



Rev. Tweed Allowed To Stay (For Now)

by LaVerne Furbert

There were huge sighs of relief in Bermuda's newest court room as Chief Justice Dr. Ian Kawaley handed down his ruling in the matter of (1) the Council of AME Churches and (2) The Reverend Nicholas Genevieve-Tweed (Applicants) and the Minister of Home Affairs (Respondent) late on Wednesday afternoon, January 19, 2016. Lawyer for the AME Churches and Rev. Genevieve-Tweed, Delroy Duncan, had earlier presented a "Skeleton Argument" to the Chief Justice requesting an "Application for Leave to apply for Judicial Review and that the direction of the Minister of Home Affairs that Rev. Genevieve-Tweed leave Bermuda by 19 January 2017 be stayed until further Order of the Court.

In his "Skeleton Argument", Mr. Duncan laid out the points for the remedy that he was seeking on behalf of the AME Church and Rev.



Rev. Tweed and his lawyer, Delroy Duncan surrounded by supporters after court hearing.

Tweed with regards to the decision of Minister Gordon-Pamplin which included the Minister's decision "to refuse to grant the AME Church a work permit to employ Rev. Tweed; and the direction that Rev. Tweed leave Bermuda by 19 January 2017.

Mr. Duncan argued that should Rev. Tweed be compelled to leave Bermuda by January 19, 2017, he would be "wholly deprived of the benefit of his success. This is particularly so in the circumstances where Rev. Tweed has

made his home in Bermuda, is the father of a minor child whom he sees nearly every day on multiple occasions and represents her transportation means of attending school and Rev. Tweed is part of the community that is St. Paul's Church."

The lawyer also argued that there was evidence of bias on the part of the Minister, referring to the Hansard record of the House of Assembly as to the strength of the Minister's feelings about Rev. Tweed that

(continue on page 2)

February 3, 2017 is Drawing Nigh



Bermudians are reminded that the House of Assembly re-opens on Friday, February 3, 2017 and included on the Order Paper will be the "Airport Redevelopment Concession Act 2016" which was scheduled for debate on December 2, 2017.

Bermudians are further reminded that Section 10 of the Bermuda Constitution states:

"Except with his consent, no person shall be hindered in the enjoyment of his freedom of peaceful

assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to political parties or to form or belong to trade unions or other associations for the protection of his interests."

Those Bermudians who are against the "Airport Redevelopment Concession Act 2016" should exercise their democratic rights on Friday, February 3, 2017. ■

Rev. Tweed Allowed To Stay (For Now) (continued from page 4)

she should be driven from her church of 60 years. Mr. Duncan further outlined how the Minister has criticized Rev. Tweed's views, sermons and beliefs on several occasions. Mr. Duncan cited one example of comments made the Minister in the House of Parliament on June 24, 2016. The Minister's comments at that time were as follows: "For that very reason, Mr. Speaker, I have refused to go to the church that I have been a member of for 60 years because I was getting barbs coming from the pulpit Sunday after Sunday after Sunday when I go for spiritual rejuvenation. Few people can say that they are more spiritual than I. Maybe my mouth and my language, perhaps, leave a lot to be desired, and I acknowledge my shortcomings. None of us is perfect. However, Mr. Speaker, I do try. I try to live in a manner in which I would want to be treated. I certainly would not want to be treated in such a way that says that whether or not I get re-elected to this House dictates how my name goes down in the history books. I want it to be said and it to be shown, Mr. Speaker, that I have the courage of my convictions to treat every single one of my fellow men in exactly the same way that I want to be treated".

According to Mr. Duncan, the above statement by Minister Gordon-Pamplin was an example of "actual bias" adding that "The Minister in this case has such strong views about a preacher for social, religious and political reasons that she refuses to attend the Church she has otherwise attended for the past 60 years. It was not possible for that same Minister to make a calm, dispassionate decision on the man whom she has said has driven her from her church".

During his submission to the

Chief Justice, Mr. Duncan shared various e-mails and other correspondence from the Chief Immigration Officer and other civil servants to the officials at St. Paul's AME who were handling the matter. This correspondence indicated there was Ministerial interference as many persons in the community have stated.

"Contrary to the direction made by the Minister on 19 July 2016 and the statement made the Minister on 9 September 2016, the matter was not given to the Immigration Board for their decision, rather, it was forwarded to the Board and then retrieved – on two occasions. It was the Minister herself who made the decision to refuse the application, and directed the Second Application (Rev. Tweed) leave Bermuda by 19 January 2017. There has been no explanation for the failure to follow both normal procedure and to go against what the Minister directed should happen on 19 July 2016 and then specifically stated would happen in this case on 9 September 2017."

Before ending his submission, Mr. Duncan referred to a similar case that was heard by Justice Kawaley before he was appointed as Chief Justice. In the 2008 Supreme Court Judicial Review case, lawyers for Rev. Christopher Haynes, another AME pastor, argued that the pastor should be able to reside and work in Bermuda as he was the father of two Bermudian children. At the conclusion of that case, Justice Kawaley ruled that "the June 7, 2002 decision of the Minister affirmed by the Cabinet Appeals Tribunal that (a) the Applicant's permission to reside in Bermuda should be revoked and (b) he should be ordered to leave Bermuda, was unlawful by reason of procedural impropriety and is liable to be quashed".

At the Judicial Review case at a

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Bermuda Industrial Union
49 Union Square
Hamilton HM12 Bermuda

T (441) 292-0044
F (441) 295-7992
E lfurbert@biu.bm

EDITOR
Arnold Smith
asmith@biu.bm

ASSISTANT EDITOR
LaVerne Furbert
lfurbert@biu.bm

LAYOUT AND DESIGN
Phaedra Smith

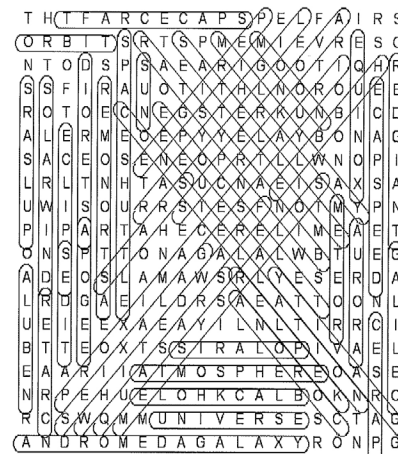
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PUZZLE • SOLUTION

ASTRONOMY

This is the solution to the puzzle located [here](#).



