting the newspaper to not ask, essentially, uncomfortable questions, not do investigative journalism. And I quote, and this is both from the paper and from what I remember in person, “². . . try to obtain information that is detrimental to what we are trying to accomplish.”

That approach to asking questions, whether it be a source of journalism or the Opposition, I think is entirely counterproductive to the checks and balances that we have built into our society.

Another item that all relates to this DCFS [Department of] ongoing affair, this time is not something that I can quote first-hand. But I am going to quote from today's paper. When asked under a PATI re-

quest for the “³full report into allegations of misconduct, Legal Affairs allegedly “refused to disclose whether the record existed because the ministry said to do so would ‘add’” (I am highlighting the direct quote by the *Royal Gazette*) “unnecessary confusion to misinformation which is already present in the media and public domain.”

Now, I am struggling to understand how the release of an investigation would add more confusion. One would think that if there are concerns about rumour and innuendo, releasing the report would put to bed any confusion and, in the name of transparency, allow the public to understand what it is exactly the Government investigation has uncovered or not, and would provide people with some insight into why certain decisions were made or not made. Thank you, Madam President.

The President: Thank you, Senator Kempe.

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

Senator Robinson.

Sen. Dwayne Robinson: Good morning, Madam President.

The President: Good morning to you.

Sen. Dwayne Robinson: I just have a few further questions here on the infrastructure fund, graciously—

[Inaudible interjection]

Sen. Dwayne Robinson: No, just off of these—

[Inaudible interjections]

The President: Not at this time.

Sen. Dwayne Robinson: No problem.

The President: Sorry. I just realised what you were referring to.

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

Sen. Kathy Lynn Simmons, Attorney General and Government Leader in the Senate, you have the floor.

Sen. the Hon. Kathy Lynn Simmons: For clarification, no other Senator wishes to speak?

[Crosstalk]

The President: Well, no. I did ask. And no one did.

² [Royal Gazette](#), 6 June 2019

³ [Royal Gazette](#), 12 June 2019
Bermuda Senate

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

The President: You are welcome.

DEPARTMENT OF CHILD AND FAMILY SERVICES, REPORT OF INVESTIGATIONS INTO

Sen. the Hon. Kathy Lynn Simmons: I am listening with great interest to the comments of my fellow Senator. And I confess to be listening with great dismay. For the benefit of the listening public and Senators, we cannot characterise an investigation as something that is fraught with innuendo or respond to reports that put it into a category of information that should be dealt with outside of the parameters of the law. The Internal Audit Act 2010 prohibits release of the report pertaining to the investigation into Child and Family Services. From a legal perspective, we are not allowed to disclose the report.

In terms of the Ministry's position, as Minister of Legal Affairs, my role is to make sure that policies and procedures which underline the operations of the departments within the Ministry are sound, fit for purpose, and reflect international best practice. If the Senator does not know that, he knows that now. Members of the public are always invited and are encouraged by law to make PATI requests. PATI requests also are made within a legal framework. That is what we see played out with respect to every request.

We have no control over reporting in the press. But we often comment. And the comments will always be of a nature to ensure that the integrity of our operations is maintained and to reassure the public that we always act in the best interest of the children.

We cannot control adult children, parents or anyone else who chooses to make reports to the *Royal Gazette* about their personal experiences. It would be remiss of the department or myself or any other officer in the Ministry of Legal Affairs to respond in a manner that would actually give clarity to the situation, but which would also involve having to release personal information about the child or family situation. We are not allowed to do that, and we will never do that. It would undermine the integrity of our operations, which is based on confidentiality.

The Ministry and DCFS remain committed to protecting the interests of our children. Unfortunately, I am unable to speak to historic cases that did not come under my domain or under my purview.

Last week, I spoke about the reporting that did nothing to advance our interests. And when I say "our interests," I mean our collective interests in terms of the efforts that we make to support and protect our children. It serves no useful purpose to speak outside the context of the rules and the parameters that oper-

ate to protect the children and also protect the operations.

Persons who have questions about investigations, which essentially are civil service matters because they involve personnel, are directed to the head of the public service, who will be able to shed more light on the procedures surrounding those investigations.

I highly doubt that the head of the public service will reveal personal information pertaining to the investigations. But I can assure Senators and members of the listening public, where any investigation gives rise to facts which show that we need to enhance our processes and procedures, that is what the Ministry will undertake.

We have made great strides within this subject matter. We will continue to do so, undaunted by negative press or comments surrounding this matter. And the Government remains committed, as always, as does the Department of Child and Family Services, to advancing the interests of our children and to protecting them.

I intended to actually bring our statement, and I referred to it last week, pertaining to my trip overseas to visit the children's facilities. I was a bit daunted, and I had to put the brakes on for a minute, because I was informed last night by one of our partners overseas that, once again, inquiries had been made with regard to children, or one child in particular, who was there some time ago, which breached all protocol, and so, having to be distracted somewhat in dealing with that and to give them reassurance that Bermuda remains a committed partner.

The reality, Senators, is that Bermuda, unfortunately, does not provide the options that are necessary for our children in terms of treatment. We simply do not. And in every case where a child is, in fact, sent overseas . . . and I am digressing somewhat, but it is relevant and pertinent because most of the press that we see or dialogue around this matter pertains to that particular issue. We simply do not provide the programmes, resources, expertise that would be able to address the very intricate dysfunction and problems and psychological issues that arise with respect to some of our children, Madam President. And so, we are actually very pleased that we have these relationships.

But I can say, hand on heart, I do not know one child who would ever jump with glee and happiness if they were told that they were being sent overseas for assessment, if they were told that they had to leave their family and their friends. And I would like to think that, in the event that any one of our children or relatives falls into a category now or in the future where they need that assistance, that this assistance would be available. It is available. And we will always support and protect our community partners here and overseas who provide that assistance. But rest as-

sured. Bermuda is unable to service the demographic that is being serviced overseas.

So, to Senator Kempe, unfortunately, we cannot release the internal audit review. It is prohibited by law. Have a look at the Internal Audit Act 2010.

Thank you, Madam President.

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

With that, the Senate stands adjourned until June the 19th. Thank you, Senators. Enjoy your holiday weekend.

*[At 11:08 am, the Senate stood adjourned until 10:00 am, *Wednesday, 19 June 2019.]*

*[*The Senate resumed on Wednesday, 26 June 2019]*