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

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BERMUDA SENATE**OFFICIAL HANSARD REPORT****13 NOVEMBER 2019****10:01 AM***Sitting Number 24 of the 2018/19 Session*

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

The President: Good morning, Senators.
The Senate is in session; shall we pray?

PRAYERS

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

CONFIRMATION OF MINUTES*[Minutes of 6 November 2019]*

The President: The Minutes of the 6th of November.

Sen. James S. Jardine: Madam President.

The President: Senator Jardine, you have the floor.

Sen. James S. Jardine: Madam President, I move that the Minutes of the meeting of Wednesday, the 6th of November 2019, be taken as read.

The President: Is there any objection to that motion?

Sen. Michelle Simmons: Yes, Madam President.

The President: Senator Simmons.

Sen. Michelle Simmons: I would just like to propose some corrections to the Minutes.

The President: Please carry on.

Sen. Michelle Simmons: On page 2, where I commented, it is about three-quarters of the way down the left-hand side. It says, in the second sentence, "Senator Simmons remarked that Rev. Dr. Swan was an outstanding Bermudian." Can you delete the next three words, "over many years"?

The President: Yes.

Sen. Michelle Simmons: And then, continuing, "And she noted that he had been a teacher." Can you remove, again, "for many years"?

The President: Mm-hmm.

Sen. Michelle Simmons: And "before becoming an active clergyman and later the acting" (or) "interim"—it should be "interim" (sorry) "pastor of Grace Methodist Church." It is actually located in Pembroke. It is one of those interesting places that is very near the boundary between Pembroke and Devonshire. So, there is some confusion about which parish it is actually in. But it is in Pembroke.

That is all for me. Thank you.

The President: Thank you, Senator Simmons, for the corrections.

Senator Jardine.

Sen. James S. Jardine: Madam President, I move that the [Minutes of the meeting of Wednesday, the 6th of November 2019](#), as revised with the corrections that have been discussed this morning, be confirmed as the correct record of that meeting.

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

The Minutes are confirmed with those corrections that have been identified by Senator Simmons.

[Minutes of 6 November 2019 confirmed as amended]

MESSAGES

The Clerk: [There are] no messages, Madam President.

The President: Thank you.

REPORTS OF COMMITTEES

The President: There are none.

ANNOUNCEMENTS BY THE PRESIDENT**APOLOGIES AND RESIGNATIONS**

The President: Senators, I do have a couple of comments I would like to make at this time.

The Government Leader of Senate, the Senator, Madam Kathy Lynn Simmons, Attorney General, is not with us this morning. And Senator Crystal Caesar is the acting Government Leader for today.

Additionally, both Senator Jason Hayward and Senator Dwayne Robinson have both resigned to run in the bye-election in constituency 17. Senators Jason Hayward and Dwayne Robinson are running in the bye-election in constituency 17 and therefore are not with us today.

NOTICES OF MOTION

The President: There are none.

PETITIONS

The President: There are none.

STATEMENTS

The President: There are no Statements today.

INTRODUCTION OF BILLS

The President: There are none.

FIRST READING OF PUBLIC BILLS

The President: There are none.

FIRST READING OF PRIVATE BILLS

The President: There are none.

QUESTION PERIOD

The President: There are none.

ORDERS OF THE DAY

The President: The first Order of the Day is the second reading, the Government Loans Amendment (No. 2) Act 2019.

Senator Campbell.

Sen. Vance Campbell: Yes, Madam President. That is me.

The President: It is your Bill.

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

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

BILL

SECOND READING

GOVERNMENT LOANS AMENDMENT (NO. 2) ACT 2019

Sen. Vance Campbell: Madam President, the Government Loans Act 1978 provides for the Government's authority to borrow money, the maximum amount that may be borrowed and related matters. The [Government Loans Amendment \(No. 2\) Act 2019](#) now before the Senate proposes to increase the maximum amount that may be borrowed.

Madam President, Members of the Senate will recall that in the 2019/20 National Budget, the Government announced that, in view of the forecasted surplus, we had no plan to incur any additional long-term borrowings in this fiscal year. However, due to unexpected events, the Government has been forced to increase the debt ceiling in order to honour obligations in respect to the Caroline Bay project, formerly known as Morgan's Point.

Madam President, before I go further, I feel it necessary to remind the Senate of the background surrounding the Caroline Bay project, to illustrate how we got to this position. Senators will recall that, on September 13, 2019, the Minister of Finance held a press conference updating the general public on the latest developments at the Caroline Bay project. During this press conference, the Minister notified the public of the following:

(1) To date, the developers had been unsuccessful in their attempts to secure funding to meet their financial obligations to the tranche B and tranche C lenders. As a result of these defaults, both the tranche B and tranche C lenders had demanded repayment in full of their outstanding loans.

(2) In seeking to defend the public purse, the Government had elected to exercise its option, by reason of the defaults, to acquire the interest of both the tranche B and tranche C loans.

(3) The Government was in the process of negotiating a credit facility with local banks for up to \$200 million, the proceeds of which would be used, in the first instance, to pay the tranche B and tranche C lenders. These extraordinary circumstances and the liabilities triggered by these defaults had resulted in the Government having no choice but to raise the debt ceiling in order to borrow monies to fund the payments to the B and C lenders, as set out in the guarantees.

(4) An amendment to the Government Loans Act 1978 to increase the debt ceiling by \$250 million to \$2.75 billion was being tabled with immediate effect.

Madam President, subsequently, on the 27th of September 2019, the Minister of Finance made a Ministerial Statement notifying those who sit in another place of the successful execution of a \$200 million

credit facility with local financial institutions. Madam President, those who sit in another place were advised that this facility offered the Government valuable flexibility with regard to its duty to exercise the full range of options provided under the Caroline Bay Project Agreement, which included, in the first instance, the purchase of interest of the B and C lenders. The remaining proceeds would be used substantially to fund other costs associated with this project. Madam President, the total value to buy the legal interests of the B and C lenders was approximately \$170 million, and the Minister confirmed that the Government had closed on the certificate purchase agreements for the B and C lenders.

Madam President, I must re-emphasise that at this time Government has not borrowed \$200 million, but rather has a facility in place to borrow up to this amount. Funds will be drawn only when absolutely necessary, and only funds that are drawn will be charged with interest. At this time, I can advise that Government has drawn approximately \$170 million on the facility, and these proceeds have been used only to fund costs associated with this matter.

Madam President, let me make it clear that neither the new borrowing nor the revised debt ceiling amounts have been determined for any purpose other than to fulfil the Government's obligations and exercise of its rights under the respective guarantees for the Caroline Bay project. However, as the Minister of Finance presented in his press conference on September 13, 2019, we will seek, we have sought, advice from professional advisors to determine the extent [to which] there are other potential liabilities the Government may need to address. Without this advice, borrowing or establishing a debt ceiling, without room for contingency, would be irresponsible.

Madam President, I can report that the Government has begun the process of assessing the amounts owed to contractors and subcontractors associated with this project. And, Madam President, I will declare my interest. I do work for a firm that is one of those contractors or subcontractors. That work remains ongoing and will be conducted in a transparent and prudent way.

Madam President, at this time, net debt stands at \$2.6 billion, and the only borrowing we have incurred during this fiscal year is in relation to this transaction. Madam President, Government remains committed to prudent long-term financial planning and to maintaining a robust debt-management policy. And on November the 10th, funds were used from the Sinking Fund to pay off an \$80 million private placement note that matured. That repayment, Madam President, will reduce our annual interest costs by \$4.7 million.

Madam President, if interest rates continue to head lower, the Government will look to minimise its borrowing costs by performing an asset liability management exercise by refinancing the \$200 million loan and any other relatively expensive government debt.

Madam President, the Government continues to review its options with respect to Caroline Bay and take professional advice on how to best protect the public's investment in this project.

The decision to increase the debt ceiling runs counter to the plan that was outlined in this Government's Budget Statement in February, which stated that we had no plans to incur any additional long-term borrowings in this fiscal year. While this turn of events was unplanned, our commitment to being prudent stewards of the public purse remains unchanged.

