



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

4 December 2019

*Sitting number 25 of the 2018/19 Session
(pages 701–724)*

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

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BERMUDA SENATE**OFFICIAL HANSARD REPORT****4 DECEMBER 2019****10:04 AM***Sitting Number 25 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]

**OATH OF ALLEGIANCE
OF NEW SENATOR**

The President: The next item is the Oath of Allegiance.

I would like to call Mr. Dwayne Robinson to come forth.

The oath or the affirmation?

Sen. Dwayne Robinson: The oath.

OATH OF ALLEGIANCE**Mr. Dwayne Robinson**

Sen. Dwayne Robinson: I, Dwayne Vernell Robinson, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law. So help me God.

The President: And you will sign.

[Pause]

The President: Good. Thank you.
Congratulations.

Sen. Dwayne Robinson: Thank you so much.

CONFIRMATION OF MINUTES

[Minutes of 13 November 2019]

The President: The second item is the Minutes of the 13th of November 2019.

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 13th of November 2019, be taken as read.

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

Sen. James S. Jardine: Madam President.

The President: Carry on.

Sen. James S. Jardine: Madam President, I move that the Minutes of Wednesday, the 13th of November 2019, be confirmed as the correct record of that meeting.

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

[Minutes of 13 November 2019 confirmed]

The President: Thank you, Senator Jardine.
Item No. 3, Messages.

MESSAGES

The Clerk: No messages, Madam President.

The President: Thank you.

REPORTS OF COMMITTEES

The President: There are none.

ANNOUNCEMENT BY THE PRESIDENT**AUDITOR GENERAL'S REPORT ON THE WORK
OF THE OFFICE OF THE AUDITOR GENERAL,
YEAR ENDED MARCH 31, 2018**

The President: I do have an announcement, which I will read to you.

Senators, I wish to announce that, in accordance with the provisions of section 101.3 of the Bermuda Constitution Order 1968, and section 10 of the Audit Act 1990, the Report of the Auditor General on the Work of the Office of the Auditor General for the

[Financial] Year Ended March 31, 2018, has been forwarded to myself as President of the Senate, and that the said report is hereby tabled in the Senate for the information of Senators. And, Senators, you can access copies of the report on your tablets.

A further announcement: the Annual Report of the Bermuda College. Madam Attorney General, Government Leader in the Senate, Kathy Lynn Simmons, you have the floor.

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

The President: Good morning.

BERMUDA COLLEGE ANNUAL REPORT FOR THE YEAR 1ST APRIL 2018 TO 31ST MARCH 2019

Sen. the Hon. Kathy Lynn Simmons: I hereby present for the information of Senate the Annual Report of the Bermuda College for the year 1st April 2018 to 31st March 2019. Senators can access a copy of the report on their tablets.

The President: Thank you, Madam Attorney General.

NOTICES OF MOTION

The President: There are none.

PETITIONS

The President: There are none.

STATEMENTS

The President: We do have one Statement, Ministry of Legal Affairs Pupillage Programme. And that will be given by Senator Kathy Lynn Simmons, Attorney General and Government Leader in the Senate.

You have the floor.

MINISTRY OF LEGAL AFFAIRS PUPILLAGE PROGRAMME

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

Madam President, it was just over a year ago that I shared with this Honourable Senate that the Ministry of Legal Affairs had renewed its commitment to revive the [Ministry's Pupillage Programme](#), which had fallen dormant under past administrations. Today I am pleased to provide an update to Members and the public about the successes of the Ministry of Legal Affairs' 2018/19 Pupillage Programme.

Madam President, the principal objective of the pupillage programme is to train-up future Bermudian barristers and attorneys by providing a compre-

hensive and rigorous professional training opportunity within the Ministry of Legal Affairs' departments and sections. As Attorney General and Minister of Legal Affairs, I recognise the unofficial stewardship of this title to be mindful of the state of the legal profession, including ensuring that there are sufficient opportunities for Bermudians to access a career at the Bermuda Bar.

I recall being approached by several young, talented and tenacious young Bermudians with law qualifications (and their parents), lamenting that pupil training places were not available within government. In fact, pupil places within the private sector had also dried up—all, unfortunately, due to budget constraints and fiscal conservatism.

Madam President, I must emphasise that for a person to be admitted to the Bermuda Bar to practice as a barrister and attorney within Bermuda, they must satisfy the requirements of section 51 of the Supreme Court Act 1905. One of those requirements is that such persons must undergo and complete a period of lawful pupillage of not less than 12 months. Thus, if across Bermuda's legal profession there are very few pupil places, otherwise qualified Bermudians will be barred from entering the legal profession. Yet, at the same time, foreign lawyers are able to obtain work permits to practice law in Bermuda. Such a barrier to entry into the legal profession for Bermudians is unsustainable. Not to mention, in the longer term, it discourages Bermudians' interest in pursuing a career in law and impacts families who sacrifice so much to send their children overseas to the UK, Canada or the Caribbean to obtain their legal qualifications.

Madam President, I pause here for a snippet of history. None other than Bermuda's National Hero, former Attorney General and Bermuda's first female lawyer, Dame Lois Browne-Evans, created the first formalised Ministry of Legal Affairs pupillage training programme. It is through Dame Lois's vision, foresight and legacy that the Ministry of Legal Affairs can take credit for developing many of the finest legal minds in government and beyond. Notable former pupils are the current Deputy Solicitor General, Shakira Dill-Francois, and the Deputy Director of Public Prosecutions, Cindy Clarke.

Madam President, there are many advantages of a pupillage with the Ministry of Legal Affairs, including exposure to several different departments and legal areas under the Ministry's umbrella, as follows:

- In the Department of Public Prosecutions and the Legal Aid Office, pupils get exposure to the full range of criminal law advocacy.
- Within the Civil Advisory Section of the Attorney General's Chambers, pupils gain experience in advising government departments on a range of administrative law and civil law matters, as well as judicial review proceedings and civil advocacy.

- The pupils' time in the Legislative Drafting Section of the Attorney General's Chambers allows them to provide support and assistance to Parliamentary Counsel, whose role is to translate the policies of the Government into legislative provisions.

Madam President, the pupils gain hands-on experience in all these areas, building up a breadth of knowledge of Bermuda law and practice over the 12-month programme. A unique feature of the Ministry's pupillage programme is that each pupil has input to divide their placements, based on their individual interests and future career paths. They also have an edge over pupils in the private practice because of the invaluable insights they gain into the inner workings of government. Pupils, like their supervising counsel, work right alongside senior government officials, contributing to the operational and administrative aspects of the public service.

Madam President, I am overjoyed to announce that our most recent cohort of four pupils have successfully completed the programme. Each was confirmed by their Pupil Masters to be exemplary in their competencies, and fit and proper to enter the legal profession. They are all now called to the Bermuda Bar as barristers and attorneys, notaries public and commissioners for oaths.

I encourage this Honourable Chamber to take note of Janae Nesbitt, Shi-Vaughn Lee, Jason Outerbridge and Tiné Tucker—four barristers with exciting and storied futures ahead of them at the Bermuda Bar. I want to publicly praise each one of them for having excelled during their pupillages; for the impact and quality of their contributions to each area they matriculated through; and for pushing themselves past their comfort zones, thereby refining their skills and competencies. Furthermore, they have all conveyed an interest in remaining in Bermuda to launch their professional careers and a commitment to public service.

The pupils start the programme with no expectation of future employment; however, we are actively working with each of them to find suitable posts across government, within existing budget allocations. Madam President, when canvassed for their feedback, pupils attest to the unmatched wealth of experience that pupillage with the Ministry affords. Acknowledgement is given of the rich range of exposure, as previously detailed, over pupillage within private sector law firms. Additionally, pupils highlight the value of the abundance of advocacy opportunities and their involvement in litigation, drafting and advocacy with tremendous public impact and/or of national importance. The former pupils attest to feeling confident that the programme has sufficiently equipped them to enter practice and prepared them for the rigours of criminal and civil advocacy.

Madam President, the feedback from our outgoing pupils has informed improvements for the next

intake of pupils. Currently, the Ministry has received eight requests for pupillage and has obtained approval to hire three new pupils. The cost per pupil is about \$78,200, which does not include benefits. We anticipate our next cohort will commence training in January 2020. That recruitment process is pending. Madam President, it is anticipated that the continued success of the pupillage programme will provide a route to the legal profession for the most qualified Bermudian applicants, and over time reduce the government's need to recruit foreign lawyers. Cultivating a culture of legal expertise requires planning toward domestically meeting the demand for legal services, notwithstanding perennial budgetary constraints.

Madam President, I wish to close by thanking counsel within the Ministry of Legal Affairs who served as Pupil Masters and provided the pupils with an opportunity to work under their supervision and guidance throughout the programme. The Pupil Masters for the 2018/19 Pupillage Programme were Deputy Solicitor General Shakira Dill-Francois, Crown Counsel Lauren Sadler-Best, former Crown Counsel Specialist Larissa Burgess, Crown Counsel Maria Sofianos, and Acting Senior Legal Aid Counsel Charles Richardson. Although Pupil Masters had ultimate supervision of the pupils, all counsel within the Ministry generously volunteered their time, instruction, advice and words of encouragement to the pupils. They too deserve recognition.

Finally, training highly skilled Bermudians and investing in Bermuda's future is my priority. In a climate where well-educated Bermudians have found it difficult to get their foot in the door and the hiring of non-Bermudian lawyers continues to grow, this is a vital programme which must continue. I look forward to updating the Senate regarding future programme developments and successes. Thank you, Madam President.

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

INTRODUCTION OF BILLS

The President: There are none.

FIRST READINGS OF PUBLIC BILLS

NATIONAL PENSION SCHEME (OCCUPATIONAL PENSIONS) AMENDMENT ACT 2019

INTERNAL AUDIT AMENDMENT ACT 2019

The President: The following public Bills have been received from the Honourable House of Assembly and are here read for the first time. Their titles are, respectively, the National Pension Scheme (Occupational Pensions) Amendment Act 2019 and the Internal Audit Amendment Act 2019.

And, Senators, we had decided that these two Bills would be taken up today.

FIRST READING OF PRIVATE BILLS

The President: There are none.

QUESTION PERIOD

The President: The floor is open for questions on the Statement that has been read. Would any Senator care to speak?

Senator Michelle Simmons, you have the floor.

Sen. Michelle Simmons: Good morning, Madam President. Thank you.

The President: Good morning to you.

QUESTION 1: MINISTRY OF LEGAL AFFAIRS PUPILLAGE PROGRAMME

Sen. Michelle Simmons: I want to commend the Attorney General and Minister of Legal Affairs for re-launching this pupillage programme. It is so important in our community to provide the training and the experience for our young people who are going overseas to earn credentials so that they can come back to Bermuda to work can avail themselves of. So this is obviously an excellent programme. And the results speak for themselves.

