



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

26 June 2019

*Sitting number 16 of the 2018/19 Session
(pages 529–538)*

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

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BERMUDA SENATE**OFFICIAL HANSARD REPORT****26 JUNE 2019****10:02 AM***Sitting Number 16 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 12 June 2019]*

The President: The Minutes of the 12th 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 12th of June 2019, be taken as read.

Sen. Marcus Jones: I have an objection.

The President: Senator Jones. Yes, you have a correction to the Minutes?

Sen. Marcus Jones: Yes.

The President: Do you want to state that now, please?

Sen. Marcus Jones: Yes. On page 3 of the Minutes, under the Bill that was being debated, the Premier, Ministers and Opposition Leader Personal Staffs Act 2019, the speaker at 10:19 am was myself, Senator M. J. Jones.

The President: Thank you, Senator Jones, for that. That correction will be made.
So, Senator Jardine?

Sen. James S. Jardine: Madam President, I move that, subject to the correction as previously explained being made in the Minutes, that the [Minutes of Wednesday, the 12th of June 2019](#) be confirmed as a correct record of that meeting.

The President: Is there any objection to that motion?
No objection.
Thank you, Senator Jardine.
The Minutes will be confirmed once that change is made, correction is made.

[Minutes of 12 June 2019 confirmed, as corrected.]

MESSAGES

The President: The message from the Honourable House of Assembly is being deferred.

REPORTS OF COMMITTEES

The President: There are none.

ANNOUNCEMENTS**OMBUDSMAN FOR BERMUDA ANNUAL REPORT
YEAR ENDED 31ST DECEMBER 2018**

The President: Senators, I wish to announce that, in accordance with the provisions of section 24(1) and 24(3) of the Ombudsman Act 2004, a copy of the Ombudsman for Bermuda Annual Report for the year ended the 31st of December 2018 has been forwarded to me as the President of the Senate, and that copies of the said report are hereby tabled in the Senate for the information of Senators.

The President: There is another announcement.
Senator Kathy Lynn Simmons, Attorney General and the Government Leader in the Senate, you have the floor.

**PHARMACY AND POISONS (THIRD AND FOURTH
SCHEDULE) AMENDMENT ORDER 2019**

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

Madam President, I hereby present for the information of the Senate the Pharmacy and Poisons (Third and Fourth Schedule) Amendment Order 2019, as made by the Minister responsible for Health under the provisions of section 48A of the Pharmacy and Poisons Act 1979.

The President: Thank you, Senator Kathy Lynn Simons.

NOTICES OF MOTION

The President: There are none.

PETITIONS

The President: There are none.

STATEMENTS

The President: There are none today.
Item number 9, Introduction of Bills, there are none.

[Crosstalk]

The President: Sorry. I should have said that for the Statements, they are being deferred.

INTRODUCTION OF BILLS

The President: There are none.

FIRST READING OF PUBLIC BILLS

GOVERNMENT LOANS AMENDMENT ACT 2019

ELECTRICITY AMENDMENT ACT 2019

BERMUDA ECONOMIC DEVELOPMENT CORPORATION AMENDMENT ACT 2019

ECONOMIC SUBSTANCE AMENDMENT ACT 2019

The President: Senators, 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, as follows:

1. Government Loans Amendment Act 2019, with the Governor's recommendation signified;
2. Electricity Amendment Act 2019;
3. Bermuda Economic Development Corporation Amendment Act 2019; and
4. Economic Substance Amendment Act 2019, which we will take up on the Orders of the Day.

FIRST READING OF PRIVATE BILLS

The President: There are none.

QUESTION PERIOD

The President: There are none.

ORDERS OF THE DAY

The President: As I have indicated, there is the second reading of the Economic Substance Amendment Act 2019—

[Crosstalk]

The President: Oh, sorry. The first one was the third reading of the Premier, Ministers and Opposition Leader Personal Staffs Act 2019, which is being held over until next week.

That will be carried over for next week.

[Inaudible interjection]

The President: Yes.

[Crosstalk]

The President: Senator Campbell, you will confirm.

Sen. Vance Campbell: Madam President, I do confirm and ask that the Bill, the Premier, Ministers and Opposition Leader Personal Staffs Act 2019 be carried over until next week.