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ASTEROID	EQUINOX	ORBIT	SPACE SHUTTLE
ASTRONOMER	GALAXIES	PARSEC	SPACECRAFT
ATMOSPHERE	GALILEO	PERIGEE	STARS
AURORA	GRAVITY	POLARIS	SUN
BINARY STAR	HUBBLE	PROXIMA CENTAURI	SUPERNOVA
BLACK HOLE	KEPLER	PULSARS	TELESCOPE
CONSTELLATION	LIGHT YEAR	QUASARS	TIDES
CORONA	METEOR	RED GIANT	UNIVERSE
CRATER	MILKY WAY	SATELLITE	WHITE DWARF

Hidden sentence: THE FIRST PERSON TO SET FOOT ON THE MOON WAS NEIL ARMSTRONG

Minister Gordon-Pamplin's Decision Was Personal and Political

In my opinion, it should be obvious to all of Bermuda by now, that the decision by the Minister of Home Affairs, the Hon. Patricia Gordon-Pamplin to refuse Rev. Tweed's work permit is personal and political, in spite of the Minister's many protestations to the contrary.

In her latest release to the media on January 4, 2017, the Minister stated "... It is unfair to aspiring Bermudians to not have an opportunity for consideration". According to the Minister's press statement, "... there were 17 advertisements in 2016 for religious ministers and priests that were posted on the Job Board. There has been one application for a waiver and that request was submitted for a non-Bermudian application for the position of Bishop-elect." I do note that as reported in the daily, Bishop Wesley Spiewak of Poland was appointed as Bishop of the Roman Catholic Church, replacing Bishop Kurtz, but that occurred in October 2015, not 2016.

I found it interesting that Bishop Spiewak was appointed to his position by the Pope who wrote "Because the Diocese of Hamilton in Bermuda is vacant due to the resignation of our venerable brother Robert Kurtz, after a consultation, we have thought of you, dear son, and we have seen you as suitable to succeed him." I understand that to mean that there was no work permit process for the Catholic Church in Bermuda, yet the AME Church has to follow a process as indicated by the Minister. I also found it quite interesting that Bishop Wesley Spiewak is also known as Wieslaw Spiewak, yet the Minister made a big deal about the name of Rev. Tweed's documents. Some may

consider this a small point, but as I see it, that is just more evidence to prove that the Minister's refusal was personal.

The Minister also stated in her release that she "can confirm that the other religious denominations adhere to the policies". I take it that the Minister is saying that other religious denominations advertise vacant positions as required by the Department of Immigration. Apparently one such denomination that advertised for the position of pastor was Wesley Methodist Church. An advertisement for a "Full-time Ordained Minister who can inspire and lead" appeared in the daily in June 2016. The closing date for applications was June 17, 2016. However, the Wesley Methodist Church's Facebook page indicates that Rev. David Hann, a Canadian, had already been appointed to the position in May 2016. In fact, there is a post dated May 11, 2016 that reads as follows "We are grateful for the good work of our Joint Needs Assessment Committee (JNAC) and various others in putting together or JNAC Report. The Joint Selection (JSC) met for the first time last night and have reported they are excited and committed to fulfilling their mandate and facilitating the transition of a new Minister to Wesley".

I personally don't have a problem with the Maritime Conference of the United Church of Canada appointing ministers/pastors if it within the Church doctrine for appointments to pulpits be made by that body, just like I have no problem with the Bishop of the AME Church making appointments to pulpits in Bermuda, whether it is St. Paul's A.M.E. or



IN MY OPINION
BY LAVERNE FURBERT

anyone of the other church. Many churches in Bermuda, including the 7th Day Adventist Church, the Roman Catholic Church, the Anglican Church the Presbyterian Church, and others are affiliated with international bodies and it is not unusual for some of these churches to have pastors that have been appointed by the international body that with whom they are affiliated. Hence, I believe that just as "waivers are automatically granted in respect of the post of CEO or other Chief Officer and the post of Resort Hotel General Manager at a hotel with greater than 175 beds", waivers should be automatically granted to churches.

The Minister has made it clear that "This Government respects the church and we have had many conversations and correspondence on this matter, aware of its history and the importance of what churches and their leaders mean in our community". If the Minister was sincere when she made the aforementioned statement, certainly the matter of Rev. Tweed's work permit would have been handled differently. But, as I said in the beginning, I believe the matter is personal and political, hence the refusal by Minister Patricia Gordon Pamplin. ■

PLP Continues to Push for Good Governance

At a press conference recently, Opposition Leader and Shadow Minister of Finance E. David Burt JP, MP called for the continuation of the Good Governance legislation as started by the PLP Government.

“Throughout our history the PLP has always pushed for better governance and better government in Bermuda. Almost every progressive democratic reform that has taken place in Bermuda has been due to PLP pressure while in opposition, or by PLP action while in Government,” stated MP Burt.

He said that during the party’s time in Government, the Party made the following changes:

- The PLP in 1999 strengthened the Independence of the Office of the Auditor General.
- The PLP abolished annual voter registration and introduced single seat constituencies with one man, one vote of equal value.
- The PLP created the Office of the Ombudsman.
- The PLP created the Internal Audit Department.
- The PLP enacted public access to information legislation;
- The PLP enacted Good Governance legislation, which introduced the office of project management and procurement to increase transparency & fairness in the tendering process, while also better managing capital projects.
- The PLP enacted whistle-blowers legislation to protect public and private sector employees from retribution should they expose illegal activity.

“Our record in improving the way our government works speaks for itself,” continued Mr. Burt.



“Today, true to the PLP roots of pushing for progressive reforms that ensure that the Government serves the people better, we are committing to the following reforms when we form the next government.”

According to Mr. Burt, these measures will make government work better for Bermudians which will lead to better decisions being made with better outcomes for Bermuda. He added that the PLP’s reform will increase citizens’ participation in our democracy; provide greater oversight which will reduce waste and inefficiency, create an anti-corruption watchdog, and will implement campaign finance reform to limit wealthy donor influence. An overview of the items that we commit to implementing as the next government is as follows:

• **A more participatory Democracy:**

1. We will implement a process where Initiatives/Petitions that gather a certain threshold of signatures can be placed before parliament for debate or to the country via referendum.
2. We will form an independent Commission on Debates to ensure the major issues are discussed in a public forum and are not just limited to prepared speeches in parliament. Our public discourse does not do enough to enlighten voters

about the issues and we must do better. This will also include debates before General Elections.

• **Greater Oversight:**

1. 3 Permanent oversight committees to scrutinize government spending: • We will implement the SAGE Commission’s recommendation to establish three permanent oversight committees which deal with Ministries. The OBA rejected this recommendation, stating that “we have enough oversight already”. It should be clear to all that in Bermuda there is nowhere near enough oversight. Parliamentary questions once a week and a single Public Accounts Committee without a full-time staff member are not enough oversight for our government.
2. We will create a permanent staff member for the Public Accounts Committee to ensure that PAC has the resources to find wasteful spending and hold the government of the day accountable.