I just want to ask a question and make a very short statement. My question is, As these pupils are going through the various departments within the Ministry of Legal Affairs, is the training they receive also appropriate for them to enter into (I will call it) private practice in Bermuda? Because there may not immediately be available to them positions within the Ministry of Legal Affairs. But I am hoping that they would be able to get employment within the private sector.

The statement is, I believe there has been an effort on the part of some to discourage young Bermudians from going into the legal field. I have heard it myself. I have heard people saying that there is no room for any more Bermudian lawyers. That is so far from the truth. And I hope that those listening in today who have young people who are interested in the legal profession will encourage them to pursue their dreams, to continue on this path if that is where they feel they have been called.

Having said that, I am sorry to see that only three spaces, I believe, have been allocated for pupils for the next year. I was hoping—

The President: Senator, can you direct your question to the Attorney General, please?

Sen. Michelle Simmons: Oh, yes. My question is, Is there any hope that that number can be increased? Because I think there would be candidates who would be suitable. Thank you very much, Madam President.

The President: Thank you, Senator Michelle Simmons.

Would any Senator care to ask a question on this Statement?

No.

Then, Senator Kathy Lynn Simmons, you have the floor—

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

With respect—

The President: —in response.

Sen. the Hon. Kathy Lynn Simmons: In response to the question as to whether they obtain skills that they can take into the private sector, the answer is yes. Professional conduct, advisory research and advocacy skills are, in fact, transferrable.

To the issue of the number of pupils, what I have actually done with regard to persons who have applied is to meet with them personally. And it is interesting to meet with these young people and to really try to discern what their aspirations and passions are. And it is quite disturbing to end a journey, as a matter of fact. And it is disturbing to hear that most of them have been rejected, and some not even having interviewed with respect to their applications for placement for training in the private sector.

So, what I have actually done, because most of them are unemployed and have been unemployed up to a year and have financial and family commitments, is that I have actually been able to find opportunities for them within the public service. So, as we speak, I have sent one to Legal Aid. I have sent one to the Ministry of Finance. And we have one internally working in our Civil Advisory Section, pending pupillage applications. So I have determined to ensure that they do have an opportunity.

I have also determined to ensure that, where appropriate, if I can direct them on another career path that they may in fact be interested in, it is a win-win for everybody. But our commitment is to ensure that Bermudians who do take the lead and commit to this type of professional training actually are afforded opportunities, where appropriate, when they return to Bermuda.

I can also say that three of our four pupils are actually working within the Ministry of Legal Affairs at this time. I also am considering very seriously launching a policy within the Ministry where, when we farm out legal work to firms in Bermuda, if that work is going to result in revenue over a certain figure, they will be obligated to take one of our young people to train,

as a part of that package. So I trust that all of our young people will continue to seek opportunities appropriate to their skill sets and know that we are committed to ensuring that they receive the training and opportunities that they deserve. Thank you, Madam President.

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

Any other questions from any other Senators? No. Then, thank you. We will move on.

ORDERS OF THE DAY

The President: Items to be taken up for the second reading by the Senate under provisions of Standing Order 25. And the first one is the second reading of the National Pension Scheme (Occupational Pensions) Amendment Act 2019.

Senator Campbell, this is your Bill?

Sen. Vance Campbell: Yes, it is, Madam President.

The President: You have the floor.

Sen. Vance Campbell: Madam President, I move that the provisions of Standing Order 25 be granted so that Senate may now proceed with the second reading of the public Bills—I will do both of them now, Madam President—entitled National Pension Scheme (Occupational Pensions) Amendment Act 2019 and the Internal Audit Amendment Act 2019.

The President: Any objection to that motion? Senator Kempe.

Sen. Nicholas Kempe: Madam President, I have raised this in the past, and I will raise this again, that the use of the Standing Orders should really be for emergency measures or in consultation with the Opposition. I do not know if this some attempt at disrespect or something. But yet again there has been zero consultation with the Opposition on suspending Standing Order 25.

We have no issue with debating this today, but it seems to have become Government practice because, for whatever reason, the legislative calendar is not being organised efficiently. We are sitting here with nothing to debate despite its being the umpteenth session in this calendar. And next week, are we going to be in the same situation where we are going to have to suspend Standing Order 25 to debate a Bill the same day it is tabled?

This Chamber serves an important purpose for the country. We have caught errata in legislation in the past. There have been Bills that have been turned back in the past because the public has no agreement or has not had the time to consult. I believe it is important that we respect the processes of this Chamber

so that everyone has due time to consider things, especially if they have been amended in the House of Assembly.

Thank you, Madam President.

The President: Thank you, Senator Kempe.

Would any other Senator care to respond to that?

Senator Kathy Lynn Simmons.

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

The Senator's comments are noted. However, the Government remains committed to advancing its legislative agenda and will consult when necessary. His comments with regard to the timeliness of Bills and also in terms of whether there will be any Bills debated next session or sessions following are really not for that Senator to opine on at this stage. But his comments are noted. Thank you.

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

Senator Campbell, there has been no objection to this Bill being presented. So you have the floor to present the Bill.

BILL

SECOND READING

NATIONAL PENSION SCHEME (OCCUPATIONAL PENSIONS) AMENDMENT ACT 2019

Sen. Vance Campbell: Madam President, thank you.

I move that the Bill entitled the [National Pension Scheme \(Occupational Pensions\) Amendment Act 2019](#) be now read a second time.

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Campbell.

Sen. Vance Campbell: Madam President, Senators will be aware that the National Pension Scheme (Occupational Pensions) Act 1998 (the Act) provides for the establishment, administration and regulation of private sector occupational pension plans for Bermudians and their husbands or wives. The Act became operational on the 1st of January 2000, and regulations were introduced in 1999 and 2000 to provide for such matters as registration of plans, plans for self-employed persons and pension fund investments.

Another significant amendment was made in 2006 to make it possible for the commission to recover outstanding employer contributions as a civil matter through the courts, as well as to make directors and

officers of companies personally liable for any unpaid contributions.

Further amendments to the Act and associated regulations were introduced in 2010 and 2011 to allow plan members with a real financial need to get access to a portion of their pension funds, based on prescribed criteria for hardship. Specifically, financial hardship withdrawals were permitted for applicable mortgage arrears, eligible education expenses, uncovered medical expenses and rental arrears.

Madam President, the pension commission has provided the following background statistics as at the 31st of December 2018: There are 25,386 estimated plan members. The number of plans is 3,065; [of these] 3,050 [are] defined contribution and 15 defined benefit. Approximately US\$2.98 billion of assets are in these plans. There are 568 self-employed plans. There are six approved third-party plan administrators and US\$785 million of assets in local prescribed retirement products, and finally BDA\$28.79 million in total financial hardship payments since inception in 2010.

Madam President, the pension commission, which is the specialist regulatory body established to administer the Act, undertook a review of the Act to determine if all of the existing provisions adequately covered developments that have taken place since the legislation was first introduced in 2000. To this end, the commission's standing advisory committee was engaged in reviewing various proposals. The committee consisted of the following representatives: the Argus Group, BF&M Life Insurance Company Ltd., Colonial Pension Services Ltd., Freisenbruch-Meyer Insurance Services Ltd., Conyers Dill & Pearman, Bermuda Public Service Union, Bermuda Industrial Union, the Bermuda Employers Council, Bermuda Investment Advisory Services Limited, Anchor Investment Management Ltd., Chubb Bermuda (formerly ACE Bermuda Insurance Ltd.), AXA XL (formerly XL Group Ltd.), and the Chartered Professional Accountants of Bermuda.

The commission advised that the committee met and discussed, originally, over 129 changes. These proposals were also submitted to the pension commission board for its review. Madam President, the Government's 2017 election platform stated that it would "address the current structural imbalance of pension benefits that exist between guest workers and Bermudians by requiring equal treatment for Bermudian and ex-patriot labour. Currently, employers are not required by law to provide the same level of pension benefits to guest workers as they are to Bermudians, thus making it more expensive to employ Bermudians."

Members of the commission's advisory committee were also invited to discuss and provide input on the aforementioned proposal. In addition to the existing members of the committee, the commission invited representatives of the Association of Bermuda

[International] Companies [ABIC], the Hotel Employers of Bermuda, the Restaurant Association, Construction Association of Bermuda, Landscaping Association, the Bermuda Human Resources Association and a former board member of the Human Rights Commission to make representations on the implications of introducing the proposal on their respective industries or areas. Members of the committee and invited representatives of industry groups met at the offices of Chubb, which kindly offered to host the series of meetings.

In addition, the Ministry of Finance and the commission also held discussions with representatives of the Association of Bermuda Insurers and Reinsurers [ABIR] and Bermuda International Long Term Insurers and Reinsurers, and received helpful feedback.

Madam President, it would be remiss of me if I did not advise that there were a number of concerns expressed in broadening the coverage to include non-Bermudian employees. In particular, the additional cost to employers, weakening of Bermuda's competitive position as a cost-effective financial centre and the imposition of additional administrative responsibilities were raised. However, it was recognised that a large number of employers in Bermuda already had their non-Bermudian staff participating in either plans registered under the Act or plans that are not required to be registered under the Act. It should be noted that plans that are not required to be registered under the Act are very similar to registered plans, with the major differences centred around the non-locking-in of pension funds on termination or retirement, as well as to have employees who are US persons have the ability to participate in 401(k) plans to benefit from favourable US tax treatment of contributions.

Madam President, the Human Rights Act 1981 was also discussed as it related to the current National Pension Scheme exclusion of non-Bermudians other than husbands or wives of Bermudians being potentially contrary to its provision on discrimination on the basis of a person's national origin. Madam President, Cayman was noted as an example of a comparable jurisdiction that had made it mandatory for all employees to participate in their occupational pension system. However, Cayman does provide exemptions for non-Caymanian employees in specific circumstances.

Madam President, while a number of the representatives were not in favour of broadening the coverage to require the inclusion of non-Bermudian workers, they recognised that if the Government decided to proceed with the proposal, it should do so as efficiently and cost-effectively as possible. To this end, a number of helpful suggestions were put forth on how this could be achieved, and I am pleased to advise that the Government has incorporated their suggestions in these amendments.

The most significant suggestion put forth by the advisory committee and included in this Bill is the phasing-in of contribution rates—5 per cent for employers and 5 per cent for employees for non-Bermudians—over the next five years, as was the original practice when the legislation was first introduced for Bermudians and their spouses. Also, it was agreed that certain exemptions should be provided for non-Bermudian work permit holders employed for a short term—for example, that is one year or under. However, upon receiving a renewal of their work permit, they would be required to be enrolled.

