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

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BERMUDA SENATE**OFFICIAL HANSARD REPORT****12 DECEMBER 2018****10:01 AM***Sitting Number 5 of the 2018/19 Session*

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

The President: Good morning, Senators. The Senate is now in session.

Shall we pray?

PRAYERS

[Prayers read by Sen. the Hon. Joan E. Dillas-Wright, President]

CONFIRMATION OF MINUTES

[Deferred]

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 meeting of Wednesday, the 5th of December 2018, be deferred.

The President: Is there any objection to that motion?

No objection; the Minutes are deferred.

Thank you, Senator Jardine.

[Minutes of 5 December 2018 deferred]

MESSAGES

The Clerk: There are no messages, Madam President.

The President: Thank you, Clerk.

REPORTS OF COMMITTEES

The President: There are none.

ANNOUNCEMENTS

The President: [We have the] Fiscal Responsibility Panel of Bermuda Annual Assessment 2018.

Senator Campbell, you have the floor.

Sen. Vance Campbell: Good morning, Madam President.

The President: Good morning.

**FISCAL RESPONSIBILITY PANEL OF BERMUDA
ANNUAL ASSESSMENT 2018**

Sen. Vance Campbell: Madam President, I hereby present for the information of the Senate the Annual Report of the Fiscal Responsibility Panel entitled Fiscal Responsibility Panel Bermuda Annual Assessment 2018.

PROCEDURAL MATTER

[Standing Order 35]

The President: Thank you, Senator Campbell.

Now, Senators, I am obliged to bring to your attention a procedural error which occurred at the last day of meeting. And I will read the information for you.

You will recall that, during consideration of the Bill entitled the Bermuda Tourism Authority Amendment Act 2018, there was objection to the third reading by the three Opposition Senators. At that point, Senate proceeded to a division vote on the third reading, which was affirmed by 7 votes to 3. And the Senate then proceeded to pass the Bill.

After having some time to reflect on this following the meeting, the Clerk and I took a close look at the Senate's Standing Order for procedures on the third reading of Bills to determine whether the correct procedure had been followed. We saw that Standing Order 35, in particular, applies to the third reading motion. And Standing Order 35 reads as follows:

"A Bill having passed through the Committee of the whole Senate, or by leave of the Senate, having been read a second time without referral to the Committee of the whole Senate, may forthwith be read a third time and passed unless at least three Members object to the motion for the third reading, in which case the third reading shall be deferred to the next day of meeting."

In accordance with Standing Order 35, once there have been objections from three Senators, the correct procedure would have been for me to recite the provisions of Standing Order 35 requiring the third reading to be carried over to the next meeting. At that point, Senate could have agreed to carry over the third reading, or the Senator in charge or another Government Senator could have taken the option to move that Standing Order 35 be suspended. If that

motion was approved, Senate could have then gone on to pass the Bill.

In order to correct the procedural error, we must rescind the third reading and passage of the Bill last week so that the Junior Minister can now re-put the third reading motion.

BILL

THIRD READING RESCINDED

BERMUDA TOURISM AUTHORITY AMENDMENT ACT 2018—RESCINDED

The President: Therefore, I will move to correct as follows:

Senators, I move that the third reading and passage of the Bill entitled the Bermuda Tourism Authority Amendment Act 2018 at the last day of meeting be rescinded.

Is there any objection to that motion?
No objection. Thank you.

[Motion carried: The Third Reading and passage of the Bermuda Tourism Authority Amendment Act 2018 was rescinded.]

The President: I will now call on the Junior Minister, Senator Caesar, to re-put the third reading motion for the Bill at this time. And, remember, Senators, there is no debate during the third reading.

Senator Caesar, you have the floor.

BILL

THIRD READING

BERMUDA TOURISM AUTHORITY AMENDMENT ACT 2018

Sen. Crystal Caesar: Thank you, Madam President.

I move that the Bill entitled the Bermuda Tourism Authority Amendment Act 2018 be now read for a third time.

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

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?

[Inaudible interjections]

Sen. Nicholas Kempe: Just so that the record notes on the correct day it went into effect.

The President: Thank you, Senator Kempe.
The Bill is passed.
Thank you, Senator Caesar.

The Clerk: Passed with one objection?

The President: Passed with three objections. We would have to have a division.

The Clerk: Okay.

The President: Clerk, you would do a division?

The Clerk: Yes.

[Inaudible interjection]

The President: Well, this is a lesson, you know?

The Clerk: Yes.

The President: We believe in education. It does not happen often, but we will ensure that we follow the Senate Standing Orders. Thank you.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITORS

The President: And, while you are doing that, I would just like to welcome Mr. Anthony Manders, the Financial Secretary; and Mr. Richard Amos, the Assistant Collector of Customs. Welcome to you both.

[Bermuda Tourism Authority Amendment Act 2018, Third Reading division, continuing]

The Clerk: All right. So, we are just this now voting on the [Third Reading] motion for the Bill.

DIVISION

[Third Reading of the Bermuda Tourism Authority Amendment Act 2018]

Ayes: 8

Sen. the Hon. K. Simmons
Sen. Anthony Richardson
Sen. Jason Hayward
Sen. Crystal Caesar
Sen. Vance Campbell
Sen. Michelle Simmons
Sen. James S. Jardine
Sen. the Hon. J. E. Dillas-Wright

Nays: 3

Sen. Nicholas Kempe
Sen. Marcus Jones
Sen. Dwayne Robinson

The President: These votes are 8 to 3.

The Clerk: The Bill is passed.

The President: The Bill is passed.

Thank you, Senators, for your indulgence this morning.

[Motion carried by majority on Division: The Bermuda Tourism Authority Amendment Act 2018 was read a third time and passed.]

NOTICES OF MOTION

The President: The Contributory Pensions (Amendment of Benefits) Order 2018.

Senator Campbell, you have the floor.

ORDER

CONTRIBUTORY PENSIONS (AMENDMENT OF BENEFITS) ORDER 2018

Sen. Vance Campbell: Madam President, I hereby present for the consideration of the Senate the draft Order entitled the Contributory Pensions (Amendment of Benefits) Order 2018, proposed to be made by the Minister of Finance under the provisions of section 37 of the Contribution Pensions Act 1970. And I give notice that, at the next day of meeting, I will move that the said draft Order be approved.

Thank you, Madam President.

The President: Thank you, Senator Campbell.

PETITIONS

The President: There are none.

STATEMENTS

The President: There are none.

INTRODUCTION OF BILLS

The President: There are none.

FIRST READINGS OF PUBLIC BILLS

CHIEF MEDICAL OFFICER (TRANSFER OF FUNCTIONS AND VALIDATION) ACT 2018

ALLIED HEALTH PROFESSIONS ACT 2018

INVESTMENT FUNDS AMENDMENT ACT 2018

BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 3) ACT 2018

INSURANCE AMENDMENT (NO. 3) ACT 2018

The President: The following Public Bills have been received from the Honourable House of Assembly and are now read for the first time. Their titles are, respectively, the Chief Medical Officer (Transfer of Functions and Validation) Act 2018; the Allied Health Professions Act 2018; the Investment Funds Amendment Act 2018; the Bermuda Monetary Authority Amendment (No. 3) Act 2018; and the Insurance Amendment (No. 3) Act 2018.

FIRST READING OF PRIVATE BILLS

The President: There are none.

QUESTION PERIOD

The President: There are none.

ORDERS OF THE DAY

The President: The first Order of the Day is the Customs Tariff Amendment (No. 3) Act 2018.

Whose Bill is that?

Senator Campbell, it is your Bill. You have the floor.

Sen. Vance Campbell: Thank you, Madam President. Madam President, I move that the Bill entitled the Customs Tariff Amendment (No. 3) Act 2018 be now read a second time.

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

BILL

SECOND READING

CUSTOMS TARIFF AMENDMENT (NO. 3) ACT 2018

Sen. Vance Campbell: Madam President, the [Customs Tariff Amendment \(No.3\) Act, 2018](#) proposes to amend the Customs Tariff Act 1970, the principal Act, with measures that include the following:

1. amendment of CPC 4229 in the Fifth Schedule to the principal Act, end-use duty concession for goods for local commercial manufacturing; and
2. amendment of the Fifth Schedule to the principal Act by inserting new CPC 4232, End-Use Duty Relief for Goods for housing for seniors and disabled persons.

Madam President, I now turn to the measures of the Bill that amend the Fifth Schedule CPC 4229. Senators may recall, Madam President, that CPC 4229 was inserted in the Fifth Schedule of the principal Act by the Customs Tariff Amendment Act 2017. CPC 4229 was designed to give the Minister of Finance greater flexibility in promoting manufacturing undertakings carried on in Bermuda, especially where the undertaking or undertakings are likely to create new jobs and be of benefit to the general economy of Bermuda.

Madam President, according to the 2016 Census report, 622 persons 16 years or older were working in an industry categorised as manufacturing. That number in 2010, Madam President, was 874 individuals.

Madam President, currently, the low 5 per cent concessionary rate under CPC 4229 is available in respect of all goods, provided that such goods are imported for and used only in the local commercial manufacture of goods by an approved business, and provided, further, that the goods must be incorporated in locally manufactured goods.

Madam President, as it stands, CPC 4229 affords the Minister no discretion to restrict the scope of qualifying goods in respect of any particular approved business. In order to address this issue, the Bill provides the Minister of Finance with discretion to determine the scope of qualifying goods in any approved business notice made by him under CPC 4229. This, Madam President, will give the Minister of Finance better flexibility in the administration of the concessionary 5 per cent duty rate.

Madam President, why is this important? It is important because it may not be appropriate in every case for the relief to extend to all goods. And the Minister may feel obliged to deny an application for that reason. With the amendment, the Minister will be able to tailor relief on a case-by-case basis. The Minister will be able to grant relief for just one item, for a range of goods or all goods, as is the current case.

Madam President, with your indulgence, I would like to bring forth some other stats from the 2016 Census report.

The President: Certainly, Senator Campbell, you can.

Sen. Vance Campbell: According to that report, Madam President, the most populated age group, at 32 per cent of the population in 2016 and 30 per cent in 2010, is the age group of 45 to 64. The age group 65 and older, Madam President, had the largest percentage increase, at 3 per cent, moving from 14 per cent in 2010 to 17 per cent in 2016. What that equates to, Madam President, is that 49 per cent of the population was 45 years or older at the time of 2016 Census, and that number was 44 per cent in 2010.

Also, Madam President, the three youngest age groupings had percentage points decline, where-

as the two oldest groupings had percentage point increases. And this is indicative of an ageing population. The reasons for that are lower fertility rates and greater longevity.

There is another ratio that takes into consideration a number of dependents over 65 per 100 people in the age bracket of 15 to 64. That ratio in 2016, Madam President, was 25 versus 19 in 2010. Couple that with the median age increasing from 41 in 2010 to 44 in 2016, the pattern continues and demonstrates that we are, indeed, an ageing population.

Some other statistics that are brought to light that will be useful later on in this brief: According to the same census report, there were 314 individuals in rest homes and/or nursing homes in 2016 versus 252 in 2010. And there were 48 individuals in homes for the physically challenged and rehabilitation centres, versus 39 in 2010. Those numbers, I am sure, particularly when you look at the physically challenged numbers, would be inflated greatly if you take into consideration those who are living at home with disabilities, Madam President. So, those numbers will be brought to light later in the brief.

