



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

*Sittings 1 through 6 of the 2018/19 Session  
(pages 1–160 and INDEX)*

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

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**BERMUDA SENATE****OFFICIAL HANSARD REPORT  
9 NOVEMBER 2018  
10:00 AM***Sitting Number 1 of the 2018/19 Session*

*[Sen. the Hon. Joan Dillas-Wright, President, in the Chair]*

**The President:** Good morning, Senators. Good morning. The Senate is now in session.  
Shall we pray?

**PRAYERS**

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

**The President:** Please be seated.

**MESSAGE FROM THE GOVERNOR**

**The President:** I now have the message from His Excellency the Governor. Is there a message?

**The Clerk:** Yes. There is a message from His Excellency, Madam President. The message is number 1, and it is from His Excellency, Mr. John Rankin CMG, Governor and Commander in Chief.

The message reads:

"I have the honour to inform the Senate that I will deliver the Speech on the Occasion of the Convening of Parliament at 11:00 am today, Friday, the 9<sup>th</sup> of November 2018, on the Cabinet Office lawn."

That is from Government House, dated 9<sup>th</sup> November 2018.

**The President:** Thank you, Clerk, Mr. Somner.

We will now have the Oaths of Allegiance. And I would like to call on Senator Nicholas Kempe to swear his oath.

If you would like to come this way, sir.

*[Pause]*

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS****OATH OF ALLEGIANCE**

**Sen. Nicholas Kempe:** I, Toby Nicholas Kempe, do swear that I will be faithful and bear the true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors, according to law, so help me God.

**The Clerk:** Okay. Do you want to sign?

**Sen. Nicholas Kempe:** Thank you.

**The Clerk:** Thank you.

**The President:** I would like to now call on Senator Marcus Jones.

Would you like to come forward, sir?

*[Pause]*

**OATH OF ALLEGIANCE**

**Sen. Marcus Jones:** I, Marcus James Anthony Jones, 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 Clerk:** Thank you.

**The President:** I would like to now call on Senator Dwayne Robinson.

Would you like to come forward, sir?

*[Pause]*

**OATH OF ALLEGIANCE**

**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:** Thank you. And now you sign.  
Congratulations.

Well, Senators, we will now adjourn so that we can . . .

**An Hon. Senator:** Madam President, I move that the Senate do now adjourn until 10:55 am and reassemble in the Cabinet Office lawn for the reading of the Throne Speech.

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

The Senate will stand adjourned until 10:55.

**Proceedings suspended at 10:05 am**

**Proceedings resumed at 12:31 pm**

*[Sen. the Hon. Joan Dillas-Wright, President, in the Chair]*

## **ANNOUNCEMENT BY THE PRESIDENT**

### **HOUSE VISITORS**

**The President:** Good afternoon, Senators.

The Senate is now again in session following the Speech from the Throne.

Before we get into our business, I would just like to acknowledge the presence of those in the Gallery, the visitors, and to thank you for your presence. And I would also like to say that, earlier, we had family members of the new Senators in the Gallery. And I just want to acknowledge [them] and to ask you to express our sincere gratitude and thanks for their appearance this morning, and to congratulate them on your behalf.

## **CONFIRMATION OF MINUTES**

*[Minutes of 15 August 2018]*

**The President:** We now will have the Minutes of the meeting of the 15<sup>th</sup> of August 2018.

Senator Jardine.

**Sen. James S. Jardine:** Madam President, I move that the Minutes of the meeting of Wednesday, the 15<sup>th</sup> of August 2018, be taken as read.

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

**Sen. James S. Jardine:** Madam President?

**The President:** Senator Jardine, carry on.

**Sen. James S. Jardine:** Madam President, I move that the Minutes of Wednesday, the 15<sup>th</sup> of August 2018, be confirmed as a correct record of that meeting.

**The President:** Is there any objection to that motion?  
No objection. The Minutes of the 15<sup>th</sup> of August 2018 are confirmed.  
Thank you, Senator Jardine.