Madam President, initially it was proposed to amend the Act to include the requirement for all employees in Bermuda satisfying the eligibility requirements to be enrolled by their employers in Bermuda in a registered plan or financial institution pension plan. Both of these plans are approved by the commission, provided they satisfy the various requirements under the Act.

Madam President, Senators are advised that representatives of the Association of Bermuda Insurers and Reinsurers brought to the attention of the commission that US citizens on a work permit in Bermuda may already participate in a 401(k) plan, which they asserted is broadly equivalent to the plan requirements under the Act. They requested that such employees should not be required to participate in a Bermuda-registered plan, and if their employers are forced to do so, it would involve additional regulation and expense, which they believe is unnecessary and costly, and could jeopardise their existing 401(k) plans' recognition under the [US] Employee Retirement Income Security Act [ERISA] of 1974 and related favourable US tax treatment.

They originally requested that these 401(k) plans be automatically deemed registered, but not subject to the Act's requirements. Madam President, this view was not supported, as "deemed registered" is not a concept or practice recognised under the Act and would complicate the commission's regulatory oversight and responsibilities.

Madam President, the commission has had experience with a small number of international business employers who have voluntarily agreed to make changes to their existing 401(k) plans relating to spouses of Bermudians where dual citizens, US and Bermuda, are employed in Bermuda, so as to satisfy the Act's requirements. The commission has not received any feedback from these employers that the changes required to be made to their 401(k) plans have caused them unfavourable tax treatment by the IRS. However, it is now proposed that section 3 of the Act be amended to provide for the non-applicability of the Act to such US employees participating in a plan qualified under section 401(k) of the United States Internal Revenue Code. In addition, recognising that some employers may wish to have their 401(k) plans

registered under the Act, voluntary registration has been provided for.

Madam President, the Government recognises that there are a number of plan members who have not been able to accumulate a reasonable pension, as they have not been employed long enough since the Act was first introduced in January 2000. And it does not make financial sense to have them receive between \$100 and \$290 per month from plan administrators and have to incur ongoing plan expenses, which will further reduce their small pension balance. Furthermore, at retirement, members may need to receive a lump sum to help with repayment of a mortgage, another major financial commitment or to pay for significant living expenses such as home or residential care or health insurance upon leaving the workforce.

The Government has heard the increasing requests from the members of the public for greater access to their pension plans. And as a result, plan members will be able to receive all of their pension funds in a lump sum at retirement if they have BDA\$50,000 or less. In addition, for those with larger balances, it will permit a one-time payment of up to 25 per cent to be received as a lump sum at retirement, as specified in regulations that will be introduced in due course.

Madam President, another important change relates to the introduction of regulatory and administrative fees to support the increasingly important work of the commission. Senators are advised that the primary source of income for the commission is the annual government grant. A small amount of fee income is also generated. It should be noted that the original fees paid to the commission have not increased since the inception of the Act, nearly 20 years ago. The Government recognises the important role the commission provides and that, to further develop its supervisory and regulatory capacity, it must enhance its resources and to enable its income to come from more independent sources.

Consistent with the regulatory models already established in Bermuda, it is necessary to introduce fees for the various services the commission provides and for those service providers primarily benefiting from the mandatory occupational pension system to pay those regulatory fees.

Madam President, the proposed Bill provides for a number of significant policy and regulatory objectives, and the following is a summary of the more significant areas, some of which have been mentioned previously. [The proposed Bill]

- requires non-Bermudians to participate in registered plans;
- provides for additional financial hardship withdrawals for funeral expenses;
- permits retirees to apply for financial hardship withdrawals and to be exempt from having to pay the application fee;

- permits plan members or former members to receive the entire value of their pension fund account balance for defined contribution plans or commuted value for defined benefit plans at retirement, at \$50,000 or below;
- provides for the ability of plan members at retirement to receive up to 25 per cent of the value of their pension fund account balance for defined contribution plans, or commuted value for defined benefit plans, as prescribed in regulation;
- introduces regulatory fees payable by plan administrators;
- changes the two-year vesting [period] of contributions to one year;
- provides for the Minister of Finance to introduce regulations to control the fees charged to plan members;
- introduces monetary penalties for noncompliance by plan administrators and other related persons;
- provides for certain exemptions for multi-employer plans;
- includes all bonuses in calculating the amount of pension contributions;
- requires employers to maintain specified payroll and employee-related information, and failure to do so is an offence;
- introduces the payment of interest by employers on their late pension contributions;
- in order to reduce plan expenses for smaller plans, increases the requirement for audited financial statements for plans from \$1 million to \$3 million; and
- introduces greater oversight of plan trustees, and their specific fit and proper standards.

Madam President, with your indulgence, I would like to go back and provide a definition for certain terms that I mentioned—specifically, “defined contribution plan” and “defined benefit plan,” just for those in the listening audience who may not understand what we are referring to.

The President: You certainly may do so, Senator Campbell.

Sen. Vance Campbell: Thank you, Madam President.

Madam President, a defined contribution plan is a type of retirement plan in which the employer, employee or both make contributions on a regular basis. Individual accounts are set up for participants, and benefits are based on the amounts credited to these accounts through employee contributions and, if applicable, employer contributions, plus any investment earnings on the money in the account. In defined contribution plans, future benefits fluctuate on the basis of investment earnings.

Madam President, defined benefit pension plans are a type of pension plan in which an employer or sponsor promises a specified pension payment, lump sum or combination thereof on retirement, that is predetermined by a formula based on the employee’s earnings history, tenure of service and age, rather than depending directly on individual investment returns. A defined benefit plan is defined in the sense that the benefit formula is defined and known in advance.

Conversely, for a defined contribution retirement saving plan, the formula for computing the employer’s and the employee’s contributions is defined and known in advance, but the benefit to be paid out is not known in advance.

And finally, Madam President, I will use the term “commuted value.” The commuted value relates to a defined benefit plan, and it is the present value of the future series of cash flows required to fulfil a pension obligation—basically, what that amount is worth today that you will receive in the future.

Thank you, Madam President, for allowing me to clarify those.

Madam President, the proposed amendments will represent the most significant legislative changes since the Act was first introduced. I can advise that the Pension Commission has already commenced the transitional arrangements and consultation with plan sponsors and administrators required to operationalise these amendments smoothly.

Madam President, the proposed amendments contained in this Bill are sensible, reflect the need of the members of pension plans and are in line with pension provisions and regulations in other jurisdictions.

Madam President, in closing, I would like to thank all of those persons within the Pension Commission, the Attorney General’s Chambers, the Ministry of Finance and the private sector who have assisted with the development of this Bill.

Thank you, Madam President.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITORS

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 in the Chamber of a number of people.

First, I would like to acknowledge the presence of the Assistant Financial Secretary, Mr. Steven Gift; the Pension Commission CEO, Mr. Peter Sousa; the Parliamentary Counsel, Miriam Rogers; and the Director of Internal Audit, Ms. Roseanne Foy. Welcome to you all.

[National Pension Scheme (Occupational Pensions) Amendment 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 introduction of the Bill.

There are a number of things in this Bill that we certainly agree with. I believe giving people access to their pension funds en bloc as opposed to in annuity form is certainly good for people to be able to exercise their hard-earned savings as they see fit. Expanding on some of the hardship qualifications certainly makes sense to adapt the legislation to modern needs, especially as it relates to education and these kinds of things. And reducing the vesting period from two years to one I think more accurately protects a far more mobile workforce that younger generations tend to exhibit, perhaps working a year to 18 months at companies before changing. And that mobility should not jeopardise their company-side 5 per cent of the pension contribution.

There are a number of things afterwards, though, that I either have questions about or just some commentary on. I noticed, and I am almost going in reverse order of what I want to speak about, but it was more in the order that Senator Campbell laid out the commentary.

One was as it relates to the 5 per cent, or rather the pension contributions, for guest workers in Bermuda. And I guess there can be philosophical discussions either way about what pensions in Bermuda were made for. Were they put in place in order to protect Bermudian workers who retire in Bermuda, some sort of financial stability? Or were they set out to protect all workers no matter where they were going to spend those pension funds, whether it be in Bermuda or overseas? Obviously, the 5 per cent company contribution is an additional cost of business. And things were put in place in the past certainly as a way to assist people post retirement living in Bermuda.

Whether that 5 per cent contribution was actually a driver of preference in employing a guest worker versus a Bermudian I have reservations and doubts. I would like to see some data around that. I believe especially at the lower end of the economic spectrum that work permit fees and repatriation guarantees and these kinds of things probably offset that in grand sense. So I struggle to believe that that is an actual reason of causing certain job categories to be filled mainly by guest workers as opposed to Bermudians.

The 25 per cent drawdown, that is available only upon retirement. Whilst I think that is a good thing that people have, you know, a lagging mortgage or a

car payment that they need to get rid of, and perhaps the interest on that is greater than interest that is being earned through your pension, then that is a wise choice to avoid kind of, you know, saving with less interest and paying with more on the other hand. But my concern is misconception in the community. At the, I guess, quasi-Throne Speech at the delegates conference, there seemed to be this big layout of billions of dollars overseas that can come back and start businesses and all this kind of thing.

And I just want to be quite clear for people who took that speech as the ability of someone who is at a stage in their life where they want to be building and creating businesses, that this drawdown does not assist them. This is not what this is for. This is for people post retirement. So just so there is no confusion in the community about whom this 25 per cent benefits, it is not what was alluded to in that speech.

Another, I guess concern and element that I am kind of happy with, [is] the fact that the Pension Commission is going to grow somewhat in size to meet its heightened needs. [This] can be both a good thing and a bad thing. If it is simply building its size in order to respond to increased red tape, that is not a good thing. If it is increasing its size in order to hold bad-actor employers to account, those who collect but do not invest the contributions of their employees, if they were going to see a heightened number of bad actors brought to court, brought to account, fined, et cetera, I think that is an excellent use of increased funding, for fairness and accountability for Bermuda as a whole.

I am not sure what the key targets are as it relates to this increased spending, and I am hoping we can get some clarity on that. But I remember at a meeting at the Ministry of Finance with a couple of technical officers related to this, my understanding was that the general idea is to grow the budget of the Pension Commission from about \$1 million to about \$2 million. The other goal is to transition from a primarily government subsidy—i.e., tax-funded entity to a self-funded entity.

