



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

18 December 2019

*Sitting number 27 of the 2018/19 Session
(pages 731–770)*

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

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

BERMUDA SENATE**OFFICIAL HANSARD REPORT****18 DECEMBER 2019****10:06 AM***Sitting Number 27 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]

The President: The next item is the Oath of Allegiance. I would just like for Senator Simmons-Wade to come forward and take the Bible in your hand and give the oath.

**ADMINISTRATION OF OATH
OR AFFIRMATION****OATH OF ALLEGIANCE**

Ms. Ianthia Simmons-Wade

Sen. Ianthia Simmons-Wade: I, Ianthia Grace Simmons-Wade, do swear that I will be faithful and bear truth allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to the law, so help me God.

[Pause]

CONFIRMATION OF MINUTES

The President: The Minutes of the 4th and the 16th of December 2019.

Sen. James S. Jardine: Madam President.

The President: Senator Jardine, you have the floor.

Sen. James S. Jardine: Madam President, I move that consideration of the Minutes of the meetings of Wednesday, the 4th of December 2019, and Monday, the 16th of December 2019, be deferred.

The President: Is there any objection to that motion?

No objection. The Minutes are deferred.
Thank you, Senator Jardine.

[Minutes of 4 and 16 December 2019 deferred]

MESSAGES**CHRISTMAS AND NEW YEAR'S GREETINGS**

The Clerk: Yes, Madam President. I have a message from the Honourable House of Assembly. The message reads:

“To the Honourable President and Members of the Senate:

“The House of Assembly wishes to send to your Honourable House sincere greetings for a joyous holiday season and a very happy New Year.”

And that is signed Honourable Dennis P. Lister, JP, MP, Speaker. And that is dated 13 December 2019.

The President: Thank you very much.

REPORTS OF COMMITTEES

The President: There are none.

ANNOUNCEMENTS

The President: I believe we do have an announcement.

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

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

The President: Good morning.

MEDICINAL CANNABIS ACT 2019

~AND~

**MEDICAL CANNABIS (LICENSING)
REGULATIONS 2019**

Sen. the Hon. Kathy Lynn Simmons: Madam President, I hereby present for the information of the Sen-

ate the following draft items: Draft Bill entitled the Medicinal Cannabis Act 2019 and Draft Regulations entitled the Medical Cannabis (Licensing) Regulations 2019.

Senators should note that these items are tabled in the Senate for consultation purposes only.

The President: Thank you, Senator Kathy Lynn Simmons.

NOTICES OF MOTION

The President: There are none.

PETITIONS

The President: There are none.

STATEMENTS

The President: There is a Statement on the Medicinal Cannabis consultative draft regulations.

And I believe Senator Kathy Lynn Simmons, you will do that.

Sen. the Hon. Kathy Lynn Simmons: Thank you. Madam President, if you would indulge me, I am just waiting for my Statement to be delivered. [This is] my error entirely.

The President: We will wait a few . . . are you expecting it in the next few minutes?

Sen. the Hon. Kathy Lynn Simmons: Yes.

The President: We will wait.

[Pause]

The President: For the listening audience, the Statements have arrived, and they are just being dispersed.

Senator Kathy Lynn Simmons, Attorney General, you have the floor.

MEDICINAL CANNABIS ACT 2019

~AND~

MEDICINAL CANNABIS (LICENSING) REGULATIONS 2019

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

Madam President, I am pleased to present to this Honourable Senate the Bill entitled Medicinal Cannabis Act 2019 and the Regulations entitled the Medicinal Cannabis (Licensing) Regulations.

Madam President, there is strong public support for relaxation of the existing laws to permit greater local availability of cannabis for medicinal purposes. This Government made a commitment in the 2018 Speech from the Throne to provide a scheme for access to medicinal cannabis as a therapeutic option for patients suffering from certain chronic illnesses. The Throne Speech stated: "Increasing numbers of medical professionals are embracing the science surrounding cannabis and its positive impact on pain relief and the management of chronic medical conditions. During this session, the Government will advance a regime whereby licensed medical practitioners are permitted to prescribe medicinal cannabis to aid in the treatment of such conditions. This will be implemented concurrently with the establishment of a licensing regime to regulate domestic production of medical-grade cannabis products."

Madam President, this Bill will seek to establish a Medicinal Cannabis Authority to regulate domestic cultivation, import for domestic cultivation, possession when prescribed by a medical practitioner for administration by inhalation, export, manufacture, research and development, and transportation of cannabis for medicinal purposes. It also establishes a licensing scheme for the local cultivation and manufacturing of cannabis for medicinal and scientific purposes; to provide for monitoring, inspection and enforcement powers for inspectors; and to empower the Minister to give directions to the Authority.

Madam President, the Regulations will be stringent, providing extensive provisions for the application for the various types of licences available under the medicinal cannabis scheme, and will also prescribe to whom and how a licence will be granted or may be renewed or revoked. Part 3 of the Regulations contains the provisions applicable to the specific types of licences available under the Act. Furthermore, the Regulations give the Medicinal Cannabis Authority sufficient discretionary powers to impose various conditions on a licence before it is granted.

Madam President, this Honourable Chamber will recall that the Legislature recently passed the Misuse of Drugs (Hemp) Amendment Act 2019, which now creates a legal distinction between cannabis and hemp, allowing for the import, possession, supply or sale of hemp products in Bermuda. That law is now in operation as of 26th November 2019. Casting our minds back to around this time two years ago, the Legislature enacted the Misuse of Drugs (Decriminalisation of Cannabis) Amendment Act 2017, making simple possession of 7 grams or less of cannabis no longer a criminal offence.

Bermuda is not unique in having evolving attitudes about cannabis, particularly acceptance of the many health and wellness benefits of hemp and cannabis. As global trends have indicated, liberalisation of cannabis laws is inevitable and unavoidable even for a remote island like Bermuda. In this regard, this

Government has taken a measured approach in tackling this issue, understanding that to achieve long-term transformation of public attitudes towards the medicinal benefits of cannabis requires leadership. Leadership is needed to undo decades of negative stereotyping, psychological conditioning and demonisation of the cannabis plant, to the disadvantage of not exploiting all of its many health benefits to the human body.

Madam President, forgive me for being graphic, but our community has family members, loved ones and neighbours suffering daily from debilitating ailments such as pain associated with terminal cancer, seizures, Parkinson's disease, glaucoma and Crohn's disease, to name a few. Their only relief or hope for recovery comes from being able to take medically prescribed cannabis or to run the risk of reverting to street-level or illicit cannabis, which has not been tested and optimised for medicinal efficacy.

It is expected that the current demand for medicinal cannabis for inhalation is slight, based on the few applications received for licences under the pre-existing prescribing mechanisms. However, as this new scheme is operationalised and as medical practitioners become confident prescribing medicinal cannabis for inhalation, we expect the number of prescription users to increase gradually year over year. As a society with high expectations of access to the best and latest medical interventions and therapies, there is no longer a public policy justification for our laws to deny patients' access to medicinal cannabis for inhalation as prescribed by a medical practitioner, and for the law [not] to create a framework to establish domestic cultivation to support that demand.

Madam President, when analysing best practice methods to institute a scheme for medicinal cannabis, we looked to jurisdictions such as the United Kingdom and our North American neighbours of Canada and the United States, who have each successfully pioneered regulation of medicinal cannabis with varying degrees. We also looked to our Caribbean cousins in such islands as Barbados and St. Vincent and the Grenadines. These model jurisdictions were used as a reference point.

But after extensive consultation with local stakeholders such as the Ministry of Health (including the Chief Medical Officer), Bermuda Police Service, Department of National Drug Control and the Customs Department, it became clear that we had to design a bespoke, Bermudianised scheme which is pragmatic and fits into existing regulatory oversight mechanisms.

Specifically, the Medicinal Cannabis Act is not intended to encroach upon existing regulation of cannabis-derived pharmaceutical products listed in the Third and Fourth Schedules to the Pharmacy and Poisons Act 1979 and other regulatory powers of the Minister with responsibility for drug prevention under the Misuse of Drugs Act 1972 and the Misuse of Drugs Regulations. Rather, Madam President, medicinal

cannabis, as defined for the purpose of the new scheme, includes medical-grade cannabis plant material, cannabis resin and other preparations used for inhalation (by smoking or vaping) exclusively. Medicinal cannabis, like pharmaceutical products scheduled under the Pharmacy and Poisons Act, will only be available on prescription by a medical practitioner and dispensed by a pharmacist.

Madam President, turning to some of the detail in the Bill, part of the responsibilities of the newly formed Medicinal Cannabis Authority will be to regulate and control the terms of access for patients to medicinal cannabis for administering by inhalation. Authorised use of medicinal cannabis by inhalation will be monitored by way of an identification [ID] card issued by the Authority, a central register and mandated recordkeeping by medical practitioners. Patients in receipt of a prescription by a medical practitioner and who meet other qualifying criteria will be able to apply for an ID card which will permit them to use and carry their prescribed medicinal cannabis. Provision is also made to allow authorised caregivers to be designated by the patient to obtain an ID card so that a care provider can lawfully assist with obtaining and administering medicinal cannabis on the patient's behalf without committing an offence.

Madam President, the Medicinal Cannabis Bill has been meticulously drafted to ensure it accords with Bermuda's international obligations to comply with the requirements of the International Narcotics Control Board (or INCB). The INCB is the independent and quasi-judicial monitoring body for the implementation of the United Nations International Drug Control Conventions. The conventions and the INCB standards establish a control regime that ensures the availability of controlled substances for medical and scientific purposes, while preventing their illicit production, trafficking and abuse. The INCB directs that all governments with established programmes for the use of cannabis for medicinal purposes ensure that prescribing cannabis for medicinal use is performed with the competent medical knowledge and supervision, and that prescribing practices are based on available scientific evidence and consideration of any side effects.

Madam President, in this regard, our medical practitioners and pharmacists are well versed in upholding prescribing standards of the cannabis-derived pharmaceuticals already available under existing laws. Thus, they are in good stead to continue to be guided by their legislated professional codes of conduct, inclusive of ethical standards, scope of practice, and standards of practice in prescribing and dispensing, whenever prescribing and dispensing medicinal cannabis for inhalation to authorised patients.

Madam President, the proposed Medicinal Cannabis Authority will also regulate and control the import of cannabis for use by inhalation (on prescription by a medical practitioner) and import of cannabis intended to be cultivated locally for use by inhalation

(also on prescription by a medical practitioner) and the local cultivation, possession, manufacture and transport of cannabis for medicinal purposes. A licensing scheme, authorising permitted activities, will allow eligible Bermudians and permanent residents, or Bermuda-registered companies, to apply to the Authority for:

- a cultivation licence to allow for the cultivation of medicinal cannabis for inhalation;
- an import licence for the import of medicinal cannabis intended for cultivation of medicinal cannabis for inhalation;
- an export licence for the export of medicinal cannabis cultivated locally;
- a manufacturing licence to allow for activities relating to the processing and manufacturing of medicinal cannabis products;
- a research and development licence to allow for the conduct of product-based scientific research, clinical trials, et cetera, relating to the development of medicinal cannabis;
- and/or a transport licence to provide safe and secure transport of medicinal cannabis in Bermuda.

Madam President, the Medicinal Cannabis Bill and Regulations also set up the legislative framework to build a viable domestic medicinal cannabis industry in Bermuda. Private enterprise and free market forces will determine, over time, the size and economic benefits of such an industry. Assuredly, Bermuda's economic heritage allows us to capitalise on our strengths such as size and ease to regulation. Our prudential reputation and sound judicial system continue to make us a jurisdiction of choice for business innovation. Homegrown innovations have spawned our world-class insurance and reinsurance sector, and our range of international business offerings. This scheme creating a medicinal cannabis industry is no different. The vision is, *If we build it (well), they will come.*

Further, Madam President, this Government is not only expecting to attract international investment under this new scheme, it is designed so that entry into the marketplace is also accessible to local enterprises and start-ups. Once the Authority is established, it is anticipated that it will undertake such technical and expert consultation to inform additional Regulations to support the Act. This includes setting the appropriate licence fees so that there is diversity of entry points into the medicinal cannabis market. Accessibility to small and medium-sized enterprises is a priority, as it aligns with this Government's mandate to spark entrepreneurship for economic empowerment.

In this vein, the Bill also provides that, with the approval of the Minister of Finance, the Authority may use a portion of its licence fee revenue to assist licensees with training for cultivation of medicinal cannabis and to grant funding for scientific and medical research relating to medicinal cannabis.

Madam President, it was a natural fit to include a social policy component in the Medicinal Cannabis Bill. In addition to allocating funds to support licensees, the Authority can also apportion part of its revenue to strengthening social programmes for drug abuse prevention and treatment. This is a tangible measure to add value to some of the existing social programmes run by charities, who suffer under limited private sector donations, and ultimately lessen their dependence on traditional government grant funding.

Madam President, it is apt to quote Victor Hugo, the French romanticist poet and author, who once remarked, "Nothing can stop an idea whose time has come." In the light of this universal truism, the time has come for our community to continue frank conversations about the legacy impacts of the misguided and over-enforced criminalisation of cannabis use. It goes without saying that we all know the particular demographic of our citizenry who bore the true cost of including cannabis in the perpetual war on drugs and the theories of why they were marginalised.

The time has also come for us as a community to consider progressive and restorative ways to alleviate past injustices. This Government is prepared to give action to words by committing to exploring policy options which can best achieve the legal expungement of past criminal records for convictions of simple possession of cannabis so that patients with convictions will be able to have the same levels of access to medicinal cannabis. We also want to preserve our young people's futures instead of allowing historic systems of inequality to write them off for having made one bad choice because of cannabis possession.

Madam President, in full understanding of the passionate views held in respect of the relaxation of cannabis laws generally, and differing opinions of medical experts on the efficacy of medicinal cannabis, I am presenting this Bill and Regulations today as public consultation drafts. Public consultation is meaningful at this stage, because now that a draft framework is fleshed out in legislation, we hope it encourages constructive feedback and comments, rather than fuelling polarising arguments in the abstract.

I implore all sectors of society—not just interest groups and entrepreneurs, but all Bermudians—to take time to read and comment on this Bill and these Regulations. Instructions on how to submit comments and feedback will be available on the government web portal, www.gov.bm. We will review and analyse the comments to optimise the Bill and Regulations before they are tabled in the Legislature.

Madam President, I can confidently say that this Bill and Regulations will fulfil this Government's promise to deliver new mechanisms for lawful access to medicinal cannabis by way of a prescription from a medical professional and dispensed by a pharmacist, whilst also satisfying Bermuda's international obligations. The scheme will also include significant regula-

tion and controls to prevent abuse of the domestic medicinal cannabis scheme.

Thank you, Madam President.

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

INTRODUCTION OF BILLS

The President: There are none.

FIRST READING OF PUBLIC BILLS

The President: There are none.

FIRST READING OF PRIVATE BILLS

The President: There are none.

QUESTION PERIOD

The President: This is an opportunity for Senators to ask questions on the Statement that has just been read by the Attorney General.

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

Senator Robinson, you have the floor.

Sen. Dwayne Robinson: Thank you, Madam President, just one question.

I know that we are considered as latecomers to this particular industry. So I was just wondering if . . .

The President: We cannot hear you. Can you talk into the microphone?

QUESTION 1: MEDICINAL CANNABIS ACT 2019 AND MEDICINAL CANNABIS (LICENSING) REGULATIONS 2019

Sen. Dwayne Robinson: Yes. I know that we are relatively considered latecomers in this industry. So I just wanted to ask if there were any means or methods to kind of accelerate us with our competition, who have put this sort of legislation in place before us?

The President: Senator Kathy Lynn Simmons.

Sen. the Hon. Kathy Lynn Simmons: We are not in competition with other jurisdictions. There are components of this scheme that may not be in other jurisdictions. And as we go along the consultation process, we may find that our alternate regulatory regime differs from other jurisdictions.

And that is why we tried to Bermudianise, notwithstanding that we have used frameworks from

other jurisdictions who have already implemented their schemes.

The President: Would any Senator care to ask questions on this Statement?

No. Then we will move along.

ORDERS OF THE DAY

The President: The first Order of the Day is the National Pension Scheme (Occupational Pensions) Temporary Amendment Act 2019.

Senator Campbell, that is yours.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITORS

The President: And before you start, can I just acknowledge the presence of Mr. Peter Sousa, the CEO of the Pension Commission; as well as Mr. Stephen Gift, the Assistant Financial Secretary.

Welcome to you both.

Senator Campbell, you have the floor.

Sen Vance Campbell: Thank you, Madam President.