With that background, Madam President, I would like to move to the measures of the Bill that insert the new CPC 4232 in the Fifth Schedule to the principal Act.

Madam President, Senators will recall that, on the 19th of July 2018, the Premier and former Minister of Finance gave a national address to the people of Bermuda, in which the Government promised to take steps to support seniors ageing at home. One of the measures proposed by Government is the creation of a new duty relief, of 0.0 per cent duty, for goods for improvement projects to seniors' housing. While the Premier's address focused mainly on seniors being afforded this benefit, Madam President, it was eventually decided to also allow the benefit of this relief to extend to disabled persons, as well, whether they live at home or in a residential care home.

So, I have used two terms there, Madam President—"disabled persons" and "residential care homes." With your indulgence again, I would like to take you to the legislation that we are discussing here and see how that is defined.

The President: Certainly, Senator Campbell. You can carry on.

Sen. Vance Campbell: So, according to the Customs Tariff Amendment (No. 3) Act 2018, a "disabled person" shall have the same meaning as in section 2 of the Residential Care Homes and Nursing Homes Act 1999." Accordingly, a "residential care home" shall have the same meaning as in section 2 of the Residential Care Homes and Nursing Homes Act 1999." And I will throw in one more definition, as to the meaning of "unconnected," which also states in the legislation, "shall have the same meaning as in section 2 of

the Residential Care Homes and Nursing Homes Act 1999.”

And if I can move to that piece of legislation that is referred to in the Bill that we are discussing today, Madam President . . .

The President: You certainly may.

Sen. Vance Campbell: The definition of “disabled person” means “a person who is substantially impaired in seeing, hearing, speaking, breathing, moving, learning or working; (a) by reason of injury or disease, whether permanent or otherwise or by reason of some congenital cause.”

The definition for “residential care home” means “any establishment where board and personal care are provided for two or more unconnected persons who are (a) 65 years of age or older; (b) disabled; or (c) 65 years of age or older and disabled.” And the definition of “unconnected person” means “a person who is not connected, by blood or otherwise, with a person who operates a residential care home.

Madam President, the proposed duty relief is intended to encourage installation of fittings and fixtures that will enhance seniors’ and disabled persons’ mobility, safety and comfort while at home. It is intended that the duty exemption should also apply to existing and new residential care homes, as they also play an important part of Bermuda’s health care system.

Madam President, in order to ensure adequate control of the proposed duty relief, it is proposed that the Department of Ageing and Disability Services (ADS) should certify the particular goods that will qualify for the duty relief in any given case. Madam President, a person who wishes to avail themselves of the CPC 4232 duty relief should contact ADS directly. Contact can be made by the person themselves, family, a friend, or through another service provider. Service providers should submit the case management referral form to assist with the process. ADS will perform a needs assessment and identify required goods before issuing a certificate.

Madam President, it is intended that the ADS certificate should then be presented to Customs in support of any application for duty relief. Further conditions of the relief will specify that qualifying goods must be installed only on the premises specified in the ADS certificate and that qualifying goods must be used for the purposes of enhancing seniors’ and disabled persons’ mobility, safety and comfort.

HM Customs will publish guidelines that the Director of the Department of Ageing and Disability Services will follow in certifying goods as eligible for the relief.

With those remarks, Madam President, I will close this segment of my report.

Thank you, Madam President.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITOR

The President: Thank you, Senator Campbell.

I would just like to acknowledge in the Gallery Mr. Anthony Richardson, the Parliamentary Counsel Officer.

[Customs Tariff Amendment (No. 3) Act 2018, Second Reading debate, continuing]

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

Sen. Marcus Jones: Yes, Madam President.

The President: Senator Marcus Jones, you have the floor.

Sen. Marcus Jones: Thank you. Good morning.

The President: Good morning to you.

Sen. Marcus Jones: And good morning to my fellow Senators.

First, I would like to say that I am extremely pleased with this Customs Tariff Amendment (No. 3) Act 2018 that is being proposed by the Government. I believe that, as we all know, a country is judged by the way it treats its most vulnerable, those being its children and its seniors. And we know that our precious seniors, many who are on a fixed income, can do with as much help and assistance as they can.

In reading through this particular amendment, I felt that everything was in place. I would just like to underscore one point in this amendment which states that the policy guidelines will be issued by the Minister. I would strongly advise the Minister, being that the purpose of this duty relief will be to enhance seniors’ and disabled persons’ mobility and the safety and comfort while at home or at a residential care home, that he or she tap into those stakeholders—Age Concern, importers, wholesalers who bring in those items, seniors’ residences—I am sure that that will be his direction. But I just would like to encourage that he solicit their input.

Having expressed my delight in this amendment, I stop there.

The President: Thank you, Senator Marcus Jones.

Would any other Senator care to speak?

Senator Jardine, you have the floor.

Sen. James S. Jardine: Good morning, and thank you, Madam President.

I too am very supportive of this Bill, not because I am over that magic age myself—

[Laughter]

Sen. James S. Jardine: —but because, over the last number of years, we have had a number of agencies in Bermuda express concern about the lack of care facilities for our seniors. And when many seniors could stay in their homes, if the necessary equipment were there for them to stay there, I think it bodes well for this legislation. This is exactly the sort of thing that we need to have in place so that seniors can avail themselves of equipment, for example, that might otherwise be out of reach because of the duty that has to be paid on that equipment. And this will enable some seniors to stay for a longer period of time in their own homes, which I think is exactly the sort of thing we want to be doing because of the lack of residential care facilities at the moment.

That does not mean that we should take our foot off the pedal in terms of trying to encourage more construction of senior care facilities, because they are in desperate need at this stage.

So, I am very supportive of this legislation and very pleased to see it. Thank you very much, Madam President.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Good morning.

The President: Good morning.

Sen. Nicholas Kempe: Yes, I would certainly like to also echo support for the duty relief. I am glad that the draft Bill was amended to include disabled people, as well as seniors who have limited mobility. My comments, I guess, go a little bit more to potentially unnecessary procedure within the Bill.

I have a little bit of experience with Customs clearance. And I look to CPC 4169, which seems to leave the onus of determining whether the goods qualify for the lower duty rate simply to the good folks in the Classifications Department, or in the Long Room, whereas this Bill seems to require that the Director of the Department of Ageing determine whether or not the goods qualify or not for the lower duty rate.

It just feels like an unnecessary layer of bureaucracy. I do not think there are going to be a lot of people lining up to fraudulently install mobility relief bars in their showers just because it is duty-free. The only people who are going to be importing these types of goods are in those homes that have mobility challenges.

I just do not see there being a huge market for defrauding the Government on tax by people importing oodles of mobility bars for toilets and bathrooms in homes where there are no mobility challenges. So, I

would like to see that vetting bit removed from the Bill so that it can simply be passed through Customs in a more efficient manner. Thank you.

The President: Thank you, Senator Kempe.

Would any other Senator care to speak on this Bill?

No.

Then, Senator Campbell, over to you.

Sen. Vance Campbell: Thank you, Madam President.

I am glad that all Senators support the content of this Bill. It is critical that we allow our seniors to age at home or wherever they may find themselves, with dignity and respect.

The inclusion of the ADS in the approval process, I think, is necessary from the perspective that, again, they are in contact on a more regular basis with the population that this Bill is looking to address. So, it only makes sense that they are involved in that process. I do not see it as being an onerous process. So, I believe Senator Jones mentioned about the involvement of key stakeholders. And they are definitely a key stakeholder, Madam President.

So, thank you, Senators, for your support.

Madam President, with that, I move that the Bill entitled the Customs Tariff Amendment (No. 3) Act 2018 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 the 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.]

The President: Carry on, Senator Campbell.

BILL

THIRD READING

CUSTOMS TARIFF AMENDMENT (NO. 3) ACT 2018

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Customs Tariff Amendment (No. 3) Act 2018 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 Customs Tariff Amendment (No. 3) Act 2018 do now pass.

Is there any objection to that?

The Bill is passed.

Thank you, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

[Motion carried: The Customs Tariff Amendment (No. 3) Act 2018 was read a third time and passed.]

The President: We now move on to the second item on the Orders of the Day. And that is the Debt Collection Act 2018.

Senator Caesar, it is your Bill. You have the floor.

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

Madam President, I move that the Bill entitled the Debt Collection Act 2018 be now read for a second time.

The President: Is there any objection to that motion?

No objection. Carry on, Senator Caesar.

BILL

SECOND READING

DEBT COLLECTION ACT 2018

Sen. Crystal Caesar: Thank you, Madam President.

Madam President, today the purpose of the [Debt Collection Act 2018](#) is to provide for the Debt Collection Licensing Authority (or the Authority) to regulate debt collectors, to prohibit unfair debt collection practices, and provide criminal and civil penalties for contravention; and supervise for a tribunal to adjudicate a debt collector's and a debtor's complaints against the Debt Collection Licensing Authority.

Madam President, the Debt Collection Act 2018 represents the first tranche of proposals to address the Government's Throne Speech 2017 commitment to introduce regulations for debt collection agencies; regulate payday lenders who lend money at extraordinary interest rates; and bring banking, insurance, and other financial services conduct under the umbrella of an updated consumer protection Act.

Further legislation will be proposed to address consumer services provided by the banking, insurance, and other financial service industries after consultation with the public sector and the private sector stakeholder groups, as indicated in our 2018 Throne Speech.

Madam President, oftentimes, we are our own worst enemies when it comes to the accumulation of debt, and particularly at this time of year when we are all feeling extremely generous and feeling the holiday season. And, as we embark upon the holiday season, we may find ourselves spending money on expensive gifts and food, things that we may, down the future in a few weeks after Christmas has passed, find ourselves in a position that is untenable, and find ourselves unable to pay off some of those debts.

So, at this time, I just want to assure and remind the public, let us be generous. But, of course, let us stay within our means.

However, there are times when we incur debt through no fault of our own. And one example is when a person would get sick, extraordinarily so, and incur costs that are exorbitant, medical costs that are exorbitant. If that person cannot work because of illness, or they do not have the means to pay those costs, unfortunately, that person may find themselves at a debt collection agency. And this person may wind up incurring even greater costs such as interest and other service fees.

There have also been cases where people have been charged for costs that they did not incur. And, all too often, creditors may not have a contract, proper accounting, or books to support the claims. And the purported debtor may spend an inordinate amount of time, and sometimes money, to obtain an accounting of the debt and prove that he or she did not owe that money.

In addition, debtors may also be subject to harassment and embarrassment until it is proven that they do not owe any, or a smaller portion of the alleged debt. And there are a few examples that I can take us through that will illustrate why this Bill is so important at this time. For example, Client A was diagnosed with an illness that requires multiple medical treatments. This person, unfortunately, lost their job because they were unfit to work for several months. And, therefore, this person no longer has health insurance or a steady income. This resulted in that person not being able to meet their mortgage payments, which then resulted in the loss of their home. And I think we see how it snowballs and how basic general living expenses then become very difficult for that person to meet.

Now, Financial Assistance could be assisting that person with accommodations, but due to their illness and age, finding a job could be difficult. And, of course, the debt gets larger and larger, and the person sees himself basically under an umbrella which makes it even more difficult, so they cannot pay.