Now, one of my challenges with that, and this is a smaller dollar amount on the grand scheme of things. But my challenge with that is that we are effectively transitioning costs directly onto the user base again. That \$2 million in funding is going to be assumed by fees that are contained in the Schedule herein, perhaps not entirely. So I did some rough math, and I expect that, to reach that \$2 million self-funding number, we are going to see another amendment in the future where these fees increase. I believe it is somewhat naïve to believe that those fees will not be passed on, eventually, to the consumers, to the users, the investors in these pension schemes.

And my other question is, What is going to happen with that close to \$1 million government subsidy? Are we going to see a decrease in taxation generally to offset the fact that these costs are being

transferred directly onto the user-based taxpayers as fees? We saw a similar mechanism happen with the health care reform in April. Elements of the government's Standard Health Benefit were funded by taxes that had already been collected. And those same costs were then simply shifted to the working class and to employers. This new health plan that is coming seems to use the exact same mechanism.

So my question is, with all this transfer of government expense directly onto the taxpayer, why are we not seeing any commitments to a reduction of the tax burden to provide some balance, instead of hitting people with the left hand and then with the right?

And those are my comments, Madam President. Thank you.

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.

First of all, thank you to Senator Campbell for very helpful comments. There were some points in there which answered one or two of my questions. So thank you very much for that. First of all, I want to acknowledge that there are a number of positive aspects of this Bill, such as the vesting period being reduced from two years to one year.

The requirements of new plans to be registered within 90 days instead of the current 180-day period, I think it is important that when new plans are created, they are registered as soon as possible. And so, that is a good change. Also, the new requirement under [clause 14, which inserts] section 19(6A) of employers to pay interest on contributions payable to a plan where such contributions have been outstanding for more than 30 days beyond the end of the month in which they are due—hopefully, that will encourage those employers who are delinquent in making their pension fund payments to get cracking and make them on time.

Also, the amendment to section 34 [at clause 22] with respect to payments to be made in the case of shortened life expectancy (and there were some changes there which I was pleased to see), and the addition of a new section 69A [at clause 38], which indicates that the Pension Commission will issue Guidance Notes. I think Guidance Notes are very, very important. And I think those Guidance Notes will, hopefully, help employers and employees to better understand the terms of the Act and also their own particular plan. So I am pleased to see that.

I support the amendments with respect to 401(k) plans, which impact some of our employees working here in Bermuda. And also, the phasing-in of the contribution rates for those who will now find

themselves, that is, the non-Bermudians, being covered under various pension plans.

I do have a number of comments and questions, Madam President. I did prepare a list of these over a week ago, and I did circulate them to Madam Attorney General to give her an opportunity to see those and, hopefully, be able to respond today. But I acknowledge the fact that if that is not possible, then maybe answers can be provided at a future point in time. So maybe if I can just start with those, and the first would be with respect to clause 2(c) on page 3, where it defines an "employee." And it says here, "employee" has now been amended in the House to read "unless that person has been granted such permission for an aggregate period exceeding twelve months."

Now I am not sure I understand what "aggregate" means. Does that mean continuous employment for two months? Or does it mean they work six months one year, and then next year they are rehired and work another six months? And then you aggregate those to get to your 12 months? Or does that mean they have to work continuously for 12 months? So I just had a question about that.

Again, some comment has already been made about guest workers now being added to the pension plans. To be frankly honest, I think it is important that guest workers do have a pension. I understand, obviously, the hardships that this may create for some employers. And it was interesting to hear Senator Campbell . . . And I am pleased that Government did consult as widely as they did before bringing in these amendments. But part of that consultation did indicate that many employers who do employ non-Bermudians already include them in their pension plans. But I do understand that this will be additional cost for some employers. And again, I just sound a note of concern that all of these additional costs have an impact on employers and their ability, frankly, to do the jobs that they want to do.

Also, in clause 2(d) on page 3, the definition of "pensionable earnings" has now been changed to remove the 10 per cent of basic salary or wage deduction before calculating the additional pension payable. So again, this was an additional amount of bonus. There was a 10 per cent of basic salary that was allowed to be deducted before any pension was calculated. That has now disappeared. So again, that adds an additional cost to the employer because they will be paying pension payments on a larger amount of a bonus or any additional money earned than they had in the past. And again, it is all these little bits that just keep adding additional costs to a business, which I am concerned about.

In clause 2(f), page 3, the definition of an "actuary" has now been amended to now include "or some other professional association recognised by the Commission." Now, I am always concerned when we start playing around with definitions of who is al-

lowed to opine on various things, particularly actuarial liabilities. And I am concerned that . . . you know, the actuary is the person who should be opining on actuarial liabilities, and so I am concerned that the Commission is allowed to appoint (in quotes) "some other" body to opine on those particular liabilities. And they may not have the necessary skills to do so. So I am just trying to get some clarification as to why that definition has been widened.

In clause 17 on page 7, there is an amendment there. I guess I want to know, is that amendment retroactive or does the period of one year start from the day on which the Act actually commences?

And in clause 19(b) . . . (I am sorry I am being specific here, Madam President, because there are a lot of subsections and subclauses, so I am trying to help the Senator by being specific here.) And this has to do with the lump-sum payment, the 25 per cent that is now going to be allowed to be withdrawn on retirement. As was pointed out earlier, Madam President, we have a National Pension Scheme (Financial Hardship) Regulations 2010 Act, which does allow for individuals to apply for sums of money in the case of hardship. And the maximum permitted under that at the moment is 20 per cent per application. And it covers such things as mortgage payments, where people fall behind; critical health needs; educational needs; and so on. So there is provision in there for that.

Now, to be honest, I am not against somebody retiring and saying, *Look. I have a mortgage. And I'd much rather pay off my mortgage than continue to pay interest on it.* So I am in favour of that 25 [per cent] lump sum for payment of mortgages, other major loans or indeed for critical health needs. But I have major concerns about people taking 25 per cent of their pension when they retire and, let us say, blowing it on a magical round-the-world cruise. When they return to Bermuda and reality sets in, they then realise that the pension amount they are going to get on a monthly basis may be substantially less.

And there has been a lot in the press about, *Isn't it wonderful that we're allowing everybody to take these lump-sum amounts of 25 per cent?* Because they do it in the United Kingdom, and the PSSF [Public Service Superannuation Fund], which is the public government fund, allows that to happen. But I think it is important to raise a couple of factors here. The first is that the government PSSF pension fund has been in existence since 1981. So that is 38 years. So somebody retiring from that particular plan, who has been working for government for 38 years as of last year, taking a lump sum of 25 per cent may not be as bad as somebody who is in the private sector, who has been into the fund only since 2000, which is when that fund took effect. So that is 18 years.

And I believe that individuals need to have as much pensionable money available on an annuity basis or some monthly drawdown so that there is money

each month coming in for a pension, rather than taking a huge sum of 25 per cent of that pension and spending it on something like a cruise around the world.

And I should also point out that the cost of living in Bermuda, as we all know, is horrendous. For those of you who go shopping and buy groceries (I do quite regularly), the cost of groceries is just prohibitive. And every little bit counts. And as a retiree, it is important that there is something coming in every month to help you pay for the cost of living in this Island.

And so I have real concerns about allowing this lump sum of 25 per cent of pensions to be taken in the private sector, because most people have been playing into that plan for only 18 years or 19 years as of this year. So I have some concerns about that. And as I say, I do not mind individuals taking up to a lump sum of 25 per cent if they wish to pay off a mortgage. I understand that. Rather than paying interest on a mortgage, let us pay the mortgage off, or if there is a significant health problem. But I do have some concerns about allowing people to take a lump sum that is not really necessary for health or mortgage reasons and perhaps blowing it on some luxury holiday.

Clause 36 on page 12, I guess the question I have there is, Should that not be headed up as [proposed] section 67A, as it relates to section 67 in the principal Act, and not to section 68? A small point, but just reading those sections and tying them in to the principal Act, I would have thought that should be [section] 67A.

In clause 37 on page 13, my question here is, Why is the Minister, under section 69(1)(j), setting "maximum fee payable" in relation to service providers? Surely, the free market should be allowed to set their own fees. I just wondered why we are suddenly setting maximum fees. What is the rationale for that?

Also, clause 43, I just wondered where that went in the Act. If I can just turn to it for a moment, it says, "Savings and transitional provisions." Maybe it is just something that sits in this amendment Act, and I am sort of looking at the draughtspeople here; they are the experts. But it just sort of sits out there, and I did not know where it went. It does not appear to go into the principal Act anywhere, and maybe it just sits here in this amendment Act and goes no further.

Clause 35(a), page 12, the reference should be section 67A if you agree with my earlier comments in the point I mentioned above.

I did have a question on [Schedule 1, paragraph] 9, on regulation 9, on page [18], where the threshold for an audit has been increased to \$3 million. As an auditor, I always get concerned when we start to say, *You don't need to have an audit for a pensionable fund or pension funds.* These are other people's money. And my concern is that all pension amounts, all pension funds, should be properly audited to make sure that they are correct and there have

been no malfeasance or other issues which have arisen. And so, I get concerned when I see these thresholds, as is the case here, being moved up to \$3 million.

[Schedule 1, paragraph] 9(b), on regulation 9 at page [18], it would seem to me that we would want the "basis of accounting" to be full accrual and not on a cash basis, since I would want to know any outstanding receivables. And that is amounts due to be paid to the fund that are outstanding. Cash basis of accounting is fine in certain circumstances; but in the case of pensions, if there are amounts due from employers who have not remitted the amounts for themselves and their employees, I would want to know about that. And so, again, cash basis of accounting in terms of pension funds is not something that I would certainly be advocating at all.

[Paragraph] 21 [amending] regulation 39(1) . . . I wanted to know why we are deleting the words "British or American" from the definition and singling out just the Canadian definition. I would have thought the broader definition that is there, which includes both British and American, and we are talking about actuaries here . . . certainly, in Bermuda we have all three. And I just wondered what the reason for that was.

In [paragraph] 27 [amending] regulation 49(1)(a), page [22], again, why are we deleting "British or American"? I just do not understand this move, and I would appreciate some comment there. And again, [paragraphs] 28 and 29, I have the same comment.

Finally, on wrapping all this up, as has been mentioned earlier on pages 27 to 29, there are a lot of new fees. And I assume, and again I guess this is a question for Senator Campbell, I am assuming in the consultation with the various parties that were spoken to, fees were mentioned. And I just wondered what their reactions were.

Again, I would just go back and sort of summarise all of these additional costs. We have these fees coming in place. We have the additional cost of now having to pay pensions for non-Bermudians who meet the threshold of 12 months of service. We also have the removal of the 10 per cent, which was allowed for bonuses and so on, before pensions had to be calculated on those bonuses. All of these things have, added together, mean additional costs for employers. And again, there comes a point in time where employers are going to say, *I just simply can't absorb any more costs*. So I think Government needs to be mindful of this. I understand the reasons why these fees, these new fees, are coming into place; that has been explained. But I think we need to be very careful about adding any additional costs to businesses here in Bermuda.