Madam President, I move that the Bill entitled the National Pension Scheme (Occupational Pensions) Temporary Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Campbell.

BILL

SECOND READING

NATIONAL PENSION SCHEME (OCCUPATIONAL PENSIONS) TEMPORARY AMENDMENT ACT 2019

Sen Vance Campbell: Madam President, I would like to point out at this time that the Bill was amended in the House, and those amendments focused on clause 4.

In clause 4(2), what was inserted after the words "suspension period" was ", with the agreement of his employer." And in clause 4(3) after the words "suspension period," the words were added ", with the agreement of the member."

Madam President, I am pleased to provide for the consideration of the Senate the Bill entitled the [National Pension Scheme \(Occupational Pensions\) Temporary Amendment Bill 2019](#). The purpose of the Bill is to allow for the voluntary suspension of 2 per cent of employee and employer contributions for a two-year period.

Madam President, the Senators will recall that on December 4th, the Senate passed the Bill entitled the National Pension Scheme (Occupational Pensions) Amendment Act 2019. That Bill provided for a number of significant policy and regulatory objectives, and the more significant amendments were as follows:

- required non-Bermudians to participate in registered plans;
- provided for additional financial hardship withdrawals for funeral expenses;
- permitted retirees to apply for financial hardship withdrawals and to be exempt from having to pay the application fee;
- permitted plan members or former members to receive the entire value of their pension fund account balance for defined contribution plans or commuted value for defined benefit plans at retirement if they were \$50,000 or below;
- provided for the ability of plan members at retirement to receive up to 25 per cent of the value of their pension fund account balance for defined contribution plans, or commuted value for defined benefit plans, as prescribed in regulation for those with balances greater than \$50,000;
- introduced regulatory fees payable by plan administrators;
- changed the two-year vesting of contributions to one year;
- provided for the Minister of Finance to introduce regulations to control the fees charged to plan members;
- introduced monetary penalties for noncompliance by plan administrators and other related persons;
- provided for certain exemptions for multi-employer plans;
- included all bonuses in calculating the amount of pension contributions;
- required employers to maintain specified payroll and employee-related information, and the failure to do so was made an offence;
- introduced the payment of interest by employers on their late pension contributions;
- in order to reduce plan expenses for smaller plans, increased the requirement for audited financial statements for plans from \$1 million to \$3 million; and lastly,
- introduced greater oversight of plan trustees in their specific fit and proper standards.

Following the passage of that Bill, the Minister of Finance reminded those who sit in another place that this Bill had been tabled, as the Government recognised that some employees are under increasing financial hardship and employers are facing increasing costs of doing business.

Madam President, as mentioned previously, the purpose of this Bill is to provide for employers and employees currently participating in plans under the Act to voluntarily suspend 2 per cent of their required pension contribution into their National Pension Scheme plan for a two-year period. Madam President, by providing such relief for employees and employers, participating employees will see their take-home pay increase by 2 per cent, and participating employers will also benefit from reduced operational expenses—i.e., 2 per cent of payroll.

Madam President, ensuring adequate, secure and sustainable pension provisions for our population is an important feature of this Administration's manifesto. And this temporary action should in no way question the Government's commitment to this mandate.

Madam President, it is important to sustain jobs as our economy attempts to recover. There was a time not so long ago when companies did not have to provide pensions for their employees. Now they do. However, we must recognise that employers are under pressure, and as our economy is attempting to recover, we must reduce pressures on companies. Madam President, this is a temporary measure that will provide temporary relief to employers and provide additional income to employees. Additional income to employees provides stimulus for our economy. Stimulus leads to growth and creates jobs, and that is what our economy needs.

Madam President, this is voluntary. And employers and employees can still contribute to their funds if they wish. This amendment will also complement the financial hardship provisions introduced by the Government to assist needy employees in managing their financial affairs. Madam President, if the suspension of contributions is taken up across the private sector, it will provide both relief and stimulus to families and businesses. The stimulus to the economy will be generated if some of the savings are converted to consumer spending in the local economy, and business investment in infrastructure and improvements.

Madam President, during the debate, the Minister of Finance provided stats that were provided by the Pension Commission. For the sake of good order and just to show how much funds are under investment in the various plans, I provide this information again as at the 31st of December 2018. The statistics are as follows:

- 25,386 estimated plan members;
- the number of plans at 3,065 plans;
- 3,050 defined contribution plans;
- 15 defined benefit plans;
- approximately US\$2.98 billion of assets in plans;
- 568 self-employed plans;
- six approved third-party plan administrators;
- US\$785 million of assets in local prescribed retirement products; and lastly,

- BD\$28.79 million in total financial hardship payments since inception in 2010.

Madam President, pensions provided under the National Pension Scheme (Occupational Pensions) Act 1998 represent the second pillar of Bermuda's pension arrangement, with the first pillar being the basic pensions received from our social insurance scheme, the Contributory Pension Fund. It is important to note that Bermuda is one of the few jurisdictions in which the provision of occupational pension plans is mandatory. And compared to most developed countries, the provision of pension plans by the private sector is very high, as nearly all Bermudians and their spouses who are employed have a private sector pension plan. The scope has been expanded further with the amendments of December 4th, which required a segment of non-Bermudians to participate in registered plans.

Madam President, the Bill brought forth today provides for employers and employees currently participating in plans under the Act to voluntarily suspend 2 per cent of their required pension contributions into their National Pension Scheme plan for a period of two years. This opportunity to suspend pension contributions is also extended to self-employed persons under the same conditions.

Madam President, with your indulgence, I would like to go to the Bill itself and highlight the key clauses.

The President: Certainly, you may, Senator Campbell.

Sen. Vance Campbell: The first one that I would like to highlight is clause 2, which says, "(1) This Act shall be construed as one with the National Pension Scheme (Occupational Pensions) Act 1998 ('the principal Act'). (2) This Act applies notwithstanding anything to the contrary in— (a) the principal Act or any other Act; or (b) the pension plan or contract of employment of a member."

In clause 2 [*sic*], the interpretation clause, there are some—

The President: Clause 3?

Sen. Vance Campbell: Clause 3. It says, "(1) In this Act—'agreement' means agreement in writing . . ." And I think that is key, to highlight that. It must be in writing. And it says, "'notice' means notice in writing . . ." And it talks about the "'suspension period' means the period of 24 months beginning with the commencement date appointed under section 10."

Again, if we jump down to clause 7, it says, "An employer shall not suspend any employer contributions under section 4 or 5 if he has any outstanding employer contributions due and in arrears, or member contributions deducted but not paid into the fund, in

respect of any period of service before the suspension period . . ." And I think again that is key.

And the commencement of this Act "shall come into operation on such date as the Minister of Finance may appoint by notice in the *Gazette*."

So, Madam President, as I read, participation is voluntary and is subject to agreement between the employer and member. And that agreement must be in writing. Also, as a matter of policy, if a union agreement exists that speaks to agreed pension plan contributions, the relevant union's agreement is also required. Madam President, employers must give written notice to the administrator of a plan of any proposed suspension of contributions. A member must give notice of his decision to suspend contributions, and the employer must notify the administrator of any proposed suspension of contributions.

It is also important to note that members and employers who wish to continue making contributions throughout the two-year term may continue to do so.

Another participatory condition is that eligibility and pension plan membership will be continued during the suspension period even if contributions are suspended.

Madam President, as mentioned when we went through the clauses, to participate in the suspension, businesses must be up to date with their contributions, which is to avoid compounding any existing noncompliance with the Act.

Madam President, this proposal is sensible and intends to ease financial burdens on employers and employees as our economy is recovering. If taken up, it can also stimulate the labour market by providing payroll savings, which could be utilised in retaining employees or making other meaningful business investments or expenditures.

Thank you, Madam President.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITOR

The President: Thank you, Senator Campbell.

And before I open the floor to Senators to respond, I would just like to also acknowledge the presence of Ms. Miriam Rogers, the Parliamentary Counsel, who has joined the team now.

Welcome to you.

[National Pension Scheme (Occupational Pensions) Temporary Amendment Act 2019, second reading debate, continuing]

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

Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, and good morning, Madam President.

The President: Good morning.

Sen. Marcus Jones: Good morning to my fellow colleagues, and also a hearty good morning to the listening audience.

We on this side definitely support this amendment. We see it as a good idea by the Government to relieve not only the working public, but also businesses for this short period of time, 24 months.

But what I have noticed even in the public is a little bit of confusion. Once hearing the rollout of this legislation, there was a minor bit of, shall we say a little bit of cloudiness when it came to understanding the 2 per cent relaxation of the contributions. I like to use very simple examples, and I am just going to underscore what was already said in the briefing. But if one's gross salary is \$100, we understand by the present legislation that 5 per cent would be \$5, what the employee will have to pay towards their pension, and \$5 will be paid in equal amount by the employer towards this worker's pension fund.

The legislation that is now being put through as an amendment of a 2 per cent savings for the two years, [so] for that similar \$100, it would be mandatory for the employee to pay \$3 of that \$100, and the employer to pay the matching \$3. I know that sounds as simple as possible but having been stopped on the streets and people asking me about it, I thought it was incumbent upon me, even in this Chamber, to try and make it as simple as possible.

Also, I think it is important that we underscore that monies being held back for this two-year period would not be made up at a later date. It will be reflected in the two-year shortage of 2 per cent of this amount going to your pension fund. Now, as was stated in the briefing, if the employer and the employee agree to voluntarily continue the full 5 per cent, then there will not be a shortage. But I believe the listening public needs to be fully aware of the consequences of your decision—if not willing to volunteer the actual shortfall, then it will be reflected in your pension benefits when you retire.

And with those few words and our support of this amendment, I thank you, Madam President.

The President: Thank you, Senator Jones.

Would any other Senator care to speak?

Senator Jardine, you have the floor.

Sen. James S. Jardine: Thank you, Madam President. Good morning to the listening public, and good morning, Madam President.

I have obviously given this quite a bit of thought as I did in the previous piece of legislation that we debated and passed some three weeks ago. And as has been stated by Senator Campbell, one of the key changes that occurred in the last piece of legislation with regards to pensions that we approved was the 25 per cent withdrawal, value withdrawal from

pension plans upon retirement. And as I stated at that time, I was not in favour of that at all.

My reasons for stating it then are as they are now. And that is, a pension plan is established so that when people retire, at whatever age it is eligible for them to retire, there is money there for them to enjoy in their retirement, whether it is 10 years, 20 years or 30 years. By allowing lump-sum withdrawals, as was the case in the previous piece of legislation (which I obviously cannot debate again here) and further here allowing deferrals. . . not deferrals, but allowing pension plans, or I should say contributors to pension plans, both employers and employees, for a period of two years to forgo any contribution is a similar sort of thing. Because, as Senator Jones has just said, those contributions are lost forever.

Obviously, an individual can make their own voluntary contributions at a later date if they wish to top up their fund. But there is no requirement to do so. And I even. . . instead of using the \$100 example, I use something perhaps a little more realistic of \$60,000 a year. And assuming somebody has a \$60,000 a year salary, what we are looking at here is the loss of \$4,800, almost \$5,000 over that two-year period of both employer and employee contributions. And, of course, that number is larger if you allow for any income or investment to be earned on that money over that two-year period and in fact along the whole period until they retire.

So I think it is important for the listening public to clearly understand that if this is permitted, those contributions are gone forever.

Now, the one fly in the ointment, if you will, on that is of course for defined benefit plans. And clause 5(6) says, "A member's accrual of service and membership in the plan" (and this is referring to defined benefit plans) "shall continue for the purpose of calculating the member's pension benefit and for all other purposes, notwithstanding any suspension of contributions in respect of the suspension period."

So the way I read that is that for those with defined benefit plans, the employer and employee can opt out of making any contributions for two years, but it does not impact or affect the amount that they will receive on retirement, because the way I read that clause, their period of working does not cease during that two-year period. That is still part and parcel of the calculation of their pension upon retirement.

So, Madam President, I have real concerns about this sort of thing occurring with regard to the National Pension Scheme. Yes, I understand that all of us are feeling the pinch in terms of additional costs, additional taxes we are having to pay, additional costs for a whole variety of things. But I think to use suspension of pension contributions as a way to compensate for that is a road that I would not wish anybody to travel down. And so I am not in support of this legislation at all. I think it sets a continually bad precedent to play with people's pensions. It sounds good now. But

when you retire and you are looking for money to live on for, hopefully, another 20 or 30 years, even this small amount, which will grow over a period of 30 years of additional work life, for example, is not something to be sneezed at.

I also share the concern about the wording of clause 4. And that is “suspension of contributions,” “defined contribution benefits.” And I just want to take a minute to talk about that. Because if you read clause 4(2), it says, “A member may suspend 2% of the contributions . . .” I think that is key, “2% of the contributions which he is required to make . . .” Now perhaps I am interpreting this somewhat literally. But to me that means 2 per cent of the 5 per cent that an individual has had to contribute. And I know this amount has been debated in another place at some length. And perhaps I am being too literal here. But to me, it is really reducing the rate of contribution from 5 per cent to 3 per cent. And so that is a concern that I certainly share, and that has been mentioned before as well.

Now there may be some, should I say, drafting/reading which I have missed here. And certainly it has been made clear today that it is not 2 per cent of the 5 per cent amount, but rather a reduction in the rate from 5 [per cent] to 3 per cent. But when I read this particular Bill, I read it in a different way. Perhaps that is just the accountant in me. But I look at this and I think, *Well, what are we really getting at here?* And so I had some concerns about that.

So overall, Madam President, as I say, I am not in favour of this legislation at all. I think it continues to show a very bad precedent and takes us down a road which, frankly, I would not wish us to go.

Thank you, Madam President.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

No. Then, Senator Campbell, you have a few questions, comments.

Sen. Vance Campbell: Madam President, Senator Jardine is right to be concerned. However, what we must not forget [is that] those employees who do not need to suspend their contributions do not have to do anything. They just allow it to continue as it is now.

What we are talking about with this piece of legislation is for those who have an immediate need to suspend, they will be allowed to meet that immediate need in part or in whole through the suspension of 2 per cent of the 5 per cent rate.

And again, I understand Senator Jardine’s concern with the language. But if you look at the examples provided, it is clear what we are talking about, that the rate of contribution would be reduced from 5 per cent to 3 per cent and not, as you can take it literally, 2 per cent of a 5 per cent contribution.

For those individuals who need to suspend to meet immediate needs, that is what we talking about.

Should we allow them to endure hardship by not allowing them to suspend the amount to make that, to withdraw . . . or not contribute, sorry, the 2 per cent and alleviate that hardship today? This Government says no. Why have them face this hardship when it may not be necessary through this suspension? But again, the Legislature requires those who do not need to suspend to do absolutely nothing. It is voluntary.

There is little consolation if I have a need today to know that I might get \$2,000 more times whatever the growth rate is in 15, 20, 30 years’ time, Madam President. If I have a need today, there is little consolation. I am not looking that far ahead. But the Legislature does require you to still contribute the 3 per cent. So it is not a total suspension. And we need to keep that in mind. This is for people who have a need today. If I am thirsty today, it means nothing to me that I will have water next week Monday, because I am thirsty today.

So, with that, Madam President, I move that the Bill entitled the National Pension Scheme (Occupational Pensions) Temporary Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Campbell.

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.

BILL

THIRD READING

NATIONAL PENSION SCHEME (OCCUPATIONAL PENSIONS) TEMPORARY AMENDMENT ACT 2019

Sen. Vance Campbell: Madam President, I move that the Bill entitled the National Pension Scheme (Occupational Pensions) Temporary Amendment Act 2019 be now read a third time.

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

No objection.

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

The President: It has been moved that the Bill entitled the National Pension Scheme (Occupational Pensions) Temporary Amendment Act 2019 do now pass.

Is there any objection? Is there any further objection?

There is one, Senator Jardine.

No? Then the Bill is passed.

[Motion carried: The National Pension Scheme (Occupational Pensions) Temporary Amendment Act 2019 was read a third time and passed as amended by the House of Assembly.]

The President: Thank you, Senator Campbell, and thank you, Senators.

Sen. Vance Campbell: Thank you, Madam President.

The President: We will now move to the second reading of the Children (No. 2) Amendment Act 2019.

Senator Campbell . . . No, sorry, Madam Attorney General, I beg your pardon.

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

The President: Senator Kathy Lynn Simmons, you have the floor.

Sen. the Hon. Kathy Lynn Simmons: Madam President, I move that the Bill entitled the Children (No. 2) Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

There is no objection.

Carry on, Senator Simmons, Attorney General.

