



BERMUDA HOUSE OF ASSEMBLY

Official House Minutes

June 08, 2012

Electronic Version

Hon. Stanley W. Lowe, OBE, JP, MP
Speaker

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No. 25**Friday, 8th June, 2012**

Members present: His Honour the Speaker, Mr. M.A.R. Bean, Mr. G.A. Blakeney, Mr. D.V. Burgess, Mr. Ms. D.N.I. Butterfield, Mr. L.C. Cannonier, Ms. P.A. Cox, Mr. S.D.G. Crockwell, Mr. Z.J.S. DeSilva, Ms. L.F. Foggo, Mr. W.L. Furbert, Dr. E.G. Gibbons, Mrs. P.J. Gordon Pamplin, Mr. D.O. Hunt, Mrs. L.A. Jackson, Mr. D.P. Lister, Mr. T.E. Lister, W.M. Lister, Mrs. P.K. Minors, Mr. W.N.M. Perinchief, Mr. M.J. Pettingill, Mr. E.T. Richards, Mr. W.H. Roban, Mr. M.J. Scott, Mr. W.A. Scott, Mr. N.H.C. Simons, Dame Jennifer Smith, Mr. C.F.B. Swan, Mr. H.K.E. Swan, Mr. D.D.M. Tucker, Mr. M.A. Weeks.

10:02 a.m.

The minutes of the meetings of 18th and 25th May, 2012 were confirmed.

His Honour the SPEAKER made the following statement on the recent altercation in the Members' lounge.

I undeniably regret the altercation that occurred in the precincts of the House on May 25th. We can conclude that a verbal altercation did take place between the two Members. The headline in the print media and public utterances reflected negatively on the House.

The incident that took place was fully investigated by the Speaker and the Clerk of the House. Sometimes matters of this nature are referred to the Committee of Standing Orders and Privileges for further investigation and report. However, given the recent resignation by former Minister, the Hon. D.V. Burgess, JP, MP, I believe no further sanctions should be taken. Members are reminded that at all times they are to conduct themselves in a manner in order to maintain and uphold the public's trust and confidence in the integrity of Parliament.

His Honour the SPEAKER announced that he had received the Ombudsman for Bermuda Special Report on the Response of the Cabinet Office and Ministry of the Environment,

Planning and Infrastructure Strategy to the Ombudsman's Own Motion Systemic Investigation into the Process and Scope of Analysis for Special Development Orders. The Report has been submitted in compliance with Standing Order 16 (3) of the Ombudsman Act 2004.

His Honour the SPEAKER announced that Members T.G. Moniz, D.D. Butler, E.G. James and K.H.R. Horton will be absent from today's proceedings.

Mrs. P.K. MINORS, on behalf of Mr. W.L. Furbert, read the following communication to His Honour the SPEAKER.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the Bermuda National Tourism Master Plan 2012.

W.L. FURBERT
Minister of Business Development
and Tourism

Sessions House,
8th June, 2012.

Ms. P.A. COX read the following communications to His Honour the SPEAKER.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Bermuda Monetary Report and Accounts 2011".

P.A. COX
Premier and Minister of Finance

Sessions House,
8th June, 2012.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Customs Duty (Special Remission) Amendment Order 2012" made

under Section 2 of the customs Duty (Special Remission) Act 1951.

P.A. COX
Premier and Minister of Finance

Sessions House,
8th June, 2012.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Retail Shops (Temporary Customs Duty Relief for Capital Investments) Order 2012".

P.A. COX
Premier and Minister of Finance

Sessions House,
8th June, 2012.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Simplified Customs Declaration Notice 2007 Revocation Notice 2012" made under Section 35A of the Revenue Act 1898.

P.A. COX
Premier and Minister of Finance

Sessions House,
8th June, 2012.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Customs Traveller Declaration Amendment Notice 2012" made under Section 16 of the customs Duty (Special Remission) Act 1951.