And with those remarks, Madam President, I will finish. Thank you very much.

The President: Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Jones, you have the floor.

Sen. Marcus Jones: Thank you, Madam President. Also thank you to Senator Campbell for giving us a very comprehensive explanation of the purpose and the direction for the new changes in this amendment to the existing National Pension Scheme.

I am learning that the longer I stay and deliberate in these Chambers, I need put up my hand before Senator Jardine, because he tends to give a very good, detailed perspective on the legislation. And many things that he raised were on my list. And so, my contribution to this debate will be extremely short.

But having said that, there is one thing I would like to piggyback on my colleague, Senator Jardine, and that is that there is much to be pleased about with this particular legislation. I am in agreement with the spirit and the overall, overarching purpose of this legislation, which is to give pensioners more opportunity and access to the hard-earned money that they have put aside, giving them the added opportunity to have access to it, especially in times of hardship, which has been part of the amendment for years gone by. And now this added opportunity to gain access in a form of a lump sum, up to 25 per cent of the (I am made to understand) present day value of that pension. It is a good thing. It definitely gives that pensioner who may have a mortgage, may have a little bit of a mortgage that he or she wants to pay off, or a car loan, or do some major upgrade to their home . . . I mean, that is all well and good.

I will caution, though, although some within the community may think that this amendment will cause a major boost and stimulus to our economy, I hate to blow out your bubble, but that is not going to actually materialise. I think in the lives of individuals who are entering those golden years, it will be an added help to them, as they have to anticipate a fixed income. And they may have overarching debt or some payments that they would like to pay off.

I would say, though, that employers should be encouraged very strongly, during their exit interviews with these pensioners, to make sure that they fully understand the consequences of their actions—i.e., fully explain what their monthly pension payments will be if they actually take out that 25 per cent lump sum. They need to fully understand that the amounts will be significantly less and that they are well aware of it. They sign off and say, *I'm aware of it. I know that I'm going to be at a lesser point in a monthly payment. And, no, I do not expect the government to jump in and make up the gap of my loss in monthly payments*. I think those things are important.

Also, the importance of encouraging these pensioners to use this money for investment opportunities, I think that is important, as well. As Senator Jardine says, these lump sums used for a worldwide

cruise is not quite the intent. And I think that needs to be underscored.

Another thing I am going to raise, and it may sound a little bit off-centre, but I think pensioners need to be careful that they do not give that money to their children. It may sound crass, but you know, we know that parents have a soft heart for their children and want to see them get ahead in life. And we do all we can. I have two children, as well, and my wife has to caution me because I want to empty my pockets and give to them. And she is saying, *No, no. You need to hold back and allow the children to stand on their own two feet.*

[Laughter]

Sen. Marcus Jones: So I would strongly advise those pensioners who are looking at this lump sum as an opportunity for them to better their situation: Do not be overtaken with an abundance of love that you drop that into the laps of the children. Make sure that you dispense of those funds wisely.

So I would say, with those caveats, this legislation is a good one. I believe that being that this is not a socialist country, individual citizens should have the right and ability to determine their own pension and be able to dispense it in a way that is responsible and that will take care of them in their declining years.

Thank you, Madam President.

The President: Thank you, Senator Jones.

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 will be very brief.

I want to thank Senator Campbell for his brief. It was very helpful. And also, to thank Senators Jardine and Jones for their comments, because that means I need to say very little.

I will mention, however, that I am very pleased to see, especially in view of all of the conversations going around in the community of late about employers who are failing to pay contributions . . . I am very happy to see that, in this amendment to the legislation, employers who fail to pay contributions, which they withhold from a member's earnings, *shall* pay interest on the unpaid contribution. I think that word "shall" should be underscored many times. And I think it also puts responsibility on those who have to follow up to make sure that employers understand that they will—they *shall*—pay interest on any monies they withhold and do not pay forward to the fund.

Also, with regard to the 25 per cent lump sum that people can take out upon retirement, I think it is important for us to step back and understand that, at that age, people are looking ahead to whatever the

future may hold. And none of us has a crystal ball, so we do not know what is going to happen. And I think there is a certain amount of caution that people exercise when they do have access to that lump sum.

I believe it is a good thing, because it does give people control over funds that really belong to them, that they have accrued over a period of time. And there is still 75 per cent in their pension pot. So, it may sound like a big thing. It may sound like something that we cannot trust people with. But it is their money.

And I think that pensioners are going to err on the side of caution and invest wisely. Yes, some may have mortgages to pay off. But that is not the only debt that people have at that point. And since everyone's circumstance is different, Madam President, I would posit that we need to understand that we are giving people greater control over their future.

I also will add that, sometimes, people have to vary their spending, depending on their circumstances. And I am thinking of some unexpected things that will occur, such as maybe a long-term illness of someone in the family, maybe long-term care provisions for an elderly parent, grandparent. This 25 per cent lump sum will give people greater flexibility in determining their way forward, financially. So I do support that. I do not really have a problem with it. I think that it is important at that point in people's lives to ensure that they do have greater control over their finances.

With those remarks, I thank you, Madam President, for listening.

The President: Thank you, Senator Michelle Simmons.

Would any other Senator care to speak on this Bill?

Senator Richardson, I will come back to you. You defer? Okay.

Senator Dwayne Robinson, you have the floor.

Sen. Dwayne Robinson: Thank you, Madam President. I will also be brief. The Senators, my colleagues, have outlined a lot of my concerns and a lot of what I support regarding this Bill.

I just have one hang-up, and it is regarding the levelling in the playing field as far as employment goes for Bermudians. I do believe that this will level the playing field as far as deductions go. But regarding the employment issue here in Bermuda, I do believe that a lot of us have heard similar stories regarding certain pervasive contracts that guest workers are signed onto. So I do want us to really kind of remove that Band-Aid part that is attached to this Bill in that essence, because we will still have similar problems within the community as far as certain jobs being geared towards guest workers, such as working more than 40 hours, live-in jobs, things like that.

So, I do support the Bill in its essence. But I do not want that caveat to be attached to it, that it will kind of tackle an issue with employment regarding our Bermudians. I do think that there are much deeper issues that we have to tackle in order to level that playing field.

And with those comments, I close, Madam President.

The President: Thank you, Senator Dwayne Robinson.

Would any other Senator?

Senator Richardson, you have the floor.

Sen. Anthony Richardson: Good morning, Madam President, fellow Senators and those in the listening audience.

The President: Good morning.

Sen. Anthony Richardson: It has been interesting to listen to the various comments today. And my perspective, actually, is to go back to the whole idea of, what are we talking about more fundamentally? And it is personal responsibility. Persons may realise that, prior to 2000, when they put in place the National Pension Scheme, many employers allowed long-serving employees to retire without any significant post-retirement benefits. And so, the idea was that the employers would be required to, during the period of an employee being employed, to put aside some funds and to assist persons to do also, so that when they did get to retirement age, there would be at least some funds for them to be able to not live off, but to offset their ongoing expenses.

And with that, I believe that there needed to be and continues to need to be additional education for us as individuals. I actually am concerned that sometimes we talk about these issues as if there are not individual persons involved. I think, in many cases, if we considered the idea of a business owner having responsibility to, obviously, run a profitable business, but also to take care of the person who works for the employer for an extended period of time, there was the need to recognise that. And that is what I think we are missing in some respects even today.

And so to, fundamentally, allow people to have more of a say in what is essentially their own money does make sense. But I believe that for the public, it is a matter of taking on the responsibility to understand the various implications of what you are going to be doing. And so, once I retire, yes, I will have “X” amount of money in a pension plan. And I need to, during my work life, as best I can, prepare for my after-work life. And that would involve, as some Senators said earlier, even dealing with my children in terms of, if I do have a house or other expenses, [I need] to understand that there is a responsibility to myself, first and foremost, but also to incorporate my

family's circumstances so that I can manage accordingly.

And for today, really, I think it is a matter of having that emphasis rather than some of the details, to be honest. Because again, I want to say that I know that when I was working in government many, many years ago, and we had introduced the National Pension Scheme, there was almost the same conversation in terms of, what is the impact on businesses? What is the impact on individuals? And how will they all manage? And we got to a stage whereby we acted as though there was not the individual responsibility in this whole discussion. And that is what I wanted to emphasise again today.

And again, for those in the listening audience, I would encourage everyone to take the time and find somebody who can explain the full impact of pensions on a person while they are working and post retirement, because that is what is going to be important. And very often, what happens is, even in the Chamber sometimes, we get to a stage whereby we make comments that end up being sound bites. And then what is reported in the media also is more sound bites as opposed to any of the substantive comments that are being made, which is what is going to impact all of us.

We certainly know that in the Bermudian context, and also in the world context now, persons are living longer. And there needs to be a greater focus on how you will fund your lifestyle subsequent to retirement. The Government has already introduced legislation in terms of extending the retirement age to allow persons, for various reasons, to either work longer and thereby build up a greater post-retirement benefit; and in addition to that, people are now living longer and being healthy. And so, the previous idea of having to retire just because you are 65, for example, falls away. And I continue to be impressed when I meet persons now who are easily 65–70, and in terms of their ability to work, it is almost undiminished. I smile sometimes because sometimes those people are even much fitter, physically fitter, than you would expect. And so, I smile that they can do all kinds of things.

And so, that would be my contribution for today. Thank you, Madam President.

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

Sen. Crystal Caesar: Thank you, Madam President.

With regard to this topic, I actually am quite happy that the Government has given the foresight to encourage and require that employers set aside pensions, not just for Bermudian employees, but also those who are guest workers in this country. A government is responsible not only for its citizens, but also for those residents and others who contribute to the economy. And in particular, we often encourage

young people to come, work and contribute to our economy. And until now, we have not required that those guest workers have a pension put aside.

And when you are in your early 20s, sometimes early 30s, you do not necessarily think about what is going to happen at retirement. So I think this is a responsible move, such that these young people will have something when they do start to think about their families and are ageing and may be looking at retirement. I think that this is extremely responsible and very necessary.

In addition, we all know, unfortunately, that there have been some players in the employment field who will, for whatever reason, choose a guest worker over a Bermudian because (quote/unquote) "it is less expensive to do so." So this does actually level the playing field in that it takes away that particular variable when looking at different employees. And as one of my colleagues has stated earlier, here of late in the press there has been quite a bit of furore about employers who have been unscrupulous in their behaviour as it pertains to paying pensions.