BILL

SECOND READING

CHILDREN (NO. 2) AMENDMENT ACT 2019

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

Allow me to present to this Honourable Senate the Bill entitled the [Children \(No. 2\) Amendment Act 2019](#). I am keen to note that for the last two years, the Director of Child and Family Services and designated children's officers have been challenged by both public and private schools on whether they have the authority to come onto school premises to conduct an investigation into alleged abuse or neglect of a child without a member of staff present. This has occurred despite the director, his designate or children's officer providing school officials with the legislative authority under section 42 of the Children Act 1998. Such actions have hindered the department's investigations, which caused delays in the protection of our children, putting them at risk of additional harm and distress.

Madam President, for clarity, the Department of Child and Family Services [DCFS] Intake Section is tasked with the responsibility of conducting such enquiries under section 42 of the Act. The purpose and accountability framework of the Intake Section is to assess all reported referrals which may require enquiries and investigations to be conducted by the department. Intake is a critical component of DCFS's structure that provides child protective services while ensuring the following: (1) DCFS's main point of contact, or hub, for reporting concerns regarding children, which precipitates investigations and assessments; (2) to provide information to mandated reporters and the general public regarding the services available by and through DCFS; (3) to initiate help for identified families and children; and (4) to provide timely and appropriate measures directed towards ensuring the child's safety and preserving the family as much as possible and practicable.

Madam President, by way of advising on the importance of these amendments, I emphasise that in 2017 alone, 1,222 new incidents of child abuse or neglect were reported to the Intake Section of the Department of Child and Family Services. In 2018, there were 1,142 similar new incidents. These are incidents where a child is suffering or is likely to suffer significant harm at the hands of an abuser, which can include physical and/or sexual abuse, verbal abuse and/or neglect.

Madam President, despite the negative allegations circulating about this structured and professional department and its adept personnel, already between January and September of this year the department has received 785 new reports of allegations of abuse against a child. All of these are thoroughly investigated, and all available resources are utilised to address and combat the problems identified.

Madam President, as a result of these challenges posed to DCFS, the Director of Public Prosecutions and the Attorney General's Chambers were consulted for advice on the direction that the Department of Child and Family Services should take in order for section 42 to be effectively utilised when conducting such investigations. Rest assured, safeguarding the needs and interests of our children is and remains a priority. As a direct result of this consultation, it was recommended that further information should be included in the Children Act 1998 to provide clarity that section 42 applies to both public and private schools, and to impose a duty on persons to comply with the legislation.

Madam President, the Ministry of Education was also consulted, and they are in agreement with the legislative amendments recommended by the Department of Child and Family Services. The Minister of Education supported DCFS in revising their policies and procedures to ensure that more than one social worker is present during the enquiry and/or investigations.

Their position was also to ensure the amendments reflect the collective responsibility required under section 42 of the Act to do the following: (a) ensure school officials at public and private schools and tutorial sites are informed of the process that DCFS will use when conducting enquiries under section 42 of the Children Act 1998; and (b) ensure cooperation and collaboration exist between public and private schools and tutorial sites with the department when investigating suspected abuse or neglect of a child in order to act in the best interest of the child by protecting them from harm.

Madam President, for this reason, the Bill is intended to enhance the existing legislation by providing clarity in three ways under section 42 of the Act. The first is that the Director of the Department of Child and Family Services or designate may require persons to give them access to a child in order to conduct an enquiry where there has been a report; secondly, to impose a duty on persons to comply with the requirement given by the director; and finally, a penalty for failing to comply with that requirement.

Earlier there have been consequential amendments made to the Education Act 1996 and Education Rules 2006. These amendments will be elaborated on during this presentation.

Madam President, clause 2 of the Bill inserts a new subsection (3A) [of section 42], clarifying that the director may conduct an enquiry at a public or private school, tutorial site or other educational facility referred to under the Education Act 1996, or at any place providing extracurricular, social or community activities for children.

Madam President, the amendment that authorises the director to conduct enquiries under section 42 of the Act at any place providing extracurricular, social or community activities is to ensure that the department is able to facilitate enquiries beyond the school day—for example, during the weekend or on holidays. This amendment will further ensure that enquiries are conducted in a timely manner to reduce an added potential risk of harm to a child.

Madam President, currently when the director or designate is conducting enquiries under section 42, he may, under section 42(8), require a person to assist him with such enquiries. Clause 2 of the Bill enhances section 42(8) of the Children Act by providing for the director to require any person to grant access to the child, to require any person to assist him with the enquiries, in particular by providing relevant information and advice, to require any person to provide facilities to conduct the enquiry, to require persons not to be present during the enquiry and to assist him by refraining in any way from obstructing the enquiry, including refraining from informing any person that an enquiry will be, is being or has been conducted. This amendment sets out what is expected of persons when the director is conducting enquiries under section 42 of the Children Act.

Madam President, as stated previously, DCFS has revised their policy and procedures for conducting enquiries of a child under section 42 of the Act, which will be available for mandated reporters and the general public. This document sets out the process that includes the interviewing procedure the director or his designate will follow. Madam President, if it is deemed necessary for the director or his designate to conduct an enquiry of a child at school, tutorial sites, and social and community organisations, it must be done in the presence of at least two representatives of the Department of Child and Family Services—i.e., the director or designate and a children's officer, or conversely two children's officers.

The following interviewing procedures will be followed:

The director or children's officer will contact the officials of the school or tutorial site, [or] supervisor or owner responsible for the extracurricular, social or community activities via email or phone prior to their arrival to inform them that they will be conducting an enquiry under section 42, of the child in question.

The officials of the school or tutorial site, supervisor or owner responsible for the extracurricular, social or community activities will

- a) provide contact information and the address for the parent or guardian of the child;
- b) provide the contact information and address of the child if different from the preceding information provided;
- c) assist the director or children's officer by
 - (i) providing a private, suitable space to conduct an enquiry of the child that is free from distractions,
 - (ii) bring in the child to the identified space where the enquiry will be conducted,
 - (iii) provide additional support for the child as required, such as a translator or assisted technology, and
 - (iv) offer support to the child during the interview process if requested by the director or children's officer;
- d) inform the parent or guardian of the child in question to contact the director or children's officer if enquiries have been made directly to the school concerning the matter; and
- e) keep all information obtained about the case confidential.

Madam President, due to the obstructions the department has faced when conducting such investigations and the harm a child could experience as a result of such delay, the Bill introduces an offence and penalty under clause 3, which amends the Children Act 1998 by inserting the new section 42A. Introducing this offence, a person is aware from the outset that if they fail without reasonable cause to comply with the requirements imposed by the director under section 42A, they may be guilty of an offence under clause 3. The penalty provision under clause 3 is a maximum fine of \$3,000. The fine not exceeding \$3,000 was introduced to deter any person from fail-

ing to comply with the director's requirements in order to avoid delay in conducting enquiries of a child under section 42. This penalty was derived to align sanctions under the Children Act 1998, which provide consistency throughout.

Madam President, clause 4 of the Bill allows for consequential amendments to the Education Act [1996] by introducing section 68A. Section 68A provides for the director or his designate to conduct an enquiry under section 42 of the Children Act at a school, tutorial site or other educational facility without a person being present. The intent is to allow enquiries to be conducted by the director or children's officer in private. This will prevent persons interfering with the investigation process by intimidating a child who is being interviewed by the director, as this has had a negative impact on the enquiry process in the past.

Also, a consequential amendment has been made to the Education Rules 2006 under clause 5 of the Bill. This amendment provides clarification that an investigation under rule 25 does not include an enquiry conducted by the director under section 42 of the Children Act 1998.

Madam President, DCFS wants to ensure that school officials and operators of tutorial sites, extra-curricular, social or community activities adhere to the process and procedures that the department must follow to ensure that the welfare of the child is paramount when an allegation of abuse or neglect of a child is reported. In light of this, DCFS is committed to educating mandated reporters and the general public of these amendments.

Thank you, Madam President.

The President: Thank you, Senate Kathy Lynn Simons, Attorney General.

Would any Senator care to speak on this Bill?
Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President.

First and foremost, let me give encouraging words and complimentary words to the fine people who work in the Department of Child and Family Services. Their job is not easy. They have the herculean responsibility to look out for our most vulnerable citizens in this country—our children. We also recognise that because it is such an emotive and relevant subject in our community today, many times things are said in the media, things are even said within our two Chambers that can tend to be beyond the pale, to some degree, without the adequate sensitivity to the fact that we do not want our children to be made to be a political football for us to bandy about, trying to get our points across.

And so, as I wade into the waters of this particular Children Amendment Bill, I am cognisant of the fact that we are talking about and discussing our most treasured assets in this country, which are the chil-

dren of today who will be the adults and the leaders of tomorrow.

I think it is really important for us to be reminded of the original purpose of this Children Act which was launched back in 1998. I believe it was one of the red-letter pieces of legislation that was put through by the PLP Government when they began governing this country. And I believe even at that time the social fabric of our country was very much under siege. And the administration of that time and era, I believe, were very wise to put this particular legislation together back in 1998, a full 21 years ago. So, looking over this amendment, I thought it was important that I even go back, Madam President, and remind us all of the initial purpose of this particular Children Act of 1998.

We find in section 5, Madam President, if you will allow me to read from this legislation.

The President: You may.

Sen. Marcus Jones: The purposes are fourfold. [Section 5] "(a) protect children from harm; (b) promote the integrity of the family; (c) provide protection for the rights of children amongst persons who have regular contact with children; and (d) ensure the welfare of children."

So the drafters of this legislation made it quite clear and from the onset were emphatic about the purpose of this particular legislation. Above everything else, above every other consideration, the paramount and most predominant drive for, not only the Department of Child and Family Services, but for this community at large is to protect and to safeguard our children.

Now, this amendment gives a number of different powers to the Director of the Department of the Child and Family Services, which I think is good. We realise that it puts a few more tools in the toolbox of the director and her team in being able to get right to the issues with the children without delay. I think that is very important. We see that the director will have more powers to enforce cooperation from officials at schools and other community organisations.

And I must say I listened very intently to the brief. And I do not know if it is possible, but I was really listening to see if there were some examples of the challenges. I mean, it may be obvious to that department. It may be obvious to others who work very closely with an organisation. But for those of us who do not have a direct contact with the challenges of that department, there had to be a reason why these extra powers were put there. And, you know, one would say of course you need that. But it would have been good to see what the actual challenges are on a day-to-day basis.

So we have seen the importance of enhancing the powers of the director and her staff. But there were a few things that caught my attention which I

observed were actually discussed in another place, but I think need to be even reiterated here in these Senate Chambers. From the powers that have been given to the director, we find that the director and the children's officers have the power to deny persons access to the enquiry session. So we find that if the director or her officers are going to a school—the school officials have made a room available, they have brought the child there to be interviewed. That director has the power to deny parents to be able to come and be there with the child while they are being interviewed.

Now, that child very well may have been exposed to abuse, may be traumatised. And to think that that particular child does not have access to a parent who can bring comfort, who can bring a sense of familiarity to an environment where there is a director whom they do not know, it can be very intimidating for a child as young as four, and to a teenager as old as eighteen, which are the ages within the categorising of a child.

And also, that means that that director or children's guardian, children's officer, can also keep a legal guardian, someone who can bring counsel to that child, away from that environment. Now again, we do not know all the intricate details of what our officers at that department have to face. Clearly, there must have been examples of where their investigation was impeded by parents who may have been the perpetrator, or for whatever reason. So we ask ourselves, *Why are those two powers important for the director?* So a little bit more clarity, and even a little bit more of a detailed explanation, would be very helpful.

Now, we know that the purpose is to protect the child from harm. I am a parent. I put myself in the place of a parent. If my child was being questioned by an officer in her school I would want to know definitely. I would want to know if they are preparing to interview her, if it was ongoing and they had to call me in while they were doing it. I would want to know definitely. In section 15(1) and (2) of the Children Act of 1998 . . . and if I can read that, Madam President?

The President: Certainly, you may, Senator Jones.

Sen. Marcus Jones: Section 15(1) says, "Where under this Act a child is brought before the court, the parents of the child shall" (and I underscore "shall") "attend at the court during all stages of the proceedings unless the court is satisfied that it would be unreasonable to require their attendance."

Section 15(2) says, "The court, for the purpose of enforcing the attendance of a parent, has the same powers as a court of summary jurisdiction to enforce the attendance of witnesses."

So we see later on in this particular legislation that parents can be forced to come to court for court proceedings involving their children. And no ands, ifs or buts, the court in their wisdom sees it necessary for

the parents to be there for any stage of the proceedings in court. But yet, at the beginning stage of a potential court case, the parent can be held back and away from being able to be there for their child. I think it does not match up. If the parents' attendance in court is so important and paramount, would not the parents' attendance at an interview session, an enquiry session, be equally as important? So I think those two scenarios are not meshing together well.

And also, consider a child who, let us say, is 16 years old and has been called to the principal's office or a room there in the school to meet with the Director of the Department of Child and Family Services. And let us say they are asked to give some answers [about] a situation that they are a part of, and there is a possibility of abuse. The director can also prohibit someone from the legal fraternity from being there, as well.

I am just going to pull an example out of a hat. For example, let us say a 16-year-old is found with a computer from another school. Let us say that they were given permission to take that computer, but the security guard was not aware of it. As far as [what] they saw, they saw this young 16-year-old walking off the property with a laptop computer that, in their estimation, does not belong to them. But that teenager was given permission. So in the to-ing and fro-ing of that laptop, let us say there is an altercation between that security guard and the teenager. Clearly that is a situation that needs to be checked out. So let us say in the ensuing enquiry that is made, lots of things come out of the conversation. *Did you take the laptop? Did you steal it?* Why did the security guard have to be so aggressive and forceful with the teenager?

So we have got a potential legal situation that has come up. The director may not feel at that time that it is discretionary that anyone from the legal fraternity be there. That is a potential problem. If there was an allowance for people within the legal fraternity to be there, that can definitely, Madam President, alleviate a potential problem that can be escalated.

Also, Madam President, I was also enquiring about the consultation that was carried out to put this amendment together. We understand that the good people there at the Department of Child and Family Services were able to put together a brief that modelled the examples within the UK, and then with Canada, which is a good thing. My question would be, and I would like to see if I can get an answer to this, were there other organisations within the Island, for example, SCARS or the Family Centre? These are help organisations that deal directly with children, have to deal with the sensitive challenge of dealing with young children in situations where they have been abused. I would be curious what their comment and what their feedback was to the Ministry in regard to dealing with children who have to undergo an interview without having a parent there or without having legal counsel.

We also are pleased, I believe, and happy that Madam Attorney General was able to recite to us the numbers of reports of child abuse over the last three years that have been trending down. I believe that the entire community can take heart that those numbers are declining. And I think it is worth repeating again: In 2017, the reports of child abuse were 102 per month. In 2018, there were 95 per month. And then in the nine months through 2019 there were 87 per month. I think that is something that we can applaud.

But it also raises the question, Is this downward trend in reported incidents of abuse a demonstration of the decrease in abuses? Or has the public lost trust in the department, based on the cloud of stories that have been bandied about the public?

Now, I am not a fan of a lot of the stories that the daily *Royal Gazette* gives. I always question—Do the people who write stories about this country have the best interests of the country at heart? I believe there are cases where we can ask that question and ask it very strongly. Because as much as we do need information out there for the public to decipher what its government entities are doing, there also needs to be balanced reporting so that we do not besmirch and muddy the waters, as opposed to giving information so that we as a community can work together to fix our problems, and not to expose them just for salacious or for opportunities to expose and embarrass the community.

So I always look at these stories with a grain of salt. The title of their series was “Who Cares?” Well, I say, I care. I believe that every Member of these Senate Chambers, anyone sitting here in the public Gallery cares. I would say that every person in this country cares about what happens to one of its most vulnerable. So the answer to that question is very simple. All of us care. We all have a part to play. We know that there are different ways to solve the problematic issues that plague our children and the family and the social fabric of this country. And people contribute to the solutions in various ways.

We in this Chamber, we are tasked with drafting legislation, approving it, reviewing it so that it is going to better give our people the tools to safeguard our children. So I think that is a very important part that we play. But with this cloud of unsurety and, shall I suggest, a possible erosion of trust and confidence in that particular department . . . and the Opposition, we on this side, have tried our best not to wade too deep into the waters and sort of inflame an already emotive topic. But we have just called out for an independent enquiry. We do believe, with the challenges that fact that department and with the stories of our children that we have read and seen, that an independent enquiry would be the way to go.