P.A. COX
Premier and Minister of Finance

Sessions House,
8th June, 2012.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Investment Funds (Specified Jurisdiction Fund) Order 2012" made under Section 11 (5) (a) of the Investment Funds Act 2006.

P.A. COX
Premier and Minister of Finance

Sessions House,
8th June, 2012.

Dame JENNIFER SMITH read the following communications to His Honour the SPEAKER.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Bermuda Educators Council (Exemption) Amendment Order 2012" made under Section 5 of the Bermuda Educators Council Act 2012.

Dame JENNIFER SMITH
Minister of Education

Sessions House,
8th June, 2012.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Bermuda Educators Council (Exemption) Amendment (No. 2) Order 2002" made under Section 5 of the Bermuda Educators Council Act 2012.

Dame JENNIFER SMITH
Minister of Education

Sessions House,
8th June, 2012.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Bermuda Educators Council (Exemption) Amendment (No. 3) Order 2012" made under Section 5 of the Bermuda Educators Council Act 2002.

Dame JENNIFER SMITH
Minister of Education

Sessions House,
8th June, 2012.

Mr. W.H. ROBAN read the following communications to His Honour the SPEAKER.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Registration of Boats Amendment Regulations 2012" made under Section 103 of the Marine Board Act 1962.

W.H. ROBAN
Minister of Transport

Sessions House,
8th June, 2012.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Marine Board (Moorings) Amendment Regulations 2012" made under Section 11 of the Marine Board Act 1962.

W.H. ROBAN
Minister of Transport

Sessions House,
8th June, 2012.

Mr. W.N.M. PERINCHIEF read the following communication to His Honour the SPEAKER.

TO HIS HONOUR THE SPEAKER:

I have the honour to attach and submit for the information of the Honourable House of Assembly the "Bermuda Immigration and Protection (Designation of Eligible Condominium Units, Tourists Accommodation and Hotel Residences) Amendment Regulations 2012" made under Section 102 (D) (1) (ba) of the Bermuda Immigration and Protection Act 1956.

W.N.M. PERINCHIEF
Minister of National Security

Sessions House,
8th June, 2012.

Ms. L.F. FOGGO presented the following petition.

The petition of the Oil Companies International Marine Forum of the City of Hamilton requesting the enactment of certain provisions in relation to Philadelphia Financial Life Assurance Company (Bermuda) Ltd. ("The Company"), in relation to the requirements of the Insurance Act 1978 and the Life Insurance Act 1978 as set out in the Bill entitled the "Philadelphia Financial Life Assurance Company (Bermuda) Ltd. Act 2012", which accompanies this petition.

The said petition was referred to the Joint Select Committee on Private Bills for consideration and report.

10:14 a.m.

Dame JENIFER SMITH made a Ministerial Statement on the Relocation of Lagoon Park Preschool.

Mr. M.A.R. BEAN made a Ministerial Statement giving a Response to the Attack Against the Government by Digicel.

10:36 a.m.

Mrs. P.K. MINORS made a Ministerial Statement on the Summer Landscape Gardening and Basic Horticulture Programme.

10:42 a.m.

Mr. Z.J.S. DeSILVA made two Ministerial Statements on Blood Donation in Bermuda; on BHB Volunteer and Student Summer Employment Programmes.

Mr. D.V. BURGESS, Minister of Transport, answered in writing as follows to questions addressed to him by Mrs. P.J. Gordon Pamplin.

- Q1.** Would the Honourable Minister please provide this Honourable House with a list of all consultants hired and working in the period from 1 April 2011 to the present, for the Ministry of Transport including the names, the company they work for, and the company's address?
- Q2.** Would the Honourable Member please inform this Honourable House as to the terms of reference, including fees, for which each consultant has been retained?
- Q3.** Would the Honourable Member please inform this Honourable House as to the total compensation that each consultant has received to date, including payments for expenses such as travel, accommodation and meals?

A1 -3. The responses to all of the above questions have been included on the attached table for ease of reading.