• **Anti-Corruption Measures. The PLP will enact Anti-Corruption legislation which will:**

1. Create an independent corruption watchdog; broaden the definition of official corruption;

(continue on page 6)

The year 2016 - Bermuda's time of discontent

Two years ago the Arab world experienced what was called the "Arab Spring" where in many countries in that region saw great social and political upheaval which resulted in the overthrow of governments and strongman leaders.

While Bermuda did not come close to what we saw in the Arab world, the protests which saw the forced closing of the House of Assembly by the people who blocked access on two occasions was unprecedented in Bermuda's history. First, the protest was over the OBA government's attempt to pass an immigration law that would have put the Bermudian at a great disadvantage and impacted on the future of their children. Then there was the question of the building of a new airport which would have the effect of turning over Bermuda's only national airport for a period of 30 years. This was the price of having the new airport built by outside economic interests who expect to recover its initial investment and more over that period of 30 years. It is not only that the Canadian company which secured the contact has gotten a commitment from the OBA government to make up any short fall in expected profits, but they have been given many government tax exemptions and the Govern is even government paying the electricity bill for the airport during that thirty year period.

These were the two major issues which sparked the people's protests outside of the parliament building. But OBA government policies have created an ongoing sense of rebellion among the people of Bermuda with increased anger towards the OBA government.

This anger was more pronounced with the OBA Government's refusal to renew the work permit of the pastor of the St. Paul AME Church, Rev. Nicholas Tweed. The claim through its Immigration Minister, Patricia Gordon-Pamplin that Rev. Tweed did not properly fill out his renewal application rings hollow in the ears of the black community which clearly sees it as an attempt to rid a chief critic of the government. Rev. Tweed is a founding member of the People's Campaign and an attack on him as the pastor of the AME Church is an attack on the very center of the black community, church.

If Minister Gordon-Pamplin and her government were not aware of this which could be called a crime against the sacred existence of a major institution in the black community; than this is finally the proof that the OBA government has no connection with the black community, but then the black members of that party are content to remain clones to a political entity that is bound and determined to continue to make victims of their own people.

**THE OTHER
ALTERNATIVE**



By ALVIN WILLIAMS

But than they were sitting at the table when the decision was made to send in the police to pepper spray peaceful protestors. You're not going to tell me that the Ppolice Commissioner made that decision on his own or even the officer in charge made it on his own without orders from above: political orders.

The reaction from government supporters and backers was predicted; from newspaper editorial which called peaceful protestors savages to black apologists calling for black Bermudians to be peaceful while not taking the OBA government to task for its policies. Now we have entered the year 2017 the year of political decision; lets us not forget the year 2016; the year of political struggle where black Bermudians turn a corner and struck a blow for their and their children's future in this country. ■

PLP Continues to Push for Good Governance *(continued from page 4)*

2. Increase the requirements for disclosure of financial interests for politicians and senior civil servants;
 3. Give the Auditor General the power to 'follow the money' powers with government contracts
 4. Void any contract entered into by the government which has been found to be procured via corrupt practices.
- We will advance government procurement reform which will finally implement the Good Governance Act to provide for criminal penalties for persons who violate financial instructions.

"Finally, when the PLP wins the next election we will implement campaign finance reform to create greater openness and transparency surrounding financial contributions to political parties and the expenditures of political parties. The people of Bermuda should know who bankrolls our political parties and how those funds are spent. Recent local and global events should serve as a warning that strong action is needed to increase transparency and protect the integrity of elections in Bermuda.

The Shadow Minister of Home Affairs will speak in depth on the matters pertaining to electoral and campaign finance reform.

"We are at a crossroads as a country. Division and poor governance have led us to a place where many are losing hope. We have major problems to solve if we are to thrive. Vision 2025 is the PLP's long term vision for Better Bermuda, but to get there we will also need to ensure that our Government works better.

"The OBA made many of these promises in their last election cam-

paign. However, like many of their election promises, almost all remain unfulfilled. Over the last 4 years Bermudians have learned that the OBA are not serious about Good Governance but today they also know that the PLP has the right solutions to improve Governance in Bermuda.

"People may ask why the PLP would invite additional scrutiny of their government after the next election, as it is bound to cause embarrassment. The reason is simple: because better scrutiny and better oversight will lead to better results and outcomes for the people of Bermuda.

"I look forward to sharing our solutions and hearing feedback from voters when the Opposition will host a Town Hall meeting on Good Governance next Tuesday at 6:30 PM at the Leopard's Club.

Shadow Minister of Home Affairs, Walton Brown also spoke at the press conference. His remarks were as follows:

"We strongly believe electoral and campaign finance reform are essential to improving democracy in Bermuda. There are four main areas of reform required and the next PLP government will act decisively to put these in place.

First, we will establish an Electoral Commission. This is a key recommendation of the Parliamentary Elections Committee I chaired and the report was approved without dissent by Parliament. However, the OBA government has not acted on this, but a PLP government will. In fact, the OBA spoke passionately about the need for electoral reform in 2012 yet have done nothing in this area. This Commission will not simply oversee elections but also have quasi-judicial authority to

handle matters brought before it.

Secondly, we will implement election spending limits. In order to create a level playing field for political parties it is important to ensure that financial limits are in place. Without limits, expenditures could spiral out of control and make election results more about how much money you spend than how the people's condition will improve. The OBA approach is to ignore this issue altogether while they quietly raise millions of dollars for high priced consultants.

Thirdly, we will set limits on individual and corporate donations and require public disclosure of large donors. This issue is intimately connected with spending limits. In the absence of such limits we will remain in the murky area of simply buying political influence as was raised in the JetGate spectacle. To date there has been no full and proper investigation regarding the \$350,000 donation that the OBA repeatedly denied any knowledge of. Only after the donor himself publicly confirmed the contribution did the OBA admit to the use of those funds in their 2012 election ground campaign. What followed was the resignation of Mr. Cannonier as Premier but we know little more. Transparency requires that the public know who all large donors are and, while the OBA has only paid lip service, we will act decisively.

Fourthly, we will formulate relevant campaign regulations. These regulations will cover a multitude of issues relating to elections. One such regulation will cover campaign donations to unofficial accounts in support of a political party. These too must come under public scrutiny. ■

The Twelve Silent Disciples

BY E. McNEIL STOVELL

I am one who has never been afraid to confess that I no longer associate myself with any religious doctrine. Yet, as a little boy growing up I attended many Sunday school classes throughout Bermuda because I was forced to under the fear of being beaten. I'm here to say that I hated every grueling moment of it. None-the-less, while attending those many Sunday school classes, I did learn about Jesus and his twelve disciples, especially the one named Judas.