Now I also read or listened to the briefing very carefully, that during the interview process, the enquiry process, Madam President, of our children that

is executed by the department, that their policy is to have the director and a children’s officer or two children’s officers. Now that is the policy. I believe that is. But I think it should be enshrined in the legislation. I think it should be hard-coded so that it is beyond thought, beyond a director having to make a decision, [on] short notice, and he or she not having to toy around with the idea, *Do I not do it in the interest of time and delay?* That would take away all of the ambiguity, and I believe it would take away the grey area of ensuring that when these enquiries are done, there are sufficient bodies and persons there to protect the child and to protect the director as well, and her staff.

So with those brief words, Madam President, I believe that our most treasured assets in this country are our children. I do believe that we need to do all that we can not only to give our officers within this Ministry all the tools so that they can be effective, but every decision that we make when we look, review legislation, should always be with the paramount view of protecting our children. And with those words, I thank you, Madam President.

The President: Thank you, Senator Jones.

Would any other Senator care to speak?
Senator Jardine, you have the floor.

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

First of all, I certainly support this very, very important piece of legislation for the protection of our children. And I am appreciative of all of the work that the Department of Child and Family Services do. I think for many of us, and I certainly include myself in this, when I hear statistics of reported instances of abuses of 87, 93, 102 per month—*per month* of child abuses—it is just staggering to me. Now, obviously, I do not live in that world that the Child and Family Services has to deal with. But to me, in a small island that we have here of 63,000–64,000 people, to think that the 100 cases per month of child abuse that have been reported, and that probably does not include the ones that have not been reported, is quite staggering. And I am sure that the department has many stories that they could tell which would make us all pale when we hear about them.

So I do not want to underestimate the importance of this piece of legislation and certainly the good work that the department does. It certainly was an eye-opener when I heard these statistics mentioned to us today. So I am very supportive of this piece of legislation.

I had two questions. The first one relates to clause 2(b)(ii). And it adjusts section 42(5) where [clause 2(b)(ii)] says, “by deleting ‘shall’ and substituting ‘may’ . . .” And we have had these discussions before in this Honourable Chamber about words “shall” and “may.” And I just wanted to read from the existing section. And my question, obviously, is, Why

are we changing it from “shall” to “may”? And let me just read the existing section if I may, Madam President.

The President: You certainly may, Senator Jardine.

Sen. James S. Jardine: And this is under the Children Act 1998. And it says [at section 42(5)], “Where, in the course of enquiries made under this section any person authorized by the Director to act on his behalf in connection with those enquiries—(a) is refused access to the child concerned; or (b) is denied information as to his whereabouts, the Director shall apply for an emergency protection order, a child assessment order . . .,” et cetera. So the word “shall” I think is very important, because again here we are trying to protect the child.

And so the question I have is why we changed it from “shall” to “may” because it is a very important difference. And I think it is important, and perhaps it should be “shall.” But again, the department may have some answers on that one.

The second one was the one that Senator Jones mentioned earlier, and it has to do with clause 4, [proposed] section 68A, where it says, “No person shall be present during an enquiry being conducted . . .” Now, this is a difficult thing. I guess to use a word, this is a *dilemma*. On the one hand, if the parent is responsible for something that has occurred either at home or elsewhere and the director wishes to intervene, to interview the child, then having the parent present, the one who presumably might have caused the abuse, I can see is an issue. On the other hand, the child, no matter what age, could feel slightly intimidated being in a circumstance with people they do not know with no family member present or no legal representation there. So it does concern me when I see [the words] “no person shall be present.”

And I would be interested again to hear the view via the Minister from the department as to why they would not allow some representative to be there to support the child, who may be upset or concerned about suddenly being found in such an interview. But again, that is really my ignorance of the process in which these things take place. And again, there may be some stories there which would shed a different light on it.

But, Madam President, I am very supportive of this legislation. I think anything we can do to protect our children . . . And as I say, I am absolutely astounded by the level of abuse that is reported on a monthly basis. And again, I am very supportive of this legislation. Thank you, Madam President.

The President: Thank you, Senator Jardine.

Would any other Senator?

Senator Michelle Simmons, you have the floor.

Sen. Michelle Simmons: Thank you, Madam President.

First of all, I too am very supportive of the amendment that is before us this morning. And I would also like to go to [clause] 4, which provides a new portion to this Act, where “No person shall be present during the interview.” I just want to give a little context to this because I had to step back from this when I first read it because it seemed to be a little over the top to me, until I gave some consideration to some of the circumstances under which these interviews may have been conducted.

First of all, our children have to be our priority. And keeping them safe from whatever alleged abuse may have occurred is so critical. We do not know who the perpetrator of the alleged abuse may be. And so I can understand schools being very sensitive to people from outside the school coming onto the property, saying, *I wish to conduct an interview with such-and-such a child.*

The natural instinct, in fact I believe it is a requirement in all schools that since schools are in fact the guardian at the time that children are there, they are responsible for having a representative present in all such interviews. I think that is the current state of affairs. So it is not surprising that there may have been some difficulties in the past. But we also have to realise that the staff of DCFS, the Department of Child and Family Services, are all very highly professional people. And they are responsible for conducting these interviews in circumstances where children are able to speak freely with them, to report whatever abuse they are alleging.

The thing that helped me to see this in a different light was the fact that there will be at least two representatives from DCFS present during the interview. So there is not just one adult in the room; there will be at least two. And I assume (and I may be corrected if I am incorrect, I assume) that each of those adults will have to report back. Children will not speak freely if the wrong people are in the room. And as I said earlier, we are not always certain who the abusers are. So if it is a parent and the parent is in the room, the child will not speak freely. If it is a teacher and the teacher is in the room, the same thing will happen. So I can understand why the amendment has been proposed. And I think it is important that, since there has been consultation with the Department of Education and they are in support of this, there should be frank discussions by the department with all school leaders to ensure that everyone is on board with this amendment.

I am glad to see that this will apply to private and public schools, because abuse is not localised to either sector. With those brief comments, Madam President, I would like to say I do support this Bill, and I hope that it will take the protection of our children to the next level. Thank you, Madam President.

The President: Thank you, Senator Michelle Simmons.

Would any other Senator care to speak on this Bill?

Senator Robinson, you have the floor.

Sen. Dwayne Robinson: Thank you, Madam President.

I support any legislation that strengthens the protection of our children. My one hang-up, or [one of a] few hang-ups regarding the Bill, I guess, is similar to other Senators regarding [clause] 4, but more so with the authority to come onto the premises of schools. I do believe that maybe something to pacify that would be a registry of up-to-date DCFS staff just so that the school and institutions can verify from their end that these folks are up-to-date agents. I am not saying that anybody may attempt to impersonate, but usually when you have these authorities who have the ability to come onto premises, it is always good to have recognition from both ends, not just from one end.

Regarding the enquiries, I do believe that a person, either a counsellor, or if it is an extracurricular activity, the coach or representative, should be in these enquiries, only for the simple fact that a child who has suffered abuse or a child who is in an abusive situation may act out or may have certain behaviour issues. And I think being able to have a counsellor in the school who is aware of why this child may be acting out the way they are can provide continued support to that child. But I am reassured that the Minister of Education is in agreement. So I just wanted to give my particular hang-up with that.

I also wanted to ask regarding the enquiries, will they be recorded? And the reason why I ask this is because, if a child does come out of that particular enquiry and say that they did have a misconduct or something at one of those enquiries, and it is only two agents from the same agency reporting it, how can we then verify as an independent source whether a child's word is right or the agent's word is correct? So I believe that maybe having a recording that is just confidential for the agency to be able to pull forward if any of these particular complaints do arise, not just to protect the child, but also to protect the two agents who are conducting this particular enquiry.

So I do not want to continue to repeat similar hang-ups, but that recorded thing is my main question to Madam Attorney General, Madam President. Thank you so much.

The President: Thank you, Senator Robinson.

Would any other Senator care to speak on this Bill?

No.

I just have a question of the Attorney General. And that is, I was a former counsellor. I do know that with the statistics that have been mentioned, I fully

support this Bill. I will say that first of all. But I just wonder what support exists for the staff. I am aware of the number of clients that have been mentioned, the referral system, and I just know that, in terms of burn-out of counsellors . . . I just want to know what protection and support exists for the staff members. I think that is important. Because while we focus on the children, and I am aware of the number of statistics that have been mentioned, and the impact on the staff, I think it is important that we protect them and prevent burnout.

Thank you, Madam Attorney General.

Sen. the Hon. Kathy Lynn Simmons: If there are no further questions or comments, I will proceed. Thank you, Senators, for your contributions to this debate and oversight of this Bill.

Let me start by saying, as was mentioned, that this is 1998 legislation. And my role as Minister is to provide oversight of the causes that underlie the legislation. And reporting lines for policy change come from the people who are on the ground, namely, the staff of DCFS. So when they find there are practical impediments to discharging their mandate, as we see with respect to the issues raised today, they will report in, and we will take the necessary measures to make sure that we make appropriate amendments.

The challenges that we confronted in relation to this particular subject were spoken of when I read the brief. And they are delay and access, refusal to grant access. Those are important enough impediments to warrant the amendments that we see today, which are designed to further protect our children.

With regard to the issues presented, or the concerns about parents not being present, we all know that the perpetrators of such abuse could be parents, could be counsellors, could be teachers, could be any other members of the community who have contact with these children. So at this stage of the investigation, the child is actually protected and given a safe space with trained professionals.

So on the one hand, we are saying that they are trained professionals, and we laud them. And on the other hand, we diminish their competency in this area by saying, *Well, we want Tom, Dick and Harry to be present.* We have trained professionals whose responsibility is to create, as I said, a safe space where children will be encouraged to share. They do this every day. And as I spoke earlier about the 1,122, a huge number of allegations that come to their attention that they have to review and investigate, they do this every single day. And they do it under the umbrella of best practice for the areas.

Because remember, they have accredited services. And this is their profession. And they discharge it admirably. And I am pleased to have Ms. Maureen Trew in our midst, who is one of the persons on the ground who deals with these children every single day. So, no, we will not have lawyers present.

We will not have parents present. And the department staff will discharge their responsibility effectively, as they do, and always have done.

With regard to Senator Jones's query or comparison of section 15 of the Act, which relates to court proceedings, these are investigations that may result in court proceedings. So the revisions that pertain with regard to the presence of parents do not pertain at the investigation stage. We are talking about two different stages of any issue relating to children and investigations of abuse. So, no, we will not have parents mandated as per the court processes that are reflected in section 15.

With regard to the issue of the drafting and change from "shall" to "may" in section 42(5), this was an issue that was raised in the House of Assembly. And I will reiterate the response that was given at that time. This amendment had to be made to section 42(5) as a consequence of the amendment to section 42(8) so that the two provisions would not conflict with each other. So because without the amendment, section 42(5)(a) does not recognise the other options available to the director under section 42(8). So if I can read, Madam President, section 42(5)?

The President: You certainly may.

Sen. the Hon. Kathy Lynn Simmons: Thank you. And I believe Senator Jardine already has gone through it, and I will go through it again.

[Section 42(5)] "Where, in the course of enquiries made under this section any person authorized by the Director to act on his behalf in connection with those enquiries—(a) is refused access to the child concerned; or (b) is denied information as to his whereabouts, the Director shall apply for an emergency protection order, a child assessment order, a care order or supervision order with respect to the child unless the Director is satisfied that his welfare can be satisfactorily safeguarded without so doing."

So with the amendment to section 42(5), if in the course of the enquiries the director is refused access to the child, his first option is to impose a requirement under section 42(8), not to apply for an order under section 42(5). So this is necessary to make sure that he has the widest scope of options available to him, because the answer may not be to apply for that order. Okay? So that it is in a nutshell.

Let me make sure I cover everything.

Senator Robinson made a suggestion. He did not ask a question. And his suggestion will not be taken up. We will not be recording the interviews with the children.

With regard to the other organisations that were not consulted, yes, those organisations are not mandated to investigate abuse or neglect, nor are they trained to conduct forensic interviews. And understand, this is a very specialised area, where DCFS staff have received specialised training. So they are

used to children who demonstrate or present discomfort or insecurity. That is what they do. Okay? That is a part of professional training.

So it should be noted that most mandated reporters do not want the parents to know that they made a report. And definitely they do not want to have the parents involved in the investigation process. Also, if they are present, they could be considered a witness if the allegations end up as charges in the court. So to the question of ID, all staff carry ID that identifies them as staff of DCFS.

So with that said, Madam President, unless there are any further questions, I move that the Bill now be read a second time.

The President: Is that any objection to that motion?

No objection.

SUSPENSION OF STANDING ORDER 26

Sen. the Hon. Kathy Lynn Simmons: I now move that Standing Order 26 be suspended with respect to the Bill.

The President: Is there any objection to that motion?

No objection.

Carry on, Senator.

[Motion carried: Standing Order 26 suspended.]

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

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

No objection.

BILL

THIRD READING

CHILDREN (NO. 2) AMENDMENT ACT 2019

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

I move that the Bill entitled the Children (No. 2) Amendment Act 2019 do now pass.

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

No objection.

The Bill is passed.

[Motion carried: The Children (No. 2) Amendment Act 2019 was read a third time and passed.]

The President: Thank you, Senator.

Sen. the Hon. Kathy Lynn Simmons: Thank you, Madam President. And before I close, I would like to once again thank the staff at DCFS for their attention to this matter, and to applaud them for remaining steadfast in the face of adversity and remembering that their mandate is to protect our children.

And to your point, Madam President, the director is always cognisant of the needs of his staff and will give the appropriate leave and support when necessary. But what we can do as a community is to refrain from victimising the very people who are mandated under the Children Act 1998 to protect and safeguard our children.

Thank you, Madam President.

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

And thank you, staff and Senators.

We move on now to our Orders of the Day. And the third item is the Bermuda Monetary Authority Amendment Act.

Senator Campbell, this is your Bill?

Sen. Vance Campbell: That is correct, Madam President.

The President: You have the floor.

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

[Pause]

The President: I beg your pardon, Senator. You have the floor. Carry on with the Bill.

BILL

SECOND READING

BERMUDA MONETARY AUTHORITY AMENDMENT ACT 2019

Sen. Vance Campbell: Thank you, Madam President.

Madam President, I am pleased to present to the Senate the Bill entitled the [Bermuda Monetary Authority Amendment Act 2019](#).

This Bill amends the Bermuda Monetary Act 1969 (the Act) by providing for the establishment of and the regulatory framework for an innovation hub to enable the development of innovative businesses that support the operation of financial institutions or any entity that intends to become a financial institution. The Bill also amends the Fourth Schedule of the Act to revise certain fees payable to the Bermuda Monetary Authority [BMA].

Madam President, the introduction of the new innovation hub is predicated upon the granting to the Authority of a new principal object being to establish and administer an innovation hub to facilitate the development of innovative businesses in Bermuda. This is a significant step because it demonstrates the evolution of the Authority and appropriately positions it to engage with relevant entities proposing to carry on business in Bermuda in an innovative manner for the betterment of the regulated financial services sector and Bermuda at large.

Madam President, the Authority is committed to playing an appropriate role in the development and introduction of innovative solutions in the financial services sector. Whilst the initial focus in this regard has been on activities within the insurance and digital asset business sectors, a non-sector-specific approach is required to properly position the Authority to provide regulatory guidance and support to entities pursuing innovative developments relevant to the entire financial services sector. A key element of the Authority's activities on this front will be delivered via an innovation hub structure.

Within the hub, the Authority will engage in constructive, sometimes intensive, dialogue with a range of different entity types. Madam President, the entities with whom such engagement may occur are expected to range from those intending to be licensed as insurers or digital asset businesses to those whose products are not yet sufficiently developed to facilitate live testing. This includes entities conducting activities which are not subject to regulation themselves, but which are directly relevant to potential innovations within the financial services sector. On this basis, this Bill proposes the introduction of a general provision within the Bermuda Monetary Authority Act 1969, enabling the Authority to establish and administer an innovation hub.

To support this important step, the Bill makes provision for a fee to be charged for admission into this hub, facilitating use of the information and resources provided therein, and upon application renewal of the same.

Madam President, this Bill also makes provision for other fee-related changes as proposed by the Authority. The other fee changes being proposed fall into one of the following three categories:

1. The introduction of a new fee structure for the corporate service provider (CSP), business sector for which fees were not revised in 2019.
2. The introduction of new or revised fees within certain regulated sectors that are required as a result of recent legislative changes.
3. Necessary corrections in respect of fees currently misstated in or omitted from the Fourth Schedule of the Act.

The proposed fee revisions will impact the following Acts: the Bermuda Monetary Authority Act 1969; the Investment Funds Act 2006; the Insurance Act 1978; and the Corporate Service Provider Business Act 2012.