The President: Thank you, Senator Campbell. That will be done.

Item number 2 on the Orders of the Day is the second reading of the Economic Substance Amendment Act 2019. Items for consideration under the provisions of Standing Order 25.

Senator Campbell, you have the floor.

STANDING ORDER 25

Sen. Vance Campbell: Thank you, Madam President.

Madam President, I move that the provisions of Standing Order 25 be granted so that the Senate may now proceed with the second reading of the Bill entitled the Economic Substance Amendment Act 2019.

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

[Motion carried: Leave granted for the Economic Substance Amendment Act 2019 to be read a second time on the same day as its first reading.]

BILL

SECOND READING

ECONOMIC SUBSTANCE AMENDMENT ACT 2019

Sen. Vance Campbell: Thank you, Madam President.

Madam President, the Bill now before the Senate is the Economic Substance Amendment Act 2019. This Bill will exempt entities that are tax resident in a qualifying jurisdiction from the substance requirements of the Economic Substance Act 2018.

Madam President, with your permission, I would like to go to that Act just to update and refresh in people's memories some of the key contents of that Act.

The President: You certainly may, Senator Campbell. Carry on.

Sen. Vance Campbell: Thank you, Madam President.

In [section] 3 of the Economic Substance Act 2018, the economic substance requirements, if I may read section 3(1), "Every entity to which this section, by virtue of section 4, applies shall maintain a substantial economic presence in Bermuda, and in that regard shall comply with the economic substance requirements set forth in subsection (2)."

Section 3(2) [reads]: "An entity referred to in subsection (1) complies with the economic substance requirements if—(a) the entity is managed and directed in Bermuda; (b) core income generating activities (as may be prescribed) are undertaken in Bermuda with respect to the relevant activity; (c) the entity maintains adequate physical presence in Bermuda; (d) there are adequate full time employees in Bermuda with suitable qualifications; and (e) there is adequate operating expenditure incurred in Bermuda in relation to the relevant activity."

[Section 3](3) [reads]: "An entity complies with subsection (2), if the entity satisfies the economic substance requirements that are set forth in that subsection and as shall be prescribed."

Section 4, Madam President, is the application of section 3, and it says, "Section 3 applies to an entity that is engaged in a relevant activity."

So, if we go to the definition, Madam President, of "relevant activity," it means "carrying on as a business any one or more of the following—(a) banking; (b) insurance; (c) fund management; (d) financing; (e) leasing; (f) headquarters; (g) shipping; (h) distribution and service centre; (i) intellectual property; and (j) holding entity"

It also goes on to say that "relevant activities" shall be construed accordingly, and the "relevant financial period" has such meaning as shall be prescribed.

And if we go to [section] 5, I will not read it, Madam President, but [section] 5 deals with the filing of minimum required information with the Registrar relating to economic substance requirements. So, that is a quick refresher on what we dealt with last year as far as the Economic Substance Act. And that Act is the one that we are looking to amend here today.

So, Madam President, on the 17th of May, Bermuda was removed from the EU's list of non-cooperative jurisdictions for tax purposes because the EU was satisfied that our economic substance framework meets its standards.

Madam President, the Ministry of Finance is in the process of analysing the various approaches to economic substance adopted by other criterion 2.2 jurisdictions. Criterion 2.2 is a standard of assessment used to determine whether harmful tax measures are prevalent in a jurisdiction, based on its legal framework and the economic evidence.

There are several areas of divergence between Bermuda and the Crown Dependencies and Overseas Territories which will be dealt with in due course. One area, Madam President, that poses an immediate and significant threat to Bermuda's economy and requires urgent attention relates to tax residency. Madam President, it is imperative for Bermuda to align its economic substance legislative framework as it relates to tax residency with that of other 2.2 jurisdictions and to do so before existing entities become subject to economic substance requirements on the 1st of July.

Madam President, under a tax residency exemption, entities that are tax resident in a qualifying jurisdiction would not be required to be subject to substance requirements in their jurisdiction of incorporation. And as that relates to Bermuda, an entity should not have to meet or be subject to the substance requirements in Bermuda and another jurisdiction. Madam President, under current legislation, Bermuda does not exempt entities that are resident in another jurisdiction for tax purposes from economic substance requirements. The absence of such an exemption in the Bermuda legislation puts Bermuda at a serious commercial disadvantage relative to all of our competitors.