What I noticed most about the disciples was that there was not one amongst them that was black or that represented any other ethnic group of people at all other than Caucasian and I always wondered why. But the twelve silent disciples of whom I am referring to in this case are all black, and sit in parliament as members of the O. B. A. At least Jesus was lucky to have only one Judas amongst his flock if I could call it that, but to have all twelve Judas-like disciples is truly a real record breaker of all time.

As African-Bermudians these twelve black members of the O. B. A. should be considered the most incompetent, ineffective group of back benchers that has ever occupied space in parliament. Why would I say that? Because for most of the time that they have sat in parliament they have said very little of anything or whatever they have said has been mostly anti-African Bermudian. I don't call them silent for nothing. Yet to make matters even worse, these same twelve silent disciples just sat up in Parliament as if they were corpses laid out in a coffins and said absolutely nothing when their party tried to push through Parliament the most racist piece of legislation this

country has ever seen in more than 60 odd years, namely the "Pathways to Status" bill.

Let's face it, that piece of legislation was intended to give status to PRC's whom were mostly white and European just in time to have rights to be able to vote in the upcoming general election. I'm quite sure that these twelve silent disciples did know that they were supporting a racist piece of legislation that not only would have dismantled 60 years of hard fought for civil-rights but was also intended to water down and eventually wash away the long fought for voting power of the African Bermudian people.

For decades the U. B. P. held the government and country hostage through the use of lop-sided electoral districts, also by the implementation of the three year commonwealth residency vote and also through the use of dual-seats in parliament some of which some were occupied by party clones. Now all of a sudden here comes the O. B. A. with their bag of dirty tricks to try and see if they too now could do what the U. B. P. did by entrenching themselves into power so that they could hold the country hostage and never lose an election ever again; this time with the help of white Europeans who are mostly English and Portuguese.

I don't know if Mr. Crockwell should be now included in with the above bunch since he now sits in parliament as an independent, but don't forget the names of the eleven Judases that are left; for their sake I hope it's more than just thirty pieces of silver that they would receive each for helping to wash down the drain the long fought for civil rights gains of African Bermudians which also by the way will include them. ■



Union Corner

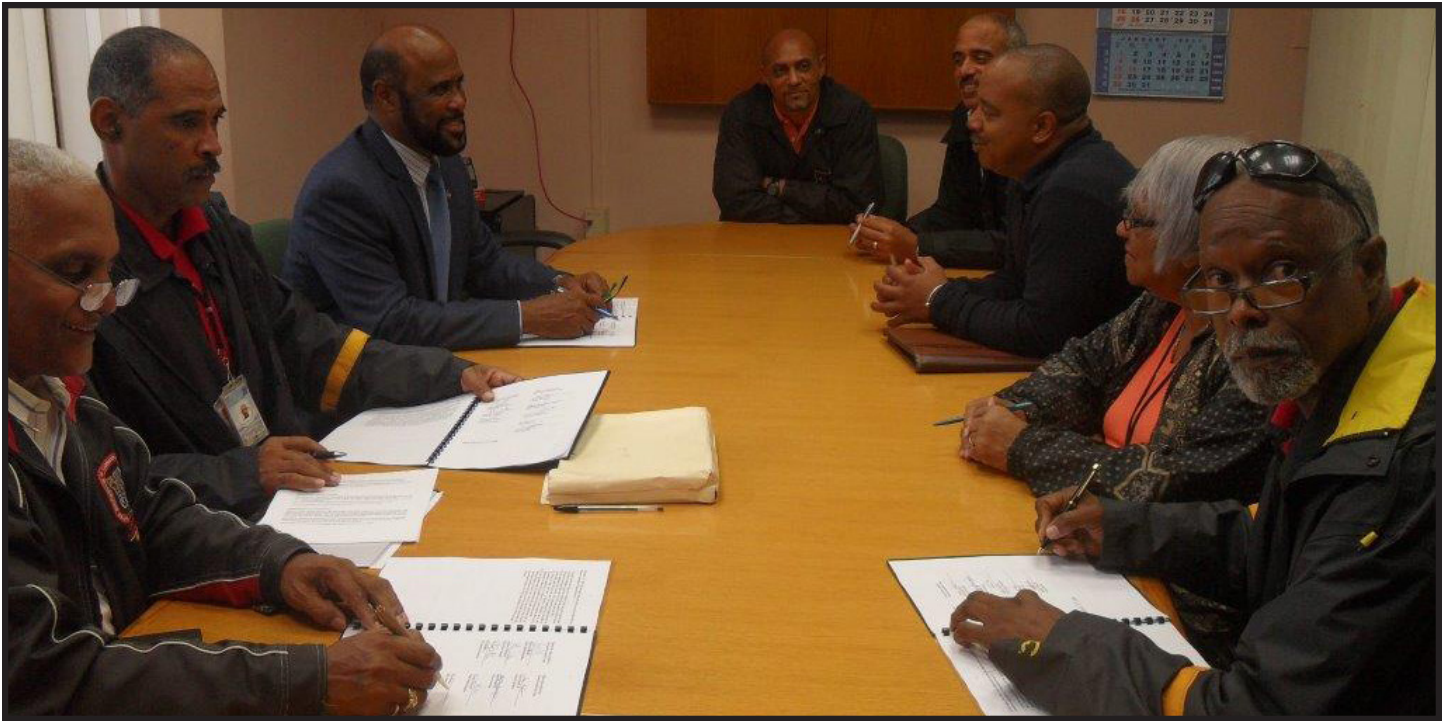
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A new two year Collective Agreement with Shield Security was recently signed at BIU Headquarters. Shown (left to right): Brother George Scott, Chief Organiser, Brother Quinton Ming, Shop Steward for Shield Security; Brother Chris Furbert, BIU President; Mr. Anthony Mouchette, Shield Security, Mr. Wayne Edwards, Shield Security; Mr. Wiley Rudo, Shield Security; Sister Molly Burgess, BIU General Secretary and Brother Wayne Matthews, Negotiator. ■



The Annual Emergency Medical Technicians (EMTs) Service was held on Sunday, January 8, 2017 at Heritage Worship Centre. Shown is Brother Raymond Tucker (centre) President of the Hospitals Division and other EMTs. ■

EAP CLIPS: JANUARY 2017

10 HANGUPS THAT CRIPPLE WORKERS

What habits and mindsets are keeping you from reaching your full potential? According to Richard Carlson, Ph.D., these are some common hang-ups that can get in the way of your success:

1. Wallowing in the Past

Everyone messes up at some point or other. The important thing is often not the mistake itself, but rather how quickly you recover and move on from it. When you're at fault, admit it, apologize, fix it and then go forward. By recovering quickly, you'll learn from mistakes and save a lot of time and aggravation.