Madam President, by way of background, in 2018 the Authority undertook a comprehensive fee revision process which involved significant consultation with industry sectors. In the consultation paper [CP] published on the 22nd of August 2018, the Authority explained the rationale behind the wide-ranging changes proposed to both the fees payable in a number of sectors and the basis for calculating such fees.

Madam President, the Authority revised a number of its initial proposals, based on further engagement with affected parties, including stakeholder feedback provided in response to the 2018 CP. As a result of that process, it was agreed that no changes would be made in 2019 to the fees payable by licensed CSPs, thereby permitting a revised fee structure to be introduced in 2020 following additional stakeholder engagement.

I am pleased to now bring forward such a revised fee schedule. Madam President, it should be noted that the fees now being proposed by the Authority for the CSP sector, along with all of the other fees proposed by way of this Bill, other than those required to correct existing fee-related misstatements or omissions in the Act, will cover the years 2020 and 2021 to ensure alignment with the fees payable to the Authority that were approved by the Legislature last year, which covered the years 2019, 2020 and 2021.

Madam President, the proposed fee structure for CSPs was developed in response to the resources and costs associated with the Authority's ongoing supervisory activities related to that sector. The need for a simple, measurable basis of determining what fees entities within the CSP sector should pay, and the need for the proposed fees to encourage sustainability and continued credibility of this sector.

Madam President, at present, all licensed CSPs pay an annual fee of \$21 per entity served. This amount has not changed since the introduction of the CSP regime. Under the new fee structure now proposed, annual fees payable by both limited and unlimited licensees will be determined by a fee band structure with the respective bands correlated to the number of companies served by each CSP.

A key aspect underpinning this proposal is its adherence to the principle of proportionality. Madam President, the current application fee payable by entities seeking to be licensed as either limited or unlimited CSPs is undifferentiated, with the fee of \$206 payable by all applicants. Under the new approach proposed by the Authority, the application fee would be determined by the type of licence being sought, with a fee of \$2,540 proposed for a limited licence application and a fee of \$5,000 for an unlimited licence application. Given the critical gatekeeper role per-

formed by the CSPs, the newly proposed fee reflects the considerable time and effort which must be committed to reviewing licensing applications by not only the Authority's CSPs supervisory team, but also by its anti-money laundering/anti-terrorism financing team.

Madam President, this Bill also incorporates amendments to the Act which are required as a consequence of recent modifications to certain regulatory frameworks. Specifically, a number of fee implications have arisen from new or revised legislative provisions introduced during the last year which must now be addressed in the Fourth Schedule of the Act.

One such amendment relates to the Investment Funds Act (or IFA) and the fees associated with the newly created class of private funds. Private funds were previously categorised as excluded funds within the IFA and were not subject to initial filing fees or annual fees. Under this Bill, private funds will be assessed an initial filing fee and an annual fee. Under the IFA, at present, an application must be submitted to the Authority in respect of the proposed appointment of directors or service providers for a fund. The IFA does not, however, provide for the payment of a prescribed fee.

The Bill presented today addresses that gap and proposes that the prescribed fee be \$290 and addresses a similar gap by proposing that the late filing fee of \$50 per month be introduced for all registered funds.

In a similar vein, to the aforementioned amendments related to the IFA, amendments are required in respect of fee-related provisions which form part of the Insurance Amendment Act 2019. Specifically, registration and annual fees for insurance marketplace providers for 2020 and 2021 are to be revised.

Madam President, the fee revision process undertaken in 2018 was extremely comprehensive, addressing virtually all fees in all regulated sectors in covering a three-year period. A regrettable consequence of the extensive nature of the changes proposed and consulted upon was that, as a result of administrative errors, a small number of fees were misstated in or omitted from the Fourth Schedule of the Bermuda Monetary Authority Act 1969. These errors and omissions are addressed in this Bill.

Madam President, if passed today, this Act will come into effect on December 31, 2019. Madam President, in closing, I would like to thank all of those persons within the Bermuda Monetary Authority, the Attorney General's Chambers, the Ministry of Finance and the private sector who have assisted in the development of this Bill.

Madam President, with those introductory remarks, I now pause and welcome comments from other Senators.

Thank you, Madam President.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITORS

The President: Thank you, Senator Campbell.

And I would just like to take the opportunity of acknowledging the presence in the Chamber of Mr. Ifor Hughes from the BMA and his colleague.

And welcome to you both.

[Bermuda Monetary Authority Amendment Act 2019, second reading debate, continuing]

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

Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President.

We on this side definitely have no objections to this amendment. We support it. Any legislation that is designed to facilitate and enhance business, especially this innovative, new, exciting venture into this type of industry, is welcome by us.

I would have a question of Senator Campbell, if he could furnish not only to this Chamber but to the wider public. If he could inform us of, if not the names of those companies that are in the pipeline to benefit from these changes and upgrades in the legislation, at least the number of companies that are actually in the pipeline to be able to maximise the benefits of this legislation, just so that we can get an idea of the numbers that are out there that we can look forward to seeing take full advantage of this particular legislation.

With that I thank you, Madam President.

The President: Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

Senator Jardine, you have the floor.

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

Madam President, I, too, support this Bill. Just a couple of things to point out, I think, for the listening public. Under [clause 4(a)] Part B on page 5 dealing with the fees for insurance operations and under [clause 4(b)] Part C, it is interesting to note that there has been a reduction in fees, in some cases quite substantial reduction in fees, which I am sure individuals who fall into those categories will certainly appreciate.

Under the Corporate Services Provider Act section, [clause 5(1)] Part B on page 7, the lower limits of a limited licence again see reductions in their fee. For those at the higher end, more than 1,000 entities and above, their fees are increasing, again not by a substantial amount, but they are seeing fee increases. So it is sort of a mixed bag here. We are seeing a lot of fees go down, which is good news. We are see-

ing some fees go up, but they tend to be at the higher end of the spectrum where a company has a number of entities.

And I quite understand the issues with compliance, obviously. The BMA has a role to play here, a very important role to play. And with continual changes being made and required of us as a country, the BMA needs to respond to those requirements.

And so I quite understand, certainly for the larger organisations where more time may need to be spent, that those fees probably need to go up slightly. And indeed, I am seeing that here.

So, Madam President, with those few comments, I support this Bill.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

No.

Then, Senator Campbell, over to you.

Sen. Vance Campbell: Thank you, Madam President.

Madam President, in response to Senator Jones's question around the number of companies in the pipeline looking to take advantage of this legislation, we have one company already in dialogue in regard to this legislation. And we have four more who are pending the approval of the passing of this legislation.

With that being the only question, Madam President, I would like to thank my Senate colleagues for their support of this Bill. And I would like to move that the Bill entitled the Bermuda Monetary Authority Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Campbell.

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: Any objection to that motion?

No objection.

[Motion carried: Standing Order 26 suspended.]

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

The President: Any objection to the third reading?

No objection.

BILL**THIRD READING****BERMUDA MONETARY AUTHORITY
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 do now pass.

Is there any objection to that motion?
No objection. The Bill has passed.

[Motion carried: The Bermuda Monetary Authority Amendment Act 2019 was read a third time and passed.]

The President: Thank you, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

The President: Moving on, the next item on the Orders of the Day is the Economic Substance Amendment (No. 2) Act 2019.

Senator Campbell, I believe that is your Bill as well. You have the floor.

Sen. Vance Campbell: That is correct. Thank you, Madam President. Just give me a minute.

ANNOUNCEMENT BY THE PRESIDENT**SENATE VISITORS**

The President: Yes, I will. And while you are doing that, I would like to acknowledge the presence of members from the Finance Ministry. And those are Mr. Kenneth Joaquin and Michael Frith from the Ministry of Finance.

And while you are putting your papers together and getting ready, Senator Campbell, I would just like to thank both the Finance Minister and these gentlemen present for the briefing that they gave the Senators on Monday morning. I do believe that that was very welcome by all Senators, and I thank you for your effort on Monday morning at nine o'clock.

You have the floor.

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Economic Substance Amendment (No. 2) Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.
Carry on, Senator Campbell.

BILL**SECOND READING****ECONOMIC SUBSTANCE
AMENDMENT (NO. 2) ACT 2019**

Sen. Vance Campbell: Madam President, the Economic Substance Amendment (No. 2) Act 2019 amends the Economic Substance Act 2018 (the Act) by reducing the economic substance requirements for local entities other than banks and insurers that carry on business only in Bermuda. It also amends the Companies Act 1981, the Limited Liability Company Act 2016, the Exempted Partnerships Act 1992 and the Overseas Partnerships Act 1995, requiring all entities to declare annually if they are carrying on a relevant activity.

Madam President, this Bill amends the Economic Substance Act 2018 and other related legislation in order that Bermuda's economic substance legislative framework be more closely aligned with that of comparable jurisdictions such as the Crown Dependencies and other British Overseas Territories, commonly referred to as "2.2 Jurisdictions."

Madam President, Senators will recall that following the removal of Bermuda from the European Union [EU] list of non-cooperative jurisdictions for tax purposes on the 17th of May, the Registrar of Companies' team commenced work to consider amendments to Bermuda's economic substance legislation that would create parity and less opportunity for jurisdictional arbitrage between Bermuda and other 2.2 Jurisdictions.

Madam President, following the OECD's [Organisation for Economic Co-operation and Development] Forum on Harmful Tax Practices (FHTP) assessment of the economic substance framework of all jurisdictions, a full jurisdictional comparative analysis was completed by the Registrar of Companies' team, comparing Bermuda's legislation with that of other comparable jurisdictions, specifically the Cayman Islands, British Virgin Islands, Guernsey, Jersey and the Isle of Man. The purpose of the comparative analysis was to identify the key areas in which Bermuda's legislation differed in a material way in order to ensure that (1) there was no economic disadvantage to Bermuda as a result of jurisdictional arbitrage, and (2) any amendments needed to meet the EU, as well as OECD, standards.

Madam President, Senators will recall that the first phase of those level-setting amendments were made earlier this year with the introduction of an exemption from economic substance requirements for entities that are engaged in a relevant activity but resident for tax purposes in another jurisdiction.

Madam President, I am pleased to advise the Senate that those amendments, including the Guid-

ance Notes applicable to them, have been approved by the EU and the OECD.

Madam President, following the enactment of those amendments, the Registrar of Companies' team commenced the second phase of level-setting analysis. The most significant additional areas identified as requiring amendment relate to the relevant activities of holding entity, shipping, financing and leasing and insurance, as well as the requirement applicable to local entities. The specifics of these amendments are as follows:

- The relevant activity of holding entity should apply only to those entities that hold a controlling ownership stake in another entity and which carry on no other commercial activity. Such entities are referred to as "pure equity holding entities."
- The relevant activity of shipping should apply to those entities that operate and manage ships and not to those entities that carry on no activity other than the ownership of a ship.
- The relevant activities of financing and leasing should be combined into a single relevant activity of financing and leasing.
- The relevant activity of insurance should be limited to insurers/reinsurers only and should not include insurance brokers, managers or agents.
- The economic substance requirements should be further reduced for local entities other than banks and insurers that carry on business only in Bermuda.

And finally, as part of the Registrar of Companies' monitoring and enforcement process, all entities should be required to declare annually if they are carrying on a relevant activity.

Madam President, the specific legislative amendments to address this second phase of level-setting have been developed by the Registrar of Companies' team and the Attorney General's Chambers in close consultation with both the EU and the OECD.

Madam President, the passage of this Act will address these key differences and will lay the necessary foundation for further amendments to the Economic Substance Regulations 2018, which will complete the level-setting process.

Madam President, both the EU and OECD have completed their preliminary assessment of the amendments and related Guidance Notes and have indicated that they have no concerns.

Madam President and Senators, the amendments proposed by this Bill are in line with EU and OECD's stated principles. And with those brief comments, I invite other Senators to participate in the debate.

Thank you, Madam President.

The President: Thank you, Senator Campbell.

Would any Senator care to speak on this Bill?
Senator Robinson, you have the floor.

Sen. Dwayne Robinson: Thank you, Madam President.

First of all, I would like to thank, from the Opposition, the representatives from the Ministry of Finance for their extensive brief that we received. We in the Opposition definitely support this legislation, as it is bringing Bermuda up to speed with other 2.2 Jurisdictions. And we support the Finance Ministry's efforts, along with the Government, to navigate external requests from external forces.

So with that brief comment, we support it, Madam President. Thank you.

The President: Thank you, Senator Robinson.

Would any other Senator care to speak on this Bill?

No.

Then Senator Campbell, I think the briefing was excellent. Obviously, the questions that the Senators had were answered. But it is over to you, Senator Campbell.

Sen. Vance Campbell: Madam President, I would like to thank my Senate colleagues for their support of this Bill, very important Bill for Bermuda.

Madam President, I move that the Bill entitled the Economic Substance Amendment (No. 2) Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

Carry on.

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.

[Motion carried: Standing Order 26 suspended.]

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Economic Substance Amendment (No. 2) Act 2019 be now read a third time.

The President: Any objection to the third reading?

No objection.

BILL

THIRD READING

ECONOMIC SUBSTANCE AMENDMENT (NO. 2) ACT 2019

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

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

[Motion carried: The Economic Substance Amendment (No. 2) Act 2019 was read a third time and passed.]

The President: Thank you, Senator Campbell. And thank you all, Senators and the Finance Minister.

Sen. Vance Campbell: Thank you, Madam President.

The President: We are moving now to the second reading of the Insurance (No. 2) Amendment Act 2019. Whose Bill is that?

Senator Campbell, you are busy this morning. You have the floor, the second reading of the Insurance (No. 2) Amendment Act 2019.

And we have Mr. Ifor Hughes with us. And he was part of the, yes, briefing on Monday. And I would like to thank you for that effort.

It is over to you, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President. Madam President, I move that the Bill entitled the Insurance (No. 2) Amendment Act 2019 be now read a second time.

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

BILL

SECOND READING

INSURANCE (NO. 2) AMENDMENT ACT 2019

Sen. Vance Campbell: Madam President, it gives me pleasure to present to the Senate today the Bill entitled the [Insurance \(No. 2\) Amendment Act 2019](#).

This Bill seeks to amend the Insurance Act 1978 (the Act), the Insurance Accounting Regulations 1980, and the Insurance Returns and Solvency Regulations 1980 by making a number of changes to the Act and said regulations to facilitate effective supervision of insurers conducting alternative capital business within Bermuda's limited purpose regime.

Madam President, the Senators would be aware that Bermuda is regarded as a leading jurisdiction in the global insurance market. Members would also be aware that the independent sole financial services regulator, the Bermuda Monetary Authority, is

and has always been committed to the enhancement of the viability of the Bermuda insurance market.

Madam President, the Authority recognises the need to continue to provide a regulatory environment that appropriately regulates and supervises the insurance industry while also demonstrating the willingness to adapt the regulatory regimes to stay in alignment with international developments and regulatory best practises. It is for these reasons the Authority is proposing to update its supervisory regime for limited purpose insurers to ensure that Bermuda continues to be viewed as a leading jurisdiction with an appropriate regulatory environment for the alternative risk transfer market.

Madam President, the Authority is proposing to amend section 6D of the Act by inserting specific wording that will allow the Authority to make adjustments to a collateralised insurer's total statutory capital and surplus. As a consequence, the Authority is also proposing to amend section 44A of the Act, which will afford a collateralised insurer the right to appeal if the insurer is aggrieved by a decision of the Authority to make an adjustment to its capital.

Madam President, in addition to the amendments of the Act, the Authority is proposing to amend the Insurance Accounting Regulations 1980 and the Insurance Returns and Solvency Regulations 1980 [the Regulations] by revoking provisions relating to special purpose insurers (SPIs). The removal of these provisions excludes SPIs from the annual statutory filing requirement prescribed within them.

Madam President, in lieu of these provisions, the Authority has drafted the Special Purpose Insurer Accounts, Return and Solvency Rules 2019. These rules have been developed pursuant to sections 6A(1)(f) of the Insurance Act 1978, which gives the Authority the power to prescribe rules in relation to statutory financial returns.

Madam President, Senators are advised that the Authority has consulted with industry stakeholders to ensure the regulatory regime for SPIs remains prudent and pragmatic.

Madam President, Senators should also be aware that the Authority is also proposing an enhancement to the existing Insurance Returns and Solvency Regulations 1980 by inserting regulation 14N, the schedule of alternative capital arrangements. This schedule will require the relevant insurers to submit essential data of any alternative risk transfer business that they conduct. The inclusion of this schedule will improve the Authority's supervisory oversight of Bermuda's alternative risk transfer business.