*[Minutes of 15 August 2018 confirmed]*

## **REPORTS OF COMMITTEES**

**The President:** There are none.

## **ANNOUNCEMENTS**

**The President:** There are none.

## **NOTICES OF MOTION**

**The President:** Senator Kathy Lynn Simmons, Attorney General, and Leader of the Government.

*[Crosstalk]*

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

Madam President, I give notice that at the next day of meeting, I will move that the following message be sent to His Excellency the Governor:

“May it please Your Excellency, the Senate has the honour to thank Your Excellency for the most gracious speech with which Your Excellency was pleased to open the present session of Parliament.”

**The President:** Is there any objection to that motion?  
No objection.  
Thank you, Senator.

*[Motion carried.]*

## **PETITIONS**

**The President:** There are none.

## **STATEMENTS**

**The President:** Senator Kathy Lynn Simmons, I believe you have two Statements. You have the floor.

## **AMENDMENTS TO THE LIQUOR LICENCE ACT 1974**

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

And, Senators, you will excuse the draft that you have, which will be revised. But we can refer to it for the purposes of this Statement.

I am pleased to inform Madam President and this Honourable Senate of the proposed amendments to the Liquor Licence Act 1974 which will be tabled during this session of the Legislature. Madam President, this Government strives to strike the right balance to ensure that alcohol is responsibly consumed, whilst meeting the commercial demand to make it available. Bermuda is not only an international business jurisdiction, but it is also a hospitality destination.

Of course, Madam President, a primary concern is for the safety of the public, and the maintenance of law and order, in permitting the consumption of alcohol. This Government's recent implementation

of roadside sobriety testing is a prime example of ensuring this balance.

Madam President, amendments to the Act will be advanced to expand the categories of the licences issued by the Liquor Licensing Authority so that they reflect the current needs of industry stakeholders, such as retailers and caterers. The Senior Magistrate, who is responsible for the administration of the regime, has also identified gaps in the Act which highlight the need for reform. It is the Ministry's intention to advance the most urgent amendments to the Act which will support the economic sustainability of industry stakeholders.

Madam President, the proposed amendments will make express provision for a new class of licence for catered events and for wine tasting, respectively. The amendments will remove any ambiguity that currently exists in the Act. Madam President, we are all familiar with wine tasting events, often held by a retail outlet or other avenues for commercial purposes. Currently, there are no provisions in the Act to permit the sampling of alcohol at such events in liquor or other retail stores.

Typically, the objective of these events is to promote sales and introduce consumers to a product, within a controlled environment. Businesses make the determination as to profitability, and consumers are enticed by sampling. The usual safeguards will prevail, as the age of drinkers and other parameters, in keeping with the law.

Madam President, while the Bill will be permissive, it will maintain the checks and balances of ensuring that the licensing criteria will continue to be met for those serving alcohol.

Thank you, Madam President.

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

You have a second Statement, I believe.

**Sen. the Hon. Kathy Lynn Simmons:** Yes.

**The President:** You can proceed.

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

### **CRIMINAL CODE (SEX OFFENDER MANAGEMENT) ACT 2018**

**Sen. the Hon. Kathy Lynn Simmons:** Madam President, in August of this year, I affirmed for the Senate the Legal Affairs Ministry's intent to ensure that members of the public are protected from criminal offenders reoffending. I emphasised that chief among these concerns are the victims of sex offenders, particularly children.

Madam President, the tabling today of the Criminal Code (Sex Offender Management) Amend-

ment Bill 2018 delivers upon that commitment. These proposed amendments to the Criminal Code would ensure that the sex offender legislative regime reinforces its protection of the public. Specifically, Madam President, highlights of the Bill include the establishment of an operational framework that requires completion of mandatory programmes before sex offenders can apply for release on licence or be released on their earliest release date; requires all sex offenders sentenced to a period of incarceration to be entered on the sex offender register maintained by the Ministry of Legal Affairs; ensures that the public will not have access to the register; establishes an Offender Risk Management Team to monitor offenders within the community.

The team will be comprised of members from the Bermuda Police Service, the Department of Court Services, and the Department of Corrections. The team may recommend that offenders be reassessed if their risk of reoffending is elevated.