Then, there is Client B, who is surprised to receive a letter from a debt collection agency indicating that they have a debt. And they have no recollection of the particular service and/or product that was received. Now, that client may have asked that collection agency or creditor for paperwork to ensure that it

is correct and just to follow up, because, being diligent . . . oftentimes, people are doing so, but this could not be provided, which is quite alarming. And so, the creditor does not have that substantive paperwork to show this particular debt that is being claimed against that person.

So, the client decides, *Well, I've been diligent enough to follow up with you. But you can't give me anything to prove this.* So, the person does not pay. And, upon investigation, it can be shown that the client actually did not owe the creditor. And the bill was past the legal time for any action to be taken. Had this person not questioned the bill, that person may have decided, *Well, I'm going to just go ahead and pay,* because, of course, they do not want their name and/or reputation to be tarnished. And so, they could have been subject to excessive fees and commission charges, which otherwise they would not have had to pay, and also could have ended up being thousands of dollars, which, obviously, was not their debt to begin with.

And lastly, Client C, who became suspicious when they could not get a business loan. They are, you know, trying to be entrepreneurial. And they have no debts, have good income. And upon further investigation, the person finds that their name actually is at a debt collection company. And the record basically shows that the person had a few debts many years ago. Obviously, you know, young people tend to over-indulge sometimes. But that person was able to pay off those debts within a timely period. However, their name had not been cleared from that list of debtors. So, obviously, this was making their progression in life and their career pursuits somewhat more difficult.

Likewise, I am sure that there are creditors who can identify stories where debtors have abused the system, as well. Unfortunately, we do hear, and have heard, many of those stories where people just have refused to pay their bills. And I am cognisant of the fact that many bad debts impact the profitability of businesses, as well, which can then, of course, have a snowball effect, putting companies out of business and employees out of a job. So, again, it can be two-fold—the debtor and the creditor, those who are not behaving with fiscal responsibility. It can have an effect on both of those parties.

However, this Bill seeks to instil and introduce fair business practices for both sides, that will provide a level playing field for creditors and debtors. Madam President, the proposed Bill provides five important components:

1. establishes a government regulatory licensing authority for debt collection;
2. prohibits unfair debt collection practices;
3. requires financial transparency of contractual penalty fees and limits interest rates and administration fees and commission fees;
4. establishes a complaints procedure, investigation and inspection powers; and

5. creates offences and a right of appeal to the Debt Collection Tribunal.

Madam President, government's oversight will be accomplished via a comprehensive licensing regulatory framework for those entities engaging in debt collection under the newly created Debt Collection Licensing Authority. The licensing Authority will be constituted from officers within Consumer Affairs. The regulatory functions of the authority include, but are not limited to, oversight, licensing, education, investigations and enforcement.

Madam President, no debt collector can operate without a licence issued by the [Debt Collection] Licensing Authority. The authority, upon receipt of an application, supporting documents and payment of a fee, can grant, renew and refuse a licence. Licensing will be for a period of up to two years, and application for the renewal of the licence is to be submitted before or on the 31st of March in the year in which the licence is to be renewed. There is a provision of a 90-day grace period from the commencement of the Act to obtain a licence for those who are currently engaging in debt collection business. During this transitional period, the remaining clauses of the Act would be in force.

Madam President, all creditors, including those creditors who conduct their own debt collection and are exempted from the licensing requirements under Part 3 of the Act, will be subject to Part 4 of the Act on Unfair Debt Collection Practices. This is an area that addresses many of the problems including, but not limited to, requiring that proper documentation on the amount of the debt is provided to debtors, requiring that debtors are notified of contract obligations in terms of commission fees and administration fees, and preventing creditors from providing false or misleading statements to debtors in order to collect that debt.

The Bill provides debtors with the right to see and validate that paperwork sent by the creditor to the collector. Debtors have 30 days to dispute the debt or any portion of it.

Madam President, the Act includes oversight and accountability of credit reporting agencies through regulations. This will address the harm debtors have experienced when seeking jobs, credit and business opportunities. The regulations will speak to the removal of debtors from agencies' databases once the debt has been satisfied, and the debtors' right to be informed and view information held on them to ensure accuracy.

Madam President, financial transparency and proper accounting procedures are also addressed within the Act. Debt collectors will be required to have trust accounts and proper accounting practices. Debtors will now have receipts that contain a complete accounting of all credits and debits to that debtors' trust account for easy repayment tracking. Madam President, fees and commission charges charged to the

debtor will now be legislated. That Act allows the debt collection agencies to charge a commission fee to the maximum of 20 per cent of the original amount of the debt, payable only once. A monthly administration fee can be charged to the maximum of 2 per cent of the debt outstanding, payable only if administrative costs arise that relate to the necessity for the debt collector to communicate with the debtor in that month.

Madam President, by empowering the debtor with legislative rights to challenge the debt's accuracy and the right to be treated fairly during the debt recovery process, one must also provide enforcement powers to ensure compliance. The Act provides the authority the powers to receive and investigate complaints, provides for offences relating to not cooperating with investigations of complaints, the right to redress, the right of the debt collectors to appeal to the Debt Collection Tribunal.

Madam President, the Act provides for the empowerment of the Minister, on the advice of the Authority, to make regulations subject to negative resolution procedures for matters prescribed under the Act. This provision will afford timely responses to market trends, which will reduce any threat of harm infiltrating the credit and debt collection industry. The Debt Collection Act 2018 encompasses the Government's firm commitment to protect the rights of consumers by enacting legislation which contains basic obligations owed by those who provide debt collector credit and debt collection services. To be clear, this Act does not absolve the debtor from his or her obligation to repay the debt.

With that, I conclude my remarks, Madam President.

The President: Thank you, Senator Caesar,
Would any Senator care to speak on this Bill?
Senator Jardine, you have the floor.

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

Madam President, I think it is important just to reiterate again to the listening public that this is but the first part. I have had a number of people say to me, *But this really doesn't address the question of the banks and everything else.*

And I have said, *Look. This is the first stage along the road. And further legislation will be proposed to address consumer services in the area of banking, insurance and other financial service industries.*

So, what I have tried to say to people who have boarded my ship—

[Laughter]

Sen. James S. Jardine: —is that this is the first step down the road. And therefore, my remarks will be

strictly based on this piece of legislation, and I will not stray into any other areas.

Before I get into questions which I had, I just wanted to point out a couple of housekeeping matters. On page 7, in clause 8(2)(h), there is a word missing there, [the word "are"]. It should be "statements from three persons who are good standing members . . ." And, on page 11, in clause 16(5), it says, "Subsection (1)(h) does not include . . ." That should be subsection 2(h), because there is no subsection (1)(h). Just a couple of small points there.

So, Madam President, this Bill seems fairly comprehensive. And some will argue that it is, perhaps, excessively onerous. And I guess that depends on who you are. But I note that there has been a period of consultation. And so I think any comments that people had with respect to this legislation have been taken into account.

I note that clause 3(1), on [pages 4] and 5, makes it clear that this legislation does not apply to liquidators, receivers or trustees acting in accordance with such persons' duties under the Companies Act, nor does it apply to any "public officer or public authority who carries on the business of collecting, requesting or demanding payment of debts owed to the Government of Bermuda and the public authority." So, those particular areas are specifically excluded from this Act. And I think it is important to note that fact.

So, Madam President, I have read through all of the material here, and I had a number of questions for the Junior Minister. And, hopefully, she will bear with me on this. The first question is, Part 2 of this Bill on pages 5 and 6, and we have heard her say, calls for the establishment of a Debt Collection Authority. And I guess my question is, Can the Junior Minister tell me how many staff are needed for this Authority, and how many additional persons will be needed to be employed to run this Authority? Or are they all going to be existing staff members?

The second question is, Will this be a new established body corporate? In other words, is this another new authority, like the Regulatory Authority and other quangos? Or is it going to be run as a subset of the Consumer Affairs Board? And I guess the follow-on from that is, Is there going to be a board of directors established for this Authority? If so, how many, and what are the terms of their appointment? Is this going to be, as I say, another quango? And I use the word "quango" to cover authorities in this particular instance.

The next question is, What is the estimated annual cost of running this Authority? Again, is this going to be subsumed as part of consumer services? Or are we going to have some additional costs here?

In [clause] 49 on page 27, it talks about the regulations. And I was just curious to know when we might see those regulations, because I am sure those who are in this business would like to see those.

And the other question is, How will the Authority be funded, other than by a licensing fee? Or is it anticipated that the licensing fees will cover the costs of the Authority? And just, I was also curious to know if the Minister knows how many debt collection companies or individuals there are on the Island? I have no idea. And again, if there are a lot of them, and the fees are as established in the section at the back of this legislation, then that may be sufficient revenue to pay for all of the costs here.

I am a little confused about the payment of the licensing fee, Madam President. Clause 14 on page 10, if I can just turn to that for a moment.

The President: You may.

Sen. James S. Jardine: It says, [at clause 14(1)], "A debt collector shall pay such fees as may be prescribed under the Government Fees Regulations . . . (a) on the application for a licence; and (b) on or before 31 March in the year in which the licence is to be renewed." And then, I guess the question is there, on page 9, in clause 10, it says, "Duration of licences . . . A licence is to be issued or renewed for such period as may be provided in the regulations, which period shall not exceed twenty-four months." So, I guess the question here is, I am a little confused as to whether this is an annual fee, or they just pay it once every 24 months in the case of a 24-month licence. I am just now sure how the fees are to be paid. It just was not clear to me with those two [clauses] there.

So, Madam President, with respect to those questions, I have no further comment on this legislation. I agree that it is something that is necessary. We have all heard the Junior Minister tell us some pretty hair-raising tales of individuals who have been made to pay exorbitant amounts of debt with respect to collection. And I think this is a good first step, and I would be interested to hear the answers to those questions.

Thank you very much, Madam President.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Thank you, Madam President.

Certainly, I can recognise the spirit of this Bill. You know, you can see instances where bad actors have used the debt collection agencies as a hammer when they have not done their due diligence as a business in getting terms or doing whatever. And certainly, I am aware of the markups that, for very old debts, can be quite high, and at that point should probably be written off by the company instead of, perhaps, referring them to the credit agencies. So, I applaud the effort to bring regulations and some sort of levelling of the playing field on this.

I fear, in some instances, it has swung the pendulum a little too far the other way, and it is going to have some unintended consequences where businesses will simply refuse to offer credit. And that will not eliminate the need for people to get their goods. And if they do not have the cash on hand, my fear is that they will end up having to resort to some of these payday-type lenders that are completely unregulated and have far worse terms than the businesses or eventually the credit collection agencies. So, I am just cautious of the unintended consequences here.

One of the challenges, and I would like to hear the Junior Minister's kind of answer on this one, is, most of the time, if anyone has ever had the responsibility of trying to collect debts at the business level, usually, by the time things become unpaid and bills are not getting responded to, it can be quite hard to contact the debtor. Sometimes, there could be an amicable solution that could be reached quite easily. But if letters are being ignored or addresses and phone numbers have changed without being notified, it can be quite onerous to contact the former client in this case.

And one of the notes mentioned in the statement was the fact that the Bill needed to be presented and communicated 30 days in advance before it goes on the register. But if you are unaware of where the person is living, and mail is being returned or the phone number is not active anymore . . . I would just like to hear how that process would work in those instances.