Madam President, the Authority has noted a growing interest in the alternative risk transfer market, an interest in Bermuda as a jurisdiction of choice to set up this business. The Authority is of the view that the enhancements proposed today are necessary to ensure Bermuda remains a credible and viable option for alternative risk transfer business.

Madam President, the amendments represent a collaborative effort between the Authority and various industry stakeholders. I would like to thank all of those persons within the Bermuda Monetary Authority, the Attorney General's Chambers, the Ministry of Finance and the private sector who have assisted with the development of this Bill.

Madam President, I now invite comments from my fellow Senators on this Bill. Thank you, Madam President.

The President: Thank you, Senator Campbell.

Would any Senator care to speak on this Bill?
Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President.

The administrative enhancements for the regulatory framework for the insurance industry are welcomed by the Opposition, and we have no objections to this. Thank you.

The President: Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

No?

Then, Senator Campbell, you have full support.

Sen. Vance Campbell: Madam President, I would like to thank Senators for their support of this Bill.

With that, Madam President, I move that the Bill entitled the Insurance (No. 2) Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

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.

[Motion carried: Standing Order 26 suspended.]

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Insurance (No. 2) Amendment Act 2019 be now read a third time.

The President: Any objection to the third reading?

No objection.

BILL

THIRD READING

INSURANCE (NO. 2) 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 Insurance (No. 2) Amendment Act 2019 do now pass.

Any objection to to that motion?

No objection.

The Bill is passed.

[Motion carried: The Insurance (No. 2) Amendment Act 2019 was read a third time and passed.]

The President: Thank you, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

The President: We now move on to our sixth item on the Order Paper. And that is the second reading of the Investment Funds Amendment Act 2019.

Senator Campbell, you are on a roll. These are all your Bills.

[Laughter]

The President: You have the floor when you are ready.

Sen. Vance Campbell: Madam President, given the time of year and my workload, today I expect a little extra in the pay cheque.

[Laughter]

Sen. Vance Campbell: From Santa, from Santa.

The President: From Santa. All right. Yes.

Sen. Vance Campbell: From Santa.

The President: I am sure that will happen.

[Laughter]

The President: Santa will come down your chimney.

You have the floor.

Sen. Vance Campbell: Madam President, before I go into my presentation, there was also an amendment to this Bill, that amendment being clause 2(1), which was amended by inserting, in alphabetical order, the following definition for "fund administrator." And "fund administrator" means "a person carrying on one or more of the fund administration provider business services specified in section 2(2) of the Fund Administration Provider Business Act 2019 in compliance with that Act and other applicable laws in Bermuda or in

compliance with the applicable rules and requirements of the relevant overseas regulatory authority . . .”

So with that amendment, Madam President, the name of the Bill also changed. It is the Investment Funds Amendment Act 2019 (and not No. 2).

So, Madam President, I move that the Bill entitled the Investment Funds Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection. Carry on, Senator Campbell.

BILL

SECOND READING

INVESTMENT FUNDS AMENDMENT ACT 2019

Sen. Vance Campbell: Madam President, I am pleased to present the [Investment Funds Amendment Act 2019](#) for the consideration of the Senate. The Bill seeks to enhance Bermuda’s supervisory and regulatory regime for investment funds, an important segment of Bermuda’s financial services.

Madam President, this Bill seeks to amend the Investment Funds Act 2006 to provide enhanced supervisory and regulatory requirements to apply to registered or authorised investment funds that operate segregated accounts, provides for the designation requirements for overseas investment funds that are managed or carried on promotion in or from within Bermuda, provide for the classification requirements for professional closed funds, provide for enhanced supervisory and regulatory requirements to apply to closed end funds, to provide for the enhancement of fit and proper requirements and provide for other consequential and related matters.

Madam President, by way of background, in March 2018, the Bermuda Monetary Authority published a discussion paper which highlighted changes that the Authority proposed to make within the fund administration, investment funds and investment business regimes. Within the discussion paper, the Authority proposed that the Investment Funds Act 2006 [the IFA] be amended in several respects to maintain conformance with international standards and ensure that Bermuda’s regime remains fit for purpose.

Madam President, one of the commitments the Authority included within its 2019 business plan was to achieve appropriate enhancements to the IFA. Accordingly, the Authority supports the introduction of these legislative proposals relating to the supervision and regulation of investment funds to this Senate.

Madam President, the provisions within this Bill are not only designed to address previously proposed enhancements to the investment funds regime, but also to ensure that Bermuda complies with collective investment vehicle-related requirements emanating from the European Union’s Code of Conduct

Group [the Code Group] and its economic substance initiative. Senators are advised that the Code Group is scrutinising Bermuda’s collective investment vehicles or investment funds regime by employing a four-pillar assessment methodology. Those pillars are as follows, Madam President:

1. legislative and administrative framework for CIVs (that is, collective investment vehicles) authorisations and/or registration;
2. legislative and administrative frameworks for CIVs supervision and rules enforcement;
3. legislative and administrative framework regarding evaluation, accounting and auditing of CIVs; and lastly,
4. depository rules.

Madam President, the Code Group’s assessment of Bermuda’s funds regime lent an additional sense of urgency to the completion of a legislative amendments exercise. Fortunately, the Authority proactively addressed the need to enhance the IFA prior to commencement of the Code Group’s assessment exercise.

The Authority has engaged in an extensive and ongoing dialogue with the EU representatives regarding the current funds regime and any amendments that may be required to satisfy the EU’s expectations in this area. Accordingly, some of the proposed amendments are specifically designed to address the questions raised by the Code Group regarding Bermuda’s supervisory framework for investment funds. It is essential that any such issues be resolved prior to the end of 2019 in order for Bermuda to be removed from the Code Group’s grey list of jurisdictions, an outcome which the Authority and this Government are committed to achieving.

Madam President, some of the important enhancements to the regime for investment funds which will be accomplished by this Bill include:

1. the creation of an overarching definition of investment funds that captures both open-ended and closed-ended vehicles to ensure that all relevant collective investment vehicles fall within the scope of Bermuda’s regime and are subject to appropriate levels of supervision and enforcement actions;
2. the creation of a new class of registered fund to be known as professional closed funds;
3. the creation of a new separate class of funds to be known as overseas funds, which is designated to ensure that any fund that is incorporated or established in a jurisdiction outside of Bermuda is designated by the Authority before being managed or promoted in or from within Bermuda;

4. amending the definition of a qualified participant via a modification of the requirements to be met by high net worth private investors;
5. requiring the operator of an open-ended private fund to appoint a fund administrator;
6. imposing an express obligation that all persons who perform the functions of an operator or officer of or a service provider to a fund be fit and proper persons to act in such capacities;
7. requiring that a list of investment funds authorised, registered or designated by the Authority be maintained by the BMA on its website;
8. expanding the scope of the obligations that relate to the operation of segregated accounts to apply to all registered and authorised funds;
9. providing for notification of the winding-up of an overseas fund;
10. making provision for additional rights of appeal to the tribunal;
11. requiring that a fund be operated in a prudent manner according to minimum criteria for licensing;
12. codifying the current industry practise by requiring audited financial statements for the new professional closed funds; and
13. providing for appropriate balance and flexibility in the collective investment vehicle regime.

Madam President, I will elaborate on each of these points.

Definition of Investment Fund

Sen. Vance Campbell: The primary challenge that Bermuda has faced as a part of the Code Group's assessment relates to the scope of our regime. This is primarily attributable to the fact that closed-ended collective investment vehicles fall outside of the scope of the existing regime. For a vehicle to be an investment fund, participants must be entitled to have their units redeemed on a periodic basis—a feature not associated with closed-ended products. Accordingly, closed-ended funds are not currently required to be authorised or registered. Comparable jurisdictions that are not on the Code Group's grey list utilise a definition of investment fund which is not limited to vehicles in which interest or units are redeemable at the option of the participants of the investment fund.

Professional Closed Funds

Sen. Vance Campbell: The regulatory requirements of this proposed new class of funds are similar to those that apply to professional class A and B funds.

Professional closed funds will fall within the category of registered funds, and it is anticipated that it will be the class under which a majority of the closed-ended vehicles that are typically established in Bermuda will register.

Overseas Funds

Sen. Vance Campbell: Investment funds that are incorporated or established in a jurisdiction outside of Bermuda must be designated by the Authority as an overseas fund before being managed or promoted in or from within Bermuda. The operator of the fund will be required to certify to the BMA annually that it continues to satisfy the requirements to qualify for designation.

Qualified Participants

Hon. Curtis L. Dickinson: Madam President, in relation to point 4, qualified participants, the definition of a high net worth private investor will be amended to encompass individuals whose net worth or joint net worth with their spouse in the year in which they purchase an investment exceeds \$1 million, excluding the value of that person's residence and any benefits or rights under a contract of insurance. Net worth will be defined to mean the excess of the total assets at fair market value over total liabilities.

Appointment of Fund Administrator

Sen. Vance Campbell: The operator of an open-ended private fund will be required to appoint a fund administrator. This requirement will ensure that a specific individual is assigned to calculate the net asset value of the fund and that independent assessments of the funds value are carried out. Madam President, given the obligation which the IFA imposes on various funds to appoint a fund administrator, it is important that the term "fund administrator" be defined. A definition of this term does currently exist in the IFA, but it will be deleted via a consequential amendment when the [Fund Administration Provider Business Act 2019](#) [FAPB] becomes operative.

The FAPB Act, which will provide the foundation for a new regulatory supervisory regime for persons engaged in Fund Administration Provider Business, was enacted by the Legislature in July 2019, and it is to be brought into force on the 31st of December. The new definition of "fund administrator" will form part of the Act once the Bill is enacted by the Legislature, and [the Bill] comes into operation on the 1st of January 2020.

Fit and Proper Person

Sen. Vance Campbell: Madam President, with respect to point 6, fit and proper person, operators and

officers of and service providers to a fund will be required to be fit and proper persons for the purpose of performing their respective functions. Such a requirement has always been achieved in practise via the Authority's existing authorisation, registration and ongoing oversight activities, but it will now be expressly stated in the IFA.

List of Investment Funds

Sen. Vance Campbell: The BMA must establish and maintain on its website a list of all investment funds that are authorised, registered or designated to operate in or from within Bermuda.

Segregated Accounts

Sen. Vance Campbell: Madam President, in relation to point 8, segregated accounts, the scope of the provisions of the Act that provide for unit trusts to operate segregated accounts will be broadened to encompass all registered and authorised funds.

Winding Up

Sen. Vance Campbell: The BMA must be notified within 14 days of the winding up of an overseas fund. The BMA must remove the fund from the list of investment funds it maintains within 30 days of being notified.

Rights of Appeal

Sen. Vance Campbell: The operator of a registered fund may appeal against a decision by the Authority to revoke the registration of a registered fund. Similarly, the operator of an overseas fund may appeal against a decision by the Authority to cancel the designation of an overseas fund.

Prudent Operation of a Fund

Sen. Vance Campbell: Every fund must be operated in a prudent manner according to minimum criteria for licensing.

Codification of Industry Practise

Sen. Vance Campbell: In order to appropriately address the pillar of the Code Group's assessment methodology which pertains to accounting, auditing and valuation, the proposed new class of professional closed funds will be required to produce, at least annually, audited financial statements that meet international generally accepted accounting standards and international financial reporting standards.

Balance in the Funds Regime

Sen. Vance Campbell: With a view to providing appropriate balance and regulatory flexibility for Bermuda's collective investment vehicles regime, the Bill incorporates requirements relative to the revocation and cancellation of the registration of a registered fund and makes provision for the Authority to grant any class of funds an exemption from certain legislative requirements where [the following conditions apply]:

1. Appropriate arrangements are in place to safeguard the interest of participants in the fund;
2. Compliance with the requirement would be unduly burdensome or would not achieve the purpose for which the requirement was made; and
3. The exemption would not result in undue risk to persons whose interest the requirement is intended to protect.

Madam President, I wish to emphasise the Authority sought input from a working group of industry stakeholders on all of these provisions. The Authority has prudently examined the investment fund frameworks of jurisdictions which have not been listed by the Code Group, in order to ensure that Bermuda is not put at a competitive disadvantage because of regulatory arbitrage. It should be noted that the IFA may be subject to further amendments when the Authority receives definitive feedback from the Code Group regarding the legislative enhancements to be achieved via this Bill. Such feedback is expected to be received in mid-January of 2020.

And with those comments, Madam President, I invite other Senators to comment on this Bill.

Thank you, Madam President.

The President: Thank you, Senator Campbell and Senators. I am sure you have all seen the clock. We are working through our lunch as we do not anticipate the rest of the Bills to take a lot of time.

So, would any Senator care to speak on this Bill?

Senator Robinson, you have the floor.

Sen. Dwayne Robinson: Thank you, Madam President.

The Opposition supports this Bill. We would also like to thank the BMA for giving us a very comprehensive brief on it. We also support all efforts to get Bermuda off of the grey list. So with those brief comments, I will finish. Thank you.

The President: Thank you, Senator Robinson. Would any other Senator care to speak on this Bill?

No. You have full support, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

I would like to thank Senators for their support of this Bill.

Madam President, I move that the Bill entitled Investment Funds Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

SUSPENSION OF STANDING ORDER 26

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

The Speaker: Is there any objection to that motion?

No objection.

[Motion carried: Standing Order 26 suspended.]

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

The President: Any objection to the third reading?

No objection.

BILL

THIRD READING

INVESTMENT FUNDS 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 Investment Funds Amendment Act do now pass.

Is there any objection to that motion?

No objection. The Bill has passed.

[Motion carried: The Investment Funds Amendment Act 2019 was read a third time and passed as amended in the House of Assembly.]

The President: Thank you, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

The President: We now move on to the next item on the Orders of the Day. And that is the second reading of the Government Authorities Act.

Sen. the Hon. Kathy Lynn Simmons: Madam President.

The President: Yes.

Sen. the Hon. Kathy Lynn Simmons: With your permission, I would like to move consideration of that to the end of the Order Paper for second reading, the end of the list.

The President: End of the list?

Sen. the Hon. Kathy Lynn Simmons: Yes, please.

The President: Yes. We will go on to Superyachts.

Sen. the Hon. Kathy Lynn Simmons: Thank you.

The President: So that will be Senator Caesar. That is your Bill.

Sen. Crystal Caesar: Yes. Thank you, Madam President.

The President: You have the floor.

Sen. Crystal Caesar: Thank you, Madam President.

I move that the Bill entitled the Superyachts and Other Vessels (Miscellaneous) Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection. Carry on, Senator Caesar.

BILL

SECOND READING

SUPERYACHTS AND OTHER VESSELS (MISCELLANEOUS) AMENDMENT ACT 2019

Sen. Crystal Caesar: Thank you, Madam President.

Madam President, the purpose of the [Bill](#) before the Senate today is to amend the Superyachts and Other Vessels (Miscellaneous) Act 2019 (or the principal Act) to further amend the Passenger Ships Act 1972 regarding transit and cruising permits, and to amend the Bermuda Immigration and Protection Act 1956 to classify the crew of superyachts under charter in Bermuda as special category persons.

In July of this year, Madam President, the Legislature approved the principal Act, Superyachts and Other Vessels (Miscellaneous) Act 2019, which made a number of amendments to a series of Acts to help make Bermuda a more attractive yachting and superyacht destination. The principal Act will benefit Bermuda by creating potential job opportunities through businesses that support the superyacht charter industry and generating fees that will go into Government's Consolidated Fund.

Since the passing of the principal Act, the Ministry of Tourism and Transport identified three areas that required further clarity in legislation pertaining

to the issuing of transit and cruising permits and exemptions.

Madam President, during the drafting of the guidelines for superyachts and other vessels for implementation purposes, the Ministry, along with the Department of Marine and Ports, working closely with the Customs Department, the Bermuda Shipping Maritime Association and local agent stakeholders, discovered three elements that required correction or further clarification. Two of those amendments are made to section 3, and the final to section 7 of the principal Act. Madam President, they are as follows:

1. Under exemptions from permit fees related to transit and cruising permits, vessels arriving in Bermuda for the purpose of obtaining fuel, water and ships' stores were included in the exempted list. Madam President, transit permits will be issued for a period not exceeding five days and are specifically intended for vessels that come to obtain fuel, water and ships' stores. Thus, section 3D(f) of the principal Act is repealed.
2. Madam President, the principal Act requires transit and cruising permits to be applied for in advance, but some flexibility is needed. The amendment deletes section [3]B(1) and replaces it with language that will ensure transit and cruising permits can be applied for at the time of arrival in Bermuda when the Customs Department boarding officer clears the vessel at the Yacht Reporting Centre.
3. And finally, Madam President, a charter permit allows a superyacht to be used to provide charter services for up to six months in Bermuda. The principal Act was silent on Immigration requirements regarding persons who are members of the superyacht crew. Superyacht crew who provide superyacht chartering services are intended to be exempt from having a work permit, same as cruise ship crews are exempt today. Therefore, section 7A is inserted, making the exemption clear for superyacht crews.