And, Madam President, with those introductory remarks, I now read for the second time the Bill entitled the Government Loans Amendment (No. 2) Act 2019.

Thank you, Madam President.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITOR

The President: Thank you, Senator Campbell.

And before I open the floor for the Senators to respond, I would just like to acknowledge the presence of the Financial Secretary, Mr. Anthony Manders, in the Chamber.

Welcome to you, sir.

[Government Loans Amendment (No. 2) Act 2019, second reading debate, continuing.]

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

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Thank you, Madam President.

Thank you, Senator Campbell, for your introductory remarks.

I am not going to beleaguer the point with a long history of events going back to Southlands. But what I would like to get some clarity on is with how this challenging situation has been managed. Senator Campbell mentioned that "unexpected events" caused this change to the debt ceiling to happen, when in theory we were rushed back into Parliament in September to deal with this, but we are now in November passing it.

But what I want to know is, in February, during the budget, were there no indications, no red flags that there could be challenges at the Caroline Bay site? Was September 13th the first time the Government knew of issues at the site? I think it would be helpful for the taxpayer to have an understanding of what steps were taken between whenever something was known . . . if it was September 13th, so be it. But if it was sometime between the election and September 13th, what steps were taken to mitigate these challenges, to palliate, perhaps, Government spending

and provide some cushion for a lesser amount of borrowing? And what steps have been taken, or what steps are going to be taken, going forward?

There was, I guess, a bit of a statement on the news last night, but it did not provide a whole lot of clarity to me about what actually is planning on being done, going forward. Thank you.

The President: Thank you, Senator Kempe.

Would any other Senator care to speak on this Bill?

Senator Michelle Simmons, you have the floor.

Sen. Michelle Simmons: Thank you, Madam President.

I am not going to make a long speech, but I do have a couple of questions. And I am asking mainly because the majority of the listening public are not accountants and may not have a very strong background in finance. I listened carefully to Senator Campbell's remarks. And I think all of us understand now that the tranche B and C lenders have been repaid. So, in my thinking, that means that the Bermuda Government is now the main lender or certainly one of the lenders for the developers of Caroline Bay. So, we definitely—and I am saying “we” as the public, who are behind the Government of Bermuda—have a stake in that development.

I also heard Senator Campbell say quite clearly. . . and I was listening for something about how this will look going forward, and he did say Government is taking advice on how to protect the public's investment in the project. I would just like to reiterate the importance of that and also the importance of communicating any further steps with the public. Because we really would like to know, and we need to know how the Government's money—i.e., the public's money, which has now been invested in this project—is going to be safeguarded and what it means to the average Bermudian.

So, that is the only query I have, otherwise, I support the Bill. I think we have absolutely no choice but to do this, to raise the Government debt ceiling. But I just wanted to make it absolutely clear that the public is clamouring for more information about what happens next.

Thank you, Madam President.

The President: Thank you, Senator Michelle Simmons.

Would any other Senator care to speak on this Bill?

No? Then, Senator Campbell, I think you are waiting for some information.

Sen. Vance Campbell: One moment, Madam President.

Sen. Anthony Richardson: Madam President.

The President: Senator Richardson, do you want to speak?

Sen. Anthony Richardson: Sure. Thank you, Madam President.

The President: You have the floor.

Sen. Anthony Richardson: Sure. I just want to take a few moments to, I guess, try to provide some additional information in terms of what is transpiring.

I think for the general public, in a general sense, the understanding would be that the Morgan's Point development is a private development—i.e., it is entirely private. People are doing what they need to do. In that context, though, Government did provide a guarantee previously. The former Administration provided a guarantee. But the reality is when these things are done, they are not done in the name of a party; they are done in the name of the Government. So, irrespective of who is the Government at that time, the Government has to still act as the Government. And so, in [this] instance and [these] circumstances, once the Government became aware of what was transpiring in that private activity, then Government would, of course, have been required to act.

And in terms of acting, the Minister of Finance has said on many occasions that the Government is now taking prudent steps to ensure that the Government interest is, in fact, protected. And so, to Senator Simmons, it was not just a matter of paying the amounts that they could have paid off, for example, to the original lenders. The Government took a more holistic position in that they have effectively bought the existing debt from those two tranches. And going forward, the Minister has been very, very clear in that, if he had to pay, let us say, just \$170 million, the Government took the position that they would need to have access to additional funds to ensure that the other activities that surround buying that debt would still be funded.

And so, to be more responsible going forward, the Government will take the time to assess all of those persons who currently are making claims of non-payment from that project. And Government is now going through a systematic process to receive and evaluate those claims, and then make a determination as to how much, if any, of those claims are going to be paid. And in that context, I think it is important for the general public to understand that the Government, through the Minister of Finance, is being very deliberate to ensure that, where appropriate, those persons who have provided service to that project will be paid. Because the spin-off, of course, is going to be, if I am a contractor, I have employees and other bills to pay. So, now, through the Government acting prudently, those persons will receive ap-

propriate funds so that they can go on and do what has got to be done.

But then, I think, realistically, there still needs to be a decision made about completing the project. And that is what the Minister said also recently, that the Government is now going through the process to determine what are going to be the next steps that are in the Government's interests.

Thank you, Madam President.

The President: Thank you, Senator Richardson.

Would any other Senator care to speak?

No? Then, Senator Campbell, it is over to you.

Sen. Vance Campbell: Thank you, Madam President.

Madam President, one may ask why, when the Government of the day embarked on providing the guarantee, they did not put certain safeguards in place. But I will not go down that road, because we are here today and that really does not serve the interests of the Bermuda public well. Suffice it to say, Madam President, that the default did not happen until after the budget process was complete, since which, as I have stated, the Government has undertaken advice as to the best way forward to protect the interests of the public purse.

That was determined, that we would buy the interests of the tranche B and tranche C lenders. That was the first step. Part of that step is to assess where the project is as it relates to the creditors who sit out there, the contractors, the subcontractors. The final step would be to meet with the developers. And there is a process which will be something that the Government will be very deliberate in, because again, the driving force behind those talks, behind those meetings, will be to protect the public purse.

Sen. Nicholas Kempe: Point of clarification, Madam President.

The President: Will you accept a clarification?

Sen. Vance Campbell: No, Madam President.

The President: Carry on.

Sen. Vance Campbell: When the Government is in a position to provide the public with more information, the Government will do so. [To do so] prior to that is to place a very delicate situation in jeopardy, Madam President.

So, with that, Madam President, hopefully, I have answered the concerns or addressed the concerns expressed by the Senators.

Sen. Nicholas Kempe: I still have a remaining concern, Madam President, if the Senator wishes to acquiesce.

The President: Senator Campbell, will you?

Sen. Vance Campbell: I will accept that, Madam President.

The President: Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Thank you, Madam President.

Thank you, Senator Campbell.

The Senator just clarified that the default event occurred after the budgeting process. But he did not clarify . . . seeing as the Statement suggested that this was an unexpected event, did the Government have no indication prior to the actual event of default that there were challenges with this project?

The President: Senator Campbell.

Sen. Vance Campbell: Madam President, the Government, as were the contractors and subcontractors, were made aware that the developers were in negotiations with potential financiers. And they were made aware and led to believe that those negotiations were close to being concluded successfully. It was not until approximately June that the Government was made aware that default had occurred, Madam President.

Thank you.

The President: Senator Campbell, you may continue.

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

The President: Is there any objection to that motion?

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

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Campbell, with the third reading.

BILL

THIRD READING

GOVERNMENT LOANS AMENDMENT (NO. 2) ACT 2019

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

The President: Is there any objection to that motion?

The Clerk: Did you do the third reading?

Sen. Vance Campbell: We just did that.

[Crosstalk]

Sen. Vance Campbell: I will repeat it if we have to, Madam President.

The President: You did the third reading.

Sen. Vance Campbell: Yes.

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

No objection. The Bill is passed.

[Motion carried: The Government Loans Amendment (No. 2) Act 2019 was given a third reading and passed.]

Sen. Vance Campbell: Thank you, Madam President.