Madam President, there is a serious risk that up to 20 per cent of Bermuda-registered entities may be forced to relocate from Bermuda to one of the other 2.2 jurisdictions, simply because those other jurisdictions have the certainty of a tax residency exclusion. If all such entities do relocate, that will result in a direct and irreversible loss to Bermuda of substantial government fee revenue and a very serious loss of economic expenditure in the jurisdiction and the loss of, potentially, hundreds of Bermudian jobs.

Therefore, Madam President, the most immediate and significant amendment that is required at this stage is the addition of an exclusion for entities that are resident for tax purposes in a jurisdiction outside of Bermuda.

Madam President, an exemption from economic substance requirements for entities that are resident for tax purposes in another jurisdiction are based on the following OECD principles:

- a) A tax residency exemption must not be used to circumvent substance requirements; therefore, safeguards must be put in place.
- b) Evidence must be provided to support a claim that an entity is resident in another jurisdiction.
- c) Once an entity claims to be resident in another jurisdiction for tax purposes, such a claim and supporting evidence must be exchanged with the jurisdiction where the entity claims to be tax resident and the jurisdiction of residence of the immediate parent, ultimate parent, and ultimate beneficial owner to ensure full transparency with regard to the tax residency claim.

Madam President, existing companies are required to comply with the requirements of the Economic Substance Act by the 1st of July, as I stated before. Due to a potentially significant impact on the Bermuda economy, it is critical that this amendment come into force before the 1st of July.

Madam President, when the Minister of Finance, the Honourable Curtis Dickinson, met with Mrs. Lyudmila Petkova, Chair of the code of conduct group for business taxation, in April, he expressed his concerns about a potential lack of a level playing field between criterion 2.2 jurisdictions, and she invited Bermuda to put our concerns in writing.

Madam President, the Minister of Finance spoke with Mrs. Petkova and her technical team on the telephone about two weeks ago and sought her support for advancing this amendment before the 1st of July. I understand from the Minister of Finance that the discussion was very productive. Following the telephone call, the Minister of Finance wrote to her formally and presented her with a draft Bill for her consideration. The Minister also wrote to Mr. Pierre Moscovici, the Chair of the EU Commission, seeking his support. Last week the Minister spoke with Mr. Moscovici by telephone, and again I understand from the Minister that the conversation was very positive. The Minister of Finance has also informed Mr. Robert Jenrick, the UK's Treasury Secretary, of Bermuda's intent to amend our legislation to create a tax residency exemption before the 1st of July.

Madam President, last week the Forum on Harmful Tax Practices (FHTP) reviewed the legislative framework of the 2.2 jurisdictions. Accordingly, as part of Bermuda's legislative framework, a draft Bill, together with a full explanation of the reasons for this urgent amendment, were formally submitted to the FHTP for review. The Senate is advised that the results of the review will be released to the public upon notice from the OECD.

Madam President, the Senate is advised that the amendments are in line with the FHTP standards, as follows:

- a) Entities which are resident for tax purposes in a jurisdiction outside of Bermuda, that are not

also listed on Annex 1 to the EU list of non-cooperative jurisdictions for tax purposes—i.e., the blacklisted jurisdictions—will be able to avail themselves of the revised framework.

- b) Such an entity must provide to the Registrar evidence of tax residency in another jurisdiction for each relevant financial period.
- c) The information received by the Registrar will be provided to the foreign competent authority of a relevant jurisdiction in which a holding entity, the ultimate parent entity, and the owner or the beneficial owner of the entity is incorporated, formed and registered or resident.

Madam President, the Act is also being amended to widen the scope of the exchange of information to all relevant jurisdictions, not just EU member states, in relation to high-risk intellectual property entities (or high-risk IP entities, for short), entities that are in breach of economic substance requirements, as well as entities that claim to be resident for tax purposes in another jurisdiction.

Madam President, at this time, I would like to look at the key clauses of the Act, if you do not have any objection.

The President: No objection at all, Senator Campbell. Carry on.