Madam President, finally, a notice was issued in September to the yachting and superyacht industry that we intend for the Superyachts and Other Vessels (Miscellaneous) Act 2019 to become law on January 1st, 2020. Madam President, I conclude my comments and welcome comments from my fellow Senators.

The President: Thank you, Senator Caesar.

Would any Senator care to speak on this Bill?
Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President.

Not much to say about this legislation. We are in full agreement with and approval of it. We do note that back in July there was the primary legislation that was rolled out, and we do understand that through the course of this relatively new legislation that is constantly evolving that amendments are necessary to keep us ahead of the curve, to keep us competitive.

Mind you, I did pause a little bit when I saw that an exemption was going to be made for no work permits for the crew members of these superyachts. Knowing that this again is a topic that is full of twists and turns, then the Junior Minister made it quite clear, and quite rightly, that we do not require work permits for the cruise ship crew. So this is just a smaller sized cruise ship.

So I am quite comfortable with that little caveat from the intent of the legislation to keep us competitive, to keep us at the cutting edge of this industry, because it does produce jobs. And it could do well to give us a boost in our economy. So with that being said, we are in full support of this particular legislation.

Thank you, Madam President.

The President: Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

No. Then, Senator Caesar, you have full support.

Sen. Crystal Caesar: Thank you, Madam President. I thank my fellow Senators for their support of this legislation.

And therefore, Madam President, I move that the Bill entitled Superyachts and Other Vessels (Miscellaneous) Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

SUSPENSION OF STANDING ORDER 26

Sen. Crystal Caesar: Thank you, Madam President.

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

The President: Any objection to that motion?

No objection.

[Motion carried: Standing Order 26 suspended.]

Sen. Crystal Caesar: Thank you, Madam President.

I move that the Bill entitled Superyachts and Other Vessels (Miscellaneous) Amendment Act 2019 be now read a third time.

The President: Any objection to the third reading?

No objection.

BILL**THIRD READING****SUPERYACHTS AND OTHER VESSELS
(MISCELLANEOUS) AMENDMENT ACT 2019**

Sen. Crystal Caesar: Thank you, Madam President.
I move that the Bill do now pass.

The President: It has been moved that the Bill do now pass.

Is there any objection to that motion?
No objection. The Bill is passed.

[Motion carried: The Superyachts and Other Vessels (Miscellaneous) Amendment Act 2019 was read a third time and passed.]

The President: Thank you, Senator Caesar.

Sen. Crystal Caesar: Thank you.

The President: And the next item, which is the West End Development Corporation (Traffic Officers) Amendment Act 2019, I believe, is your Bill.

Sen. Crystal Caesar: That is correct.

The President: When you are ready, you have the floor.

Sen. Crystal Caesar: Thank you.
Madam President, I move that the Bill entitled the West End Development Corporation (Traffic Officers) Amendment Act 2019 be now read a second time.

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

BILL**SECOND READING****WEST END DEVELOPMENT CORPORATION
(TRAFFIC OFFICERS) AMENDMENT ACT 2019**

Sen. Crystal Caesar: Thank you, Madam President.
The purpose of the Bill is to amend the West End Development [Corporation] Act 1982 (or the Act) to provide for traffic officers appointed by West End Development Corporation (otherwise known as WEDCO) to have traffic enforcement powers and to provide for better regulation and control of vehicular traffic in the WEDCO area.

Madam President, the Bill before the [Senate] is the [West End Development Corporation \(Traffic](#)

[Officers\) Amendment Act 2019](#). This is for better regulation and control of vehicular traffic and improved traffic management on WEDCO property and to provide for the corporation's traffic officers to have the ability to enforce moving violations and parking infractions.

In recent years our cruise ship partners have reported passenger dissatisfaction with transportation at Bermuda's cruise ship ports, especially at Dockyard when two or more ships are in port. There could be up to 8,000 passengers, plus the ships' crews, in the area looking for public transportation. There is a ground transportation area at the port where taxis, minibuses and limousines ply for business, prearranged tours and beach shuttles.

Madam President, WEDCO has only three traffic coordinators who manage the area and facilitate the safe and efficient movement of passengers. They interact with the operators of the public service vehicles and passengers, whom they direct to relevant transportation options. They also monitor and manage the flow of traffic through the area at a nearby staging area for overflow vehicles. Although the ground transportation area is suitably appointed with proper signage, the area tends to get a bit chaotic when there are thousands of visitors trying to move at the same time and public service vehicle operators are vying for customers.

The traffic coordinators are challenged with managing the behaviour of the public service vehicle operators because they have no legal powers, and as such the operators can ignore their instructions. And at times this has led to antisocial behaviour.

Madam President, up until 2018, up to four of the eight Transport Control Department [or TCD] traffic officers attended the Dockyard daily for general traffic enforcement when cruise ships were in port. In 2018, considering both the cost of providing traffic officers for the Dockyard and the need for traffic officers to become more available for statutory responsibilities, TCD redeployed traffic enforcement resources. In 2019, TCD traffic officers assisted WEDCO traffic coordinators only on days that five or more ships were in port.

So, Madam President, in the absence of TCD traffic officers the need still exists for the regulation and control of traffic and passengers alike. The main objective of this Bill is to appoint traffic officers who will have the same powers as TCD traffic officers to control traffic and deter illegal parking. This Bill will enable improved traffic management on the corporation's land by amending the West End Development Corporation Act 1982 to extend the staff of WEDCO to include corporation traffic officers as defined in the Third Schedule of the Act and to apply the Road Traffic Act 1947 to roads within WEDCO in the same manner as it applies to a municipality.

With that, Madam President, I welcome any comments from my fellow Senators.

The President: Thank you, Senator Caesar.

Would any Senator care to speak on this Bill?
Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President.

I surely do. And we definitely do welcome this particular legislation. I will disclose my interest: My real job outside of the Senate Chambers is I do minibus tours from out of the cruise terminal there in Dockyard. And over the years that I have done it, I have seen, especially since the . . . “retreat” is not the right word. But the redeploying of the TCD traffic officers to other places around the Island has in some cases made Dockyard like the wild Wild West.

And this legislation will be welcomed, I am sure, by the law-abiding well-dressed professional transport operators there in Dockyard who do well to abide by the policies and regulations of TCD, who are sometimes dismayed by those within their community of transport operators and ambassadors for Bermuda who do not comply with the professional attire, with parking in the right places, with waiting their turn, with picking up their clients. All these things happen. And to some degree over the last year or so, without the attention from the normal TCD transport officers, it has been challenging.

I will ask a question of the Junior Minister: Correct me if I am wrong. I believe there was a traffic analysis report that was pending that was supposed to be published in the summer of this year. I do not know if it is on its way, if it is done and yet to be published. I am not sure. But I believe that that particular report and analysis will give the stakeholders in Dockyard, both the executive team at WEDCO as well as the taxi and minibus operators, an idea of how the management of the traffic in that area is being looked at and managed for the good of the tourists.

Now, we have heard it before, and it really gets us going when we hear that our guests, our tourists are having a hard time finding transportation or not being efficiently driven to their place of destination because somehow the system has fallen down. So I believe that the additional powers to the same degree as our TCD traffic officers to these officers at WEDCO would be a significant upgrade and improvement in the management of the traffic in that particular area.

So with that question, if the Junior Minister can let us know about any traffic analysis that has been done and report that has been produced, with those words I thank you, Madam President.

The President: Thank you, Senator Jones.

Would any other Senator care to speak?
Senator Jardine, you have the floor.

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

Madam President, I support this legislation. I just had one question with respect to clause 2, [pro-

posed] section 21B(1), and this is to do with corporation traffic officers. It says, “The Governor may appoint persons to regulate and control traffic.” And I just question: Is it the Governor or is it the Minister? It just seemed strange that that was in there. But I just ask that question. Should it be the Minister as opposed to the Governor?

Thank you, Madam President.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

No. Then, Senator Caesar, you have a couple of questions.

Sen. Crystal Caesar: Thank you, Madam President.

Madam President, Senator Jones posed a question with regard to a traffic study, and I believe there may be an issue that is being confused here. The traffic impact study that was done in Dockyard was actually with regard to pedestrianisation, not specifically traffic in particular. And that study was actually not intended to be published and not part of the deliberations.

But it did form part of the deliberations by the Department of Planning. So, unfortunately, that is not something that will be published. And it did actually pertain to pedestrians, not traffic.

Further, Madam President, Senator Jardine had a question with regard to whether the word “Governor” should be used in [proposed] section 21B. I have received confirmation that that indeed is correct language in this particular instance, as traffic officers derive their powers from the police, who then are also under the purview of the Governor. And, as such, “Governor” is the correct terminology in this case.

With that, Madam President, I believe that I have exhausted the questions that have been posed. And I would like to move that . . . (Sorry. Just give me one second.) I would like to move that—

The President: Second reading.

Sen. Crystal Caesar: Yes . . . the Bill entitled the West End Development Corporation (Traffic Officers) Amendment Act 2019 be now read a second time.

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

SUSPENSION OF STANDING ORDER 26

Sen. Crystal Caesar: Thank you, Madam President.

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

The President: Any objection to that motion?
No objection.

[Motion carried: Standing Order 26 suspended.]

Sen. Crystal Caesar: Thank you, Madam President.
I move that the Bill entitled the West End Development Corporation (Traffic Officers) Amendment Act 2019 be now read a third time.

The President: Any objection to the third reading?
No objection. Carry on.

BILL

THIRD READING

WEST END DEVELOPMENT CORPORATION (TRAFFIC OFFICERS) AMENDMENT ACT 2019

Sen. Crystal Caesar: Thank you, Madam President.
I move that the Bill do now pass.

The President: It has been moved that the Bill entitled the West End Development Corporation (Traffic Officers) Amendment Act 2019 do now pass.
Is there any objection to that motion?
No objection.
The Bill is passed.

[Motion carried: The West End Development Corporation (Traffic Officers) Amendment Act 2019 was read a third time and passed.]

The President: Thank you very much, Senator Caesar.

We now move on to our next item, which is item number 10, the Private Bills, the B.I.U. Members. Senator Campbell, you have the floor on that.

Sen. Vance Campbell: Thank you, Madam President.
Madam President, I move that the Private Bill entitled the B.I.U. Members Credit Union Co-Op Society (Change of Name) Amendment Act 2019 be now read a second time.

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

PRIVATE BILL

SECOND READING

B. I. U. MEMBERS CREDIT UNION CO-OP SOCIETY (CHANGE OF NAME) AMENDMENT ACT 2019

Sen. Vance Campbell: Madam President, the Bill was submitted for first reading at our last sitting. And it is simply a change of name. So I do not anticipate there will be much that would bother my Senate col-

leagues. So with that, I will pause for the possibility that there may be comments from them.

The President: Any comments from the Senators? Would any Senators care to speak on this?
No. Then, Senator Campbell, it is over to you.

Sen. Vance Campbell: Thank you, Madam President.
Madam President, I move that the Private Bill entitled the B.I.U. Members Credit Union Co-Op Society (Change of Name) Amendment Act 2019 be now read a second time.

The President: Is there any objection to the second reading?
No objection.

SUSPENSION OF STANDING ORDER 26

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

The President: Any objection to that motion?
No objection.

[Motion carried: Standing Order 26 suspended.]

The President: Senator Campbell, carry on.

Sen. Vance Campbell: Madam President, I move that the Private Bill entitled the B.I.U. Members Credit Union Co-Op Society (Change of Name) Amendment Act 2019 be now read a third time.

The President: Any objection to the third reading?
No objection.

PRIVATE BILL

THIRD READING

B. I. U. MEMBERS CREDIT UNION CO-OP SOCIETY (CHANGE OF NAME) AMENDMENT ACT 2019

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

The President: Is there any objection to the passage of the Bill?
No objection. The Bill has passed.

[Motion carried: The B.I.U. Members Credit Union Co-Op Society (Change of Name) Amendment Act 2019 was read a third time and passed.]

The President: Thank you very much, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

The President: [Order] No. 14, Motions.

The Clerk: [INAUDIBLE]

The President: Oh. Are we pressed for a recess?

Sen. the Hon. Kathy Lynn Simmons: Yes. Madam President, I would be grateful if you would grant a recess for 15 minutes before we proceed to the Government Authorities Act.

The President: Senators, we have been asked to have a recess for at least 15 minutes so that we can then determine [Order] No. 7, which is the Government Authorities Act.

So we will recess for 15 minutes. Thank you, Senators.

Proceedings suspended at 1:04 pm

Proceedings resumed at 1:09 pm

The President: Senators, we are back in session now. We did not have to wait the full time. So we will now resume.

The Clerk: Should the radio station be alerted we are resuming?

The President: Yes. We want to alert the public and the radio station that we are resuming with the final item on our Orders of the Day. And that is the Government Authorities Act 2019, the second reading.

And I call on Senator Kathy Lynn Simmons, Attorney General. You have the floor.

BILL

SECOND READING

GOVERNMENT AUTHORITIES ACT 2019

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

Madam President, I am pleased to proceed with the second reading of the Bill entitled the [Government Authorities Act 2019](#). Madam President, the Bill seeks to amend a number of enactments related to certain government authorities to transfer appointment functions from the Governor to the relevant Minister and also to provide for appeals to the Supreme Court and other connected matters.

Madam President, section 3 of the Architects Registration Act 1969 is amended by the Bill to transfer the power of appointment of the members of the Architects Registration Council from the Government to the Minister of Finance or such other Minister as

may be appointed to administer the Act. The Bill also repeals and replaces section 11 of the 1969 Act and makes consequential amendments to provide that appeals from decisions of the council will no longer be heard by the Governor, but by the Supreme Court.

Madam President, additional amendments include amendments to provisions of the Bermuda Arts Council Act 1969 to transfer the power of appointment of the members of the Bermuda Arts Council from the Governor to the Minister responsible for Culture. Further amendments are to section 2 of the Bermuda [Housing] Trust Act [1965] to transfer the power of appointments of the Bermuda Housing Trust from the Governor to the Minister responsible for Housing, but also transferring similar power of appointment with respect to the Bermuda Immigration and Protection Act 1956, as well as the Land Valuation and Tax Act 1967. In that particular case, the power of appointment is transferred from the Governor to the Minister responsible for land valuation.

Finally, Madam President, clause 7 of the Bill amends provisions of the Professional Engineers Registration Act 1972 to transfer the power of appointment of members of the Professional Engineers Registration Council from the Governor to the Minister responsible for Works and Engineering. That clause of the Bill also provides that appeals from decisions of the council will no longer be heard by the Governor, but by the Supreme Court.

There are also transitional provisions that are made in the Bill with respect to appeals. So in effect, Madam President, this is a modernisation of the appointment process in accordance with the terms just stated. So with that, I can request that Senators may speak if they wish.

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

Would any Senator care to speak on the Government Authorities Act 2019?

Sen. Marcus Jones: Yes.

The President: Senator Jones, you have the floor.

Sen. Marcus Jones: Yes, Madam President. Thank you.

Clearly, amendments are in this legislation that in my view, and I believe the view of most of this Chamber and the other one, are long overdue. Any work by the legislation to streamline the function of management of government boards is, I believe, a good thing. There was a question, a consideration, a request in another place for a possibility of the appeal time. According to clause 2(d), under Appeals, [proposed new section] 11, may I read it, Madam President?

The President: Certainly you may, Senator Jones.

Sen. Marcus Jones: “Where a person is aggrieved by any decision of the Council in respect of which an appeal is allowed under this Act, he may, within seven days after receiving any notice communicating that decision to him, appeal to the Supreme Court, and the Supreme Court shall determine any such appeal and may make such order as appears to it just.”

I realise that a request was made that that seven-day window can be extended to twenty-eight days. I just wanted to ask Madam Attorney General if that had been actually considered and taken on board.

Other than that, we are in full agreement with this legislation. Thank you, Madam President.

The President: Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

No.

Then, Madam Attorney General, Senator Kathy Lynn Simmons, there is one question.

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

The issue raised with respect to clause 2 was taken under advisement by the Minister. And he is not minded to propose an amendment at this particular time.

With respect to all of our amendments, we monitor and assess their effect and if it is deemed necessary to make an amendment in the future, the Government will do so.