2. Being a Control Freak

High stress levels have been traced to a national trend toward controlling behavior. Controlling people concern themselves not only with their own thoughts and actions, but insist others think and act in certain ways as well. This is a losing battle. Try to see the advantages in how others approach things. Not only will you experience less tension, you'll find that when people feel accepted for who they are, they will be more inclined to help you.

3. Wishing You Were Somewhere Else

When you're at work, you wish you were home; when it's Monday you wish it were Saturday... it's almost impossible to be focused and effective when your mind is preoccupied with where it would rather be. If you're not careful, you can begin wishing your life away. Spending less time wanting to be somewhere else and more time focused on what you're actually doing will help you regain your enthusiasm and be more creative and productive.

4. Negative Thinking

Many people are held back by negative or fearful thoughts. For years an independent salesperson told herself it wasn't worth calling prospects on weekends because they might be offended. Truth was, she was afraid to make the calls. Once she decided to drop her fear and pick up the phone, she discovered weekends were an excellent time to call, because more people were home, relaxed and receptive. As a result, she tripled her income.

5. Not Asking For What You Want

Be it a raise, more resources for a project or a second chance, it's amazing what you can accomplish simply by asking for what you want. The key is to believe in your request and that others want to help you.

6. Becoming Too Attached to Outcomes

Being attached to a specific outcome takes enormous amounts of energy and creates anxiety that gets in your way of doing your best. Being detached, on the other hand, creates emotional freedom. It means trying hard and really caring, but at the same time being completely willing to let go of the outcome. Detachment takes the pressure off and lets you enjoy the process.

7. Fear of Public Speaking

Experts repeatedly say speaking in front of groups is the No. 1 fear in America -- topping even bankruptcy and death! Yet, the increased visibility and advancement opportunities you gain from being able to present to groups are enormous. Take a public speaking course, then put yourself in situations that require you to get up and talk in front of people. You'll find it gets easier and more fun with practice.

8. Self-Absorption

Self-absorbed individuals love to hear themselves talk and see others as instruments to get what they want. This is not only unattractive, it's detrimental to your personal development. Self-absorbed people tend to have poor relationships and slow learning curves, since they don't listen well. If you're drifting in that direction, make an adjustment. Everyone will benefit.

9. Making Career Decisions to Please Others

Too many people choose a career based on what they think will impress or win the approval of others. However, your best chance at success is through doing work you love. If you're not happy in your chosen field, consider switching to one for which you have a genuine interest or passion.

10. Always Seeking Perfection

Not everything has to go perfectly to be a success. Pick what is important and concentrate your efforts there. As for the rest, lowering your expectations a bit will allow you to relax and focus on the most important aspects of your job.



If you need help please call the **EMPLOYEE ASSISTANCE PROGRAMME OF BERMUDA** at **292.9000**
Log-on to **www.eap.bm** to view additional Clips.

When can a contract of employment be terminated by an employer?

In Bermuda, since 2008, both employers and employees have experienced increasingly challenging conditions in the workplace. In this current economic climate, it is important that both employers and employees clearly know the circumstances under which an employee's contract of employment can be lawfully terminated.

Examination of the following topics will help clarify when a contract of employment can be terminated by an employer:

I. Does a contract of employment have to be terminated under the provisions of the Bermuda Employment Act 2000?

II. Under what circumstances does the Employment Act 2000 state an employer can terminate an employee's contract of employment?

III. Can an employer terminate an employee's contract of employment without first giving the employee a written warning?

IV. When can an employer terminate an employee's contract of employment for serious misconduct?

V. When can an employer terminate an employee's contract of employment for repeated acts of misconduct?

VI. When can an employer terminate an employee's contract of employment for unsatisfactory performance?

VII. Can an employer terminate an employee's contract of



employment while the employee is on probation?

I. Does a contract of employment have to be terminated under the provisions of the Bermuda Employment Act 2000?

Section 6 (2) of the Employment Act 2000 "EA 2000" provides that within one week of employment every employer in Bermuda must issue an employee with a written statement of employment. The statement of employment should set out all the important terms and conditions of the contract of employment, including disciplinary procedures and circumstances under which both the employer and employee can terminate the contract.

Section 2(3) of the EA 2000 provides that an employer can terminate an employee's contract of employment, in accordance with the terms and conditions set out in the written contract of employment, without referring to the EA 2000. However, an employer is only permitted to choose to terminate the employee's contract of employment without referring to the terms and conditions in the EA 2000, if the terms and conditions of the em-

ployee's contract of employment are more favorable than the terms, conditions and protections set out in the EA 2000.

II. Under what circumstances does the Employment Act 2000 state an employer can terminate an employee's contract of employment?

Sections 18 (1), (1A) and (4) of the EA make it plain that an employee's contract of employment, shall not be terminated unless there is a valid reason for termination connected with:

The ability, performance or conduct of the employee;

The operational requirements of the employer's business;

Or the employee has committed an act or acts of serious misconduct.

In addition, before an employer can terminate an employee's contract of employment an employer must give an employee notice in accordance with the time periods set out in the following sections of the EA:

In respect of termination of the contract of employment Section 20;

In respect of repeated misconduct Section 26;

In respect of unsatisfactory performance Section 27.

III. Can an employer terminate an employee's contract of employment without first giving the employee a written warning?

Section 24 (1) of the EA states that an employer shall be entitled to take disciplinary action, including giving an employee a written warning or suspending an employee, when it is reasonable to do so in all the circumstances.

Section 24(3) sets out the

(continue on page 11)

When can a contract of employment be terminated by an employer? (continued from page 10)

matters to consider when deciding if an employer has acted reasonably when taking disciplinary action against an employee. There are nine factors which are used to determine whether an employer has acted reasonably. These factors include the nature of the conduct in question, any damage caused by the employee's conduct, and the employee's length of service and previous conduct while employed.

If an employee commits an act of serious misconduct, as defined by section 25 of the EA, an employer is entitled to terminate the employee's contract of employment without first giving the employee a written warning.

Section 26 of the EA, termination for repeated misconduct and section 27 of the EA, termination for unsatisfactory performance, both state that an employer may give an employee a written warning in each case. Despite the use of the word **may** as opposed to **must** in both sections 26 and 27 of the EA, the better practice appears to be that an employer **will** give an employee a written warning, if an employee commits acts of repeated misconduct which are not serious, or, the performance of the employee is unsatisfactory.