So I actually am quite happy to see that the Government has taken the bold step to ensure that the penalties for not doing so have been increased and, again, will engender additional penalty. And that will, hopefully, encourage employers to be better stewards and just better employers overall.

So, with those brief comments, Madam President, I will conclude.

The President: Thank you, Senator Caesar.

I think everyone has spoken.

Senator Campbell, you have a few questions to respond to. You have the floor.

Sen. Vance Campbell: Thank you, Madam President.

When you factor in immigration fees, relocation fees and other fees in hiring guest workers, in the short term it can be more expensive for the employer. But as it stands now in the long term, where that employer has to pay the pension contribution for Bermudian workers, it does become, quite quickly, I might add, more expensive to hire a Bermudian. So this will eliminate and level the playing field in that regard. This Bill never claims to address any other issues as to why Bermudians may not be successfully obtaining employment, but it does claim to address this. And it does.

This Act will not result in an increase in red tape. The fees that are provided under this Bill will allow the commission to improve its capabilities in the area of enforcement and compliance.

As the commission becomes more self-sufficient, Madam President, the Government will reduce the funds provided to assist with the operation. It will gradually be reduced until it is no longer required to provide any funds. These funds will then be used to reduce the government debt. And once the govern-

ment starts to incur regular budget surpluses, then the country will start to see a reduction in taxes.

There was a concern, Madam President, of the fees being passed on to the user. These fees will be paid by the plan administrators, not the members of the plans. And the Bill under consideration prohibits them from being charged to the members, the employer or the pension fund.

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

The President: Senator Kempe, what is your point of order?

POINT OF ORDER

[Misleading]

Sen. Nicholas Kempe: The Senator may be unintentionally misleading the House. A similar thing happened with the financial services tax, where it was prohibited from being passed on. All that means is that it cannot appear as a separate line item on the invoice. It will be passed on as a cost of business just like any other fee or expense to a company.

The President: Senator Campbell.

Sen. Vance Campbell: Madam President, that is an incorrect interpretation in this case.

I believe Senator Jardine had a question on the definition, under clause 2(c) of an "employee." And more specifically, what did "aggregate" mean; was it continuous? No, it is not continuous. It is cumulative. So, if I as a guest worker worked six months, left, came back and worked another six months, I would then be eligible to be included under this Act.

There was a concern expressed over the definition, I believe again by Senator Jardine, around "pensionable" around bonuses. The 10 per cent now is captured here. But I will add that these bonuses, the overall pension is subject to an overall cap of \$200,000. That has not been changed. So, the impact has been kept to a minimum.

Again, there were concerns over the use of the 25 per cent lump-sum payment, unwise use. The commission will be engaging in a financial education and awareness campaign to help retirees to make appropriate decisions on the use of all of their pension funds. And this is wise whether you are receiving a lump sum or whether you receive it as an annuity.

Sen. Nicholas Kempe: Just a point of information.

The President: Senator Kempe.

Senator, will you accept a point of information?

POINT OF INFORMATION

Sen. Nicholas Kempe: Will that be a one-time educational campaign to go with the Bill? But will it be each time, kind of like a mini-session each time someone goes to make a lump-sum withdrawal?

Sen. Vance Campbell: It will be ongoing, Madam President.

The President: Thank you.

Sen. Vance Campbell: There was a question around the Minister's power to set fees. The proposed amendment will give the Minister of Finance the power, via regulations, to cap fees charged, not to set them. This is consistent with other jurisdictions such as the UK, in which high fees are eroding the value of member pension funds.

As was mentioned before, there was concern as to what these fees received by the commission would be used for. The majority of the additional fees will go towards enforcement and compliance.

I believe Senator Jardine raised the issue of why are we moving, as it relates to audits, from \$1 million to \$3 million. The majority of pension funds that are held by financial institution plans have more than \$3 million. And so, the audit . . . So the majority of those in existence will be captured and will be required to provide audited statements. And the commission still has the ability to request financial statements on the smaller plans.

There was a question around the industry reaction to the fee increases. I am made to understand that the initial proposed regulatory fees were much higher, and as a result of consultation and compromise, we have the fees that we see included in the Bill today. So, as a result of that desire to compromise and arrive at the lower fees, the industry is more accepting of these proposed fees.

The change in the wording under the definition of "actuary" will allow for the commission to consider other actuarial standards without having to come back and change the legislation. So it does provide a greater flexibility. The ultimate criterion is fit for purpose and whether the person is a member in good standing within their home jurisdiction governing body.

Senator Jardine had a host of questions and concerns. I hope I have answered the main ones. The technical officers have provided an undertaking that they will provide more complete responses to all of your questions.

The President: Senator Jardine.

Sen. James S. Jardine: Sorry, Madam President, just a point of clarification. There were two—two questions specifically. And again, I do not expect an answer today. But perhaps if they are going to respond more

fully, one is, I mentioned the concern about a cash basis of accounting as opposed to full accrual. And my concern there was making sure that employers are remitting all of the pension contributions which would show up if they were preparing accounts on a full accrual basis, because those receivables, those amounts not payable, would show up in the fund. That is pretty key.

And the last was the question as to why "British or American" had been taken from the definition of actuaries, and [left] just Canadians. I just wondered why.

Yes. Okay. Thank you very much, Madam President.

The President: Thank you, Senator.
Senator Campbell.

Sen. Vance Campbell: Madam President, I thought I had answered the second concern expressed, in that the change in the definition and the removal of those, and the wording substituted, will allow them to be still considered, but also a broader number of jurisdictions without coming back and changing the legislation.

Can I just consult on the other point, Madam President?

The President: Yes, you certainly can.

[Pause]

Sen. Vance Campbell: Madam President, the technical officers have advised that the majority of the plans are on an accrual basis, but they have had requests from certain international companies to operate or report on the cash basis. The commission has no issue with these companies, to date. And the commission reserves the right to require them to report on an accrual basis should they have some concerns with the plan.

I will repeat that the technical officers have given an undertaking to get back to you on any other issues, Madam President (to Senator Jardine on any other issues) that may not have been adequately addressed.

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

The President: Is there any objection to that motion?

No objection.

Carry on, Senator Campbell.

SUSPENSION OF STANDING ORDER 26

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

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

[Motion carried: Standing Order 26 suspended.]

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

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

BILL

THIRD READING

NATIONAL PENSION SCHEME (OCCUPATIONAL PENSIONS) 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 National Pension Scheme (Occupational Pensions) Amendment Act 2019 do now pass.
Is there any objection to that motion?
No objection. The Bill is passed.

[Motion carried: The National Pension Scheme (Occupational Pensions) 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 will give you a few minutes to get ready for your next Bill, which is the second reading of the Internal Audit Amendment Act 2019. When you are ready, you can proceed.

[Pause]

BILL

SECOND READING

INTERNAL AUDIT AMENDMENT ACT 2019

Sen. Vance Campbell: Madam President, I move that the Bill entitled [Internal Audit Amendment Act 2019](#) be now read a second time.

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

Sen. Vance Campbell: Thank you, Madam President.
Madam President, the Internal Audit Act 2010 provides for the establishment of the Internal Audit Department to conduct independent and objective assessment of the stewardship and performance of government policies, programmes and operations.

Madam President, as the department is charged with exercising and performing its functions under the Act, in accordance with established standards and procedures for the conduct of internal audit activities, this amendment seeks to bring the Act up to date in accordance with those standards by clearly defining the professional internal auditing standards.

Madam President, in addition, the Act has established an Internal Audit Committee, which is the governing body of the department. This amendment seeks to provide for the external members of the committee, who are qualified accountants or auditors, to be appointed to serve a term of up to a maximum of three years rather a maximum of two years, currently, to allow for a longer period of continuity in the committee and to be compensated at the same rate as chairpersons of other government boards or committees, as per the Government Authority (Fees) Act 1971.

Madam President, this amendment seeks to bring the Act in line with the professional internal auditing standards, which require the department to undergo an external quality assessment review every five years, rather than every three years as is the current requirement. The objective of the external quality assessment is to determine the level of conformance of the department with the Standards and Code of Ethics of the Institute of Internal Auditors.

Madam President, with your indulgence, I would like to look at the key clauses of this Bill.

The President: You certainly may. Carry on.

Sen. Vance Campbell: Thank you, Madam President.
Madam President, clause 2 amends section 2 of the principal Act to insert a definition of "professional standards," which is defined as the prevailing Standards and Code of Ethics of the Institute of Internal Auditors (or the IIA).

Clause 3 amends section 4(1) of the principal Act to require the Internal Audit Department's procedures for the conduct of internal audit activities to be in accordance with the professional standards.

Clause 4 amends section 15 of the principal Act. Subsection (2) currently provides that a person appointed under subsection (1)(c) or (1)(d) shall be appointed for a term of one year and is eligible for re-appointment for a further term of one year. Clause 4(b) inserts subsection (2A), which provides that a person appointed under subsection (1)(d) is to be appointed for a term of two years and is eligible for re-appointment for a further term of one year. Clause 4(c) amends section 15(4) to provide that a person appointed under subsection (1)(d) is to be paid in ac-

cordance with the Government Authorities (Fees) Act 1971 as if he were a chairman or equivalent, which is currently \$100 per meeting.

Clause 5 amends section 23(1) of the principal Act to require the review of the Internal Audit Department to be conducted at least once every five years, rather than every three years, which is the current requirement. The amendment also allows an auditor who is a member of the Institute of Internal Auditors (IIA) to be appointed to conduct the review and provides that the review of the department's operations is to include an assessment of conformance by the department with the professional standards.

Clause 6 is a transitional provision.

And clause 7 is a consequential amendment to the First Schedule to the Government Authorities (Fees) Act 1971. It adds the Internal Audit Committee to the Government Authorities listed in that Schedule and, as the committee was inadvertently not added to that Schedule when the committee was established by the principal Act, the amendment is deemed to have come into operation when the principal Act came into operation.

Madam President, with those introductory remarks, I will now pause to allow other Senators to speak on this Bill.

Thank you, Madam President.

The President: Thank you, Senator Campbell.

Would any Senator care to speak on this Bill?
No.

Senator Campbell, I guess you have agreement.

Sen. Vance Campbell: Thank you, Madam President.

I would like to thank my fellow Senators for their support of this Bill. With that, Madam President, I move that the Bill entitled the Internal Audit Amendment Act 2019 be now read a second time.

The President: Is there any objection to that motion?

No objection.
Carry on.

SUSPENSION OF STANDING ORDER 26

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

The President: Is there any objection to that motion?

No objection.

[Motion carried: Standing Order 26 suspended.]

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

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

No objection.

BILL

THIRD READING

INTERNAL AUDIT 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 Internal Audit Amendment Act 2019 do now pass.