The President: Thank you.

You can do the second reading.

Sen. the Hon. Kathy Lynn Simmons: And with that, Madam President . . . I thank you, Senator Jones, for your question and remarks. I move that the Bill be now read a second time.

The President: Is there any objection to that motion?

No objection.

SUSPENSION OF STANDING ORDER 26

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

I move that Standing Order 26 be suspended with respect to the Bill.

The President: Any objection to that motion?

No objection.

[Motion carried: Standing Order 26 suspended.]

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

The President: Any objection to the third reading?

No objection.

BILL

THIRD READING

GOVERNMENT AUTHORITIES ACT 2019

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

I move that the Bill entitled the Government Authorities Act 2019 do now pass.

The President: Any objection to the passage of this Bill?

No objection. The Bill is passed.

[Motion carried: The Government Authorities Act 2019 was read a third time and passed.]

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

We now move on.

MOTIONS

The President: I think Senator Jardine.

Sen. James S. Jardine: Madam President, I have two motions to make, please.

The President: Yes. You have the floor.

MESSAGE TO THE GOVERNOR

CHRISTMAS AND NEW YEAR'S GREETINGS

Sen. James S. Jardine: Madam President, I move that the following message be sent to His Excellency the Governor:

“May it please Your Excellency: The Senate has the honour to present its compliments to Your Excellency and family and respectfully extends its greetings for a very happy Christmas and a prosperous New Year.”

The President: Is there any objection to that motion?

No objections.

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

MESSAGE TO THE HOUSE OF ASSEMBLY

CHRISTMAS AND NEW YEAR'S GREETINGS

Sen. James S. Jardine: The second motion. I move that the following message be sent to His Honour the Speaker and the Honourable House of Assembly:

"To His Honour the Speaker and Members of the Honourable House of Assembly:

"The Senate has much pleasure in extending to your Honourable House sincere greetings for a very happy Christmas and a prosperous New Year."

The President: Thank you.

Is there any objection to that motion?

No objection. Both messages will be sent.

Thank you, Senator Jardine.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The President: Would any Senator . . .

Senator Campbell, you have the floor.

Sen. Vance Campbell: This is, Madam President, not congratulatory or obituary. But I would like to wish my Senate colleagues, as I indeed wish all of Bermuda, a safe and enjoyable time over the Christmas and New Year's holidays. I encourage everyone to take the time to spend it with family and friends, and let them know how important you are—or they are to you. And lastly, I wish that 2020 will be more prosperous for us all than 2019.

Thank you, Madam President.

The President: Thank you, Senator, Campbell.

Would any other Senator care to speak?

Senator Jardine, you have the floor.

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

Madam President, I would certainly like to echo those comments. I am sure every Senator here today would, wishing a very enjoyable and special Christmas to each other here and also to the listening public.

I would also like to send congratulations, or I guess, welcome to our newest Senator, Senator Simmons-Wade. She and I go back a number of years when I helped established Summerhaven, the home for the physically disabled, many years ago in the 1980s. And I think in my last year as chairman there, we brought her on board as the general manager. And so she and I, as I say, go back a long way in terms of our knowing each other and working together.

And I certainly welcome you to the Senate. I hope you enjoy your time here, and look forward to your participation.

Thank you very much, Madam President.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak?

Senator Richardson, you have the floor.

Sen. Anthony Richardson: Good afternoon, Madam President and the listening audience. I will smile briefly. It is a very brief congratulatory comment.

Last week Madam Attorney General actually challenged us all to do more than we say. And I was pleased to take that to heart. And yesterday evening I had the opportunity to participate in what we call a food distribution. And I mention that because we probably assisted more than 300 families. And what was more important than that, to be honest, is that it was literally a community effort. And I made the joke that (and it was a joke) yesterday was the time to commit a crime. And the only reason is that we had, I believe, the entire Police Community Action Team assisting us. There were like 10 or 12 officers literally getting involved in manual labour to move boxes around, do that kind of thing.

It was a really, really encouraging evening to be able to assist in that regard and for even some of the children to come out and to benefit. And then there was a whole host of Berkeley Institute children, mostly female, who came to assist to get their hands dirty, move boxes around, put away trash and those types of things. It also included the Women's Resource Centre and the Coalition for the Protection of Children.

And so it was just a really, really enriching environment to be a part of and to know that we are doing, as Senator Campbell just said, ensuring that people do feel important and they are able to at least from a mental perspective to feel *more than*. And I think in that regard, we are able to assist the community. And so for that, I do publicly again commend the Police Community Action Team, all those members; the Berkeley students; and those persons from the other helping agencies. Thank you.

The President: Thank you, Senator Richardson.

Would any other Senator care to speak?

Madam Attorney General, Senator Kathy Lynn Simmons, you have the floor.

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

I would like to associate myself with the rest of the Senate with all of the remarks that have been made. But also I would like to extend heartfelt thanks to the civil service, who have supported Parliamentarians—civil servants, I should say, in discharging our responsibilities in the House of Assembly and the Senate. They work tirelessly from a policy perspective

to make sure that we are adequately prepared. And the briefings that have been conducted over this session have been of tremendous value to all of us.

I would particularly like to give special thanks to my Parliamentary Counsel, Amani Lawrence, and her junior, [Assistant Parliamentary Counsel] Alisha Wilson, who tirelessly prepared the cannabis legislation and provided really valuable policy support to our team that included Kleita Pitcher and Jason Outerbridge. And they are all stars to me because they tirelessly work to advance my policy agenda, and I cannot thank them enough.

I would also like to thank Parliamentary Counsel generally on the leadership of the Chief Parliamentary Counsel for their support of the Government in making sure that our Bills have been drafted in what we consider to be a timely manner. And they do work under extreme pressure, as our demands are fluid and sometimes last minute. So, kudos to them and to just really let them know that we sincerely appreciate their efforts.

And lastly, Madam President, but not least by any means, I would like to thank the staff of the Department of the Legislature for the support that they provide to us. Mr. Somner tirelessly receives my last-minute emails to put something on the agenda.

[Laughter]

Sen. the Hon. Kathy Lynn Simmons: And this morning he was very accommodating, with yourself, while I searched frantically for my Statement. And, Madam President, of course, your leadership is very much appreciated.

And I would like to take this opportunity to wish all of you best holiday greetings and much rest before you return to us for another hectic session in February.

But I would like to also take this moment to say something very positive. Senators will recall on motion to adjourn I challenged members of the public to come forward and offer their support to our most challenged, at times our most vulnerable population. And I am happy to inform colleagues that I have in fact received an email from a member of the public who is very interested in supporting and wants to know what she can do to help. So there were times that you sit here and wonder if you are having impact on our country and on the psychology of our people. And I am happy to say, Madam President, that the work that we do is actually very important.

So, to that person who has stepped up, thank you very much, we certainly will be in contact.

Greetings and happy holidays to all of you.
Thank you.

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

I would just like to add my congratulations to our new Senator, Senator Ianthia Simmons-Wade, whom I knew at the hospital and at Summerhaven. And we are good friends. And I welcome you and wish you all the best along with your triplets—

[Laughter]

The President: —whom I knew when they were very, very small. So welcome to you.

I would like to also thank each one of you for your support of me this past year, and to say how wonderful it has been to work with this team. And I also thank the parliamentary staff for their hard work. They stay sometimes many hours to make sure that we are—even beyond the time. They do not stop at five o'clock. They go on until sometimes ten, eleven. So I want to express appreciation from all of us to them, as you have said, Madam Attorney General, for the stellar work that they do.

And I just want to wish everyone, not just us, but everyone in the community a blessed Christmas, a safe Christmas. And remember why we have this season. And with that, we will move on to adjournment.

Madam Attorney General.

ADJOURNMENT

Sen. the Hon. Kathy Lynn Simmons: Let's get this one right.

Thank you, Madam President. I move that the Senate do now adjourn until Wednesday, February 13th. [sic]

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

Senator Campbell, you have the floor.

ASSIST THE NEEDY DURING THE HOLIDAYS

Sen. Vance Campbell: Just brief remarks, Madam President.

As we go about our business during this holiday season, I want us to keep in mind that not everyone will sit down to a turkey dinner with all of the trimmings. Not everyone will go home to a warm house. And so what I am asking is, just keep in mind. Look out for individuals. Walk out your door. Take a plate with you. Give it to an individual who you believe may need it.

I know on Monday, the 23rd, there will be a big group down at Chiko's Smokey Rub down at Albuoy's Point. Chiko's Smokey Rub is doing his final Christmas dinner giveaway, and I am sure he will need some assistance there. If you know of anyone who may need a good meal, a nice Christmas meal, good food, send them down there. Direct them there. And just, you know, the extent of giving like human nature,

there is a lady. She comes there every year, a non-Bermudian. She flies in, and she makes the gravy. That is her contribution. And the gravy is excellent, at that. So she flies in to assist with that event and give to our community, to those in need. She makes the gravy, and everybody looks forward to it.

So reach out. Touch someone else. Help someone else this holiday season.

Thank you very much, Madam President.

The President: Thank you, Senator Campbell.

Would any other Senator care to speak?

Senator Richardson, you have the floor.

EMPOWERMENT THROUGH EDUCATION

Sen. Anthony Richardson: Again, thank you, Madam President.

One of the joys of being a Senator is that the Premier gets a chance to reassign responsibilities and those sorts of things. And in this current instance, congratulations again to the new MP Jason Hayward, which resulted in my having an additional or reassigned responsibility. And one of those is education.

And I want to leave with these comments for today. That is, I guess I want to call it *empowerment through education*. We all know that the current Government mandate is to make public education second to none. And one of those aspects is going to be to eliminate the current middle school system.

And I want to say that when it comes to public education or education in general, I and many others here do have a vested interest. From my perspective, it is that, well, first of all, I benefited from the entire Bermuda public education system, going all the way from primary school up through Bermuda College before I went overseas. And as a result of that, I and many others actually believe that we were very well prepared for university education in that the Bermuda College process prepared us, number one, from an information point of view, but also from a personal discipline perspective, that we were able to go overseas and get our work done, then come back having succeeded.

And now I have two children who are going through the system. One has just passed through; another one is getting his way through. So again, I and I know others here also have a vested interest. And in doing so, with this new responsibility I want to make sure that my focus is to actually, in the midst of all of the proposed changes and the concern, I guess, in the community, to do my best to understand, first and foremost, in an in-depth way what Government intends to do, and then from that provide relevant information to the public. Because I know a lot of times what happens when change is proposed is people take sides before getting full information. And I want to make sure that we are able to provide information in

terms of what the Government intends to do before persons take a position either way.

And as part of this process, also I want to do something which we did in the past, which is when I was involved in the National Parent Teacher Association, student association, the focus actually became on parents in terms of parents being the first educators. And again I want to say that, yes, we all have different personal circumstances. But I want to encourage us all to remember that we still maintain that role in terms of, as parents we have the greatest influence over our children. And so if we are able to prepare them to want to learn and be able to excel at education, then the teachers and the principals or what have you, they can add to that. But it is difficult if we do not take the time to prepare our children to be ready to learn.

And in doing so, I know from my own experience, it is not even about me knowing the work that my child does. It is about having him interested enough to assist me and to teach me; and then for me to reach out to the teachers so that they can provide actual assistance when necessary. Because I think that is going to be important, going forward.

I certainly recognise, and it true obviously, that not all is well. And I want us as a community to be collectively constructive so that we recognise what is good. And with those things that are not necessarily good or need to be improved, that we work together to make that improvement, and, in doing so, to hopefully change the narrative in terms of education over all.

And one quick thing that happened recently, which we have to recognise that we have a role to play, but also recognise that that should not override what is real . . . And what I am saying in that regard is, there was a recent report of someone who is alleged to have committed an offence. And they are now 10 years post graduating. And yet the media is still commenting about where the person went to school, which in my mind is entirely unnecessary and irrelevant.

And for me, why I am saying it now is because even my son recognises that. *Well, Daddy, you know, why are they saying that, given that the person is like 10 years away from school?* And we do not go back naturally and do that. And so it was in my mind almost irresponsible for the media to tie it back that way. And I hope that those things do not occur, going forward.

And so to conclude, now that I have been given a different responsibility, I want to become the champion for education. I have always been one to try to promote education, the positive aspects of it. But now to become a champion for education and try to encourage the community to be empowered through providing more information and helping them to make the appropriate decisions for their children.

Thank you, Madam President.

The President: Thank you, Senator Richardson. Senator Jones, you have the floor.

NEED FOR COLLABORATIVE RELATIONSHIP IN THE SENATE

Sen. Marcus Jones: Thank you, Madam President.

It would be remiss of me if I did not participate in this lovefest. So here I am representing and holding up the Opposition. First of all, we want to welcome and congratulate the new Senator, Senator Simmons-Wade. She is a great . . . I believe she is going to be not just a good, but a great addition to these Chambers. I do not want her to get fooled by this overwhelming bubbly overflow of warm wishes that go from side to side.

[Laughter]

Sen. Marcus Jones: But I believe in the coming year we are going to see in this Chamber a far greater attempt to collaborate, to work together. We do very important work up here. And I am ever optimistic and hopeful that we will forge such a workable collaborative relationship between both parties that we will see this Chamber be the most effective chamber in the history of Bermuda in this upcoming year.

Of course, I want to wish a Merry Christmas to my fellow colleagues, to the officers and staff here at the Legislature and to the listening public. Please be safe. Hug and love your family and friends, and look out for those who are less fortunate than you.

Thank you, Madam President.

The President: Thank you, Senator Jones.

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

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

NEED FOR COLLABORATIVE RELATIONSHIP IN THE SENATE

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

Everybody knows of the Grinch. And unfortunately, today I am going to be the Grinch. Because what happens during this season every year is that we perpetrate this huge optimism that lasts for about two weeks and into the New Year. And not the New Year generally, but New Year's Eve. And we sit around and we make all sorts of resolutions. And I am listening to my fellow Senators, and I would love to think . . . I would love to think that we can all think beyond the present.

To Senator Campbell, who encouraged people to come out and to give of themselves, I would suggest and follow-up by saying, *That cannot be just*

for this holiday season. It absolutely cannot be. To Senator Richardson, who spoke of the parents and the assistance that they need to give to their children, Senator Richardson, as we all know, would know that there are parents and caregivers who are incapable of providing that assistance to their children for any number of reasons. And to Senator Richardson, I encourage him to continue the very important call for us all to give more of ourselves.

So last week I asked for mentors and supporters for our children. That goes to their educational journey as well. They need to be supported. When you have parents who are more illiterate than their children, they need support. And there is only so much that helping agencies, however well-intentioned, can do. It is for the community to adopt a village concept and to really care-take our children.

And not just our children, we have in our new appointee a wonderful advocate for our seniors. And many of us know relatives and neighbours and friends who fall in that category who need assistance. I have seen them standing at the bus stop, and we drive by. We see them at the supermarket counting change and pennies, and we get our groceries and leave. I know, and in my congratulatory and welcoming remarks to the new Senator, that she will call us out. And I am hoping that her voice will be loud and consistent and insistent that we all step up to our more human responsibilities and be our best selves.

To Senator Jones, who has talked about working together and collaboration, I will challenge him as I did last week. Everyone, it is not what you say. It is what you do. And I remember when my former colleague, Walton Brown, passed away. And I was swept away by the accolades about his personality and his cross . . . I do not even know how to characterise it, how he basically was a person for all. And it is very easy to talk about collaboration and working together. But everyone needs to understand that there is a foundation that has to be laid for that collaboration and communal striving towards what is in the best interests of the country, because that is what we are here to do in our service. So, to Senator Jones, I applaud you. But I also challenge you to put your money where your mouth is.

And there is such a thing as holding people to account. There is such a thing as constructive criticism. But the viciousness that sometimes underlies our deliberations and the deliberations in another place is something that we have to eradicate because it serves no purpose in the context of service.

And so, I will take off my Grinch hat for a moment, because I think I have pricked consciences enough to proceed. But I wish you all the very best. And I look forward to moving forward in the New Year as an effective collective.

But I will say before I be quiet I was very distressed to see my new Senate team member receive a hug from Senator Simmons, recognition from you.

You know her. And Senator Jardine is also a friend. I am trying to remember that she is on my team.

[Laughter]

Sen. the Hon. Kathy Lynn Simmons: So welcome once more. And to all of you, best wishes.

Thank you, Madam President.

The President: And with that, the Senate stands adjourned until February the 13th, *[sic]* 2020. Thank you.

[At 1:40 pm, the Senate stood adjourned until 10:00 am, Wednesday, 12 February 2020.]

[This page intentionally left blank.]