Sen. Vance Campbell: Madam President, clause 2 amends section 2 by including a non-resident entity and defines a “non-resident entity” as an entity which is resident for tax purposes in a jurisdiction outside Bermuda that is not in Annex 1 to the EU list of non-cooperative jurisdictions, or, i.e., better known as the blacklisted jurisdictions.

Clause 3 inserts a new section 5A requiring a non-resident entity that carries on a relevant activity that claims to be resident for tax purposes in another jurisdiction to provide evidence of such tax residency for each relevant financial period.

Clause 4 amends section 6 by adding two new subsections, (1A) and (2A). Under subsection (1A), the Registrar is required to provide the competent authority the information provided to him by a non-resident entity, i.e., evidence of tax residency claim in another jurisdiction. Subsection (2) is amended to require the competent authority (and in Bermuda, that competent authority is the Treaty Unit within the Ministry of Finance) . . . So, subsection (2) is amended to require the competent authority to provide information received from the Registrar in relation to an entity that is in breach of the economic substance requirements for a relevant financial period, as well as a high-risk IP entity to a relevant jurisdiction, not just a relevant EU member state.

Subsection (2A) requires the competent authority to provide information received from the Registrar in relation to a non-resident entity to a relevant jurisdiction, not just an EU member state. And the

words “or other jurisdiction” are also inserted after the words “EU member states” in subsections (3) and (5).

So, Madam President, with those comments, I conclude with the statement that the Bill is in line with the FHTP’s stated principles. And I now open and invite comments from other Senators.

Thank you, Madam President.

The President: Thank you, Senator Campbell.

Would any other Senator care to speak on this Bill?

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Thank you, Madam President. Thank you, Senator Campbell, for your brief.

I guess I just have a few comments about how we got here. It is clear from the Senator’s statement that Bermuda was not in line with other 2.2 jurisdictions when we were developing our Bill, when we were negotiating with Europe. From his statement, there are many areas where our legislation is not in line with other jurisdictions, and those areas will be dealt with in due course. Right now, we are just dealing with the priority ones.

There is a clear commercial disadvantage versus our competitors that has come because of this. And the Minister of Finance (and again I am quoting Senator Campbell) complained about a lack of a level playing field. Well, that lack of a level playing field was self-imposed. Had we had an approach where we cooperated and spoke to the other 2.2 jurisdictions, where we coordinated our efforts, instead of hiding our efforts in a shroud of secrecy and passing our Bill at the last minute in December, not only would we have had the chance to get feedback from the ECO-FIN group and we may have caught our, as the Premier put it, *minor technical omission* prior to the actual deadline and avoided the blacklist altogether, but we also would have avoided this self-imposed lack of a level playing field.

On that note, we support the actual wording of the legislation to remove some of these disadvantages. But we find it regrettable that we have ended up in this situation to begin with.

And I have a question just about the guidance notes, seeing as how we are passing the legislation right on the eve, essentially, of July 1, about when those will be ready for circulation.

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, and good morning, Madam President.

I am certainly pleased to support this Bill. It is extremely important that Bermuda be as much as possible on the same playing field, on a level playing

field, with other jurisdictions who, obviously, have had to deal with the same requirements. And so, I am pleased that this amendment is coming through and I wholeheartedly support it. And I am also pleased to hear that Government is looking at the legislation in other territories and Crown Dependencies to ensure that Bermuda continues to be on a level playing field.

So, Madam President, I do support this legislation. Thank you very much.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President. Good morning to my colleagues and to the wider listening audience.

I would just like to say right from the outset that I am in full agreement with this amendment. I appreciate the need for expediency with this particular amendment. And for all intents and purposes, I believe that the Government has struck the right tone in making this adjustment. And I also want to thank the Minister of Finance for allowing us the time to brief us prior to this Senate session, which was very helpful in getting us online and understanding the purposes and the process in which this needs to be done.

I will say, in addition to our agreement to this amendment, I would like to encourage the Government to push to be a leader as opposed to being a follower. And I recognise that the EU has put some constraints on us who are in the 2.2 jurisdictions. But once upon a time, I believe that we can all remember when most of these dependent territories and those within our jurisdiction would actually look at our legislation and actually copy and paste from what we were doing. We were the recognised gold standard and leader.