Is there any objection to that motion?

No objection.

The Bill is passed.

[Motion carried: The Internal Audit Amendment Act 2019 was given a third reading and passed.]

The President: Thank you, Senator Campbell. And thank you, all Senators.

Sen. Vance Campbell: Thank you, Madam President.

The President: We have completed our Orders of the Day, which were these two Bills.

MOTIONS

The President: There are none.

CONGRATULATORY AND/OR OBITUARY SPEECHES

The President: Would any Senator care to speak?

[Pause]

The President: No one wants to speak?

I am sorry. Senator Richardson, I almost missed you. You have the floor, speaking to congratulatory and/or obituary speeches.

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

Just three quick congratulatory comments: One is, I had the privilege to act as the patron for Ms. Toni Robison. She had a musical concert (I want to say two weeks ago on Saturday) at Bethel AME Church, whereby she performed, and she performed and she performed her new CD. Some have referred to her as the First Lady of Gospel in Bermuda. She took several traditional songs and tweaked them a bit. Some were sung in traditional format; some had a

jazzy beat. But the entire audience were truly honoured for her to perform in that manner.

The Senators may be aware that she performed throughout Bermuda and has done, occasionally, internationally. And normally, though, she does it on a strictly volunteer basis. And I was very pleased to assist for her to perform her own music in the sense of her CD. And so, again I was very pleased to do that.

Secondarily, going back to, I guess, my last year's pitch, if you will, for education, I recently attended the prize-giving ceremony for the Berkeley Institute, based upon the last academic year. And I continue to be encouraged, notwithstanding the oft commentary around public education, just to see the enthusiasm of the students who are there achieving, and certainly for the principal, who always manages to give an enriching word, an encouraging word to all of the students who are present, and certainly to those who may not necessarily have been recognised. She, Ms. Douglas, always is able to, for me, definitely provide that enriching atmosphere so that those who are present, number one, understand what it means to achieve, but more importantly, they are encouraged to do the best they can.

The keynote speaker, by the way, was former MP Marc Bean, who encouraged them to always listen to that inner, small, still voice, which, in his perspective, is always the right voice. And so, when the loud voice is telling you to go and do whatever feels good, that is not necessarily the voice to listen to. Do the one that you know is going to be correct.

And the third congratulatory comment is for Bishop Vernon Lambe and his wife, Elder Ruth Ann Lambe, who will . . . on Friday, actually, they are having a banquet to celebrate his 54th year of Christian service as a Christian minister, and also in anticipation of his 80th birthday, which would be on December 26th of this year. And because he has been serving for such a long period of time and has affiliation with three local churches, we have (and I say "we" because I am part of the organising committee) had a celebration at Angle Street [First] Church of God, just two weeks ago. There was the Sound View [First] Church of God on Sunday past. And there are going to be two services, actually, on Sunday coming at the First Church of God down at North Shore.

And in the community, Bishop Lambe has served tremendously on many, many government boards. I think one of the most notable was that he was the Chairperson of the Bermuda Independence Commission many, many years ago now, under former Premier Alex Scott. And his dear wife, she is American. But in her own words, she is an *onionised* American. She has been here for such a long period of time. And so, I want to just congratulate both of them on what is truly a milestone achievement.

Thank you, Madam President.

The President: Thank you, Senator Richardson.

Would any other Senator care to speak on the congratulatory and/or obituary speeches?

No.

Then, for the adjournment, Madam Attorney General, Kathy Lynn Simmons, you have the floor.

ADJOURNMENT

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

I move that the Senate do now adjourn until Wednesday, December 11th.

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

Senator Kempe, you have the floor.

TAX REFORM

Sen. Nicholas Kempe: Thank you, Madam President.

I would just like to raise, I guess, some concerns about potential changes to tax policy, seeing as ministries and departments are putting together their budget projections for the new fiscal year. And very shortly after the Christmas break, we will be debating the budget for the 2020/21 fiscal year.

A little over a year ago at this time, the Tax Reform Commission tabled a report, which was yet another report on potential changes to our taxation system. And whilst there was a modicum of discussion in the House of Assembly, there has not been a national conversation. The general public was told about changes without really much input or a preview at the pre-budget report last year. And there was such pushback that a number of items were adjusted last-minute before the Budget Statement.

So, I would encourage the Government to not just talk *to* the people, but to talk *with* [the people]. And if these transformational changes that we keep hearing about are planned to be included in the upcoming fiscal year, that any fundamental changes to our tax system be discussed publicly so that people can have their say, and hopefully we can get it closer to right on the first time for the next budget year, as opposed to having moving targets from a pre-budget report, Budget Statement, to the actual legislation that we debate in these Houses.

Thank you, Madam President.

The President: Thank you, Senator Kempe.

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

Senator Jones, you have the floor.

RECENT BYE-ELECTION

Sen. Marcus Jones: Thank you, Madam President.

Let me first of all preface my comments on the motion to adjourn, and that is to give hearty congratulations to our former Senator, Jason Hayward, who has successfully retained the seat for the Progressive Labour Party in constituency 17. I believe that he will be missed in these Chambers. But I also believe that his work in the community will only be expanded. And my hope is that it will be impactful in another place.

I also want to equally give hearty congratulations to my colleague, Senator Dwayne Robinson, who worked tirelessly in a short span of time to cover a large number of homes in the constituency 17. Although unsuccessful, having been on the campaign trail with him, I was very much impressed by his passion, his enthusiasm, and his ability to be compassionate and empathise with the needs of constituents there in constituency 17. And I wish him well even in these Chambers; I am glad he is still with us.

Having said that, Madam President, it is very important that we as parliamentarians, those of us in this particular field of service to our community, do all we can to encourage the younger generation—i.e., the Millennials—to step forward and offer their time and their service to the community in the area of politics. It is very important because a lot of their issues sometimes are overlooked by us in the older generation. We know that the younger generation have specific needs and concerns. And they can go a long way in advocating those needs if they were engaged and involved in the political process. We know that they have pressing issues such as the environment and education, which will affect them directly. So we do want to encourage this next generation to take up the mantle and get engaged in the process.

Having said that, I remember one day when I was out on the campaign trail with Senator Dwayne Robinson. We realised that we had to cover a lot of ground in a short period of time. And so, I tried my best to push the young Senator along. But he was very much focused on hitting as many people and spending as much quality time as possible. And I relate this story because it is apropos to my subject matter for this motion to adjourn.

I remember our going to a household. And there was a young lady who was not very much older than Senator Dwayne Robinson. I know he does not mind my giving his age away; he is the tender age of 25 years old. This young lady, as I said, was not very much older than him. And when we went to talk to her, she quickly told us that she is not interested in politics. She is not going to get involved. And she gave us the impression that she was nowhere interested.

Well, in my mind, I was going to try and push Senator Robinson along so we could move to the next house. Senator Robinson would have nothing of it. He stayed patiently and tried to persuade this young lady to change her mind and to be involved in the electoral process, her democratic right. He went to great pains to try and convince this young lady that she will be

doing the best for her future and the future generations coming behind her if she practiced the democratic process of voting.

I thought I saw a glimmer of light hit her. But I was not convinced. You can imagine how happy I was on the day of the election when, as I stood there next to Senator Robinson, there showed up this young lady, absolutely thrilled that she was coming. And she got our attention to let us know that she had in fact heard the call and had answered the call, and now was going to exercise her democratic right.

Now, she was wearing a green jacket. So to some degree, I was saying, *Well done, Senator Robinson. You successfully got another vote . . .*

[Laughter]

Sen. Marcus Jones: —for the PLP.

[Laughter]

Sen. Marcus Jones: But my greater enjoyment was the fact that another young Millennial was now engaged in the process, who otherwise, without the patient deliberation and persuasive words of young Senator Robinson, may not have enjoyed the exercise of voting. And I think that is very important. I think as parliamentarians, we need to be responsible. We need to reflect and model to our community a dignified, upstanding, moral code, engage in rules of engagement that are above board.

So you can imagine my utter horror the night before the election when, on television, I was confronted with a union leader in this country who, in the midst of union issues that were, I would say, important to his members, found it important to carry out a character assassination of a young man who was willing to give of himself, of his time to this country. How many of us at the age of 25 would be concerned about our country enough that we would put our hand and say, *I will volunteer my time in the realm of politics?* I know what I was doing at 25. I was working hard on my career. I was focused on making sure that I was able to climb up the corporate ladder. And I did not give any time to my country in the realm of politics, because I was focused on my concerns.

This young man, Senator Robinson, has given of his time not only in the realm of politics, but also in other charitable organisations around this Island. And it was just an affront and an offence to me that I and this country had to swallow this character assassination by someone who is supposed to know better, Americanising our politics for a seat. This was supposedly a safe seat for the Progressive Labour Party. I thought it was an affront and an offence.

And I think that we need to, as leaders, be more circumspect when we are endeavouring to get our colleagues voted into office. There is no need for it. What are we going to say to our young people?

Come into politics and find that your name is going to be muddied, and you will be stamped on. And you will be verbally abused. Is that what we want to sell to our people, to our young people? Absolutely not!

And so, I believe, Madam President, that as responsible parliamentarians, even those who are outside of these Chambers who are involved in the political process, we need to be far more responsible. Now, I will add this. It was brought to my attention that Jason Hayward, now JP and MP, he was not a part of this. He expressed his regret over this assassination (I am going to call it that) that was made the night before. [It] was not of his doing, and he was not for it. And so, I know Jason Hayward to be a man of integrity, and I believe him. And I am glad that he made that statement of regret that that happened.

But let that be a lesson, and let that be a clarification call to all of us who hold positions of leadership in this country, that we need to do all that we can to encourage our young people to get involved in the process, not have them be intimidated and bullied into not wanting to be a part of this when we need the next generation to be engaged, to be involved in our political process.

Thank you, Madam President.

The President: Thank you, Senator Jones.

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

Senator Campbell, you have the floor.

ACCESS TO OPPORTUNITIES AND RACIAL BIAS

Sen. Vance Campbell: Thank you, Madam President.

Madam President, as a young 11-year-old, I walked through the gates on St. John's Road that led to the school known as Saltus Grammar. It was not a school that I particularly wanted to go to; I wanted to go to Berkeley. That is where my friends went. I did not know anyone who went to Saltus. I entered those gates with the training provided to me by my mother and the teachers of the Bishop Spencer Primary School.

What I found at that time. . . or I started to realise, I would say, because at 11 you are interested in playing more than anything, a sport or whatever. I believe that is where I first came into contact or was exposed to this erroneous concept that one race was better than another. I was not raised that way, so I did not encounter that at home. However, Madam President, my Saltus experience was one where a minority of black kids (and I am referring to just my experience in my class) set upon that class at the top of that class throughout, just about, the six years that I was there.