Madam President, the overall intent is to do everything feasible to ensure that offenders do not have the opportunity to reoffend. Offenders will be comprehensively monitored upon release, and the appropriate notification given to victims and members of the public where wider disclosure is warranted. When victims are children, stakeholders will collaborate to ensure that identified institutions are alerted and that appropriate restrictions are in place to protect children.

Madam President, we have undertaken careful research into the establishment of a public sex offender register. It is important to note that most jurisdictions, even those that appear to resort to draconian matters, do not have a public sex offender register. In addition, some jurisdictions are moving away from this practice, as it has impacted offenders in such a way as to place children at a higher risk.

I am pleased to inform the Senate, Madam President, that the sex offender management regime, registration and collaboration outlined in this new framework is demanding, yet sustainable. The Ministry will continue to review and revise the protocol in the disclosure of information identifying sex offenders and offender management programmes in order to ensure their effectiveness. With the implementation of the Offender Risk Management Team, there is an additional resource in our accountability toolbox. I am sure that the data compiled within the next few years will provide a basis for further legislative and policy development so that best practices are maintained.

Madam President, the outcries from various sectors and interest groups within our community have not gone unnoticed. We have considered legal and constitutional issues and information provided to the Joint Select Committee by stakeholders. The Bermuda Police Service, the Department of Court Services, the Department of Public Prosecutions, and

the Department of Corrections will continue to collaborate to ensure the success of this initiative.

Madam President, I have highlighted positive changes to the existing sex offender management regime, which fulfilled this Government's pledges to our community. We will continue the hard work necessary to enhance the lives and safety of our citizens.

Finally, I look forward to engaging Senators in a fulsome discussion of the merits of the Bill in due course. Thank you, Madam President.

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

## INTRODUCTION OF BILLS

**The President:** Now we move on to Introduction of Bills.

I think Senator Kathy Lynn Simmons, this is your Bill. You have the floor.

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

Madam President, under the provisions of Standing Order 23, I move for leave of the Senate to introduce the Bill entitled the Criminal Code (Sex Offender Management) Amendment Act 2018.

And, Madam President, I hereby introduce and read for the first time by its title—

**The Clerk:** Just, are there any objections?

**The President:** Are there any objections to the first reading?

No objection.

**The President:** Carry on.

## FIRST READING

### CRIMINAL CODE (SEX OFFENDER MANAGEMENT) AMENDMENT ACT 2018

**Sen. the Hon. Kathy Lynn Simmons:** Madam President, I hereby introduce and read for the first time by its title a Bill entitled the Criminal Code (Sex Offender Management) Amendment Act 2018.

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

**Sen. the Hon. Kathy Lynn Simmons:** Madam President, I ask that the said Bill be set down on the Order Paper for second reading at the next day of meeting.

**The President:** Is there any objection to that motion?  
No objection. The Bill will be set down on the next day of meeting.

Thank you, Senator Kathy Lynn Simmons.

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

## FIRST READING OF PUBLIC BILLS

**The President:** We now move on to the agenda, the first reading of public Bills. There are none.

## FIRST READING OF PRIVATE BILLS

**The President:** First reading of private Bills. There are none.

## QUESTION PERIOD

**The President:** We move now to questions and Question Period.

The first Statement was from Senator Kathy Lynn Simmons, Amendments to the Liquor Licence Act 1974.

Does any Senator wish to raise questions on this?

No? No questions. Thank you, Senators.

Then we will move on to the second Statement, which is the Criminal Code (Sex Offender Management) Amendment Act 2018.

Are there any questions on that Statement?

No? Thank you, Senators.

## ORDERS OF THE DAY

**The President:** We will now move on to Orders of the Day. And there are none.

## MOTIONS

**The President:** There are none.

## CONGRATULATORY AND/OR OBITUARY SPEECHES

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

Senator Kempe, you have the floor.

**Sen. Nicholas Kempe:** I would like to congratulate C.A.R.E. Computer Centre for 35 years [of service]. Some 800 graduates have passed through their doors, and some 5,000 people through [their] other courses. So, congratulations to the Honourable Nel-etha Butterfield and C.A.R.E. Computer.

**The President:** Thank you, Senator Kempe. Congratulations are due, as you mentioned.

Would any other Senator care to speak on Congratulatory and/or Obituary Speeches?