And I could just hail back to the days back in the 1970s when Bermuda was the number one honeymoon destination. And we found that during the 1970s, places and jurisdictions like Hawaii would come here and look and see what we did. And they would just copy what we would do. And before long, they were virtually overtaking Bermuda as the number one honeymoon destination in that area.

So, I would just encourage the Government. We will cheer them on. We will push them on. And I would just encourage them to always look to gain a competitive advantage, not just levelling the playing field, so that we can be truly the leaders, not the followers. Thank you, Madam President.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITORS

The President: Thank you, Senator Jones.

And before I turn it over, unless someone else would like to speak, I would like to acknowledge the presence in the Senate of the Financial Secretary, Mr. Anthony Manders, as well as Ms. Gladwina O'Mara, the Registrar of Companies.

Welcome to you both.

[Economic Substance Amendment Act 2019, second reading debate, continuing]

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

No? Then, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

Madam President, it is a known fact that a minor technical omission led to Bermuda being placed on the EU blacklist for a period of time. And at the time of drafting the original economic substance legislation, those drafting in Bermuda understood that our tax residency . . . or at least it was their belief that a tax residency carveout would not be acceptable. And so, you can understand why that was not put in, given a minor technical omission leading to our being placed on the blacklist.

These are attacks on our jurisdiction. These attacks will not stop. The tools being used are anti-money laundering, anti-terrorist financing, and now economic substance. Who knows what it will be in the future? But it is incumbent that Bermuda, as a whole, stays on its toes and, as best as possible, stays ahead of these requirements because they will continue. They will continue, no doubt. As much as Bermuda will comply, they will continue.

As far as the guidance notes, Madam President, I am made to understand that they are ready and will be made available upon the passing of this Bill.

With that, I conclude my comments, Madam President.

The President: Thank you, Senator Campbell. Will you now move . . .

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Economic Substance Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Campbell.

[Motion carried: The Economic Substance Amendment Act 2019 was given a second reading.]

SUSPENSION OF STANDING ORDER 26

Sen. Vance Campbell: Madam President, I move that Standing Order 26 be suspended in respect of this Bill.

The President: Is there any objection to that motion?

No objection.

Carry on.

[Motion carried: Standing Order 26 suspended.]

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Economic Substance Amendment Act 2019 be now read a third time.

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

No objection.

Senator Campbell.

BILL

THIRD READING

ECONOMIC SUBSTANCE AMENDMENT ACT 2019

Sen. Vance Campbell: Madam President, I move that the Bill do now pass.

The President: It has been moved that the Bill entitled the Economic Substance Amendment Act 2019 do now pass.

Is there any objection to that motion?

No objection.

The Bill is passed.

[Motion carried: The Economic Substance Amendment Act 2019 was given a third reading and passed.]

The President: Thank you, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

MOTIONS

The President: There are none.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The President: Would any Senator care to speak? Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President.

I would just like to extend congratulations to Bermuda's senior men's football team, who competed in the CONCACAF Gold Cup by coming in third in their particular group. The win that they experienced in New Jersey last night against Nicaragua, the Ber-

muda Gombey Warriors really showed up, and they showed up strong. Kudos to Kyle Lightbourne, the coach, and his staff and, of course, the young men who represented Bermuda so well. I was so impressed to see the local contingent who were actually there in the stadium. It made me proud. And I am sure many around this Island were absolutely excited about the results. So, cheers for our Bermuda men's senior football team. Thank you.

The President: Thank you, Senator Jones. And I am sure that all Senators join you in your comments.

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

Senator Richardson, you have the floor.

Sen. Anthony Richardson: Good morning, Madam President and—

The President: Junior Minister, congratulations.

Sen. Anthony Richardson: Thank you, thank you. I will smile and say *thank you*.

Good morning again to Madam President and the fellow Senators, and to the listening audience.

I just want to comment on the fact that I had the opportunity in the past week to thoroughly enjoy the leaving ceremonies (I am told to get this wording correct) from Somerset Primary, Harrington Sound Primary, and I also attended the Berkeley awards ceremony, which is a precursor to the actual graduation. I do emphasise that Berkeley has a graduation; primary schools have a leaving ceremony. And I am sure that Senator Simmons will—

[Laughter]

Sen. Anthony Richardson: —I guess add more clarity to that.