The President: Thank you, Senator Campbell.

We will move on now to the second Order of the Day, and that is the Casino Gaming (Miscellaneous) Amendment Act 2019.

Is that your Bill, as well?

Sen. Vance Campbell: That is mine, as well, Madam President.

The President: You have the floor.

Sen. Vance Campbell: If I could have a second just to change gears.

[Pause]

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITORS

The President: We seem to have some representatives from the BMA [Bermuda Monetary Authority]. And I just want to welcome you and [the] Finance [Ministry].

The Clerk: Mr. Stephen Gift from Finance.

The President: Yes, Mr. Stephen Gift, from the Ministry of Finance.

Welcome to you all.

Sen. Vance Campbell: Madam President.

The President: Carry on, Senator Campbell.

Sen. Vance Campbell: I move that the Bill entitled the Casino Gaming (Miscellaneous) Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Campbell.

BILL

SECOND READING

CASINO GAMING (MISCELLANEOUS) AMENDMENT ACT 2019

Sen. Vance Campbell: Madam President, the purpose of the Bill before the Senate today, entitled [Casino Gaming \(Miscellaneous\) Amendment Act 2019](#), is to make amendments to the Casino Gaming Act 2014.

Madam President, the Casino Gaming Regulations 2018, which were made 26 September 2018, represented only a portion of the casino gaming regulatory package. I can now inform the Senate that the Casino Gaming Amendment Regulations 2019—the remainder of the regulatory package—have been made operative, effective as of the 12th of September 2019 and have thus completed the casino regulatory regime.

Madam President, the Casino Gaming Amendment Regulations 2019, made pursuant to section 196 of the Casino Gaming Act 2014 and subject to the negative resolution procedure, makes provision for the following matters:

- a) advertising and promotion of casinos and casino gaming;
- b) provision and use of cashless wagering systems;
- c) provision and maintenance of patron accounts;
- d) resolution of gaming complaints;
- e) problem and responsible gaming;
- f) exclusion orders;
- g) provision of credit;
- h) service of liquor;
- i) betting;
- j) casino marketing arrangements;
- k) temporary managers; and
- l) disciplinary procedures.

Madam President, for the purposes of and in respect of the amendments to the regulatory regime, there have been a number of proposed amendments to the Casino Gaming Act 2014, the Prohibition of Gaming Machines Act 2001, and the Casino Gaming (Casino Fees) Regulations 2017. These amendments have been consolidated into the Casino Gaming (Miscellaneous) Amendment Act 2019. To that end, the amendments seek to:

1. clarify various provisions of the Casino Gaming Act 2014 in order to better support the un-

derlying policy and to enable such policy to be carried out via the regulations;

2. make provisions for the various fees, which have now been provided for in the regulations; and
3. make general housekeeping amendments.

Madam President, with respect to the proposed fee amendments to the Casino Gaming (Casino Fees) Regulations 2017, the Bermuda Casino Gaming Commission consulted with established gaming jurisdictions, well-known and respected testing laboratories, and experts in technical areas, as regard to those regulations in relation to the appropriate fees to be levied. It is important to note that, while some of the fees proposed at this time are necessary in relation to the opening of a casino, there will be further amendments to the fees in respect to operational matters, which will be proposed at a later date.

Madam President, let me be clear. It is the intent of this Government to move forward with gaming, as we believe that this will enable economic growth, as well as create jobs and opportunities for Bermudians.

Thank you, Madam President.

The President: Thank you, Senator Campbell.

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

Sen. Marcus Jones: Good morning, Madam President.

The President: Good morning to you.

Sen. Marcus Jones: Good morning to my fellow colleagues, and, of course, good morning to the listening audience.

We on this side of the aisle can see the importance of these amendments. We understand that these amendments hail back to the initial inception of the Casino Gaming Act of 2014. And when one looks at the year that this was first launched, 2014, and we are looking at 2019, it does leave cause for concern, especially for those hotels that have actually applied and received approval for a licence, that it has been five years now. And I would encourage the Government to continue to communicate with both the Legislature and the public as a whole in the progress of the ongoing evolution of this industry, actually not only being launched in word, but actually being launched in deed.

This particular legislation, at least in my mind, caused me to question a number of things. We know that part of the delay in the operations of the casinos is the banking piece. We understand that, the world over, many banking institutions are very leery when governments are too involved in the actual operations of casinos. And we know that, from recent legislation that has been done, the powers that be had decided

for the Government and the Minister in question to have more oversight in, for example, the choosing of the board members and things of that nature. And so, we question and we wonder if, possibly, that could be part of the delay.

We are also raising the question, has there been any pushback from the hotels that have laid out the funds to initially acquire the application? We know that the initial flat fee is \$600,000. The annual fee is \$1 million. So, that is a heavy, high price. So, we could definitely appreciate the fact that these—we call them “business partners” with the government—would be concerned that things have not moved along. And then, there is the question about the executive director. We know that the Government was working very diligently to find an executive director. I am not sure if one has been hired as yet. We then asked the question, the Board of Directors of the Gaming Commission, if it is not in operation, if no hotels in this country are actually taking advantage of the licence, what are they doing?

So, we know that the annual expenses for this commission, I believe it is somewhere around the area of \$1 million a year. And we know that the Government has to carry the cost of having that Gaming Commission functioning. We know that the original mandate for the Gaming Commission is that they were going to be an independent body that can actually finance itself.

So, these questions arise as we look at these amendments that are necessary, that are required for the operations to work well. Questions arise when we know that we have not gotten too far from the initial launching of this Gaming Commission to its actually being applied within the country, as an industry, where we can stimulate the economy, where we can create jobs. It would behove the Government to keep the public informed of the progress on a regular basis.

And with those questions, Madam President, I thank you for your time.

The President: Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

Then, Senator Campbell, it is over to you.

Sen. Vance Campbell: Thank you, Madam President.

Madam President, yes, there have been delays. In 2017, we had a change in government. We had a change in commissioners at the Bermuda Casino Gaming Commission. There was a change in Ministers and Permanent Secretaries. And getting each [of those] up to speed has been a protracted process. Not ideal, but necessary.

In accordance with the National Anti-Money Laundering Committee's agenda and normal sectoral procedures, it is obligatory upon the Bermuda Casino Gaming Commission to execute the suitability process in a thorough manner, which takes time and re-

sources. And it is not a simple process. As [with] incorporating a company, it is very complex, and it is a process which involves agencies beyond our shores.

And to answer Senator Jones's questions as to whether there has been any pushback from the hotels that have been granted a provisional licence, to date that has been no pushback.

We in the PLP know this is not a cure-all for our economic woes or our challenges. It is one piece in an intricate puzzle that will assist.

And with that, Madam President, I would say we will continue to do our due diligence so that when that first casino, the first two casinos are open, they will be open with the appropriate regulations, controls and protections for our reputation already in place.

And with that, I conclude my comments.

The President: Thank you, Senator Campbell. You will now do the second reading.

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Casino Gaming (Miscellaneous) Amendment Act 2019 be now read a second time.

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

SUSPENSION OF STANDING ORDER 26

Sen. 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. Carry on.

[Motion carried: Standing Order 26 suspended.]

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Casino Gaming (Miscellaneous) Amendment Act 2019 be now read a third time.

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

BILL

THIRD READING

CASINO GAMING (MISCELLANEOUS) AMENDMENT ACT 2019

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

The President: It has been moved that the Bill entitled the Casino Gaming (Miscellaneous) Amendment Act 2019 do now pass.

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

[Motion carried: The Casino Gaming (Miscellaneous) Amendment Act 2019 was given a third reading and passed.]

The President: Thank you, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

The President: We now move on to the third item on the Orders of the Day. And that is the Incorporated Segregated Accounts Companies Act 2019.

Senator Campbell, you are on a roll today.

Sen. Vance Campbell: That is mine as well, Madam President.

The President: You have the floor.

Sen. Vance Campbell: If I could have one moment?

The President: Certainly. Take a few minutes to collect yourself and prepare to present the Bill.

[Pause]

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Incorporated Segregated Accounts Companies Act 2019 be now read a second time.