Department	Consultant's Name	Company	Company Address	Remuneration	Travel, Accommodation & Meals	Terms of Reference
Airport Operations	Donald Clark	Air Operations Manager		\$ 35,903.02	\$ 9,120.83	Engaged to perform as Air Operations Manager while a permanent replacement is being sought.
Civil Aviation	Patrick Doolan	Independent Consultant	14 Chapel of Ease Road, St. David's, DD01	\$ 82,503.00	\$ 25,013.77	Engaged to perform duties as the Airworthiness Manager European Region for the DCA Satellite office (London)
	Raine Pennanen	Independent Consultant	350 Lake Breeze Drive, Unit 34 Newcastle, Ontario, Canada, LIB OAZ	\$ 4,869.00	\$ 1,088.75	Engaged to perform duties as the Head of Airworthiness.
	Horace Tucker	Independent Consultant	P.O.BOX HM 147, Hamilton	\$ 25,314.06	\$ -	Engaged to perform duties as an Airworthiness Inspector for DCA

	Donald Gray	Auditair Global LLC	P.O.BOX 15513 , Asheville USA	\$ 16,000.00	\$ 4,726.30	Engaged to perform duties as the Head of Operations during the long term medical absence of the substantive employee.
Marine and Ports	Ian Brooks (1)	Independent Consultant	14 Chapel of Ease Road, St. David's, DD01	\$ 28,416.30		Assisted with duties in marine communications, traffic surveillance, search and rescue. Assisted with recruitment.
	Stephen Robinson (2)	Independent Consultant	1 Wharf Drive, Somerset Drive, Sandys MA06	\$16,304.00		Technical guidance on marine engineering and mechanical matters. Ensured continuous service of vehicles. Implemented new Planned Maintenance System.
Public Transport	Delroy O'Brien	Delroy O'Brien Consultancy	28 Euclid Avenue, Pembroke HM09	\$ 540.00		Maintains the point of sale (cashiering) system.
Transport Control	David Burt	GMD Consulting Ltd.	31 Dundonald St., Hamilton HM 12	\$ 73,770.50		Ongoing Project Management & IT support for Driver & Vehicle Registration System, eTCD.gov.bm, Appointment Management System and Electronic Vehicle Registration system
	Kenneth Williams	Bermuda Information Technology Systems Ltd.	P. O. Box HM66, Hamilton HM AX	\$ 57,993.25		IT maintenance for Driver and Vehicle Registration System

	Rippe & Kingston	Rippe & Kingston	1077 Celestial Street, Cincinnati, Ohio 45202	\$ 13,750.00		IT support for the eTCD.gov.bm & Appointment Management system
	Transcore Limited	Transcore Limited	5856 Harmony Ranch Road	\$ 75,775.00		Ongoing Maintenance of Electronic Vehicle Registration System

10:53 a.m.

Dr. E.G. GIBBONS asked Dame Jennifer Smith questions regarding her Statement.

Mr. C.F.B. SWAN asked Mr. M.A.R. Bean questions regarding his Statement.

Mrs. L.A. JACKSON asked Mr. Z.J.S. DeSilva questions regarding his Statement.

Mr. H.K.E. SWAN expressed condolences to the family of Mr. Rupert Scotland who was a former outstanding cricketer for St. George’s Cricket Club; associated all Members with these remarks.

Dr. E.G. GIBBONS congratulated Mr. Reginald Minors on being elected Chairman of the Ascendant Group; associated himself with the obituary remarks for Mr. Rupert Scotland.

Dame JENNIFER SMITH associated herself with the obituary remarks for Mr. Rupert Scotland who was a great cricketer; congratulated Denise Riviere on her participation in the Newport-Bermuda Race as a member of the Spirit of Bermuda Crew; congratulated the students of Whitney Institute and Berkeley Institute on their Science Fair and the NCCR Certification Exhibit which was of exceptional quality.

Mr. C.F.B. SWAN congratulated the ladies who participated in the Newport –Bermuda Yacht Race.