My take from this experience, other than a continuation of the excellent education that I received at the Bishop Spencer School, was that no one, irrespective of race, was better than me. They may have a better start, but they are not better than me. They

may start the 100-yard dash from the 50-yard line. But I will still finish that 100-yard dash. No one race has been gifted, Madam President, with a monopoly on intelligence and common sense. No one race has been gifted with a monopoly on business and financial acumen.

However, in the Bermuda of 2019, when you look at the composition of senior executive positions relative to the composition or breakdown of the population as a whole in regard to race . . . Madam President, when you listen to the concerns of Bermudians who are unable to secure employment at all, or unable to secure full employment, and we have heard some of those concerns expressed here today by Senators, when you look at this group who are unemployed or underemployed, and you look at their racial composition, you will see the majority of these individuals fall within one particular race.

I have just said that certain things are not gifted to a race. It would appear, though, Madam President, that access to opportunities, while I will not go as far as saying is gifted to a particular race, I will say that opportunities or access to opportunities within this country in 2019 appear to be somewhat reserved or restricted based on a racial makeup, not reflecting that of the country as a whole.

It is inequities such as these, Madam President, which this PLP Government looks to address. We are committed to seeing such inequities dismantled and banished to the outermost annals of history.

Thank you, Madam President.

The President: Thank you, Senator Campbell.

Would any other Senator care to speak?

No. Then just before we adjourn, I would just . . . Oh, Senator Richardson, you want to speak. You have the floor. (Sorry.)

HEALTH CARE REFORM

Sen. Anthony Richardson: I apologise, Madam President.

Madam President, I would like to make comments on what I believe is a very topical area for the country at this stage, and it relates to health care. And I will say that my comments are in the context of . . . many years ago, of course, I worked as the Accountant General. And that as my first (I want to say) large-scale exposure to health care in terms of being involved, actually at one stage being responsible for the Government Employees Health Insurance Plan. And subsequently, I went on to be the Chair of the Hospitals Board when you were engaged, when you were employed, actually, as the CEO and thereafter went on to become the CEO of the Bermuda Health Council.

And during that time, having a dedicated focus on Bermuda's health care system, I became very sensitive to many of the issues that obtained at that

time. And with recent discussions, the same thing applies. And one thing that I was very, very conscious of is that the Health Council itself, when it first started, comprised many health care professionals. And from my perspective, each of them came with their own focused agenda, in a positive sense. And it was interesting to see how the council itself then evolved because, if I happened to be, for example, an internist and you happened to be a podiatrist, for example, we had our own interests. And we rigorously defended what we wanted in that regard. And so, I always found it an interesting challenge to try to harmonise the various interests into what was the greater good for Bermuda.

And now we are at a stage whereby the country is much more focused on what is going to happen with the Government's proposal to effectively change the current health care model. And so, in that regard, I remain mindful of the sensitivity in terms of cost. But the reality is that Bermuda's health care costs continue to escalate at a rate that is not sustainable. And what the Government has now done is said we are going to now put in place a significant change to doing that. And with all of the recent commentary, Minister Kim Wilson has been very firm in the sense that the consultation process is ongoing. But as I said earlier, sometimes what happens is when there is a significant issue being discussed, we sometimes get caught up into sound bites. And as individuals, we forget to make sure that we understand and are fully engaged in the overall process.

And to that regard, I want to encourage us as legislators, but also as members of the public, to remain engaged and to attend, as much as possible, some of the public forums and then to engage or to avail ourselves of all of the information that is being provided by both sides, to be honest, because clearly neither side is going to always have all of the information. And we should make sure that we are properly informed. And so, again attend as many forums as possible.

But what currently exists is the Standard Health Benefit, which you will be aware of. It basically defines a subset of services that will be provided that have then been priced by an actuary to ensure that those costs are covered. And in a previous debate, we talked about the fact that, based upon the numbers I have been provided with, the total amount of money that is actually raised for the Standard Health Benefit across all insurers does provide enough money for all of those persons who are requiring the Standard Health Benefit.

What Government is now doing, though, is changing how those funds are actually allocated. Because in the past, what happened is the total amount that was raised was actually more than necessary and was therefore used to offset some of the supplemental benefits. I know that this is somewhat technical. And what I did on my own regard is talk to one of the in-

surers to make sure that what I was saying was correct and what I had in front of me was correct. And so that is why I am confident in what I am saying now, that the total amount of funds that are raised for the Standard Health Benefit are sufficient to cover those costs.

But now the challenge is that the Standard Health Benefit does not cover preventative care, prescriptions and long-term care, which ties in to what I said earlier today in that, as we are starting to live longer, persons are going to need to have lots of care beyond their standard retirement. And so, the Government plan now is to ensure that we can provide for some of those additional natural costs that are going to occur once we retire. And that is why I am referring to additional prescriptions and also long-term care.

And so, what the Government is trying to do with revising the health plan is to enhance what we have that currently exists. It is not really something that is new and different. It is an enhancement of what currently exists. And again, I want persons to make sure they attend the forum and ask questions. There are many, many forums now. And just keep on asking questions to ensure that they are fully aware of what is taking place.

As always happens also, you would have the Government position normally led by the Government Minister and then aided by others who have a perspective. And then, sometimes, you have other community groups that come out to also add to the discussion. And most recently we have the Patients First group which, in my opinion, is appropriate in that they have a perspective and they should present that perspective.

What has been interesting to me is the (I want to almost say in a strange way) deficiency of their response in terms of those numerous public campaigns, numerous ads. And I want to say that I was pleasantly surprised, almost, in terms of how they are able to organise all of these things and have it funded. We do not know (of course, it is not my business) how these things are being funded. But it is interesting in terms of, we have this aggressive pushback as opposed to being more of an aggressive engagement of the Minister to ensure that there is a balance of information being provided to the public.

To the credit of Age Concern, there is another public meeting tonight. And they have engaged, or they have arranged, I believe, for both sides to be present, which is going to be important for persons in the audience to ask questions. And that way, you can right away ask a question, get an answer, and then ask a counter question to another presenter and, hopefully, get some sense of balance.

And so, again, I want to really encourage as many persons as possible to attend the forum and ask any appropriate questions. I attended the forum that took place in St. George's several weeks ago now. And that resulted in my penning an article, because I

was concerned at some of the misinformation that was stated at that meeting, even in the presence of the Minister. And so, the Minister was saying, for example, that yes, there is ongoing consultation. And those present were acting as though that was not the case, which for me, it is counterproductive for the general public.

And as you would know, Madam President, when it comes to matters of the health insurance itself, there is a lot of misunderstanding. We do know, for example, that when I get sick, the costs are going to be XYZ. And I get concerned at that stage. But we do not generally take the time to fully inform ourselves in advance as to what an appropriate health plan is, for example, and what is even covered under the health plan, what the benefits are.

And so, again I want to just keep on encouraging persons to be engaged as best they can. Access information on their own. And not even what I am saying today, for example—do not rely on what I am saying. But say, *Okay, fine. There is more information.* So, therefore, go and find the information and ask those in the public who can assist. And sometimes, take the time to ask those with opposing views. Because each of us should be able to get information that says, you know, *You say A. I say B.* I should then be able to review the information myself and determine what I think is correct within those two viewpoints. That is what we really want to encourage.

And then, ultimately, what I want to say is that the Government position is very, very clear. We are going to, based upon our mandate, work to improve the health care system in Bermuda. There were two definite things that I think are not in dispute. One is that the costs are unsustainable. And two is that the health care outcomes do not match the fact that we are paying so much money for health care. Clearly, we should be seeing an improvement in the health outcomes.

I will say, as I said earlier, many times we remove or we do not emphasise the personal responsibility. So, as an individual, there are some personal responsibilities I have to myself as to whether I diet, whether I exercise and otherwise. That is my personal responsibility. But there is the inevitable system response to me if I do get sick. And that is what I think we are really talking about as opposed to my individual responsibility.

And so, what are we doing? The Government has said we are going to work aggressively to change the status quo. We are going to work to implement a better health care system that will ensure that my pre-existing conditions do not preclude me from having health insurance. I said earlier that as persons get to a stage of retiring, they are going to need certain support systems. You may be aware that if you retire, or after you have retired, and you go to obtain health insurance, the price point is virtually impossible for the average person. That has to be addressed.

In addition to that, from a systemic point of view, it is now a matter of, as a younger person, if you have older parents, you have to somehow find a way to take care of them, which goes back to the cost of elder care. The quoted prices for elder care now range from \$5,000 to as far as \$10,000. That is not sustainable for the average person, for sure. The average person cannot afford to have a parent in senior care or elder care at \$5,000 or \$6,000 a month.

And so, this is what we are trying to do now. We are trying to ensure that the health system is properly adjusted to ensure that more persons can benefit and certainly that those who are currently outside of the health care system will have health care. That is critical for any population. And, ultimately, it is to ensure that we have enhanced preventative care and also, at an individual level, to ensure that the existing co-pays are managed.

Again, Madam President, you will be aware that if you go to a doctor, certain fees might be prescribed, but the doctor can charge more than that. And then it just a matter of, you have to pay the co-pay. But even that, sometimes, is causing persons to make a different decision as to [whether they] should engage in the health system or not based upon even the co-pay.

And so, these are some of the issues that are intended to be addressed. And I will emphasise one more time that Minister Wilson, as the Minister of Health, is advocating and trying to ensure that persons do understand that, although the Government has decided on the unified system, the actual health package, the actual benefits have not yet been decided. And that is where we have the ongoing consultation. And everybody is encouraged to continue to engage in the consultation process and not be put off by any individual consumer group (let us call it) or health profession advocacy group, because we may be inadvertently swayed. Let us just remain engaged until that process ends. Thank you, Madam President.

ANNOUNCEMENT BY THE PRESIDENT

SENATE VISITOR

The President: Thank you, Senator Richardson.

I would just like to acknowledge the presence of the Minister without Portfolio, MP Jamahl Simmons, who is in the Gallery.

Welcome to you, sir.

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

No.

Then I would just like to acknowledge, on behalf of the entire Senate body, the comments that have been made by Senator Jones in congratulating Jason Hayward in his appointment, on his election as an MP.

And also, Dwayne Robinson has returned to the Senate. On behalf of all Senators here, we would just like to thank you and welcome you back.

With that said, the Senate is now adjourned to next week, Wednesday, the 11th of December.

Thank you.

*[*At 12:29 pm, the Senate stood adjourned until 10:00 am, Wednesday, 11 December 2019.]*

**The Senate resumed on Monday, 16 December 2019.*