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

BILL

SECOND READING

INCORPORATED SEGREGATED ACCOUNTS COMPANIES ACT 2019

Sen. Vance Campbell: Thank you, Madam President.

Madam President, I am pleased to present to the Senate the Bill entitled the [Incorporated Segregated Accounts Companies Act 2019](#). This Bill seeks to introduce a new corporate group structure for use by local and international clients who wish to conduct business in Bermuda.

Madam President, before I go any further, I would like to highlight the fact that there are two corrections to be made in the Bill that will be made prior to assent, the first being on page 35, clause 41(2), in the penultimate line, where we will delete the word "been." So, "has been given" becomes "has given." And again, on page 43 of the Bill, clause 61, we will replace the heading with "Striking off ISAC." So with that, Madam President, I will continue.

Madam President, Bermuda has historically been a pioneer in developing segregated cell accounts company structures and concepts. The development of the Bermuda segregated accounts companies regime from the early 1990s took the form of private Acts and has evolved into the enactment of the Segregated Accounts Companies Act in 2000. The overriding aim of this Bill was to ensure that Bermuda remained at the forefront of international corporate law developments so as to maintain our competitive edge in order to take advantage of any future growth opportunities.

This Bill seeks to further modernise our segregated accounts companies [SACs] regime. The segregated accounts companies concept, originally embraced by Bermuda's captive market and larger commercial insurers and reinsurance industry, has since been extended to use for other purposes—for example, the investment funds business. It is therefore unquestionable that SACs have worked well in Bermuda, just as cell companies have done in a growing number of competitor jurisdictions.

The approach taken in respect of this new Bill is to merge elements of two concepts that are the basis of the SAC Act and the Companies Act 1981, resulting in the creation of a new regime governing ISAC [incorporated segregated accounts company] structures. Such structure is, therefore, a hybrid of our existing segregated accounts company and the conventional limited liability company.

Notwithstanding the intention of this new legislation, it is important to note that both the new ISAC and existing SAC structures will be offered as two distinct and marketable corporate products.

Madam President, in order to fully appreciate the differences between a SAC and an ISAC structure, it is important to understand the business purposes and rationale [governing] why one product may be preferred over the other.

Madam President, prior to the introduction of Bermuda's SAC regime, statutory segregation of assets and liabilities could be achieved only by incorporating multiple subsidiaries by private Act or creating trusts. Segregated accounts companies are appealing for two main reasons: firstly, they enable the form of corporate group structure to be created, but with lower administration costs than a traditional corporate group structure consisting of multiple individual registered companies; secondly, the ability to take advantage of synergies and economies of scale, such as operating multiple types or lines of businesses under one umbrella, is inherent in such structures.

Madam President, in order for a company registered under the Companies Act to achieve legally recognised segregated accounts, it must, subsequent to its initial registration, then register as a SAC under the SAC Act with the Registrar of Companies and, thereafter, comply with statutory requirements as may be applicable under both the SAC Act and the Com-

panies Act, in addition to any other relevant laws, regulations or rules, depending on the nature of its business. Notwithstanding legal recognition, the accounts underlying a SAC structure do not themselves have legal personalities separate and apart from their incorporating SAC. Upon registration, that SAC is able to hold certain assets in segregated accounts, firewalled from the assets and liabilities of the SAC itself, which is the SAC's own account and is usually referred to as the "general account" and those of its individual segregated accounts or funds.

A fundamental characteristic of the ISAC regime is to ensure that, where assets have been allocated to any particular incorporated segregated account, those assets are held exclusively for the benefit of the owners of the relevant account and any counterparty to a transaction linked to such account. Under our existing SAC structure, each account established as a part of that structure is legally constrained by the capacity of the registered SAC itself and, ultimately, dependent upon the decision-making and actions of its management.

Madam President, on the other hand, using the Delaware series structure as an example as compared to our SAC, each series can hold its own assets, have its own members, conduct its own operations and pursue different business objectives, yet remain insulated from claims of members, creditors or litigants pursuing the assets of or asserting claims against other series. In this respect, the new ISAC structure has similar characteristics and more closely resembles the Delaware series structure.

For this reason, Madam President, some local practitioners have raised concerns as to whether or not the assets, liabilities and other legal obligations of a SAC would be effectively and legally segregated and recognised as such by the courts in other jurisdictions. One of the purposes of this Bill is to alleviate this concern and provide legal certainty to local practitioners.

Madam President, from a competitive standpoint, jurisdictions providing alternative corporate solutions in the form of incorporated cell companies or protected cell companies have been successfully challenging Bermuda with a view to gaining competitive advantages in a wide range of areas, including the insurance-linked securities [ILS] market, which Bermuda currently dominates.

There are, clearly, clients and situations where such structures are considered more advantageous than Bermuda's existing SAC regime. Indeed, the inability to provide a similar option, like ISACs, may be perceived by the market to be a weakness in our product offering, which is already being exploited by Bermuda's competition. At least 12 jurisdictions currently have ICCs (which are incorporated cell companies) and/or PCCs (protected cell companies) legislation, including our principal insurance competitors, namely, Cayman, Guernsey, Jersey and several US

states. And these structures have gained international industry acceptance.

Nonetheless, Madam President, there are, clearly, clients and situations where the SAC is considered the vehicle of choice, and for this reason we should continue to provide the SAC as an alternative corporate structure.

Madam President, an ISAC offers even more robust segregation of assets and liabilities than a SAC, because the creation and registration of incorporated segregated accounts is a more formal process than merely creating separate accounts. Additionally, an incorporated segregated account is less dependent upon the decision-making and actions of its management. For this reason, such structures are generally more attractive to potential investors, as they offer more robust asset protections amongst underlying accounts rather than sharing in the misfortunes of any other account within the same structure or the ISAC itself.

Madam President, although our proposed ISAC will have the ability to operate multiple business lines, such structures cannot, however, be used for a purpose which could not otherwise be achieved by using a number of companies in the conventional parent holding company subsidiary relationship.

Madam President, upon the registration of each account, it will immediately have a separate legal existence from its ISAC that will be recognised as such, not only in Bermuda, but in other jurisdictions. In the same manner as any other Bermuda registered entity, each registered account will be governed by its own governing documents—that is, having its own memorandum of association and by-laws, or evidence of any other formal agreements—thereby allowing complex binding commercial arrangements to be created, adding structural sophistication to the well-known SAC concept, and an enhanced level of flexibility for conducting business in Bermuda.

Madam President, the key characteristics and advantages of an ISAC over a traditional limited liability or SAC, comparatively speaking, include the following:

1. ISACs provide the flexibility for each segregated account to completely and legally separate its assets, liabilities, member agreements and other legal obligations from other accounts within the structure.
2. ISACs have the ability to enter into contractual relationships with incorporated segregated accounts formed under the ISAC.
3. Due to the separate legal personality of each account, the ISAC is likely to be a considerably easier structure for which to obtain a credit rating, which may be a prerequisite for being able to conduct or facilitate the expansion of business.
4. Limited liability companies and SACs can merge, amalgamate, re-domicile, or convert

into ISACs, and vice versa, thereby diversifying the usefulness and flexibility of those structures if necessary.

5. Each account has its own board, separate from the ISAC board, which would be acquainted with the business conducted by that account and in a better position to immediately act upon any opportunities or threats to the business.
6. ISACs have the ability to pool professional support services such as insurance and reinsurance management, investment management, legal, actuarial and auditing services.
7. ISACs can be used beyond insurance and can fund sectors with ministerial consent, as is the case with SACs.

Madam President, again, the predominant aim of the ISAC is to utilise economies of scale. For example, the standard annual government fees for Bermuda companies will apply similarly to an ISAC and are set on a sliding scale calculated on the basis of the company's accessible—or in the case of an investment fund, authorised—capital. Annual government fees for exempted companies presently range from \$2,095 to \$32,676 per company.

One of the primary benefits of an ISAC is that it renders it unnecessary to incorporate subsidiaries to conduct separate businesses or hold different assets. Instead, one ISAC with minimal accessible capital can be created, administering any number of incorporated segregated accounts, each individually ring-fenced. There are no limits on the number of accounts that an ISAC may establish.