Mr. W.H. ROBAN associated himself with the obituary remarks for Mr. Rupert Scotland; congratulated Mr. John Johnson on being appointed CEO at Capital G Investments Division.

Mr. N.H.C. SIMONS associated himself with congratulatory remarks to Mr. John Johnson; congratulated organizers of the Bermuda Captive Conference held at the Fairmont Southampton Hotel;

thanked Mr. Peter Willitts and his committee on a very successful conference; associated himself with congratulatory remarks to Mr. Reginald Minors; expressed condolences to the family of Mr. Glenfield “Buff” Smith.

Mr. M.A. WEEKS congratulated Mr. Cal Jones on completing the Railway Trail Training Initiatives; congratulated Saltus Grammar Preparatory School.

Ms. P.A. COX introduced a Bill entitled the ‘Specified Business Legislation Amendment Act 2012’.

Mrs. P.K. MINORS, on behalf of Mr. W.L. Furbert, moved that under the provisions of Standing Order 25 the following take note motion in his name on 16th March, 2012 be withdrawn:

“That this Honourable House take note of steps taken by the Government as they relate to the further development of Tourism, proposed to increase tourism expenditure, increase tax revenue, increase jobs and grow GDP.”

- which was agreed to.

Mrs. P.K. MINORS, on behalf of Mr. W.L. Furbert, gave notice that at the next day of meeting he proposed to move the following motion:

“That this Honourable House support the Government’s National Tourism Plan which will increase tourism expenditure, expand tax revenue, increase jobs and raise the GDP.”

11:19 a.m.

On the motion of Ms. P.A. Cox, the Bill entitled the “Referendum Act 2012” was then read the second time.

11:30 a.m. – Mr. L.C. CANNONIER

11:34 a.m. – Mr. C.F.B. SWAN
 11:37 a.m. – Mr. W.A. SCOTT
 11:49 a.m. – Mr. M.J. SCOTT
 12:01 p.m. – Dr. E.G. GIBBONS
 12:15 p.m. – Mr. W.H. ROBAN

His Honour the SPEAKER ordered that the resume at 2:00 p.m..

12:30 p.m.

Ms. P.A. COX moved that the House do now recess for lunch, which was agreed to.

2:00 p.m.

The House resumed.

2:00 p.m. – Mr. H.K.E. SWAN
 2:30 p.m. – Mrs. P.J. GORDON PAMPLIN
 2:45 p.m. – Ms. P.A. COX

The Bill was committed.

Mr. D.D.M. TUCKER in the Chair.

Ms. P.A. COX moved Clauses 1 – 6

Ms. P.A. COX moved to amend Clause 6 of the Bill as follows:

That the Referendum Bill 2012 be amended in Clause 6 by replacing subsections (4) and (5) with the following:

“(4) A referendum question shall be taken to be answered in the affirmative (“Yes”) if, and only if-

- (a) 50 per cent or more of the persons who are registered in the parliamentary register, published under Section 9 (b) for the referendum, vote at the referendum; and
- (b) more than 50 percent of the persons voting at the referendum mark their ballot “Yes”.

(5) A referendum question shall be taken to be answered in the negative (“No”) if, and only if-

- (a) 50 per cent or more of the persons who are registered in the parliamentary register, published under section 9 (b) for the referendum, vote at the referendum; and
- (b) More than 50 per cent of the persons voting at the referendum mark their ballot “No”.

(6) A referendum question shall be taken to be unanswered if-

- (a) Less than 50 per cent of the persons who are registered in the parliamentary register, published under section (9) (b) for the referendum, vote at the referendum; or
- (b) the question has otherwise not been answered in the affirmative (“Yes”) in accordance with the subsection (4), or in the negative (“No”) in accordance with subsection (5).

(7) For the avoidance of doubt, unless required by an Act referred to in subsection (1) (a) that is subsequent to a referendum in respect of which a referendum question is taken to be unanswered, another referendum shall not be held in respect of the same question.