But from my point of view, it was really wonderful just to see the excitement for the young persons, of course, who are now going to transition to different schools. And to even be able to recall my own situation way back when and to just imagine what Bermuda will look like going forward, based upon their successes.

I want to especially, though, commend the Head Girl at Berkeley. If I get her name pronounced correctly, it is Tylasha DeSilva, who was recognised for her scholarship. She was also previously recognised for team services and was awarded, ultimately, a \$30,000 scholarship. And I say that more so because she would acknowledge that her circumstances were not normal (let us call it). She has some challenges. But she overcame those challenges, and we really, really commend her for what she did. And she is now going to go off to "Up With People" for the next year. She is, obviously, in the arts development.

On a quick, more sombre note, I also want to convey condolences on to Mr. Lionel Dowling's family. He was a long-term civil servant. I remember back in the day when I was working in Government that he was one of those persons who always gave good advice. But more importantly, he was a stalwart in the advancement of bowling in Bermuda.

Similarly, there has been death for Mr. and Mrs. Eddie Armstrong. They both reside in Smith's Parish. Their son [Uel] has died at a relatively young age.

And, of course, I think we all want to extend condolences to Mr. Diallo Rabain; his father [Vincent] died last week, Saturday. And I just want to send condolences. Thank you.

The President: Thank you, Senator Richardson. I am sure the Senate will join you in your condolences comments on Minister Diallo Rabain's father.

And I would like to personally also join, be associated with your comments regarding Lionel Dowling, whom I also knew. Certainly, we send condolences to his family.

Would any other Senator care to speak?

Senator Campbell, you have the floor.

Sen. Vance Campbell: Thank you, Madam President.

Just following on from Senator Jones, the listening public cannot see. But I just want to make it known that Senator Campbell is here decked out in his Bermuda pink-and-blue.

[Laughter]

Sen. Vance Campbell: And I think it looks pretty good and should become the standard. We spoke about standards earlier today. This should become the standard for the Senate team, going forward.

Thank you, Madam President.

[Laughter]

The President: I do not know if anybody else wants to join your comments. But, yes. It does look impressive.

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

Senator Michelle, were you going to speak?

[Inaudible interjection]

The President: Yes, indeed.

All right. We will move on then to item number 16, motion to adjourn.

ADJOURNMENT

The President: Senator Michelle Simmons.

[Inaudible interjection]

The President: Yes, sorry. I beg your pardon. We are jumping the gun here. We have not been here all that long, 35 minutes.

Sen. the Hon. Kathy Lynn Simmons: I move now, Madam President, that the Senate do adjourn to Wednesday, July 3rd.

The President: Okay. Would any Senator care to speak on the motion to adjourn?

Senator Michelle Simmons, you now have the floor.

1959 THEATRE BOYCOTT

Sen. Michelle Simmons: Thank you, Madam President.

The Theatre Boycott began on June 15th, 1959. And it was an adventure of civic engagement to fashion a better Bermuda. The Island community entered unchartered waters at that point. This was a historic journey that offered treasure for current and future generations—1959.

It is noteworthy that once the victory had been gained (i.e., the end to formal and legalised segregation in Bermuda), there was no call for a motorcade or rally or a celebration of any sort. The Progressive Group was a group of ordinary people. And once the victory had been gained, they just got on with their everyday lives.

The Theatre Boycott, as a gateway to understanding modern Bermuda, is very, very important. And we know we still have a path to trod here because Bermuda still has some degree of segregation in various aspects of our community. As the country concludes the observance of this 60th anniversary, Imagine Bermuda, that is the group led and organised by Glen Fubler, would like the whole Island to consider getting involved in two specific ways. First of all, they are having something that is called Roll Call Bermuda, “Roll Call Weekend Bermuda” between the 28th and 30th of June. That is this weekend approaching. They call it “a family-friendly exercise in appreciation.”

Imagine is suggesting that families can find the list of Progressive Group members and some activists on Facebook, in particular on the Facebook page of the Human Rights Commission. This is a first step in awareness. Families may also choose to reflect on those who made a difference in their personal lives or, indeed, families may choose to reflect on how their lives have been impacted, looking back, of course, toward their ancestors and also looking forward to how we can make a difference in Bermuda.

The second suggestion coming from Imagine Bermuda is “Turn on Tuesday” on July 2nd. They say, and if I may read this, Madam President.