The initial registration fee to register a traditional limited liability company as an ISAC is \$250, and thereafter the current annual fee is \$295 for each segregated account operated by the SAC, subject to a maximum of \$1,180 per annum. Therefore, by way of an example, an ISAC with minimal share capital operating 10 segregated accounts will attract an annual government fee of approximately \$3,275. At today's rates, 10 separate companies with minimal share capital would attract \$20,950 in government fees each year. Leaving aside the considerable savings in legal and incorporation fees, and ongoing secretarial fees, which are usually payable per company, the cost benefit of operating segregated accounts can be considerable.

Madam President, notwithstanding the lower cost of incorporation of such structures, ongoing annual and transactional fees applicable to companies (for instance, under the new Head 35A of the Government Fees Regulations 1976) will also apply to an ISAC and each of its underlying registered accounts. This will have the potential to increase corporate revenues for operating such structures in Bermuda.

Madam President, one of the key elements of oversight of the ISAC structure is the notification and consent of the Registrar of Companies, and in the

case of a financial institution, the Bermuda Monetary Authority is required in respect of any material changes to the ISAC or any of its underlying accounts, and prior to strike-off or winding up, an ISAC or any of its accounts.

When winding up an ISAC, Madam President, a liquidator is required to deal with the assets and liabilities which are linked to each incorporated segregated account only, in accordance with the ISAC Act. The liquidator must ensure that the assets linked to one segregated account are not applied to the liabilities linked to any other segregated account or to the general account unless an asset or a liability is linked to more than one segregated account, in which case he shall deal with the asset or liability in accordance with the terms of any relevant instrument or contract. The ISAC Act ensures a high standard of limited resource and insolvency protection.

Madam President, as a consequence of the concerns and uncertainties regarding the SAC, the ISAC structure has come to the fore as a structure that provides both a statutory and common-law basis for the segregation of assets and liabilities.

Madam President, the fundamental benefits of proposing this ISAC legislation are to:

1. maintain Bermuda's reputation for being dynamic and innovative, and to cater for the needs of existing and future business partners;
2. provide a business framework which enables Bermuda to compete on a level playing field with its competitor jurisdictions;
3. continue to provide a comprehensive regulatory and legal framework for Bermuda's stakeholders and potential customers, which enhances our reputation as an international financial service centre;
4. provide a legislative framework that is bespoke in nature and that incorporates the commonly accepted best attributes from other competitor jurisdictions, but which also includes unique attributes not found elsewhere; and
5. ensure that all local, legal and regulatory compliance rules and regulations, and international standards, apply equally to this new ISAC structure and each of its underlying incorporated segregated accounts companies, including beneficial ownership requirements in respect of transparency and compliance with economic substance requirements.

Madam President, it is important to note that the Bermuda ISAC regime will be supervised by the Registrar of Companies and the Bermuda Monetary Authority, who will ensure that Bermuda's reputation as a leading offshore financial centre and highly regulated and respected jurisdiction is maintained.

Madam President, the Government intends to ensure that Bermuda continues to lead and succeed

as a dominant force in offshore product and service development. And this has been accomplished in many ways including by means of amendments to the Companies Act 1981 and the enactment of legislation in support of highly bespoke and innovative products like SACs, LLCs, and now ISACs. The introduction in Bermuda of this new dynamic, efficient and multifaceted regime will no doubt provide our industry partners with yet another compelling reason for choosing to domicile their businesses in Bermuda rather than in a competitor jurisdiction.

Madam President, the ISAC Bill being debated today is as a result of the collaborative efforts of the Bermuda Government, the legal profession and the private sector. The Government, therefore, wishes to thank members of the ISAC Working Group of the Bermuda Business Development Agency, legal professionals, the Office of the National Anti-Money Laundering Committee, the Bermuda Monetary Authority, the Ministry of Finance, the Attorney General's Chambers, and the Business Development Unit of the Cabinet Office for their assistance in advancing this legislative initiative.

And with that, Madam President, I now conclude my remarks. Thank you.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITOR

The President: Thank you, Senator Campbell.

And before I turn it over to other Senators, I would just like to acknowledge the presence of Ms. Maxine Binns, from the Business Development Unit.

Welcome to you.

[Incorporated Segregated Accounts Companies Act 2019, second reading debate, continuing.]

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

Senator Kempe, you have the floor.

Sen. Nicholas Kempe: Thank you, Madam President.

Thank you, Senator Campbell, for yet another enlightening presentation.

[Laughter]

Sen. Nicholas Kempe: On our side, we support what is being done here. Obviously, we do not want our competitive edge to be dulled. And the productive cell units that are being used by the jurisdictions to provide greater security and comfort for either holders of assets or investors in the segregated portions of these accounts, these are clearly needed to modernise our previous SAC regime. Obviously, it is an internationally accepted business model, so moving our legislation

in that direction is useful and provides business operators greater options when doing business in Bermuda.

We have full comfort that the consultative process has been wholesome here and that this is industry-driven, as well. So, we support this Bill.

The President: Thank you, Senator Kempe.

Would any other Senator care to speak on this Bill?

Senator Jardine, you have the floor.

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

The President: Good morning to you.

Sen. James S. Jardine: And good morning to the listening public.

First of all, I would like to thank all the draftsmen and draftswomen, and others, who have spent an incredible amount of time putting this piece of legislation together. I know it does not make exciting reading for those who are not interested in it. But it is very important legislation. And so, the listening public may be glazing over as they listen to some of what has been said this morning. But I can assure them that this legislation is absolutely essential and will put us on a level playing field with this kind of structure with our competitors to the south and also to the Channel Islands. So, this is extremely important legislation. And I would just like to say that, obviously, I support this legislation.

I did plough through all 48 pages of it, as I am wont to do. And there are one or two typos, I think, in the legislation, nothing significant. But I would like to draw the Government's attention to them. The first is on page 40, and it is with respect to clause 50 in the second paragraph, which begins, "unless an asset or liability . . ." And then, on the second line it says, "shall deal with the assets or liability . . ." And I think that should be singular, "asset." So, it is like that is just a typo there. The "s" needs to be removed.

And then, on page 44, clause 64(1)(a), it talks about the accounts. And if you look at the third line of that, it is "segregated account." It should be "segregated accounts," plural.

And then, on page 32. And I am going back to this one because the first time I read it I had a query with respect to a nomenclature that was not included in there. And then I had further discussions and second reviews. And I still think that there probably is a typo there. If you look at clause 39, it is headed "Notice of registration of incorporated segregated account . . ." Then if you look at clause 39(1)(a), it says, "the name of the proposed company, which shall not include the expression 'ISAC' . . ." I think that should be "ISA," I-S-A.

There is a definition for ISA, and it appears earlier in the legislation on page 7. And it is the only place in the legislation where it appears. And it is in clause 4(1)(a) right at the end. And it talks about "of each account to include the letters 'ISA' . . ." So, I think, if I am correct, there is a typo there, and that should read "ISA" as opposed to "ISAC" [at page 32].

So, with those comments, Madam President, I support this legislation. Thank you.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

No? Then, Senator Campbell, over to you again.

Sen. Vance Campbell: Thank you, Madam President.

Thank you, Senator Jardine, for pointing out those typos. And thank you to my fellow Senators for their support of this Bill.

With that, Madam President, I would like to move that the Bill entitled Incorporated Segregated Accounts Companies Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection. Carry on, Senator Campbell.

SUSPENSION OF STANDING ORDER 26

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

The President: Is there any objection to that motion?

No objection.

[Motion carried: Standing Order 26 suspended.]

Sen. Vance Campbell: Madam President, I move that the Bill entitled the Incorporated Segregated Accounts Companies Act 2019 . . .

The President: Senator Campbell is being asked to check something. So, we will give him a moment to confirm something.

[Pause]

The President: He did confirm something with the technical officers.

Senator Campbell, it is over to you.