Again, other than that, I applaud the effort to bring some regulation to this industry. I also have the same concerns that Senator Jardine had about how this will effectively be funded and policed. And I look at the level of the fines on it, and it seems somewhat out of line with other legislation that we see come through this Chamber. In fact, for fear of advancing the debate, there is another Bill we are debating today with similar levels of fines for flagrant breaching of our environment by foreign companies. So, I am somewhat confused there on the moderation or adequacy of the fines to the offence and the industry.

Thank you, Madam President.

The President: Thank you, Senator Kempe.

Would any other Senator care to speak on this Bill?

Senator Haywood, you have the floor.

Sen. Jason Hayward: Good morning, Madam President.

The President: Good morning.

Sen. Jason Hayward: I think in the dialogue this morning we cannot really understand the gravity of Bermuda's debt situation. And in that, I am talking about private debt and not public debt. There are

large numbers of Bermudians who have private debt. A large portion of our population is what we can consider to be somewhat financially illiterate. Our financial literacy levels in the country are extremely low. People make bad financial decisions on a day-to-day basis. But, Madam President, when persons find themselves in those financial situations where they incur debt, what is equally heartening is the stress and the trauma they have to go through sometimes, based on some of these debt collection agencies and their practices.

Madam President, the BPSU [Bermuda Public Service Union] started an initiative, maybe three years ago, with the Bermuda Credit Union. And what we did was we offered small loans up to \$5,000 to our members, that we actually backed. So, the loans come from the credit union, and the BPSU backs the collateral on those loans for our members. What we have found on the back end is that the majority of members who are coming for those loans are coming for loans for debt consolidation. Members of the public, inclusive of members of the BPSU, are shifting debt from one organisation to the next. And they are in this perpetual cycle of debt. Debt is a reality.

At the Bermuda Credit Union, where I am also [on] the Board of Directors, oftentimes, there are persons who are delinquent. You have persons who are historically delinquent. And what you find is that, in some cases, the interest on the debt can be almost more than the debt itself. Most times, when it comes to the direction of the board, we have dialogue regarding the debt levels. And at times, we find ourselves in a situation where the interest on the debt is almost more than the debt itself. What we make is a socially conscious decision to write off or discontinue the accrual of interest on the debt. So, the person has the ability to pay down their debt. And that is based on the principles and values and ethos of the credit union, and that is why we do it.

I am also clear that, in other organisations, debt does not take place. And so, when persons do have loans with banks or they find their names with the credit association, or one of these debt collection services, that same level of leniency is not given to individuals and members, at times. They have got to pay off the principal amount, plus interest, which at times is greater than their debt.

Just a personal experience I had, Madam President. I was presented with a bill from a debt collection agency for legal services that I did not incur. I was fortunate enough to have kept all of my receipts from when I did incur legal costs. But I did not even know that I was being charged these fees until the debt collection agency sent me a bill. And so, I never received a bill from the law firm to say that I was delinquent.

So, you can imagine my shock when I realised that I had legal fees for services I did not incur. And then I had additional fees, because there were

late payments. And then I had to pay the debt collection agency additional fees. Luckily enough, I was able to utilise a friend with a legal mind to assist me with going to the debt collection agency and getting it rectified. The debt collection agency informed me that it was an administrative error. But I am wondering how many other persons have been subjected to these "administrative errors"? And if those individuals did not have friends with legal minds to assist them, then what would have been their recourse in that particular situation?

And this is why I am pleased that this Bill is being introduced. Because this somewhat gives persons who have incurred some of these erroneous charges an avenue where they can appeal those charges without utilising a friend with a legal mind.

[Laughter]

Sen. Jason Hayward: But this is happening in our community.

Like Senator Jardine, I am not going to touch on the real, one of the more major issues, when it comes to foreclosure of homes. But, Madam President, debt collection has become a very profitable business in Bermuda, a profitable, predatory service. And it ought not be. Yes, we want to ensure that businesses receive money that is due to them for goods and services that they have provided to the community. But additional to that, there should not be persons who make huge amounts of profit off of the debt of others.

It is so profitable that, sometimes, these agencies purchase debt from companies at, sometimes, 40 per cent on the dollar, 50 per cent on the dollar, 60 per cent on the dollar. And then, they turn around and deal with individuals for two dollars [on the dollar]. This is the reality that should not happen. The regulations in this Bill actually limit now that process from taking place, where debtor collectors can receive that huge profit and continue with incurred markup on debt.

I am pleased that the Government has taken the first step in order to alleviate some stress and pressure to those people who find themselves in an unfortunate state of debt. And sometimes, it can be a very unfortunate.

For example, if you are off from work long term due to a medical illness, you still rack up bills. And then you find yourself getting back to work. You almost find yourself in a position where you are unable to dig yourself out of that particular hole. And so, you resign yourself to being in a position of perpetual debt for a long-term basis, based on a crisis you may have experienced in your life.

And this is a people-centred Bill. This Bill, while I appreciate the effect it may have on businesses, you should also benefit and appreciate the effect it will have on individual families.

And so, I am pleased that the Government is bringing forward this Bill, and I will conclude my comments.

The President: Thank you, Senator Haywood.

Would any other Senator care to speak on this Bill?

Senator Campbell, you have the floor.

Sen. Vance Campbell: Thank you, Madam President.

Madam President, many will argue that the extension of credit is necessary for businesses, and ultimately economies, to grow and flourish. We often hear people, when discussing the economy, talking about the banks opening up lending to stimulate the economy. As the chief financial officer of a business, I know that we wrestle with the extension of credit versus no credit. That would be the ideal for a business, to be strictly cash. But we recognise that that will limit our sales. And when you get into the area of extending credit, there is a risk.

Madam President, credit allows for the exchange of products and services over an arranged time basis and on two structures, either a fixed payment schedule or revolving credit. However, when debtors, Madam President—and debtors are both individuals and businesses . . . We tend to think of them being just individuals, but they are businesses, as well, who have borrowed from other businesses. When they fail to make payments, or when their revolving credit becomes too unwieldy for them to manage, then the system breaks down.

Creditors themselves contribute to the breakdown of this system by extending too much credit, sometimes, to an individual or a business. And when the system breaks down, Madam President, that is where debt collection agencies come into play. The current atmosphere, Madam President, is such that there are no guidelines for the debtor, the creditor, or the debt collection agency, really, to know what is best practice, what is deemed a reasonable action for the recovery of a debt prior to its arriving at the courts.

Madam President, for the 20-month period from January 2017 to October 2018, the Consumer Affairs Department received 240 complaints about debt collection. They ranged from interest and administration fees, no proof of the debt being owed, unknown debts just surfacing (they were time-barred), and harassment. There were 240 cases in 20 months, 240 “reported” cases in 20 months. That is an average of about 12 per month. How many more go unreported?

Madam President, the frequency of cases involving complaints around debt collection suggests that both parties, or all three parties, the debt collector, the creditor and the debtor, need guidance in matters for fair practice results. Yes, there must be a balance between ensuring that, as a business, I have confidence that I will be able to receive repayment,

and if not, be able to enforce repayment. And that needs to be balanced with the fair treatment of consumers. Many creditors will argue, as I believe was stated by one of the Senators, that this Bill goes too far in favour of the debtor. But then, many debtors will argue that, for too long, the scales were tipped in favour of the creditor. I believe, Madam President, that most people will agree that legislation is long overdue.

Madam President, this Bill provides clear rules for when the process breaks down. Having said that, there must be some education of all parties—creditors, debtors, debt collectors—in regard to these rules. As was mentioned, debtors must be made to understand that they are not relieved of their responsibility and their obligation to pay. Creditors must have more robust screening process in place and better understand their risk in extending credit. Debt collectors must know what reasonable and unfair practices are, and the consequences of noncompliance with the requirements. And I believe that this Bill addresses those, Madam President.

So, if I can look at the Bill itself, the key areas, for me, Madam President, are that there will be the formation of necessary regulations and that there will be education, and this is prior to assent. Education of the stakeholders includes the staff at the Consumer Affairs, who will be involved in this process, the debtors, the creditors, the debt collectors, the legal fraternity and the public in general.

And there are consequential amendments that are required to the Government Fees Regulations 1976, as well. But the other important part of the Bill that I would like to highlight, Madam President, is the provision of a transitional period, a 90-day transitional period, for businesses already in existence and engaged in the debt collection business. And that is found in Part 9.

Also, upon assent, no debt collection business will be able to conduct business without a valid licence. And that licence can be revoked. It is important to know that there will be a Debt Collection Licensing Authority with extensive powers. Some will say, and we have heard, that the fines that they can levy are enormous. Again, critical is the establishment of the Debt Collection Tribunal, under Part 7, with both the debtor and debt collector having the right of appeal. So, there is some balance. And one of the things that has not been mentioned so far is that this tribunal can save both parties’ money, as this tribunal will be found within, if I am correct, Madam President, the board of the Consumer Affairs. So, it should be less expensive than going to the courts. Yes, the courts remain the ultimate option. But this should save both parties’ money, this tribunal.

Part 4 is critical, Madam President, as it addresses unfair debt collection practices—the harassment, the false and misleading representation—unfair practices, particularly . . . you know, it defines the definition of unfair or unscrupulous, the limitation on fees

that collection agencies can charge. There is a requirement that that must be validated. And it gives some control to the debtor who has multiple bills as to which bill as to, *I want this payment applied to that debt*. Other important parts are Part 5, which deals with complaints, inspections and investigations; Part 8, Madam President, that outlines offences and penalties; and, as I mentioned before, another area under Part 9, Miscellaneous, is the requirement for confidentiality.

It also highlights that the PATI [Public Access to Information] does not apply to the Authority or the Tribunal. And I think that is critical as well, that that is known by the public. It deals with the immunity from suit to the members of the Authority and the Tribunal, and provides for the making of regulations and the consequential amendment to the Government Fees Regulations 1976.

So, as a first step, this is something that I am prepared to support, Madam President. And with that, I thank you.

The President: Thank you, Senator Campbell.

Would any other Senator care to speak on this Bill?

Senator Richardson, you have the floor.

Sen. Anthony Richardson: Good morning, Madam President.

The President: Good morning.

Sen. Anthony Richardson: Good morning, fellows Senators.

As has been said by many others, I think this is a very interesting Bill. And, for me, the emphasis actually is . . . I know that the Bill, obviously, deals with both individuals and businesses. But my real reference point, beyond my personal experience, is actually at the individual level. Given my current responsibility, I sometimes attend, what I guess is euphemistically referred to as, "debtors court." And it is interesting to see the number of persons who actually do have outstanding debt.

As Senator Haywood said, it is also interesting to see that in a large measure they are actually transferring debt from one agency to the next, in terms of one debt just moving around. And, from what I have observed in the court, a lot of the debt, in my mind, some of it is probably avoidable, which relates to the debts that tie in to health care, because many persons are actually indebted to the hospitals for either urgent care or bills that, they go to the hospital for which they cannot really afford to pay.

Add to that, many times it appears as though persons get to financial hardships and are unable to pay their normal residential rent. And, of course, their landlords are there trying to either reclaim the property

or reclaim the money that ties to that. And, clearly, there needs to be a balance.

But one observation is that there seems to also be an increasing level of debt that is tied to actually cell phone use, or telephone, whether it be cell phone bills and the whole nine yards. And, when I sit there sometimes I do reflect and get concerned, to be honest, in terms of the, I guess, ease of availability of credit. And to some degree, the businesses have to take responsibility for what they are doing in terms of being irresponsible.