The President: You certainly may.

Sen. Michelle Simmons: *Let your light shine.* They are asking or suggesting that people drive or ride in the morning of Tuesday, July 2nd, with their lights on, with their car lights, with their bike lights, with any vehicle lights on, affirming the enlightenment which was achieved in 1959.

In addition, with the goal of facilitating this appreciation of our whole community, they are encouraging a sustainable collaboration amongst the Island’s stakeholders to benefit current and future generations. Indeed, I believe the Senate can lead the way.

So, Madam President, with those comments and suggestions, I would like to end my remarks and hand over to you. Because I believe you have something to share.

1959 THEATRE BOYCOTT

The President: Yes, indeed I do. Thank you, Senator Michelle Simmons.

Senators, I would like to read the names of the people who were involved in this whole process. The surviving Progressive Group members are as follows:

- Rudy and Vera Commissiong;
- William “Will” Francis;
- Izola and Gerald Harvey;
- Florenz Maxwell;
- Marva Stovell Phillips;
- Rev. Dr. Erskine Simmons;
- Eduard Williams;
- Eugene Woods.

Deceased members, whom we should not forget, are as follows:

- Clifford Maxwell;
- Dr. Stanley Ratteray;
- Esme and Lancelot Swan;
- Clifford Wade;
- Coleridge Williams;
- Rosalind Williams;
- William Walwyn.

The key activists on site included Kingsley Tweed, Earlston “Scratchie” Lawrence and Leroy Looby. And the deceased activists were William “John Beaver” Burrows, Kenneth Fred Ebbin, Richard “Comrade” Lynch and Robert “Jungle Bunny” Smith.

I think it is important that we took time out to say what we have said, both Michelle Simmons and myself, because we cannot forget, certainly, these individuals who did so much for this country in the past.

With that, thank you.

Senator Kempe, you have the floor.

**DEPARTMENT OF CHILD AND
FAMILY SERVICES INVESTIGATION**

Sen. Nicholas Kempe: Thank you, Madam President.

I would like to speak just about some, I guess, question spots that have been floating in my head since our last motion to adjourn, where Madam Attorney General highlighted that the Internal Audit Act 2010 had some restrictions as related to disclosure of the investigation for Child and Family Services.

So, of course, being a curious person, I pulled up the [Internal Audit Act 2010](#). And when you read the preamble, it says that the whole point of the Internal Audit Act is to establish an Internal Audit Department that reviews policies, programmes and operations and to provide reasonable assurance that persons entrusted with public funds carry out their functions effectively, efficiently, economically, ethically, equitably.

But you go through the Act, and in various places, it is clear that from not only the composition of the board, but the establishment of the department, that this is an audit department in the financial sense.

And so, my next question, really my question came down to, Why was the Internal Audit Act chosen as the instrument to investigate allegations of child abuse? This is not allegations of defrauding the public purse or misappropriation of funds. So, it seems like a curious instrument to use to do an investigation.

Also, the Department of Internal Audit falls under the Premier. So, I am curious as to who decided that the Internal Audit Act be chosen to do this investigation, not only why this was the chosen instrument.

I am also curious, when the original inquiry or investigation started under former Minister Weeks, who sits in another place, it was carried on by an outside entity. Which entity was that? Under what legislation, if any, was that investigation started? And if there are no restrictions as to its release, why has that not been done so?

I am also curious as to whether the . . . whoever launched the investigation under the Internal Audit Act, whether they were aware that the results would not be publicly disclosable prior to the start of that investigation? And I guess there are more questions than opinions at this point because, quite frankly, the response I got last week did not provide me a whole lot of clarity into the thought process that Government has been taking on this matter.

Thank you, Madam President.

The President: Thank you, Senator Kempe.

The question I had was, To whom were you addressing your questions?

Sen. Nicholas Kempe: I guess more specific to Madam Attorney General, who had the final word last week and left me with more questions than answers.

The President: Thank you, Senator Kempe.

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

Senator Robinson, you have the floor.

GAY PRIDE PARADE

Sen. Dwayne Robinson: Good morning, Madam President and fellow colleagues.