Sen. Vance Campbell: That is correct, Madam President. I am told I must state that they are in agreement with the suggested corrections and that those corrections will be made before the Bill is made final.

The President: Good. Thank you, Senator Campbell. And thank you to the team.

You can carry on now with the third reading.

Sen. Vance Campbell: Yes. So, Madam President, that having just been said, I move that the Bill entitled the Incorporated Segregated Accounts Companies Act 2019, with the included corrections, be now read a third time.

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

No objection.

BILL

THIRD READING

INCORPORATED SEGREGATED ACCOUNTS COMPANIES ACT 2019

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

The President: It has been moved that the Bill entitled the Incorporated Segregated Accounts Companies Act 2019 do now pass.

Is there any objection to that motion?

No objection. The Bill is passed.

[Motion carried: The Incorporated Segregated Accounts Companies Act 2019 was given a third reading and passed.]

The President: Thank you, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

The President: We will now move on to the final Order of the Day. And that is the second reading of the Misuse of Drugs (Hemp) Amendment Act 2019.

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

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

The President: Good morning again to you.

Sen. Anthony Richardson: I am actually pleased to do this on behalf of Madam Attorney General.

Madam President, I move that the Bill entitled the Misuse of Drugs (Hemp) Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Richardson.

BILL

SECOND READING

MISUSE OF DRUGS (HEMP) AMENDMENT ACT 2019

Sen. Anthony Richardson: Madam President, I am pleased to lead the debate on the Bill entitled the [Misuse of Drugs \(Hemp\) Amendment Act 2019](#), which was laid in this Honourable House on December 27, 2018.

Madam President, the purpose of this Bill is to amend the Misuse of Drugs Act 1972 to create a legal distinction between cannabis and hemp. Currently, under the Misuse of Drugs Act 1972 the definition of “cannabis” can be interpreted as including hemp. This has caused problems, as consumers expect to be able to legally purchase hemp-based products locally.

Madam President, hemp is a strain of the *cannabis sativa* plant species that is grown for the industrial uses of its derived products. It can be refined into a variety of commercial items including food, clothing and textiles.

Madam President, although the cannabis as a drug and hemp both derive from the species *cannabis sativa*, hemp has lower concentrations of the psychoactive component tetrahydrocannabinol, or THC. Both cannabis and hemp can produce cannabidiol (CBD), with hemp producing higher amounts of CBD, the non-psychoactive component which, essentially, decreases the psychoactive effect.

Madam President, the legality of hemp varies between jurisdictions, with some governments permitting only hemp with an especially low THC content.

Madam President, in the Misuse of Drugs (Hemp) Amendment Bill, the new definition of “hemp” provides for a THC concentration of not more than 1 per cent.

Madam President, over the last 5 to 10 years, there has been a global influx of hemp products available at various outlets. These include products ranging from soaps to cosmetics, handbags and shoes, hemp seed oil and protein powder, rope, canvas, carpeting and fuel.

Madam President, this Government acknowledges that there is a distinction in the composition of cannabis and hemp, and the need for this to be reflected in legislation. The definition of “cannabis” will be amended to exclude “hemp.” Although the definition of cannabis has been amended, cannabis remains a Schedule 2 controlled drug, which remains unlawful to import, supply, sell and possess, subject to the Misuse of Drugs (Decriminalisation of Cannabis) Amendment Act 2017.

Madam President, the new definition of “hemp” will be inserted into the Misuse of Drugs Act 1972 to differentiate hemp from cannabis and to allow

for the proper import, supply, sale and possession of hemp products in Bermuda.

Thank you, Madam President.

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

Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President.

We definitely do agree and concur with the purpose and the write-up of this particular legislation. I like to call this type of amendment a “common-sense amendment.” I am sure that vendors and proprietors of products that have hemp in the makeup of their product will be very happy, because I believe this will eradicate a lot of the confusion and the anxiety that is caused from the authorities responsible for inspecting products. So, this distinction is applauded in the legislation, this amendment. And we are in full support of this particular Bill. Thank you.

The President: Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

Senator Jardine, you have the floor.

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

I hear the words *a common-sense Bill*, and I think, by and large, that is true. Certainly, in the United States, as I understand it, the commercial level is specified at 0.3 per cent as opposed to 1 per cent. I do not necessarily have a concern with the 1 per cent. I would be concerned, obviously, if that 1 per cent were to vary substantially from that level. And I notice in the definition of hemp, it says there, “with a THC content of not more than 1% or such other concentration as may be specified by the Minister by Order published in the Gazette . . .”

So, my concern is, or I should say I would just like to say my concern, and that is that I hope that the Minister in the future, if he decides to vary the 1 per cent, is . . . I mean, I am aware of the fact that it has a very low THC content in it; hemp does. But I would like to ensure that this 1 per cent does not vary significantly upwards in time. And I would just sound that caution in supporting this Bill.

Thank you very much, Madam President.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Michelle Simmons, you have the floor.

Sen Michelle Simmons: Thank you, Madam President.

Senator Richardson has addressed one of the questions I had, because I was trying, as I read

through the Bill, to get a clear idea of the intent. I am sure all of us, including many people in the listening audience, are aware that there are hemp products already being sold in Bermuda. But my understanding is that this has been restricted right now to pharmacies, and it has been made impossible for other importers to bring in hemp products. And I am not just thinking of those products that have pharmaceutical applications, but also, as Senator Richardson mentioned earlier, things like soap and rope, other beauty products and so on. There are many, many things that are manufactured using hemp.

One of the questions I have that still is not, or has not been answered is, How can we ensure that the 1 per cent is being adhered to? I guess we depend on labels on items to tell us what composition is contained in those items. But does that apply to everything that has hemp in it? I just wanted to make sure that there has been some consideration given to how the authorities—I am thinking particularly of Customs—would ensure that things have no more than a 1 per cent concentration of THC.

And I think that is the only question I still had. And I would appreciate a little clarification, if that is possible.

Thank you, Madam President.

The President: Thank you, Senator Simmons.

Would any other Senator care to speak on this Bill?

No. Then, Senator Richardson, you had a couple of questions.

Sen. Anthony Richardson: Thank you, Senators and Madam President.

In commenting or trying to respond to the questions raised, I will offer a few comments, please. And one is to answer the question, [(a)] Are hemp and cannabis the same? And the answer is no. Although they are part of the *cannabis sativa* plant family, there are some key differences between hemp and cannabis. Hemp contains little to no tetrahydrocannabinol (THC), the compound in cannabis that produces the psychotropic and mind-altering effects that get you high. Hemp, for the purposes of this jurisdiction, contains not more than 1 per cent THC, while cannabis contains more than 1 per cent THC. Both hemp and cannabis contain cannabidiol, which is CBD, which does not produce the psychotropic or mind-altering effects. Hemp naturally contains higher amounts of CBD and contains a lower concentration of THC.

This actually addresses the question or comment from Senator Jardine in terms of the Minister potentially allowing a higher concentration of more than 1 per cent THC. And based upon this, [(b)], the answer would be no because the higher the concentration, the more you are allowing the hemp to be more similar to cannabis. And (c) about a distinction is that hemp and cannabis plants’ appearances are no-

ticeably different. Cannabis plants have broad leaves and dense buds. Hemp plants, on the other hand, have skinny leaves that tend to be thicker toward the top of the plant.

Another comment, in responding generally [to the question] Is hemp lawful in Bermuda? Presently, hemp is not lawful in Bermuda. And this goes to, I think, the comments from Senator Simmons. The Pharmacy Inspector has been properly advising distributors and merchants that hemp is not lawful for sale and should be removed from shelves. The Government is aware that there are many hemp products currently available, which is the reason why we are making a clear distinction in this legislation to avoid or minimise the current confusion.

And (d) with only one Pharmacy Inspector, it is difficult to monitor all products that are available for purchase on the Island. But that is the regime that currently exists.

Another general comment is, Would members of the public and visitors be able to import hemp or hemp products into Bermuda? And the answer is yes. Hemp and hemp products, subject to this Act, can be lawfully imported into Bermuda by the residents of Bermuda as long as the THC content is no more than 1 per cent. And no special category has been made in reference to visitors. Therefore, visitors will be treated the same as Bermuda residents.