Senator Campbell talked about the fact that, as a business, the granting of credit is a part of business, because the other side of the coin is going to be is, if you do not give any credit, you actually will not be able to exist. And so, therefore, the cost of credit, in terms of their debts, at least, is built into your normal business models.

I say all that to say to the listening public, really, that to the extent that we go and incur debts, we need to be more mindful than perhaps we have been in the past, at the individual level. Senator Jardine hinted that persons have asked him about the application of this current Debt Collection Act adjustment. And I want to make comment in that we have actually missed a big component. And I look forward to future amendments to take into consideration the current significant stress that applies in an instance whereby mortgages become defaulted, because that is a massive impact in terms of, for whatever reason. None of us, I do not believe, would incur or be engaged with a mortgage and then wilfully not pay.

There are economic circumstances that obtain that cause us to be unable to do so. And then, obviously, interest adds up quite quickly, and the banks themselves, from my experience, have been somewhat, I want to say, flexible and understanding. But it does come to a point whereby they may have to take action.

And one of the most significant remaining aspects in Bermuda is: I have a mortgage. It is in default for whatever reason. The bank will then seize it and sell it, and there will still be an extra amount that has to be paid. And, therefore, I end up paying an amount to the bank for a home that I no longer have. And I think that the emotional stress and distress is very significant.

And at some point we have to start to address that, because that has a major impact on the whole family structure. You then have to make many adjustments in terms of, sometimes, having to physically move, but also just your month-to-month stress in terms of, you know, you have to pay these bills and not have the income to cover those things.

Senator Hayward also talked about his role at the credit union. And many times persons will come to have debts consolidated. The same thing actually applies for the Bermuda development . . . what I call the small business. But I guess I am also concerned

about the idea of persons having to have these debts, right? You have to then move, for various reasons, to consolidate those debts. In that instance, it is not beneficial, overall. Because, yes, I am now able to pay my debts, but it just means that I have now taken my bits and pieces, let us call them, and put them into one.

And so, I want us again—I am speaking to the consumers, really—to be more mindful, especially during this time when we tend to use credit in large measure to purchase things because we want to be seen to be generous. But, at the end of the day, come January, we have some issues. And so, that is my real point, to be honest.

Certainly, life circumstances are sometimes a surprise to all of us. And, certainly, none of those things can be predicted, especially when it comes to unexpected health concerns. Even so now, from an economic point of view, many times persons will find themselves without a job through really no fault of their own, just as a reflection of the economy and where we are now. And so, that is my real point. It is for all of us now to be more mindful of accepting credit and understanding the full terms of the credit. And to the business community, this amendment is really going to force everyone to have much more robust business practices. Because, I too am aware of instances whereby businesses themselves have been very lax in their internal control policies. And they sometimes make an accusation that that is owed, and they almost rely on you, as the debtor, to be unable to prove it and, therefore, by default, make a payment.

And so, it is going to be very interesting to see how the business community adjusts their internal processes to make sure that they can now comply with the criteria that we are now talking about. And so, again, I look forward to the implementation of this. Certainly, it is balanced, I believe, in terms of both those who extend credit and those who accept the credit. So we can start to manage things better, and I am just looking forward to how Bermuda responds, overall, to the whole existence of credit.

Thank you, Madam President.

The President: Thank you, Senator Richardson.

Would any other Senator care to speak on this Bill?

No? Then, Senator Caesar.

Sen. Crystal Caesar: Yes. Thank you, Madam President. I thank my colleagues for the questions that they have had, and for the comments thus far in support of the Bill. I would like to just go through some of those questions, if I can, so that I can ensure that the questions are answered.

Specifically, with regard to the number of staff that will be . . . Whether it is going to be a new section and whatnot, it is actually not. Presently, there are no additional staff who will be hired. It will be employees who are already employed by Consumer Affairs. In

addition, the Consumer Affairs Board will make up the tribunal members, and also the directors, for the purposes of this Act. So, there is no additional outlay of salaries and/or benefits, et cetera.

There was a question, Madam President, with regard to the regulations and when they will be ready. In fact, it is right around the corner. There are actually six sections, and they will be ready in early 2019. And those sections that require regulations are sections 8, 13, 14, 18, 33 and 46. And again, they will be ready in early 2019. So, the team is seriously getting those ready as we speak.

Madam President, there was a question with regard to how this will be funded, or how the licensing works, I should say. The licensing actually is upon application. And then, upon renewal, there will not be . . . So, the period upon which the licence is valid will not exceed two years. However, that fee is on application and then upon renewal. That is how fees will be expended.

I believe there was also a question with regard to the education of the public. And clause 5(f) and 5(g) speak specifically to how . . . and if I could just read those parts?

The President: Certainly, you may.

Sen. Crystal Caesar: Thank you.

Clause 5 is on page 5, and goes on to page 6 of the Act, and speaks to the functions of Debt Collection Licensing Authority. Clause 5[(g)] and 5[(h)] says that this particular authority is “to publish on the Authority’s website the applicable fees, interest rates and other charges of each debt collector and of creditors; and (h) generally to do all such acts, matters and things as are necessary to be carried out under this Act.” So, obviously, this would include any education to the public.

There was also a question, Madam President, in this regard, to the validation of such debts. And again, if I could, with your indulgence, just speak to [clause] 20.

The President: You certainly may.

Sen. Crystal Caesar: Thank you.

[Clause 20] does outline how debts are to be communicated. And if I can summarise, basically, within five days . . . Well, actually, I will read clause 20(1), on page 14. “Within five days after the initial communication with a debtor in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the debtor has paid the debt, send the debtor a written notice . . .” And then, there are certain prescriptions as to what is contained in that. So, there is a section speaking exactly to how debtors should be communicated with.

I think, also, Madam President, there was a question on how many debt collection agencies there are in Bermuda. And, as it stands right now, there are less than 10, of which 4 are considered the main ones in Bermuda, although we have heard of many different types of people who collect debts, these are the official ones that we know of. So, I will leave it right there. I will not speak to that any further.

I think that those are most of the questions that were asked. And if there are any additional questions, I welcome my colleagues to please forward them to me if I have not answered at this time.

But just to wrap up, again, this is just the first tranche of regulations and/or legislation that is going to speak to debt collection. This is the protection largely for the debtor, but also speaks to fair practices for the creditor, as well.

So I think this levels the playing field, because we have heard many horror stories, and we certainly do not want to increase the burden on the public. This is to assist such that they, themselves, can maybe come to some agreement with their creditor such that, if it is a particular amount, maybe they can come to some agreement as to the way forward. And this allows communication both back and forth such that, hopefully, will resolve issues with regard to any outstanding debt.

So, with that said, Madam President, I would like to move that the Bill entitled the Debt Collection Act 2018 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. Crystal Caesar: Thank you, Madam President.
I move that Standing Order 26 be suspended in respect of this Bill.

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

[Motion carried: Standing Order 26 suspended.]

BILL

THIRD READING

DEBT COLLECTION ACT 2018

Sen. Crystal Caesar: Thank you, Madam President.
Madam President, I move that the Bill entitled the Debt Collection Act 2018 be now read a third time.

The President: Is there any objection to the third reading?
No objection. Carry on, Senator.

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 Debt Collection Act 2018 do now pass.

Is there any objection to that motion?

No objection.

The Bill is passed.

[Motion carried: The Debt Collection Act 2018 was read a third time and passed.]

The President: Thank you, Senator Caesar.

Sen. Crystal Caesar: Thank you, Madam President.

The President: We will now move on to the third item on the Orders of the Day, and that is the Merchant Shipment Amendment Act 2018.

Who has this Bill? Senator Caesar.

You have the floor.

Sen. Crystal Caesar: One second while I get my papers together here.

The President: Yes. Take your time.

Sen. Crystal Caesar: Thank you.

[Pause]

Sen. Crystal Caesar: Thank you, Madam President.
Madam President, I move that the Bill entitled the Merchant Shipping Amendment Act 2018 be now read a second time.

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

BILL

SECOND READING

MERCHANT SHIPPING AMENDMENT ACT 2018

Sen. Crystal Caesar: Thank you, Madam President.
Madam President, the purpose of the [Merchant Shipping Amendment Act 2018](#) before the Senate today is to make amendments to the Merchant Shipping Act 2002 to bring it up to date with current changes in the maritime shipping industry and to bring the Act up to date with the United Kingdom Merchant Shipping Act 1995.

Madam President, the proposed amendments are required to give effect to and enact changes and new requirements to the International Maritime Organisation (or IMO) conventions, which are incorporated in the Act. Specifically, amendments are required to the Act to give effect to changes to the International

Convention on Oil Pollution Preparedness, Response and Co-operation 1990 (OPRC Convention) and to the International Oil Pollution Compensation Funds (or the IOPC), as well as to implement the IMO Nairobi International Convention on the Removal of Wrecks 2007.

And I will now provide a summary on those amendments. First, Madam President, the OPRC Convention establishes a global framework for international cooperation to deal with major incidents of marine pollution. The convention establishes a framework for assistance and cooperation among state parties for dealing with major incidents of pollution. State parties to the convention are required to establish detailed plans to deal with major marine pollution incidents at the national level, and also in cooperation with other countries.

Ships are required to have arrangements on board ships, which must be coordinated with national systems for responding promptly and effectively to oil pollution incidents. State parties to this convention are required to provide assistance to other parties in the event of an oil pollution emergency. Provision is made for reimbursement for any assistance provided by other state parties. The convention was ratified in 1990 and entered into force in 1995.

Madam President, aligned with this convention, under the Act the Minister has the function of taking or coordinating measures to prevent, reduce and minimise the effects of marine pollution. And over the passage of time the requirements have evolved. Amendments include, for example, the insertion of a definition for “national contingency plan,” meaning the national contingency plan for preparedness and response required under Article 6 of the OPRC Convention; and also a definition for “offshore installations” in Part VII, Prevention of Pollution, Chapter III, in the section related to the discharge of oil from ships into certain Bermuda waters.

Madam President, the second set of amendments pertains to the IOPC funds, which are two intergovernmental organisations, the 1992 fund and the supplementary fund. These provide compensation for oil pollution damage resulting from spills of persistent oil from tankers. The framework for the regime was a 1969 International Convention on Civil Liability for Oil Pollution Damage, and the 1971 International Convention for the Establishment of an International Fund for Compensation for Oil Pollution.

Over time, it became clear that the amount of compensation available for major incidents needed to be increased, and the scope of the regime widened. This resulted in two further instruments, known as the 1992 Civil Liability Convention and the 1992 Fund Convention. Subsequently, the protocol to the 1992 convention, the Supplementary Fund Protocol, was adopted in 2003, providing additional compensation over and beyond that available under the 1992 Fund

Convention for pollution damage in the states that become parties to the protocol.

Therefore, amendments are required in Part VII, Prevention of Pollution, Chapter V of the Act to bring it up to date with the current changes and requirements set out in the IOPC funds.

The third set of amendments, Madam President, relates to the wreck removal convention, which was adopted at an international maritime organisation diplomatic conference in Nairobi, Kenya, in 2007, and entered into force on the 14th of April 2015.