Senator Campbell, you have the floor.

**Sen. Vance Campbell:** Good morning, Madam President.

**The President:** Good morning.

**Sen. Vance Campbell:** I would like condolences to be sent to the family of the late Kenneth Noel Paul, who passed away on October 26. Mr. Paul led a full life. He was an electrician. He was a trade unionist. He was a candidate in 1972 for the Progressive Labour Party. He fought all his life for the improvement in the economic and social conditions of the people of Bermuda. And it was indeed an honour to attend his funeral, and not only to attend, to give a tribute. So, if condolences can be sent to the family, it would be much appreciated. Thank you.

**The President:** Thank you, Senator Campbell. I am sure all Senators will join in those comments from you.

Would any other Senator care to speak?  
 Senator Hayward, you have the floor.  
 Sorry . . . Senator Richardson.

**Sen. Anthony Richardson:** No problem.

[Laughter]

**The President:** I was looking at Senator Hayward.  
 Senator Richardson, you have the floor. (I beg your pardon.)

**Sen. Anthony Richardson:** Madam President, and fellow Senators, I would just like to, on the condolence side, I guess, recognise the passing of a long-serving St. George's icon, Ms. Ianthe Pearman. She actually taught me in primary school. She probably taught everybody who lives in St. George's who is probably less than age 65. She was there for so long. And I still recall that day, a long way ago, When I was in standard 4, and I was doing my math in class. And it was close to 3:30. And she said . . . Yes, standard 4. And she said to me, *Anthony, if you are not finished, you can take your book home for the weekend*, a math book. And I took it. It was a brown textbook. So I still remember that.

And she lived a very fulsome life. She was one of those I want to call "old-school educators" who took it very, very seriously. And everybody who knew her, it was Ms. Pearman. No matter where you saw her, whether it was weekends or otherwise. And she was very committed to her craft. And I just want to recognise her. She is going to be buried next week. And I really want to recognise her. I mean, everybody who knows her is like, *Wow*. She is almost one of those people whom I know how, of course, life bends work, right? But she was one of those who was not

supposed to die. She was just that incredible to everybody in the St. George's community. So, thank you.

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

Would any other Senator care to speak on the Congratulatory and/or Obituary Speeches?

No?

Senator Kathy Lynn Simmons. Oh, I beg your pardon.

Well, Senators, I would just like to acknowledge the passing of Carol Anne Paynter. Ms. Carol Anne Paynter was a nurse at the hospital. And in fact, she was Assistant Director over many years that I was in health care. And I would just like to say that we want to extend [condolences] to her family, to the Paynter family, on the passing of her. She was stepmother to many of the family members. And it was a wonderful send-off for her at the cathedral. In fact, I understand, because I did attend the funeral, that for 35 years she attended the cathedral. And she was well liked at the hospital and at the cathedral. So I would just like to extend, to her family anyway, condolences on behalf of the Senate. Thank you.

Now we will have adjournment.

Senator Kathy Lynn Simmons, you have the floor.

## ADJOURNMENT

**Sen. the Hon. Kathy Lynn Simmons:** I think I have my dates right.

Thank you, Madam President.

I move that the Senate do now adjourn to Wednesday, November 21<sup>st</sup>.

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

**Sen. the Hon. Kathy Lynn Simmons:** I move that the Senate do now adjourn.

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

**The Clerk:** Would anybody want to speak on the motion?

**The President:** Would anybody want to speak on the motion to adjourn? Here is your opportunity.

**The Clerk:** Say no.

[Laughter]

**The President:** Well, this is your opportunity. If not . . .

Senator Kempe, you have the floor.

## GLOBAL ENTREPRENEURSHIP WEEK

**Sen. Nicholas Kempe:** I just want to encourage anyone who is interested in entrepreneurship and small business to take advantage of Global Entrepreneurship Week, which officially starts on Monday. But, as is the habit of BEDC [Bermuda Economic Development Corporation], it rolls out for this whole month. So I have got my GEW pin on. There are a lot of excellent events.

**The President:** Wonderful.

Would any other Senator care to speak on the Motion to Adjourn?