And then, a key point, or another point, I guess, that is important to stress is, Does this amendment to the Misuse of Drugs Act 1972 make cannabis lawful in Bermuda? The answer is no. Cannabis is still classified as a Schedule 2 drug, and it is unlawful to import, possess, supply and sell, subject to the Misuse of Drugs (Decriminalisation of Cannabis) Amendment Act 2017.

So, Madam President, I trust that those comments do answer the questions that were raised by the Senators. And I know that, even in preparing and going through the brief, it has been an eye-opener to me because I thought of all these things as being the same. But clearly, based upon what I have just said, there is a distinction between cannabis and hemp. And the hemp products themselves can be used without causing any undue psychological changes to the individual user. So, I guess we should look forward to—

Sen. Nicholas Kempe: Madam President, I actually have a point of clarification I would like to raise, if possible.

The President: Senator Kempe has a point of clarification.

Senator Richardson, will you accept the point of clarification?

Sen. Anthony Richardson: Yes, Madam President.

The President: Senator Kempe, you have the floor.

POINT OF CLARIFICATION

Sen. Nicholas Kempe: Thank you, Madam President. Thank you, Senator Richardson.

Listening to the Senator's closing remarks, Madam President, there were a couple items that jumped out at me and raised more questions. One was what we are effectively doing here is defining in Bermuda what is hemp and what is cannabis. And it seems to be less of a botany issue and more of a concentration of THC. So, the other visual cues to distinguish which plants have higher CBD values and which plants have higher THC values seem, essentially, wholly irrelevant. It is going to come down entirely to the THC content.

So, Senator Richardson suggested that, basically, the Minister would never be able to define hemp as having more than 1 per cent because then it would, for some reason, become cannabis. But we are defining, in these Chambers, what is hemp and cannabis. So, the percentage that cuts it off is not based on a global standard; it is based on what laws we pass here or what is gazetted, as this law gives ample right for the Minister to do.

My other question is, as the Senator stated, there is a lack of officers to police what is on the shelves in retail stores and pharmacies and this kind of thing. And if that problem existed when the allowed percentage of THC in products was 0.0 per cent, how does that problem go away when all we are doing is changing the potency benchmark to 1.0 per cent? Is there going to be an increased funding of control officers inspecting whether goods have 0.5 per cent or 4.0 per cent? This does not seem to actually address that challenge at all; it is just simply shifting the point of measurement.

The Senator's answers left me with more concerns or more questions rather than clarity. So, I was hoping to get some further and better particulars from the Senator.

The President: Thank you, Senator Kempe. Senator Richardson.

Sen. Anthony Richardson: Thank you, Madam President.

I just want to clarify. I am not stating that the Minister *cannot* raise the percentage. I am speaking more to the likely impact in that we are currently trying to define the distinction between hemp and cannabis. And so, the impact . . . it is not a definite. The Minister can, obviously, under the Bill make an adjustment. But again, I would just emphasise that it is unlikely to go higher. And, to be honest, given that in other jurisdictions the allowable concentration is lower, the Minister has the discretion to make it lower or also higher. So, effectively, that is argument that is going to be given.

And in terms of the regime (I want to call it) for inspecting products and the like, I do not have an answer at this stage. But I will take it under advisement and provide the information at a different stage.

But I want to emphasise that the goal of the legislation today is to remove some of the ambiguity and make it clearer that persons can import hemp products subject to the definition that we are talking about today. And we know in the marketplace that there are many persons who do provide hemp-based products, and they have been asking for this change to be made. And I want to say that this is another demonstration of how the Government is prepared to listen to those in the community who have valid concerns and try to adjust as appropriate. And therefore, we will be providing through this legislation more opportunities for economic activity on the Island.

Thank you, Madam President.

The President: Thank you, Senator Richardson. Do your second reading.

Sen. Anthony Richardson: So, Madam President, I now move that Standing Order 26 be amended in respect—

The President: The second reading first.

Sen. Anthony Richardson: (Oh, I am sorry.) I move that the Bill entitled the Misuse of Drugs (Hemp) Amendment Act 2019 be read a second time.

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

SUSPENSION OF STANDING ORDER 26

Sen. Anthony Richardson: 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.]

Sen. Anthony Richardson: Madam President, I move that the Bill entitled the Misuse of Drugs (Hemp) Amendment Act 2019 be now read a third time.

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

BILL

THIRD READING

MISUSE OF DRUGS (HEMP) AMENDMENT ACT 2019

The President: Thank you, Madam President. I move that the Bill do now pass.

The President: It has been moved that the Bill entitled the Misuse of Drugs (Hemp) Amendment Act 2019 do now pass.

Is there any objection to that motion?

No objection. The Bill has passed.

[Motion carried: The Misuse of Drugs (Hemp) Amendment Act 2019 was given a third reading and passed.]

The President: Thank you, Senator Richardson, and thank you, all Senators.

We will now move on through the agenda.

MOTIONS

The President: There are none.

CONGRATULATORY AND/OR OBITUARY SPEECHES

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

No.

ADJOURNMENT

The President: Senator Caesar.

Sen. Crystal Caesar: Thank you, Madam President. I move that the Senate do now adjourn to next Wednesday, November 20th.

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

Senator Kempe, you have the floor.

PROPOSED CHANGES TO PENSION SCHEME

Sen. Nicholas Kempe: Thank you, Madam President.

I would like to speak about a point of angst that I am hearing a lot of in the community, especially out on the doorstep, which has ramped up of late. And it has to do with pensions. The Premier—in not even the other place we usually refer to, but in the quasi-Throne Speech—made a lot of grand references to changes to the pension scheme, talked about investments in co-ops and other things like that. And whether it was by design or by fault, it was a very ambiguous statement of intent. It was lacking details, lacking

a kind of a plan surrounding it. And I trust we will hear more on the 15th.

But the way it was framed, the way it was announced, it has caused considerable concern, considerable angst in the community about whether pensions are going to be seized or forced to be invested in certain products, which I do not believe to be the case. But again, I have to read between the lines of what the Premier stated in another place.

I would strongly encourage that some clarity be provided around these grand reforms that were suggested, because it is causing considerable concern in the community about what is happening to people's savings, what these investments may be, whether it is going to be mandatory or not. So, I would strongly encourage that the communication on these plans . . . it seems to have been a bit of a theme today in the Senate about the angst that lack of communication can cause to the general public. And that is all I have to say on that, Madam President.

The President: Thank you, Senator Kempe.

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

Senator Richardson, you have the floor.

PROPOSED CHANGES TO PENSION SCHEME

Sen. Anthony Richardson: Yes, good morning, Madam President.

I think for us it is interesting that one of our responsibilities is to provide information when questions arise. And really, with respect to the pension comments, the Premier has been very consistent over the past couple of years, actually, in terms of what is intended. And I too have interacted with members in the community, and they have basically asked for clarification.

I have answered by saying that what the Premier has said broadly is that at this stage Government has responsibility for investing certain assets. And those assets, by and large, are invested overseas in companies and otherwise. And what he has said is that it will make sense, it will be practical to ensure or to allow for some of those assets to be invested locally because the Bermuda economy also needs to be activated to some degree.

And so, it is not a question of persons in any way being irresponsible in terms of using those investments, but simply being practical and realistic in terms of [the fact that] there are times when we want to do things locally, and we can be allowed to do so.

One of the interesting comments in terms of our personal investments, for example, might be that if I happen to have an investment portfolio of, let us say, I do not know, \$500,000 and I need to or I would like to purchase a house, and I do not have the down payment, it is not impractical for me to use some of my personal investments to make the down payment

for the house, especially because having a house provides stability for me and my children [now] and thereafter. And so, there are some definite advantages in doing so.

And again, I just want to emphasise that one of our responsibilities is to provide information when persons do ask us to do so. And that is my comment for today. Thank you.

The President: Thank you, Senator Richardson.

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

Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President.

I believe that topic that was just raised, I can concur with some of my colleagues that this has been a question that has risen to my attention, as well.