What happens if the contract of employment between the employer and the employee contains a disciplinary procedure?

An employee cannot lawfully be dismissed on disciplinary grounds for example for misconduct, until the disciplinary procedure set out in the contract of employment has been carried out. This was the decision of the Supreme Court of Bermuda in two cases. *Woods-Forde v Bermuda Hospitals Board* [2013] Bda LR 79

at paragraph 56 and *Richardson v Air Care Limited* [2015] SC Bda 5 Civ at paragraph 60.

IV. When can an employer terminate an employee's contract of employment for serious misconduct?

In the Supreme Court of Bermuda case *Mathews V Bank of Bermuda Ltd* [2010] Bda.L.R. 56 at paragraph 43, Chief Justice Kawaley stated the following in reference to when an employee can be summarily terminated under section 25 of the EA for serious misconduct:

"To comply with section 25 of the Act, the employer must prove that the summary dismissal was for misconduct which either (a) "is directly related to the employment relationship" (section 25(a)), or (b) "has a detrimental effect on the employer's business" (section 25(b)), and that (c) "it would be unreasonable to expect the employer to continue the employment relationship." In deciding whether it was reasonable for the employer to conclude that the employment relationship had to be brought to an immediate end, the Tribunal must in my judgment effectively consider whether the penalty of summary dismissal was reasonable, having regard to the matters set out in section 24(3)."

V. When can an employer terminate an employee's contract of employment for repeated acts of misconduct?

Section 26 of the EA states that an employer can terminate an employee's contract of employment for repeated acts of misconduct, if an employee's misconduct is directly related to the employment relationship and is repeated

within six months of receipt of a written warning. In *Richardson v Air Care Limited* [2015] SC Bda 5 Civ the court found that the employee's persistent and repeated lateness for work could justify dismissal under the contract of employment.

VI. When can an employer terminate an employee's contract of employment for unsatisfactory performance?

Section 27 of the EA states that, if an employee is not performing his duties in a satisfactory manner, the employer may give him a written warning and appropriate instructions as to how to improve his performance.

An employer can terminate an employee's contract of employment for unsatisfactory performance provided the employer has given the employee a written warning and appropriate instructions as to how to improve his performance. Section 27(1) of the EA relates to whether an employer has given adequate instruction and direction to the employee regarding deficient areas of work, which require improvement, and whether the employee has been given adequate time to improve performance. Section 27(2) of the EA provides that the employee is entitled to six months within which to improve his performance before the employer can terminate the contract of employment.

VII. Can an employer terminate an employee's contract of employment while the employee is on probation?

Probation clauses are commonly found in written contracts of employment. A probationary

(continue on page 15)

The People's Campaign Remembers Dr. Martin Luther King Jr.

Almost fifty years after his death, the words, sermons and actions of Dr. Martin Luther King Jr. (January 15, 1929 – April 4, 1968) continues to inspire movements like the People's Campaign in Bermuda. In fact, the principals of the People's Campaign, which was founded in April 2014, were motivated by the "Poor People's Campaign", which was founded by Dr. King in 1968 in an effort to gain economic justice for poor people in the United States. The People's Campaign Manifesto states "The Peoples Campaign for Equality, Jobs, and Justice is a coalition of concerned people of goodwill who have joined together to give voice to the condition of the country. As a group we are concerned with the growing frustration and mistrust of the political process in view of the continued rise in unemployment, growing gap between "have's" and "have not's", and the unequal burden of sacrifice being placed on the lowest and the least.

The People's Campaign will continue to protest and demonstrate nonviolently despite being aggressively attacked with pepper spray by police officers.

"They tried to stop us by threats and fear, the tactic that had long worked so effectively. But nonviolence had muzzled their guns and Negro defiance had shaken their confidence. When they finally reached for clubs, dogs, and guns, they found the world was watching, and then the power of nonviolent protest became manifest. It dramatized the essential meaning of the conflict and in magnified strokes made clear who the evildoer was and



who was the undeserving victim."
– Dr. Martin Luther King Jr.

The People's Campaign's battle is not against any segment of our population; our battle is against the system and the government which produces policies that keep a segment of our community disadvantaged.

"To develop a sense of black consciousness and peoplehood does not require that we scorn the white race as a whole. It is not the race per se that we fight but the policies and ideology that leaders of that race have formulated to perpetuate oppression." – Dr. Martin Luther King Jr.

The People's Campaign's activities are rooted from the desire of a segment of our population to gain social and economic opportunity thus the Campaign will not stop its activities falling for the false notion that cooperation will lead to our desired end.

"To sum up the general causes of riots, we would have to say that the white power structure is still seeking to keep

the walls of segregation and inequality substantially intact while Negro determination to break through them has intensified, the white society, unprepared and unwilling to accept radical change, is resisting firmly and thus producing chaos because the force for change is vital and aggressive. The irony is that the white society ruefully complains that if there were no chaos great changes would come, yet it creates the circumstances breeding the chaos."
– Dr. Martin Luther King Jr.

The People's Campaign will continue its fight for full employment of Bermudians and the implementation of a living wage to restore dignity to many who are losing hope.

"We are demanding an emergency program to provide employment for everyone in need of a job or, if a work program is impracticable, a guaranteed annual income at levels that sustain life in decent circumstances. It is now incontestable that the wealth and resources of the United States make the elimination of poverty perfectly practicable." – Dr. Martin Luther King Jr.

Persecution and arrests will not break the spirit of the People's Campaign. As long as injustices exist, we will continue to fight.

"The Negro will be saying, I am not avoiding penalties for breaking the law—I am willing to endure all your punishment because your society will not be able to endure the stigma of violently and publicly oppressing its minority to preserve injustice."
– Dr. Martin Luther King Jr.

(continue on page 13)



The People's Campaign will continuously fight for social and economic empowerment for all in Bermuda.

"There is a fire raging now for the Negroes and the poor of this society. They are living in tragic conditions because of the terrible economic injustices that keep them locked in as an "underclass," as the sociologists are now calling it. Disinherited people all over the world are bleeding to death from deep social and economic wounds. They need brigades of ambulance drivers who will have to ignore the red lights of the present system until the emergency is solved."
 – Dr. Martin Luther King Jr.

The People's Campaign believe the time is now to fight to construct a better Bermuda.

"But we do not have much time. The revolutionary spirit is already world-wide. If the anger of the peoples of the world at the injustice of things is to be channeled into a revo-

lution of love and creativity, we must begin now to work, urgently, with all the peoples, to shape a new world."
 – Dr. Martin Luther King Jr.