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

## WELCOME NEW SENATORS

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

On behalf of the Government team, I would like to welcome the new OBA Senators to the Senate. We look forward to working with you in progressing the business of the country. Thank you.

**The President:** We all join in those comments. Thank you, Senator Kathy Lynn Simmons.

And with that, the Senate stands adjourned until the 21<sup>st</sup>.

Thank you all, Senators.

*[At 12:31 pm, the Senate stood adjourned until 10:00 am Wednesday, 21 November 2018.]*

**BERMUDA SENATE****OFFICIAL HANSARD REPORT****21 NOVEMBER 2018****10:01 AM***Sitting Number 2 of the 2018/19 Session*

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

*[No audio recording.]*

**DEBATE ON THE 2018 THRONE SPEECH  
AND REPLY**

**Sen. Nicholas Kempe:** . . . the special-assessment numbered units, which would not be given the right to register a car. This would have increased that stock. I am not sure what has come of that. I do not believe it has happened, but we seem to have jumped from a private-sector solution to a government-spending solution. It is almost as if we are trying to justify our existence by building more stuff through the government structure.

On economic development, there is some talk about BEDC's [Bermuda Economic Development Corporation's] role. Again, the sugar tax is being used here again to provide capital. I am not sure what that means, whether that is equity stake, whether that is guarantee capital. Certainly, the BEDC's guarantee was only about 33 per cent used, even before it was doubled. So, if the ultimate thing that this guarantee capital provided is to assist with getting a bank loan, it is not going to be effective without creating other financing options. Just providing guarantee capital is not the solution. We would need to either create better debt service ratios for business, and that means driving up our total local demand . . . and again, with a contractive population, we are trying to get more dollars from fewer people. And if the tax burden goes up, those same few bodies that are sitting here are going to have less and less to spend in local business.

We are seeing retail being absolutely gutted. Retail sales are down for the sixth or seventh consecutive month. It is going to be harder and harder for them to survive not only in an Amazon world, but with the increasing burden that we are putting with the hits of reduced domestic consumption base.

We talk here about a blockchain-based national identity system. Whether it is blockchain or simply a national identity system, I think that would provide some big government efficiencies, to track tax. The Fiscal Reform Panel mentioned using the Social Insurance Number as a unique identifier so that you know if someone owes TCD [Transport Control Department] tax or child support or payroll tax or

whatever. You can track that individual across departments. Using just the number, though, in isolation, is not going to be effective. We need government systems to speak to each other. And anyone who has had to deal with, or who has first-hand knowledge with how those accounting systems speak together [know that] that is not an easy task to pass.

There is not a lot in here about stimulating the national economy. I know the Attorney General earlier mentioned that FinTech has already been spoken about. But we are not seeing a lot of juice from that. It was hailed as the big, shiny diversification piece. And I really hope that the broader FinTech industry gets developed here. I think there has been a bit too much of a push towards the cryptocurrency part of the FinTech equation, which carries a much larger reputational risk. And, you know, we had all sorts of MOUs [memoranda of understanding] signed. Binance is set up now in Nigeria and Malta. Bermuda was not even mentioned in a recent report from [them]. So, I am curious where the traction is on this industry.

We absolutely need to allow new industry to develop here in Bermuda. And, unfortunately, with the state of immigration, where work permits for even the existing companies are so far behind, we have yet to tackle even the basic issues such as mixed status families, people who have been here for a long time. And if we cannot even address those basic things, there is no way we are going to create an environment where industry creators, innovators from overseas, see Bermuda as the jurisdiction to develop their new industry. I do not believe it is so much Government's role to kind of just make up what the next industry needs to be. We need to listen to what the market creators are saying and create an environment where innovation and business can thrive in Bermuda.

And a lot of that challenge is that we are crippling ourselves with regulations and bureaucracy. We have talks about changing, yet again, our work permit and immigration policy. There was broad consensus and a work permit policy that was agreed [upon] in, I want to say, 2014, so I am not sure why these ad hoc policies, these unwritten policies, this culture of obstructionism is permeating back again into the department.