2:57 p.m. – Dr. E.G. GIBBONS
 3:00 p.m. – Ms. P.A. COX
 3:01 p.m. – Dr. E.G. GIBBONS
 3:03 p.m. – Mr. M.J. SCOTT
 3:05 p.m. – Ms. P.A. COX

Clauses 1 – 6, as amended, were agreed to.

Ms. P.A. COX moved Clauses 7 – 23.

3:13 p.m. – Mr. M.J. SCOTT
 3:14 p.m. – Ms. P.A. COX

Clauses 7 – 23, as printed, were agreed to.

Ms. P.A. COX moved Clauses 24 – 53

3:25 p.m. – Dr. E.G. GIBBONS
 3:30 p.m. – Mr. M.J. SCOTT
 3:32 p.m. – Ms. P.A. COX

Clauses 24 – 53, as printed, were agreed to.

Ms. P.A. COX moved Schedules 1 – 6.

3:35 p.m. – Dr. E.G. GIBBONS
 3:36 p.m. – Ms. P.A. COX
 3:39 p.m. – Dr. E.G. GIBBONS
 3:39 p.m. – Ms. P.A. COX

Schedules 1 – 6, as printed, were agreed to.

The Preamble was agreed to.

The House resumed.

The Chairman reported the adoption of the Bill, as amended, which was agreed to.

3:42 p.m.

On the motion of Mr. W.L. Furbert, the “Tourism Board Act 2012” was then read a second time.

- 3:57 p.m. – Mr. S.D.G. CROCKWELL
- 4:23 p.m. – Mr. H.K.E. SWAN
- 4:58 p.m. – Mrs. P.J. GORDON PAMPLIN
- 5:21 p.m. – Mr. Z.J.S. DeSILVA
- 5:28 p.m. – Mr. W.M. LISTER
- 5:34 p.m. – Dr. E.G. GIBBONS
- 5:45 p.m. – Mr. W.L. FURBERT

The Bill was committed.

Mr. D.P. LISTER in the Chair.

Mr. W.L. FURBERT moved Clauses 1 and 2.

Mr. W.L. FURBERT moved to amend Clause 2 of the Bill as follows:

Clause 2 of the Bill is amended by inserting in the appropriate alphabetical order the following definition-

“Deputy Chairman” means the Deputy Chairman appointed by the Minister under Section 5 (3);”

- 6:10 p.m. – Mr. S.D.G. CROCKWELL
- 6:11 p.m. – Mrs. P.J. GORDON PAMPLIN
- 6:12 p.m. – Mr. W.L. FURBERT

Clauses 1 and 2, as amended, were agreed to.

Mr. W.L. FURBERT moved Clauses 3 and 4.

Mr. W.L. FURBERT moved to amend Clause 4 of the Bill as follows:

Clause 4 of the Bill is amended by deleting the words “, subject to the provisions of this Act, hold office for such period and on such terms as the Minister may determine” and substituting the words “be a person with suitable qualifications and experience in the tourism industry”

A typo was noted in Clause 3 (2) (c) - “be” should read “by”.

- 6:15 p.m. – Mr. S.D.G. CROCKWELL
- 6:17 p.m. – Mr. N.H.C. SIMONS

Clauses 3 and 4, as amended, were agreed to.

6:19 p.m. – Mr. W.L. FURBERT moved Clauses 5 and 6.

Mr. W.L. FURBERT moved to amend Clauses 5 and 6 of the Bill as follows:

Clause 5 of the Bill is amended by-

- (a) in subclause (1) (c) by inserting at the end thereof “with the approval of the Minister;”
- (b) by inserting after the subclause (2) the following new subclause-
“(3) The Minister shall appoint a Deputy Chairman from among the members of the Board listed under subsection 1 (b) to (e);”
- (c) by re-numbering subclauses (3) to (6) as (4) to (7) respectively; and
- (d) in subclause (4) by deleting “if the Chairman is absent “ and substituting “If the Chairman and Deputy Chairman are absent”.
- (e) in subclause (4) inserting “If the Chairman and Deputy Chairman is absent or unable to act, the Minister may appoint any member of the Board to act temporarily as Chairman.”