The People's Campaign will not be deterred by attacks on our leaders, hate speech on the web, character assassinations by the media or petitions. We will remain steadfast in our fight.

"I've seen too much hate to want to hate, myself, and I've seen on the faces of too many sheriffs, too many white citizens' councilors, and too many Klansmen of the South to want to hate, myself; and every time I see it, I say to myself, hate is too great a burden to bear. Somehow we must be able to stand up before our most bitter opponents and say: "We shall match your capacity to inflict suffering by our capacity to endure suffering. We will meet your physical force with soul force. Do to us what you will and we will still love you. We cannot in all good conscience obey your unjust laws and abide by the unjust system, because noncooperation

with evil is as much a moral obligation as is cooperation with good, and so throw us in jail and we will still love you. Bomb our homes and threaten our children, and, as difficult as it is, we will still love you. Send your hooded perpetrators of violence into our communities at the midnight hour and drag us out on some wayside road and leave us half-dead as you beat us, and we will still love you. Send your propaganda agents around the country, and make it appear that we are not fit, culturally and otherwise, for integration, and we'll wear you down by our capacity to suffer, and one day we will win our freedom. We will not only win freedom for ourselves; we will so appeal to your heart and conscience that we will win you in the process, and our victory will be a double victory."
 – Dr. Martin Luther King Jr.

For all those who want to join and take part in the People's Campaign's activities, please email us at thepeoplescampaignforejj@gmail.com. ■

Public Service Senior Managers seek Revocation of Public Service Commission Regulations

As members of the Bermuda Public Service, senior civil servants called on the Governor, Mr. John Rankin and the Premier of Bermuda, The Hon. Michael Dunkley, JP, MP to state categorically when the Public Service Commission Regulations, which were published in the daily newspaper on 7th December 2016, will be revoked.

In making the call, the senior civil service management staff, which comprises Permanent Secretaries and Heads of Departments, have demanded full transparency and openness in the process.

The Union reiterated that following a meeting on 10th January 2017 with the Permanent Secretaries and Heads of Departments of the Public Service, our members tasked the Bermuda Public Services Union (“the Union”) with determining a way forward to address this issue - if the revocation of the Public Service Commission Regulations Amendments 2016 (“PSC Regulations 2016”) did not occur in a timely manner.

The Union also stressed that the Premier, the Hon. Michael Dunkley stated publicly that the PSC Regulations 2016 were published in error on at least three occasions and that it will be revoked.

More than a month has passed since the PSC Regulations 2016 were gazetted and to date Bermuda citizens have not seen the revocation order.

The Union reinforced that the key arguments for the revocation are as follows:

“On 7th December 2016, without prior notice to the Permanent Secretaries and Heads



of Departments, a revision to the Public Service Commission Regulations appeared in the daily newspaper in the midst of the consultation process. Additionally, the version of the PSC Regulations 2016 that was published did not contain the amendments that were approved by Cabinet, nor was that version seen and approved by the senior managers.”

“The main concern is that the consultation process had not been completed and the PSC Regulations 2016 lay out new reporting lines for the Head of the Civil Service and Secretary to the Cabinet, Deputy Head of the Civil Service and Permanent Secretaries which may be in contravention of the Bermuda Constitution Order 1968.”

“Effectively, if the PSC Regulations 2016 are not revoked, the senior-most officers of the public service will report to the Public Service Commission. The Commission members are appointed by the Governor, which in turn means, the Public Service of Bermuda will be reporting, directly and indirectly, to the Foreign and Commonwealth Office in the United Kingdom.”

“The Permanent Secretaries and Heads of Departments are asking for the full consultation process to be completed with meaningful dialogue and full transparency on the changes to the PSC Regulations 2016 together with an agreed completion timeline.”

“The senior officers endorse the continuous improvement of services to the Government and people of Bermuda. They fully support and encourage openness and frank discussions during the consultation of these important changes for the public service.”

To achieve the goal of raising the standard of performance, they want to see the removal of Clause 8 of the Amendment Regulations (new sections 22A, 22B and 22C) and replace it with provisions that ensure:

- the United Kingdom does not have control over the Bermuda Public Service;
- the programme and policy agenda of the Government of the day is included in the performance objectives of the Cabinet Secretary and Head of the Civil Service;
- the Cabinet Secretary and Head of the Civil Service remains

(continue on page 15)

Rev. Tweed Allowed To Stay (For Now) (continued from page 2)

date to be set, Lawyer Duncan will seek the following remedies:

1. "Both the decision to deny the AME Church a work permit for Rev. Tweed and the direction that he leave Bermuda should be quashed. The direction to leave Bermuda should be declared to be incompatible with the HRA and a contravention of his fundamental constitutional rights;. Further the Court should declare that the Rev. Tweed is a person belong to Bermuda.

2. The Court should direct the Ministry of Immigration to consider the request of the AME Church for a Work Permit for Rev. Tweed afresh and in accordance with Policy. The Minister should play no part in that decision. The Minister can lawfully delegate, under the Court's supervision, her powers and discretion to a person who is neither biased nor would be excluded by their apparent bias.

In response to the Chief Justice's

ruling, Minister Gordon-Pamplin said "As I stated in my press conference of January 6th, "the next step in the appeals process is to seek a judicial review". The AME Church and Rev. Tweed have availed themselves of this option, and as such, it should now be left to the Courts to review the matter and make a ruling."

Rev. Tweed will have to wait until the Judicial Review's ruling to find out if he will continue as the Pastor of St. Paul's A.M.E. ■

When can a contract of employment be terminated by an employer? (continued from page 11)

period is simply a trial period where both employer and employee can see if they would like to make the employment permanent.

Section 19(2) of the EA states that during the probationary period, the employer or employee may terminate the contract of employment for any reason without notice.

In the Supreme Court of Bermuda case *Dr. Charles Curtis - Thomas v BHB and Dr. Keith Chiappa*

[2014] Bda LR 82 at page 11, the court supported the approach in section 19(2) of the EA by stating that a Dr. dismissed from employment with the BHB, while on probation, could not successfully claim he was dismissed for no reason. Mr. Justice Hellman stated "*Dr Curtis-Thomas was dismissed while on probation. His contract provided that while he was on probation his employer could terminate the contract for "any reason".*"

A probationary employee does have some employment rights. For example, if a probationary employee suffered discrimination at work he could sue his employer.