The convention is an important addition to the existing maritime conventions, as it places strict liability on operators for shipwrecks that cause damage or threat to the safety of navigation, the marine environment and the coastline, or related interests of one or more states.

It makes financial security compulsory for ships of 300 gross tonnage and above, and obliges state parties to certify the presence of appropriate insurance on ships flying their flag. Therefore, all Bermuda registered ships will now be required to carry on board a wreck removal insurance certificate to attest that insurance and other financial security to cover liability for wrecks is in place. The convention also provides state parties with the right of direct action against insurers.

Madam President, the convention fills a gap in the existing international legal framework by providing a set of uniform international rules for the prompt and effective removal of wrecks located in a country's exclusive economic zone or equivalent 200 nautical-mile zone.

Notably, the convention enables state parties to opt in to apply certain provisions to their territory, including the territorial sea. A wreck, under the convention, includes sunken or stranded ships and any part of such ships or objects that were lost at sea from ships, as well as ships in distress, facing a danger of sinking or stranding.

Madam President, at this time I would like to advise Members of the Senate of the IMO Instrument Implementation Code, commonly referred to as the III Code. This came into effect on January 16th. The III Code is concerned with providing a unified international standard for the operation of maritime functions by IMO member states in accordance with the provisions of the IMO instruments. The code also forms a basis of audit standards for the mandatory IMO member state audit scheme.

Audits of member states will be conducted by the IMO auditors to determine the level of compliance with the code, in accordance with the Schedule which has been approved by the council of the IMO. It is expected that the audits of the UK and its Overseas Territories will commence in mid-2020.

As such, the proposed amendments presented today are required to comply with the provisions of the III Code, as well as to provide enabling legislation

to give effect to relevant IMO conventions and to have in place the necessary national legislation so that the following conventions can be extended to Bermuda by the UK:

- International Convention Oil Preparedness Response and Co-operation 1990;
 - International Convention on Oil Pollution Prepared Response and Co-operation 1990 to Protocol 2000;
 - IMO Nairobi International Convention on the Removal of Wrecks 2007;
 - International Oil Pollution Compensation Funds Protocol 1992; and
 - International Oil Pollution Compensation Funds Protocol 2003 Supplementary.
- Thank you, Madam President.

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

[Pause]

The President: Well.

[Laughter]

The President: Senator Caesar.

Sen. Crystal Caesar: I wonder why.

[Laughter]

The President: Maybe your brief is so comprehensive that they . . .

Sen. Crystal Caesar: Yes. I think so. I have answered all questions ahead of time.

The President: Absolutely.

Sen. Crystal Caesar: With that said, Madam President, I move that the Bill entitled the Bermuda Merchant Shipping Amendment Act 2018 be now read the 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: Is there any objection to that motion?
No objection.

[Motion carried: Standing Order 26 suspended.]

BILL

THIRD READING

MERCHANT SHIPPING AMENDMENT ACT 2018

Sen. Crystal Caesar: Thank you, Madam President.
Madam President, I move that the Bill entitled the Bermuda Merchant Shipping Amendment Act 2018 be now read a third time.

The President: Is there any objection to the third reading?
No objection. Carry on.

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 Merchant Shipping Amendment Act 2018 do now pass.
Is there any objection to that motion?
No objection.
The Bill is passed.

[Motion carried: The Bermuda Merchant Shipping Amendment Act 2018 was read a third time and passed.]

The President: Thank you, Senator Caesar.
We will now move on to the fourth item on the Orders of the Day. And that is consideration of the draft Order entitled the Merchant Shipping (Carriage of Passengers by Sea) Order 2018.
Senator Caesar. You have a very busy morning.

Sen. Crystal Caesar: Yes. More exciting information. Yes, thank you.

The President: Absolutely. You have the floor.

ORDER

MERCHANT SHIPPING (CARRIAGE OF PASSENGERS BY SEA) ORDER 2018

Sen. Crystal Caesar: Thank you, Madam President.
Madam President, I move that the Senate do now undertake consideration of the draft Order entitled Merchant Shipping (Carriage of Passengers by Sea) Order 2018.

The President: Carry on, Senator Caesar.

Sen. Crystal Caesar: Thank you.
Madam President, the purpose of the Order before this Honourable Senate today is to give effect

to new requirements as set out in the International Maritime Organization (or the IMO) Athens Convention. This Order is made by the Minister responsible for maritime administration, exercising the power conferred by section 179(3)(b) of the Merchant Shipping Act 2002.

Madam President, the convention was adopted at a conference convened in Athens in 1974 and was designed to harmonise with two earlier Brussels conventions dealing with passengers and luggage, and adopted in 1961 and 1967, respectively. The convention establishes a regime of liability for damage suffered by passengers carried on a seagoing vessel.

Madam President, a new article under the convention requires carriers to maintain insurance or other financial security, such as a guarantee of a bank or similar financial institution, to cover the limits for strict liability under the convention in respect of the death of and personal injury to passengers. While the convention has been extended to Bermuda and adopted into law under the Merchant Shipping Act 2002, the amendment requiring compulsory insurance, which came into force in 2014, is not yet adopted by Bermuda.

Madam President, the proposed Order sets out a requirement for ships using Bermuda ports to have that insurance. If the ship is registered in Bermuda, the requirement to carry insurance applies to any and all ports, not just Bermuda ports. The requirement only applies to ships licensed to carry more than 12 passengers, and it does not apply to ships, licensed under regulation 4 of the Marine Board (Island Boats) Regulations 1965, which carry passengers by sea solely within Bermuda waters. It also does not apply to warships and other state-owned or operated vessels that are used for non-commercial public service.

The Order provides for the existence of the insurance to be proved by a certificate issued by the Minister, if it is to be a Bermuda ship, or by other authority. The certificate must be carried on board the ship and be able to be produced on demand. Offences are committed if, for example, a ship enters or leaves a port without insurance, without the certificate, without supplying a certificate on demand or if the contract of insurance is invalid. It is proposed that the applicable fines be \$10,000. While there is provision for the power to detain a ship that fails to carry insurance, the Order allows for compensation to be paid where detention is determined by an arbitrator to be unjustified.

A fee may be charged for the issuance of a certificate by the Minister, and that same fee may be prescribed under the Government Fees Act 1965.

Thank you, Madam President.

The President: Thank you, Senator Caesar.

Would any Senator care to speak on this Bill?

[Pause]

The President: Senator Kempe were you . . . ?

[Laughter]

The President: Everyone is informed. So, it seems that you have no questions.

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

I move that the said draft Order be approved and that the following message be sent to His Excellency the Governor:

“May it please Your Excellency:

“The Senate, having had under consideration the draft Order entitled the Merchant Shipping (Carriage of Passengers by Sea) Order 2018, proposed to be made by the Minister responsible for maritime administration under the provisions of section 179(3)(b) of the Merchant Shipping Act 2002, has the honour to inform Your Excellency that the Senate has approved the said draft Order.”

The President: Thank you, Senator Caesar.

Are there any objections to that?

No objections. A suitable message will be sent to the Governor.

Thank you, Senator Caesar.

[Motion carried: The Merchant Shipping (Carriage of Passengers by Sea) Order 2018 was approved.]

Sen. Crystal Caesar: Thank you, Madam President.

The President: That completes the Orders of the Day.

MOTIONS

The President: There are none.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The President: Would any Senator care to speak?

Senator Michelle Simmons, you have the floor.

Sen. Michelle Simmons: Good morning, Madam President and my Senate colleagues.

The President: Good morning.

Sen. Michelle Simmons: First of all, I would like to ask for condolences to be sent to the family of Terrence Victor Richards. Mr. Richards was a man well respected by many in the community. Whatever Ter-

rence did, he did it to the best of his ability. And that was a standard that he instilled in his children, in his family as a whole. In my opinion, he was a trailblazer. He was the first Bermudian to graduate from Bermuda College and have all of his credits from Bermuda College transferred overseas to Acadia University, where he got his undergraduate degree. He graduated from there in 1981. And the woman who would eventually become his wife, I am referring to Mrs. Kalmar Richards, our Commissioner of Education, also graduated from Acadia a few years later.

That was not the end of it, because his children, Temar and Danielle, also graduated from Acadia University in Halifax, Nova Scotia. Even his nephew, Ryan Parris, graduated from Acadia University. And they all pursued degrees in business, of course, with the exception of Kalmar.

By profession, Terrence was a certified public accountant. And, over a period of years, he rose to the position of Vice President Corporate Accounting and Deputy Head of the Bermuda Office of Fidelity International. He was a loving, devoted husband, father, son, brother, mentor and friend. Undoubtedly, he will be sorely missed by his family, his church and the wider community. And I ask that condolences be sent to his wife, Mrs. Kalmar Richards; his children, Temar and Danielle; his parents, Sinclair and Gilda Richards; and his entire family.

I do not want to steal anyone else's thunder, but I am going to keep going.

[Laughter]

The President: You have the floor.

Sen. Michelle Simmons: I would also like to ask for condolences to be extended to the family of the late, retired Police Commissioner, Mr. Frederick "Penny" Bean.

He was a phenomenal leader, a principled man, a gentleman of strong conviction. He first served as a constable in the Bermuda Police Service. Of course, he had a life prior to that. But he rose up through the ranks and took on many training and leadership courses along the way. All of this was during the time that Bermuda was really still very polarised along racial lines. So, this accomplishment, when he became the first black Bermudian Commissioner of Police, was huge.

Commissioner Bean said that he had wanted to serve as inspiration for young people coming behind him. And I believe that he achieved that goal. He was an inspiration. There will be many, many tributes regarding his work on the Police Service (Police Force, as it was then), but he was also a true family man. Therefore, I am asking for condolences to be extended to his wife, [Carol] Romaine; and their daughters, Rochelle and Gina; and their families.

I will leave another one for Senator Richardson, who, I am sure, will speak about a St. George's counsellor. Thank you, Madam President.

The President: Thank you, Senator Michelle Simmons.

Would any other Senator care to speak on this?

Senator Richardson, you have the floor.

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

The President: Good morning.

Sen. Anthony Richardson: I would definitely like to be associated with the comments from Senator Simmons in terms of Mr. Richards and also for former Commissioner Penny Bean.

In terms of Penny Bean, I will just add that he became Commissioner in 1981. In the same year, I joined as a police cadet. And I remember clearly, I graduated from Warwick Academy, and the comment from others was that, *Well, Anthony, you know, you're not going to be a policeman. Why are you doing this, blah blah blah?*

Mr. Bean said to me, *Anthony, the reason why . . . I understand you may not stay as a police officer. But I want you to join in any event, because I believe that anybody who joins the Police Service in any capacity will have a better appreciation for what police officers do. And so, therefore, I don't mind if you join and then resign to go into university, which did occur. And with Terrence, by the way, I also went to Acadia and graduated with a bachelor's degree in business administration and went on to the accounting side. And so, that is why I was smiling as Senator Simmons was giving her comments.*

The other really sad note, to be honest, and . . . yes, definitely a sad note, is that Mr. Phillip Phoopa, more commonly known as Phillip Anderson, is also deceased. I have commented before in terms of the icons from St. George's who seem to be passing away on a very regular basis. But, normally, they are older. Phillip was younger. If I understand correctly, he was about 58. And I say that because he was a young guy, very animated.