So, as we know, and I hope we all know that there is a Pride Parade coming up. And in the midst of this Pride Parade, we have had incidents of threats and unintended consequences being aimed towards those members of the LGBTQ-plus community. And though I am not a member of this community, as somebody in a leadership position within my community and to fellow leaders sitting around the table, I would like to publicly denounce these threats and call upon the Government and my colleagues to also publicly denounce these threats.

Whether or not we agree or disagree with the lifestyle choice of our fellow consenting Bermudians, who are adults, I believe that we all should be concerned that a minority group within our society has come out to celebrate, you know, their history, their struggles, and they have been met with a huge amount of pushback within our community. And it has even resulted in threats of violence.

I would like to personally say that I do not agree with any sort of discrimination, be it race, age, whatever. And I would hope that my fellows on both sides, not just Government, but also within the Opposition, will stand up and stand with this minority group that is brave enough to come out in a society that majority . . . I cannot say majority, but they are not as accepted as they should be, and parade and celebrate themselves, regardless.

So, I want my comments to be brief. But I just hope to see a bit more denouncement of these threats and malicious intent within our community, and a bit more support for a group coming out and supporting themselves. Thank you, Madam President.

The President: Thank you, Senator Robinson.

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

Senator Richardson, you have the floor.

Sen. Anthony Richardson: Good morning again, Madam President.

The President: Good morning, Senator.

GAY PRIDE PARADE

Sen. Anthony Richardson: Fellow Senator Robinson has, I guess, introduced a topic that is quite topical at this stage. And I too have given some consideration to it, but I think in a slightly different context.

First of all, I want to clarify that clearly, Madam President, I may go to a fine line and I will, obviously, take your direction to make sure that I do not go too far, but my concern really arose more recently from the comments of the Commissioner in his role as the Commissioner as opposed to his personal comments, I believe. And what I want to reflect on is that the community is very sensitised to the idea of the proposed Pride Parade.

And we all know that, in the recent past, there was a referendum. And I want to clarify this. There was a referendum in Bermuda, right, which I think gave clarity to the thoughts of Bermudians around same-sex couples, let us call it, right? The referendum was more specific to same-sex marriages. And, granted, based upon the technicalities that were required to make it a (quote/unquote) "official referendum," it did not pass the test. But I think, based upon the results, it was clear that the community did not support the whole same-sex marriage. And then we, in this Chamber, subsequently passed the Domestic Partnership Act, which we all discussed in terms of its being almost a compromise.

So, my real comment today, though, is that it is a sensitive area for the community. And I was surprised that the Commissioner, acting in his role as Commissioner, spoke to the fact that the police service would support the parade as distinct from stating that the police service would ensure that there is the proper maintenance of law and order, which is their remit.

And so, yes, clearly, I do believe that the majority, if not all, Senators would support the idea that no one wants to encourage any threats of violence against anybody in the community. But my point is that that is where I would have thought that the Police Commissioner would come down to ensure that the police service will be seen to support the appropriateness of conduct, and that law and order would obtain, and they would make sure that it would obtain in the circumstance.

And without going too far, my other concern is whether or not the Commissioner has set a precedent for future community activities whereby the police service will or will not commit, from his perspective, to supporting the goals of that activity. And it is quite interesting where Senator Simmons today talked about the Theatre Boycott and how that has brought about, to some degree, some advancement in how we interact in the community. And I would be surprised if those sorts of things . . . For example, would the police service be seen to support those type of events? And again, I am just trying to emphasise my personal surprise in terms of his comment that they would *support the parade* as opposed to *ensuring that law and order does take place*.

And so, my final comment would be that, clearly, Bermuda is based upon the ability for all of us to express how we feel without fear of personal vio-

lence. And I would almost add that the Police Commissioner's comments do evidence that, to some degree, he is comfortable and certainly it is acceptable for him to say what he wants to say in this environment.

So, it is a bit of a catch-22, I suppose, in terms of, yes, we can express ourselves. And the police service, though, are there to ensure that law and order obtains. And so, I will leave that at that stage. Those will be the essence of my comments. Thank you.

The President: Thank you, Senator Richardson.

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

No?

Then, the Senate stands adjourned until next week, Wednesday, the 3rd of July.

Thank you.

[At 10:53 am, the Senate stood adjourned until 10:00 am, Wednesday, 3 July 2019.]