We talk about a Consumer Protection Bill. I think the spirit behind it is good. There are certainly huge examples of exorbitant spikes in debts that are referred to collection agencies. I have seen the draft

legislation that is going in. It feels like the pendulum may have swung too far the other way, though. And what is going to end up happening is that credit is just not going to be given to the consumer. There are going to be no layaway plans. So, if someone needed a bed on terms, they are just not going to get it. They can try and go to the bank, get a personal loan. But businesses, with the absolute burden and that which goes with it, are just not going to assume the risk.

We also recommended in our Reply [to the Speech from the Throne] the need for Bermuda to develop a bankruptcy legislation framework. That has been highlighted. And this is not just for entrepreneurs, but also for individuals. That has been flagged in many entrepreneurial think tanks as one of the key ways to allow people to fail and try again. It is one of the key pieces to a successful entrepreneurial ecosystem.

Ageing well . . . talk about interest-free loans and the ageing population, that is a huge challenge here. As I mentioned earlier, the maintenance ratio is going to shift from 3-to-1 to 6-to-1 in the next five to eight years, I think it was. That means there are going to be many more people recipient of pensions and stuff, that they have rightly earned, and health care, where there are going to be far fewer people putting in. It is going to stress our cash flows as a country. It is going to stress our ability to raise taxes.

There is a bit of a fallacy here in the Throne Speech. It talks about revising the mandatory retirement age. There is no such thing in law. There are retirement ages agreed [to] in collective bargaining agreements. But there is no mandatory retirement age in Bermuda. So, I think Government needs to mention that it is not just a Government thing. But in private industry, unless the employer and the employee explicitly agree in the contract [to] a retirement age, there is no such thing. There is no mandatory retirement age in law.

Medical cannabis, a licensing regime to regulate domestic production, I would like to see how this is going to be fleshed out. Certainly, allowing the use of cannabinoid-derived products to ease the discomfort of a wide-ranging list of ailments, from cancer to glaucoma to whatever else, if they are the most beneficial forms, I certainly support it.

I am curious how a third-party growing licence to be commercialised in Bermuda is going to get past the banking hurdle. At the end of the day, our banks here require correspondent banks in the US. And, just as bitcoin, just as gaming, just as, in this case it will be the commercialisation of marijuana growth, and I am assuming production of medical forms of cannabis as opposed to just the raw weed for smoking, will require some banking challenges. And, just as gaming was shifted under the Minister of Finance because of banking challenges, we might want to think about moving cryptocurrency and cannabis there, too, because that is going to be a major challenge.

Certainly, I wholeheartedly support the elimination of single-use plastics. The only thing I could say is that I think that could easily be a shortened implementation cycle. Recently, in Spain, they did it in a three-phase thing, and it was a shorter cycle. It started with a fee. Then, there were only certain types of single use. And then, the only thing that is allowed are compostable versions.

Converting the Bermuda Plan to a living document is curious to me because the reason that it is a static document and it is upgraded only periodically is because everybody needs to refer to it as a "Bible." You need to learn it and love it, and make sure you are doing all of your plans and drawings by the standards. Now, if you have to check every three days to see if something has changed, you are always going to be on very shaky ground as to whether you are doing your job in compliance with the law. And that is going to cause a huge amount of uncertainty for professionals in these industries, and it is going to, essentially, cause inefficiencies through more regulation.

I wholeheartedly agree with the Unified Family Court having better trained professionals at the entry level, and restorative justice is a commendable action. I notice that there was some wording about why certain things were not done, because of initiatives displaced by Bermuda's anti-money laundering assessment. I think substance—you use "substance"—needs to be pushed to the forefront. The deadline on that is fast approaching. And we need to start having some real conversations about that with the public. Because that is going to require a far more involved conversation.

Creation of a Bermuda Event Authority is in here. And I feel like the opportunity was really lost. Bermuda was blessed with a huge stimulus, a one-time stimulus of the America's Cup. But there was a lot of legacy stimuli that could have come out of that. It has been, in my opinion, wholeheartedly ignored for political reasons. And trying to re-create this after the fact, it might be kind of too late. The horse is out of the stable already.

It is also worrying that this is coming up now, at the same time as political interference is being injected into the BTA [Bermuda Tourism Authority]. That same interference effectively crippled our progress on gaming. There has not been the ability to find a director since then. I am worried that the very good work, and one of the only continued drivers of our economy right now, is being meddled with. I always learned that when something is not broken, do not fix it.