And there was no question that St. George's was first and foremost in his mind. And Senator Simmons said also we served together on the Corporation of St. George's. And I can assure you, it is very clear in my mind right now, that Phillip had so much passion, I will call it, we had very intense conversations. And I know that in the Throne Speech it was announced that St. George's would have a marina. I trusted that that would come to fruition, because that was one of his passions. He was a seaman at heart. He operated the St. George's Visitors Centre, and everybody from St. George's knows Phillip.

I cannot say any more, except that he will definitely be missed. And he was also part of what I want to refer to as a “dynasty” in St. George’s. His grandmother would be more like 100. So, he was just really, really impressive. And so, I will stop there.

On a somewhat more positive note, I suppose, I want to also congratulate Mr. Cordell Riley, who is the owner and operator of Profiles of Bermuda. Many of you will know that, a lot of times, the news media will refer, or defer, to him in terms of generic comments, not from an opinion perspective, but more so from a factual perspective. He is a statistician, formerly employed by government, now employed at the Bermuda College. But I say that because this year, April actually, marked the 20th anniversary of his operation of Profiles of Bermuda, which was one of the pioneers, if you will, of private statistical research, and very, very well regarded in terms of all kinds of things.

And the final comment was, generally speaking, I had the opportunity to attend TCD [Transport Control Department]. And I want to commend the staffing, because sometimes you go there and it is like . . . I want to say “drama.” But it was very, very pleasant. It was the last day of the month.

[Laughter]

Sen. Anthony Richardson: Everybody was there to get their vehicles licensed. And I went there. The room was completely full at about 8:30. And very pleasantly, you know, after maybe 30 minutes, I was done. And so again, it just goes to show that, with attention, staff do a good job. When I walked in, I said, *What? I am going to be here all day!*

[Laughter]

Sen. Anthony Richardson: And then in 30 minutes, I was out of there. So, thank you, Madam President.

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

Sen. Vance Campbell: Thank you, Madam President.
I would also like to associate myself with the expression of condolences to the family of Mr. Richards, the former Police Commissioner, Mr. Bean; and also, Mr. Anderson. I first met Phoopa when I was playing as a 12-year-old for the Under-14 Bantam team for Devonshire Colts. And he played for the then Wellington Rovers. And I just knew him as Phoopa. You know, he was the guy that you did not want to get the ball. If you gave him half a chance, he would punish you. He was tough opponent on the field, and I think he took that toughness off the field in his fight for improvements to the St. George’s community.

So, with that, Madam President, I would like to add my name to the condolences that were expressed. Thank you.

The President: Thank you, Senator Campbell.

Would any other Senator care to speak?

No? Then I think I would just like to say I am sure that all Senators would like to be associated with the comments made by Senator Michelle Simmons with regard to Mr. Terrence Richards, as well as Commissioner Bean. And I would add Phoopa. It sounds as if he was really quite a character. So, I am sure we all would want to be associated with those comments.

ADJOURNMENT

The President: Senator Richardson, do you want to speak? The Attorney General had an emergency. So, Senator Richardson will speak on Adjournment.

The Clerk: Adjournment date? Do you have a date?

The President: Do you have a date for the adjournment?

Sen. Anthony Richardson: Yes.

The President: You can speak to it.

Sen. Anthony Richardson: Madam President, I now move that the Senate do adjourn until Monday, December 17.

The President: Are there any objections to that motion?

No. The Senate will meet on Monday.

The Clerk: Move the adjournment motion now. Just move that we adjourn.

The President: You need to move that we adjourn.

Sen. Anthony Richardson: Oh. So, with that, Madam President, I now move that we adjourn.

The President: Thank you.

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

Senator Michelle Simmons, you have the floor.

Sen. Michelle Simmons: Madam President, thank you very much for this opportunity.

I do not often speak on the motion to adjourn. But, I really have to today.

[Pause]

**PUBLIC EDUCATION—INDUSTRIAL ACTION BY
BERMUDA'S UNION OF TEACHERS**

Sen. Michelle Simmons: I am pausing because I just want to make sure that I do not get too emotional.

Public education . . . we cannot afford to continue on the current path without there being huge negative consequences for our children. We cannot afford, in this country, to continue to expect the best if we do not put it into our schools. We have had, and we have seen it over the years, a shrinking public education sector in this country. We cannot afford to continue down that path either, because in any country in the world we must have a strong, vibrant public education sector to ensure that we are doing right by every person in this country.

People should not have to take their children out of public education and move them into the private sector because they fear that their children will not get the education that they deserve in our public schools.

I believe—and I believe this with every bone in my body—that the problems we are experiencing in our public schools can be fixed! But it will take a unified effort on the part of every one of the key stakeholders in our public schools, and those who are responsible for the administration, the management, the support of our schools. That includes everyone! It is parents, it is our students, it is all of the educators, it is the principals, it is the folks at the Department of Education, the Ministry of Education; it is everyone. Everyone has to be part of the solution.

So, we cannot keep having these divisions, where teachers feel that they have no choice but to abandon the education of the children whom they are there to serve. And I believe that the majority of people in our schools want the best for our young people. I believe that the administrators at the department and at the Ministry of Education want to see our children excel. But there has to be a meeting of the minds. There has to be a coming together.

If we fail to do this, we will continue to be plagued by inequalities in our community, which lead to disaffection, feelings of not belonging, a sense that public education is not worth anything, also a sense that *there is nothing here for me*. And therefore, the separation continues in our society.

Bermuda, we have to get it right! So, today, before we close, I would just like to issue this plea, and that is that we all work together to fix what is going wrong in our public schools. Madam President, I hope that I have not been too emotional. But it really does hurt to see what is happening right now in public education.

Thank you.

The President: Thank you, Senator Michelle Simmons. And we hear you loud and clear.

Would any other Senator care to speak?

Senator Hayward, you have the floor.

**PUBLIC EDUCATION—INDUSTRIAL ACTION BY
BERMUDA'S UNION OF TEACHERS**

Sen. Jason Hayward: Thank you, Madam President.

The situation with education affects us all. I have three children in the public education system. I have skin in the game. Certainly, the problems that the education system has experienced are not brand-new problems. They are not brand-new problems. We have had a legacy of issues with public education. This is one of those areas in which it is difficult to readily address.

Some of the issues that are stemming from behavioural problems are creating a shock in our system that, admittedly, we were not 100 per cent prepared for. The need for additional paraeducators in our school system is creating huge issues, when you do not have a pool of paraeducators just lying around, waiting to be hired. There are additional demands for services in our public education system that were not required many, many years ago. Despite that, I believe that the Minister and his team are putting their best foot forward to resolve this particular area and these issues.

It kind of seems like everything has hit its peak of frustration. You have the principals, who have a long set of issues, and rightfully so, who have submitted issues to the Government. And you have the teachers who have submitted a long set of issues that they have submitted to the Government. And now, you see this ongoing level of industrial action. But the issues that the teachers and the principals are experiencing transcend industrial relations. These are not terms and conditions and contractual issues. And now we see social commentary coming from presidents of PTAs. Parents have always been concerned. Teachers have always had the issues that they are currently experiencing.

When I listened to the teachers' list of concerns, when they complained about the level of bandwidth in schools . . . many of us came up in an era where there were no computers in the classroom. But now it is a requirement for effective education. Non-functioning computers . . . I do not think the Minister can sit up and predict which computers are not going to work on which days, but it is a problem with these little infrastructure [matters] of the school system that we have to address. You can recall that the Minister spent a huge portion of his first year fixing infrastructure issues in our school system, giving attention where schools were being closed because of mould issues and things of that nature. That took up a huge amount of energy and resources. These are historic problems.

The Minister also is a father who has a child in the education system. He has skin in the game. It is no benefit to society, or to this Government, to have an education system that is not effective and producing outputs which are beneficial for our society. That

has been recognised, as the Premier removed Workforce Development responsibilities from the Minister so that the Minister can solely focus on Education.

I have encouraged the Minister to be in continued dialogue with all critical stakeholders so that they are aware of the progress that is being made, because, despite the challenges, progress is still being made—not to the level of satisfaction for many, but that is the reality. It is easy to play politics with this issue, because this is a critical issue, when you look at voter concerns—education, health care costs, the economy.

Madam President, I echo the sentiments of Senator Simmons, where she implores all parties to work together and find a resolution to the problems that are facing in our education system. We must get it right; we aim to get it right.

There are success stories that come out of education. The dual enrolment programmes have been a huge success, and we see parents trying to shift their students from private education to public education to take advantage of that dual enrolment programme. There are some success stories. But the reality is that there are some things that need to improve on the ground. And this Government is making every effort to ensure that we address those issues.

You may have seen industrial action on Monday, where teachers removed their labour from the school system. What you would not have seen were the meetings that took place on Sunday with the President of the Bermuda Union of Teachers, where all of the concerns were on the table and discussions were had in terms of how the Government intends to make progress and correct some of those concerns. Some of the concerns that individuals have cannot be fixed overnight.

Madam President, it is important, because I see headlines that say that our school system is at an all-time low. What does that mean? What does that mean, Madam President, that our school system is at an all-time low? That means that my children are bound to fail? Madam President, as a parent, do I have to accept, because my children are in public schools, that they are bound to fail?

My children come home and tell me what they learned on a weekly basis. I know my children are learning in the public school system. My sons enjoy middle school. They enjoy Dellwood Middle School. They come home, and while I may not receive a report card this year, they tell me of their successes that they are having regarding their testing. I am a proud parent. I do not view it [through] a lens where my children are at some severe disadvantage because they are in the public school system.

What I do not want is the picture out there that our children are not learning, that there are not successes in our public school system. I do not know what “at an all-time low” means. Yes, there are issues. And, yes, we are in a current impasse. But I also re-

call teachers standing on the roadside with placards saying they need pens, pencils and other things under the previous administration. Was our school system at an all-time low then? Or are we lower now? And teachers did not have Wi-Fi. Now we have installed Wi-Fi, it is not to the standard in which some would desire. But is it better or worse for us to be considered in an all-time low position?

School was shut down last year because of mould and things of that nature. Those problems have been rectified, to a certain extent. How are we this year now in an all-time low position? My daughter has transitioned from Victor Scott Preschool to Victor School Primary School. I sat down with her P1 teacher, and he said, *This is going to be extremely short. Jade meets all expectations. In all subject matters, she is doing perfectly fine.*

He then smiled and says, *Apart from her talking a little too much.*

[Laughter]

Sen. Jason Hayward: And when I have dialogue with my five-year-old daughter, I see her development. I see her growth. I do not view it as though public education is failing my children. Is it the best system? No. Is there need for improvement? Yes. Do we all need to work together for improvement? Yes. Does the Opposition politicise . . . or do political parties politicise, education a bit too much? Yes. We have to both take blame for that. Politicising education . . . there is where we would need a concerted effort to work together.

When we have presidents of PTAs who have no children in the public school system, I wonder what is their motive in saying that the education system is at an all-time low? Because in my household, my children are learning. I also recognise that I attended a meeting with teachers, and teachers say, *You know what? For this particular year in my career, and I have been teaching for 15-plus years, it has been the most difficult.* And when you ask for the reasons why, it had nothing to do with the resources that were provided from the Ministry. It is because they have persons within their classroom who have social issues that make it very difficult for them to teach.