Clause 6 of the Bill is amended by deleting the words “other than the Chair,”.

- 6:21 p.m. – Mr. S.D.G. CROCKWELL
- 6:24 p.m. – Mrs. P.J. GORDON PAMPLIN
- 6:25 p.m. – Mr. S.D.G. CROCKWELL
- 6:26 p.m. – Mr. W.L. FURBERT
- 6:29 p.m. – Mrs. P.J. GORDON PAMPLIN
- 6:31 p.m. – Mr. W.L. FURBERT

Clauses 5 and 6, as amended, were agreed to.

Mr. W.L. FURBERT moved Clauses 7 – 9.

- 6:40 p.m. – Mr. S.D.G. CROCKWELL
- 6:43 p.m. – Mr. N.H.C. SIMONS
- 6:46 p.m. – Mr. M.J. SCOTT
- 6:51 P.M. – Dr. E.G. GIBBONS
- 6:54 p.m. – Mr. N.H.C. SIMONS
- 6:56 p.m. – Mr. M.J. SCOTT
- 6:56 p.m. – Dr. E.G. GIBBONS
- 6:59 p.m. – Mr. W.L. FURBERT

Clauses 7 – 9, as printed, were agreed to.

Mr. W.L. FURBERT moved Clauses 10 – 14.

- 7:03 p.m. – Mr. N.H.C. SIMONS
- 7:05 p.m. – Mr. S.D.G. CROCKWELL
- 7:14 p.m. – Mr. W.L. FURBERT
- 7:16 p.m. Mr. S.D.G. CROCKWELL

Clauses 10 – 14, as printed, were agreed to.

Mr. W.L. FURBERT moved Clauses 15 – 22.

7:25 p.m. – Mr. S.D.G. CROCKWELL

7:27 p.m. – Mr. W.L. FURBERT

Clauses 15 – 22, as printed, were agreed to.

Mr. W.L. FURBERT moved the Schedule.

7:31 p.m. – Mr. S.D.G. CROCKWELL

7:34 p.m. – Mr. W.L. FURBERT

7:35 p.m. – Mr. S.D.G. CROCKWELL

7:37 p.m. – Mr. W.L. FURBERT

7:40 p.m. – Mr. M.J. SCOTT

7:41 p.m. – Mr. W.L. FURBERT

The Schedule, as printed, was agreed to.

The Preamble was agreed to.

The House resumed.

The Chairman reported the adoption of the Bill, as amended, which was agreed to.

Items 3 – 5 on the Order Paper were carried over to the next day of meeting.

Items 6 and 7 on the Order Paper were carried over to the next day of meeting.

Ms. P.A. COX moved that Standing Order 21 be suspended to enable her to move that the Bill entitled the “Referendum Act 2012” be now read the third time, which was agreed to.

On the motion of Ms. P.A. Cox, the Bill entitled the “Referendum Act 2012” was then read the third time and passed.

Mr. W.L. FURBERT moved that Standing Order 21 be suspended to enable her to move that the Bill entitled the “Tourism Board Act 2012” be now read the third time, which was agreed to.

On the motion of Mr. W.L. Furbert, the Bill entitled the “Tourism Board Act 2012” was then read the third time and passed.

Mr. M.J. SCOTT moved that Standing Order 14 be suspended to enable him to introduce a Bill, which was agreed to.

Mr. M.J. SCOTT introduced the Bill entitled the “Criminal Justice (International Co-operation) (Bermuda) Amendment Act 2012.

7:45 p.m.

Ms. P.A. COX moved that the House do now adjourn.

7:46 p.m. – Mr. M.J. PETTINGILL

8:07 p.m. – Mr. W.M. LISTER

8:16 P.M. – Mr. Z.J.S. DeSILVA

8:24 p.m. – Mr. E.T. RICHARDS

8:43 P.M. – Mr. M.J. SCOTT

8:58 p.m.

The House adjourned to Friday, 15th June, 2012.