The Pension Scheme (Occupational Pensions) Act—equal treatment, sure. I mean, I think everyone should be on the pension scheme. Furthermore, I would like to see a portion of these investment funds earmarked and driven towards the Bermuda economy. We have seen our local stock exchange have a huge decline in non-finance companies since mandatory pension schemes came into being. Basically,

forced savings are being sent, in this case, 100 per cent overseas. I think that has had a crippling effect on the access to capital in Bermuda. Capital needs to be imported now. What we save has to go overseas, and what we borrow needs to be imported. So, it seems somewhat nonsensical. And we are losing 1 per cent, soon to be 1.75 per cent, on foreign currency purchase tax.

We talk about true economic growth cannot be achieved without dismantling the status quo. Fine. But we need to talk about growth. And there is very little in here about actually growing the pie. We have dissected it in proposed multiple new ways. The Tax Commission gave some reports—not yet certain which ones, if any or all, will be accepted. But we need to focus on growing our total pie.

We are still suffering from the effects of the 2010 population exodus and the very, very huge and very real debt service costs that are eating up so much money that should and could be spent on the social safety net, on education, on all these things that, without them, there is really no point, as the Attorney General said, in doing this. If we cannot develop our people, if we cannot protect our people, the Island is not going to be better off. But we are not going to get there simply by shifting the chairs on the *Titanic*. We need to right the ship. We need to have an unfettered focus on plugging the hole, which is the deficit, which is the debt service.

And I could keep talking, but I think that is enough.

[Laughter]

## ANNOUNCEMENT BY THE PRESIDENT

### SENATE VISITORS

**The President:** Thank you very much, Senator Kempe, Opposition Leader in the Senate.

Before I ask any other Senator to participate in this debate, I would just like to acknowledge the presence of the Opposition Leader, Mr. Craig Cannonier, in the Gallery, as well as MP Scott Pearman.

Welcome to you both.

[*Debate on the 2018 Throne Speech and Reply, continuing*]

**The President:** Would any other Senator care to speak on the Throne Speech?

Senator Jardine, you have the floor.

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

I will try not to stray too much into the area of the budget. But I will touch on it to some extent. As I have said several times in the past, we are presented with Government's plans for the next session while

the budget, which helps to determine how these initiatives are going to be paid for, follows some three months later. And this unfortunate disconnect in our legislative system is something that we have worked with for many years. So, we are asked to consider these initiatives, and we do not really know how we are going to pay for them, because we do not know what the budget looks like. And this is a very unfortunate disconnect. So, we have to remember when we are looking at this that balancing our budget every year is just as important, because without that, we simply cannot undertake a lot of the initiatives that we are talking about here.

Now, we know from a recent release of information from the Ministry of Finance that the fiscal performance for the first half of this fiscal year is tracking about [on] budget. It is some \$46 million deficit for the first six months, which represents 52 per cent of the total deficit for this fiscal year. So, that is encouraging news. At least we are seeing that, so far this year, at least for the first half, that we are tracking on budget. Obviously, I would like to see better than that. It would be nice if we could reduce the deficit from what is expected in our budget to something far less. I think that would send a huge positive message to the business community not only here, but overseas. And I am hoping by the end of the year we will actually see a better result than what is being budgeted.

Madam President, there was a lot of information that was released by the Ministry, and I would just like to quote a comment from that release, if I may, if you would give me permission.

**The President:** You have permission, Senator.

**Sen. James S. Jardine:** And they say here, "This year's economic data, thus far, has experienced mixed results with some sectors of the economy exhibiting positive outcomes while other sectors have shown softness. There are positive signs in the tourism and construction sectors . . . [But these] positive aspects of the economy are offset by reductions in retail sales, imports and employment income largely attributed to the return to more normal levels following the large increases around the America's Cup."

So, we are seeing a lot of good results, though. You know, we are seeing our air arrivals, to the end of September, up some 13.6 per cent. We are seeing our cruise ship arrivals, up to the end of September, increasing by some 4.2 per cent. So, these are all extremely good results, thanks to the efforts of the Government and the BTA. So, that is something that we should celebrate.