Despite the challenges, Madam President, I want to ensure members of the public, my fellow Senators, that this Government has education as a priority. This Government will put its best foot forward to have an education system that provides the outputs that are necessary for the success of our young ones and our community. We have to recognise that there are success stories coming out of our public education system. We have to recognise that the system is currently not perfect. The system currently has challenges. But we are working to resolve those issues. And education will remain a priority for this Government.

Thank you, Madam President.

The President: Thank you, Senator Hayward.

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

Senator Jardine, you have the floor.

PUBLIC EDUCATION—INDUSTRIAL ACTION BY BERMUDA'S UNION OF TEACHERS

Sen. James S. Jardine: Madam President, I was not going to really speak on the topic, but it seems to have gathered some momentum here. I too have made some suggestions to the Minister, as few as they are, of my views on education. And I think the first thing I would like to say is that the Minister needs to stay the course. I think Bermuda public education has suffered greatly because of the swinging door issue of Ministers. And I think the predecessor in the Senate here made the statement some years ago that the longest-serving Education Minister was something like 11 months in term. And there have been many Ministers of Education in my brief time here in the Senate. So, the first thing I would say to the Minister is stay the course.

There is no way that he is going to satisfy everybody. And it is mainly because of the numerous issues that the public education system is faced with. And we have heard some of them this morning. We know that the infrastructure within our school system was, and still is, in dire need of some attention. And we know that a lot has been done in the last year or two to rectify the circumstances that the teachers and the students have faced within their own schools. Many of these schools are very old buildings and require an inordinate amount of maintenance.

We have heard about the social issues that exist in the classrooms. And I have heard some pretty horrific stories of some of the situations that are occurring in our classrooms. And the teachers are trying to teach, and they are also trying to discipline students who have social issues. And it is very difficult. I am not a teacher; my wife is. And I know some of the issues that she had to face in her 35 years as a teacher. And that cannot be ignored.

What I would say is that in any circumstance there needs to be a communication, a strong and building communication between the Minister and the principals and the teachers in the schools so that there is a degree of consultation and, at the end of the day, an understanding of what can be accomplished during a period of time.

Sometimes, I think with change, when we are thinking of changing our school system or making changes to the way in which we grade our students, the way in which we tell them how well they are doing or how bad they are doing, sometimes there can be too much change at the same time. And I think there needs to be, should we say, a rethink of what we want to change and how quickly we want to bring that change so that we get the teachers and the principals

on board to make the changes that need to be made, but in a somewhat careful and calm way. This way, everybody buys into whatever the changes are that you want to make. Also, we should try to address, wherever we can, the issues that are before us, bearing in mind that there are always budgetary contracts with whatever we want to do.

I mean, I keep hearing this time and time again, *We need to do this, but we don't have the money*. We all know that. So, there is no question that the Minister in this particular Ministry has a very difficult row to hoe. There are a lot of issues on the table. And I would just advocate that he stay the course; that communication improve between himself, the principals of the schools and teachers; and that together they find a way through this where they can say, *Okay. We recognise that there are these 20 things that we have to do. We recognise that this is the change that we want to bring. We cannot do it all at once. So, let us, as a group, decide which are the most critical issues that are on our list of things to do. And let us agree to tackle those first.*

And I think if that particular course is taken, then we will begin to see a much better working relationship between the Government and the principals and the teachers in the schools. It certainly is not a position I would ever want to fill as Minister of Education. It is a very difficult position. I have no doubt that the Minister is well aware of all of the issues that are before him. He has a child in the school. And he knows that it is important that we get this right. And so, I would ask him to stay the course. And I would ask that there be, as was said earlier, a reconciliation, a coming together of all of the players and stakeholders in this particular issue to resolve the issues that are before us.

It can be done, and I have no doubt it will be done. Thank you very much, Madam President.

The President: Thank you, Senator Jardine.

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

No? Then we will . . .

[Inaudible interjection]

The President: Oh, did you want to speak? I am sorry. I beg your pardon.

Senator Richardson.

The Clerk: You have the right to speak.

The President: Yes, you do! And I am sorry I did not see you.

Sen. Anthony Richardson: It is fine, Madam President.

The President: You have the floor.

PUBLIC EDUCATION—INDUSTRIAL ACTION BY BERMUDA'S UNION OF TEACHERS

Sen. Anthony Richardson: I am getting used to this short responsibility for the day.

I too had a serious issue with the headlines in yesterday's newspaper, to be honest. And I did what I do not normally do, which is, I actually read some of the commentary. And, in a word, the commentary was "atrocious." I say atrocious because the commentators made it seem as though anybody who is in public education is only there because their parents cannot afford otherwise, and that they are, effectively, social misfits. It is without doubt that that is entirely, entirely incorrect.

I want to, very quickly, link three things that took place in Bermuda and explain why I would mention them in the context of education. One, we had a shooting, and someone died. Two, we spoke earlier in that Mr. Richards died. His wife is Kalmar Richards, the Commissioner of Education. Three, we spoke earlier of Phooppa Anderson, who died.

How are those things tied together? We know that a lot of times, if not all of the time, the shootings that take place result from social dysfunction. And we speak to anybody who has been to Westgate, a lot of times the persons who commit these crimes and other crimes do so as a result of a lack of education. In many cases, the guys especially, cannot read, for example. And you can trace it back, a lot of times, to their education. There were some issues there, for various reasons. And they will tell you that.

Ms. Richards is a leader in education. She was at CedarBridge for an extended period of time. And if anybody went there, absolutely brilliant, she would stand there and know every child's name as they entered the premises—every child.

Phillip Anderson. What many of us may not know . . . and he told me this himself. You mentioned it, Senator Simmons, to some degree. Phillip was actually a student in Bermuda at East End Primary at a time when Bermuda was segregated. A decision was made that they should integrate the schools. And some of the children had to . . . not *had to*, but were allocated to go to what was formerly the St. George's Prep. He did not go. But he told me about the experience of some of his classmates who did go. And I will not say it was a negative for him, but trying to say that all of these things do go to education.

And, as Senator Hayward and many others have said, there is no way that education cannot be given what is necessary to succeed. Clearly, I am a Government Senator, so I am not going to speak too much in terms of the impasse or whatever that took place this week. But more so in the community it is to have members realise that if you think that persons who are in public education right now are the social misfits, you are entirely, entirely wrong.

On a personal level, as many people know, I have two children. One is 13. One is 17. They are, again as Senator Hayward spoke about his own children, excelling in public education. And my wife and I made a conscious decision to make sure that our children would go through the public system, as both she and I did, because we recognise that the public system can give them what they need.

My appeal has always been to parents to make sure that you are involved in various levels. I have the delight every morning of driving my son to school. And we talk about what is happening at school. In the evening time, the reverse takes place. *Kallan, what did you learn today?* And he will go through and tell me what he learned.

What is also, to me, amazing is that right now he is doing math, he is doing some world history, and some health and whatever. The task that I give him sometimes is, *Kallan, get out your whiteboard and teach Daddy about "X."* And he will do that, from the public education system. I went to the parent meetings two weeks ago. And, you know, we went around. And, yes, I was happy with the teachers because they themselves do take an interest in what is happening in education.

And so, is the system perfect? No, it is not perfect. But I can assure you that the public system is definitely doing a good job in terms of our students. And it is entirely irresponsible for anybody to cast a towel, if you will, over the entire system to say that it is graduating dysfunctional or underachieving students.

Senator Hayward also spoke about the dual enrolment programme. And I know too for a fact that parents may send the children sometimes to private schools to get the IGCSE, or what have you, but then enrol them in public education because they want them to enrol in the dual enrolment programme, because the students can then, at a much lesser cost, graduate from high school with their high school diploma, plus a two-year associate's degree from Bermuda College. That is part of the public system.

And, as Senators will know from this session and last session, I do my best to ensure that I speak to the positives of public education almost on a weekly basis, not because I believe that everything is perfect, and not because I am not aware of some things that are negative, but because I want to make sure that the positives are actually highlighted. One of my phrases from last session was that, unfortunately, a lot of times we shout the failures and whisper the successes. This is ridiculous; we have to do better as a community.

And one of my own motivations, to be honest, is that we cannot in any way allow for there to be two systems, because, especially when it comes to our children, we do not know who our children will marry. And so, if we are in any way part of the process that tries to promote or sustain this idea that the private system is perfect and the public system is less-than,

that is not going to work. It is going to create some significant social dysfunction, going forward.

And so, I would implore all parties, those who are currently in the education system, from leadership right down to the teachers and including the paraeducators, to do what is necessary. Because I know, again from personal experience, that teachers, educators, a lot of them, if not most of them, make tremendous effort in terms of what they do on a daily basis, up very early doing for children, whether it be buying supplies, lunches and clothing and all the rest of it, doing things after school and on weekends and the whole nine yards. And so, I will say yet again that I will continue to be an advocate for public education and encourage the public to be practical, to be realistic about what takes place in education.

And as parents, your first responsibility is to prepare your children to understand the value of education and to go to school prepared to learn, not to be rude, not to be dysfunctional, but to be prepared to learn. Because I also maintain that a teacher, an educator, will definitely work with any child they have in their class if that child is prepared to learn and is well behaved.

CONSTRUCTION—INDICATOR OF HEALTHY ECONOMY

Sen. Anthony Richardson: On a slightly different note, I just want to comment that, as I drive to work, and I work in the East, I am mindful of what is happening and what is going on. But as a general comment, for the economy now (going back to that, as I normally refer to it sometime on a weekly basis), an indicator of the health of the economy is actually construction, in this case, residential construction. And as I drive and I go down South Shore and turn through by Paynters Road and head down Harrington Sound Road there, there are three significant residences being built. I think when we fully understand what is taking place, there may be some issues because they are using, you know, arable spaces, obviously, but brand-new spaces, right?

But my real point is that it is an indication that what we sometimes hear as all doom-and-gloom cannot be the case. Because if I have access to, and I am assuming . . . actually, I am sure that each of these places will cost more than \$1 million. If I have access to that money, I have to have a positive perspective on Bermuda to outlay those kinds of funds to build a residence.

GOVERNMENT FINANCES AND UPCOMING BUDGET

Sen. Anthony Richardson: My last comment is, yesterday I heard some comments from the Minister of Finance at the forum (if you will) of the Institute of Directors Bermuda. And he put it very succinctly in

terms of where we are with respect to government finances, in that, (1) he will be looking, on a pure current account basis, to make sure that there is a surplus; (2) he will make sure that if you take the current account plus our sinking fund contribution, make that a surplus; and (3) he will make sure that the pure current account, the sinking fund contribution and our captive expenditure will become a surplus.

And I say that to say that he put it very succinctly. But it bodes well for where we are going in the context of the Finance Minister, on behalf of Government, who clearly will be the lead when it comes to preparing Bermuda for the next budget, which should be delivered in February of 2019.

So, with that, Madam President, I will conclude my comments. Thank you.

The President: Thank you, Senator Richardson.

Can I implore you to call my name? Not just you, but if you find that I am about to close, just say, *Madam President*. And then I will make sure that I recognise you.

Would any other Senator care to speak on the motion?

[Inaudible interjection]

The President: You were the last one. I beg your pardon, yes. Because you are acting for the Attorney General. I beg your pardon.

The Senate stands adjourned until Monday, the 17th. Have a good weekend. Thank you.

[At 12:28 pm, the Senate stood adjourned, until 10:00 am, Monday, 17 December 2018.]

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