UNIVERSAL HEALTH CARE

Sen. Marcus Jones: But be that as it may, my topic of discussion [on a] motion to adjourn issue has to do with something that is near and dear to my heart. As a Government, it is quite clear that its responsibility is to create an environment for its citizens, one that will foster prosperity and peace, and in this country be able to engender an atmosphere where we as citizens can discover and experience the Bermudian dream.

Now, not many people have been able to clearly define what that Bermudian dream is. We all have our own opinions of what that would be. But surely, every man, woman, boy and girl in this country who has the right and privilege to live here should be afforded the opportunity to enjoy the quality of life that we believe Bermuda can provide for us.

So with that introduction to where I am going, my concern is the Government's journey into the waters of providing universal health care for its citizens. A noble desire, we can all attest to that. But in the Government's quest to create an environment of peace and prosperity, they need to make sure that there is prosperity—i.e., there is sufficient revenue, an economy that is buzzing along, [making sure] all of our assets and government investments are tight and tidy so that we can afford to do this.

We know that the Minister of Health and her team have been doing the roadshow and presenting their plan to the general public. I was fortunate to be able to attend one in the West End in September. And many questions were raised. I am glad that I was there, because I was able to see first-hand not only the questions that were asked, but also the body language, the nonverbal communication that was coming from residents, both middle-aged and seniors, who had some legitimate questions, questions some of which were not answered, some of which were sort of set aside because all of the information was not there.

But there seems to be a general anxiety in the country.

I am reminded of the story of Paul Revere, the American patriot during the American War with Britain, when he was riding to Boston to let his fellow patriots know that *The British are coming! The British are coming!*, to prepare for impending doom. Well, I would not go as far as to say that this journey is doomsday. But I would say that the Government would need to take a breath, pump the brakes and give more thought and a listening ear, especially to the professionals within the industry who have been practicing their trade—i.e., the doctors and the professional practitioners who have voiced their opinions.

Now, we understand and know, Madam President, that consultation is part of the order of the day. Whenever the Government is bringing about proposals for changes in the way they do business, especially something as large and expensive as health care, consultation is important. And I was mindful of the town hall meeting that was held in St. George's. I was not fortunate to be there; I was able to look at it online. I was cognisant of some comments made about the conduct of some of the doctors and physicians and professionals who were attending that particular town hall. And there were comments made that some of them were rude and some of their comments were inappropriate. And it was stated that they heckled and booed the Minister.

Now, I do not in any way agree with that type of behaviour. Having said that, we do recognise that the right to protest and the right to voice your disagreement to something are part of the rights of every Bermudian who lives here. And just as an observation, it is interesting in this country that certain issues generate feelings of heroism in some sector of the country and make villains of others. We know that for the issue of the pepper-spraying incident, those who were protesting, some disobeyed the law, some blocked politicians from getting into the House of Assembly to do the people's business. And many of them were made as heroes. And those who were voicing their opinion in this town hall, not breaking the law, but just expressing their concern, are made out to be villains.

Be that as it may, Madam President, I would just say that . . . and I would advise the Government, when embarking on consultation, it not only needs to be the applicable practice of having consultation for feedback to garner advice, input from the public for their buy-in in a spirit of full disclosure, but once you have already made your decision, which appears to be the case in this situation, then the public and those key stakeholders feel like their opinions have been discarded even before they have been able to give them. And that really, really was borne out in a number of different articles in the newspaper.

In the *Royal Gazette*, we find that the Bermuda Medical Doctors Association [BMDA], a group of

physicians, have stated their displeasure of this impending proposal. We find that here recently, there has been a group called Patients First Bermuda, which is made up of about 75 physicians, and they are showing and displaying and communicating their concern.

So, Madam President, under the overall umbrella of a Government whose number-one mandate is to create an environment for its people and its citizens to live a high-quality life and to be able to provide the funding for things like this without overtaxing them with policies and other over-burdensome levies, I would caution the Government to listen to its people.

We did experience the situation with the Corporation of Hamilton and the Corporation of St. George's, where the Government was trying to push through legislation that would actually curtail the democracy of people within this country. And we find that a high percentage of the people who were surveyed were against what the Government was planning to do in regard to the corporations.

We find that even with this group, a survey was done amongst the doctors of the BMDA. And of those participants, 95 per cent of those doctors who were surveyed were against the proposal that was being put forward by this Government. I recognise that we have a representative democracy, meaning that its people vote for persons to represent them to govern the country. From time to time, we are able to have a referendum, where the people actually, Madam President, directly have a say in how certain policies of national importance can be implemented and decided by its people. But a representative democracy can be slightly different in that its representatives actually govern.

So, we understand the power and the authority that the Government has. But we do, at the same time, caution those who are the decision-makers to have another look, to listen very carefully, to understand the implications, to be aware of the unintended consequences that can arise from reforming a system that this Government promised (a) to find a way to decrease the cost of health care in this country; and [(b)] to cover those who are under- or not insured.

My questions to the Government of the day, to the Ministry of Health, is, Have you done everything within their power to facilitate those who are less fortunate, who do not have full insurance? Have you done everything in their power to decrease the costs that the everyday citizen has to pay out?

One of the number-one voting blocks of their platform is to lower the cost of living. The professionals who are in this industry are telling us ever so forcibly that this new reformation will not lower the costs. And the information that has been amassed to make this decision, from my observation, is not complete.

So, with those words, Madam President, I lay out a challenge to this Government to have another look. Do not be . . . and I appreciate the fact that the

consultation has been long. The period of time that has been dedicated to the consultation, I am in total agreement with. You would know, Madam President, that on different occasions I have hemmed and hawed about the Government's fast-paced speed in which it comes up with these decisions. So, I am encouraged that the Government has displayed an amount of deliberation.

But once the public and the key stakeholders got a hint that the decision had already been made, it created a fair amount of anxiety both within the professional side, the providers of the services for health care, as well as with those who are the recipients and consumers of health care.

And with those words, Madam President, I thank you for the time.

The President: Thank you, Senator Jones.

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

No. Then, Senator Caesar, as Acting Government Leader, it is over to you.

BYE-ELECTION—CONSTITUENCY 17

Sen. Crystal Caesar: Thank you, Madam President.

As Acting Leader, I would like to just say a few words on the motion to adjourn. In just over a week, we will be undergoing a bye-election in constituency 17. And I would like to highlight that both of the gentlemen who are standing to become, or vying for a position as a Member of Parliament are young men in the community. And I think it speaks to a level of community-mindedness, service and also somewhat of political prowess, although both are relatively young in the political process.

So, I would just like to acknowledge that these are both young men under the age of 40 who have decided to step up and serve their community. I think that they need to be lauded. I think that their contribution and their sacrifice should be acknowledged.

With that said, I would also like to appeal to other people in their age group, say, between the ages of about 30 to 45, to become more invested in what happens in our country. I have heard as a result of this bye-election that, oftentimes, people in that age group are not the ones who vote, which I actually find somewhat bizarre, because these are the people who ultimately will have to live the longest with any decisions. Well, obviously, people younger than they are, as well. But these are the people of voting age who actively will be able to take advantage of any decisions that are made by the Government of the day, no matter which Government that is.

So, I would just like to [say to] young people, that I know that we get inundated with our lives, that we say, *I'm busy. I'm building a career. I have a family. I have things that I need to address now.* But I believe that in order for us to become and feel invested

in our society we have to become interested in how that society is run and to take an active part.

When I was younger, I always heard people saying, *Well, you know, politics is for older people who are retired* and what have you. I do not actually think that this is the case. So I use the two young men who are running in the bye-election, and I wish them both the best of luck. But I admire their willingness to step out and serve, and I hold them up as examples to other young people to do the same.

And with that said, Madam President, I believe we are now done for the day. So, I finish with those comments.

The President: Thank you, Senator Caesar, the Acting Government Leader in the Senate.

The Senate stands adjourned until next week, Wednesday, November the 20th. Thank you.

[At 11:49 am, the Senate stood adjourned until 10:00 am, Wednesday, 20 November 2019.]

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