In conclusion, the information in this article demonstrates that it is important both employers and employees carefully examine the employment contract and the EA 2000 prior to the termination of an employment contract. ■

Public Service Senior Managers seek Revocation of Public Service Commission Regulations (continued from page 14)

- responsible for the management of the Public Service and for setting performance objectives for Permanent Secretaries. Permanent Secretaries, in turn, will set the objectives for Heads of Departments, and so on;
- Ministers who are responsible for creating policy, will not be involved in the process of setting

objectives for Permanent Secretaries, but will be consulted during the Permanent Secretaries' performance appraisals; and

- the report of the Public Service Commission on the performance of the Cabinet Secretary and Head of the Civil Service and Permanent Secretaries will be provided to the Governor, Premier, Cabinet

Secretary and the Head of the Civil Service."

The Union emphasised that, "The Permanent Secretaries and Heads of Departments are eager to have this matter resolved quickly, and call on the Governor and Premier to address the revocation order immediately." ■

The Complete Health Improvement Program- **C H I P** is a scientifically proven lifestyle intervention education class with more than 70,000 graduates worldwide which addresses the risk factors for the chronic 'killer' diseases such as Hypertension, Diabetes, High Cholesterol and Obesity. With 'committed' participation, the results are amazingly in just 30 days!!

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Please see the attached 2017 CHIP brochure for the January 16 - February 9; March 20 - April 13 and September 18 - October 12, 2017 CHIP classes being held at Bright Temple A.M.E. Church, 28 Spring Hill Warwick, WK 09 Rev. Charles A. Smith, Pastor.

I can be contacted at 236 - 2892 or via return email or at btchip@hotmail.com for further information, to register or for any other queries.

Hope you will be joining either of the 2017 January, March or September C H I P classes.

Thank you for forwarding to your family, friends, coworkers and anyone you believe will COMMIT and benefit from the 2017 C H I P lifestyle intervention education classes.

Your assistance in promoting 2017 C H I P is greatly appreciated.

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March 20 ~ April 13, 2017

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- 4 The Optimal Lifestyle
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- 6 Fiber, Your New Best Friend
- 7 Disarming Diabetes
- 8 The Heart of the Matter - Heart Health
- 9 Controlling Blood Pressure and Discovering Protein
- 10 Bone Health Essentials
- 11 Cancer Prevention
- 12 Understanding Your Results and Taking Action
- 13 Become What You Believe and Your DNA is Not Your Destiny
- 14 Practicing Forgiveness
- 15 Re-engineering Your Environment
- 16 Stress-relieving Strategies
- 17 Fix How You Feel
- 18 From Surviving to Thriving

2nd Comprehensive Health Screen

Tuesday, Feb. 7, April 11 & October 10, 2017

Must FAST 12 hours

C H I P COMMENCEMENT

TBD

6:30 p.m.

Bright Temple A.M.E. Church
Community
C H I P

Rev. Charles A. Smith, Pastor
 28 Spring Hill, Warwick, WK 09, Bermuda

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INTERNATIONAL NEWS



Sister Ronnie Burgess (white shirt) show with Brother Ron Oswald (red shirt), General Secretary of the IUT and the newly elected Regional Committee members.

The IUF Caribbean Region held their 5th Annual Conference on January 18th 2017 at the Grand Coastal Hotel, Demerara, Guyana. Sis. Ronnie Burgess was elected as Regional President, to the

Caribbean Regional Committee at that conference. Sis. Ronnie follows in the footsteps of Sis. Molly Burgess General Secretary who, was also the President for the Caribbean region. Also attending

the conference were Bro. Christopher Belboda, Shop Steward, Fairmont Southampton and Sis. LuAnne Brown, Chief Shop Steward, Rosewood Tucker's Point. ■

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CURB launches truth and reconciliation process

Racial justice organization Citizens Uprooting Racism in Bermuda today announces the launch of truth and reconciliation community conversations beginning in February 2017.

Trained mediators will facilitate the multiple group sessions of up to 20 participants who will stay together for a series of conversations over a period of three months.

CURB will provide guideline topics for each meeting, as well as resources that can be shared with groups in advance prior to the gathering.

“It is envisioned these groups will forge relationships, build community and find ways to create change within their own sphere of influence, and then share with the greater community,” said CURB president Lynne Winfield.

“Most importantly, we will look for the groups to build upon and develop additional ideas and actions to bring about social change, healing and greater racial justice and equity in our society.”

At the end of the 3-months, the groups will meet as one to consolidate their ideas. Additional groups will be formed later in the year and the process will begin again. Members of the public are asked to register by emailing admin@uprootingracism.org or by calling 505 0112.

The small group meetings will take place in East, West and central



locations around the island. We are currently seeking meeting spaces and will be reaching out to the community to provide locations. We are grateful to the Human Rights Commission for their expression of support for this valuable initiative.

Over the past few months, CURB has reached out to the community to find facilitators, mediators and skilled individuals who would be willing to facilitate the truth and reconciliation meetings and are grateful to the following individuals who have volunteered their services: Caitlin Conyers, Gwendolyn Creary, Frances Eddy, Hashim Estwick, Cordell Riley, Michelle Scott, Jodi Virgil, Stacey Lee Williams, and Lynne Winfield.

Ms. Winfield stressed that the small group dialogues will be skillfully facilitated to achieve greater empathy and understanding.

“Confronting something does not mean it has to be confrontational.

Participants will be able to speak about their experiences in a supportive environment,” Ms. Winfield said.

“Telling one’s stories is cathartic for those who have been traumatized, and listening to other people’s stories leads to greater empathy and understanding. It allows our humanity to come through and the empathy created, displaces cynicism and distrust.”

Ms. Winfield added: “Help create the change you want by becoming actively involved to create a racially equitable and socially just Bermuda that our children will be proud to inherit.”

PLP Leader, David Burt has thrown his support behind the CURB initiative stating “For some time now CURB has been at the forefront of expressing what should be our collective desire for racial justice in Bermuda. Their truth and reconciliation project announced today is a further and critically important step along this path and has the real potential to help Bermuda heal itself. Issues relating to race remain relevant in Bermuda and we must address them if we are to make true progress in our society. On behalf of the PLP, I commend CURB on this new initiative and their ongoing work in helping Bermuda understand the continuing challenges our society faces as the result of racism. The PLP gives its full support and we encourage the Bermuda community to participate this vitally important project.” ■

ASTRONOMY

Find and circle all of the Astronomy related words that are hidden in the grid.

The remaining letters spell a secret message.

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 O R B I T S R T S P M E M I E V R E S O
 N T O D S P S A E A R I G O O T I Q H R
 S S F I R A U O T I T H L N O R O U E E
 R O T O E C N E G S T E R K U N B I C D
 A L E R M E O E P Y Y E L A Y B O N A G
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 A N D R O M E D A G A L A X Y R O N P G

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 WHITE DWARF

SOLUTIONS ON PAGE 2