Also, we have seen the dollar amount of construction put in place, these first eight months, some \$95.6 million, up 54 per cent from last year. And most of that is due to the airport redevelopment plan. But that is good news. It appears also, by looking at the social insurance reports, that the number of jobs has

increased to the end of September by some 290 people. And that is just a rough guide, because we do not have any details on that.

The not-so-good news is the large decline in retail sales on a consecutive six-month basis for the first eight months of this year by some \$18 million. Now, part of that . . . if you look at the numbers, part of that is due, of course, to the fall-off as the result of the America's Cup leaving. But there are also some very significant fall-offs in sectors such as car sales, which is a huge drop. So, if there was something that is not good news, it is the fall-off in retail sales.

Madam President, this year has been another difficult year for many Bermudians, particularly the elderly, as they look and have to make choices between whether they buy the food they really want, whether they pay electricity, or whether they can afford the rent. And some 50 per cent of our Financial Assistance budget, or some \$23 million, is spent on supporting our seniors. And, of that \$23 million, about 64 per cent of that is spent on nursing homes, rest homes, rent subsidy expenses. So, there is a huge amount being spent on our seniors. And that has increased significantly over the last 10 years.

Madam President, as I have said repeatedly here in the Senate over the years since I have been here, and certainly we have heard it around the Table this morning, we need to find, explore new ways of bringing business to Bermuda and, obviously, increasing the jobs that are available. Now, it is not Government's job to go out and find jobs. But it is Government's job to create the environment that brings business to Bermuda and creates the jobs. There is no sense in saying, *We need to have 3,000 people here*, if there is nothing for them to do. So, there has to be jobs here. As the Premier said last night at the town hall meeting, *Otherwise, there is no point in bringing the people here*.

We need to ensure that our education system is the best it can be. If we cannot provide good basic education for our young people, they just simply are not going to be able to compete in the Bermuda of tomorrow. Bermuda is experiencing a very fragile recovery. We have not balanced the country's budget since 2003. That is 15 years ago. So, 15 years ago was the last time we saw a balanced budget here. And I cannot stress [enough] how important it is that we get to a balanced budget as soon as possible.

We must remove the scourge of gang violence in our Islands. And we have seen that continue, unabated, this year. And innocent people are also being caught up in that gang violence. So, those are some of the things that we really have to focus on.

So, what has Government done to grow our economic base and create jobs? Well, I believe that much was done in 2016, 2017 and 2018 to encourage inward investment into Bermuda. There are a number of projects, for example, like the airport project and the new hotel in St. George's, which have created

jobs for Bermudians over a fair length of time. But we cannot also forget that the current Government has travelled extensively not just in North America, but also in Europe, to try to encourage inward investment into Bermuda. And we have all heard the chatter about FinTech. That is certainly a large part of it. But there are all of the other aspects of international business beyond that which the Government is trying to encourage in coming to Bermuda. And I think this cannot be ignored. If you are in the face and in the front of businesses across the world and countries across the world, people will give you a second look. We cannot simply sit here in Bermuda and expect that business is going to come here. We have to go out and find it.

So, we have seen a lot of good initiatives from the BTA, which has increased our tourism. And in a November 8<sup>th</sup> article in *Bernews*, the BDA [Business Development Agency] says that they have assisted in the generation of an estimated \$24 million of new business in Bermuda in 2017. So, they are out there as well. And they have brought in 164 new business employees, which has helped, again, to grow our economy.

Having said all of that, there is still much more that we can do. You know, the continued consolidation of our insurance industry here, and we see it almost on a monthly basis, where the number of jobs in that particular industry is shrinking. So, we see growth over here, and then we see shrinkage here. It is a constant battle. And so, it is very important that we continue to look to create new jobs. We have lost something like 6,900 jobs between 2008 and 2015, and some 3,600 of those lost jobs were jobs held by Bermudians. So, that is a huge decrease in jobs. Over the last three years, we have seen an actual increase of about 520. So, that 6,900 has now dropped to about 6,400. But we have still lost a significant number of jobs, and we just simply have to try to increase those numbers.

Madam President, the employment statistics from the August employment brief indicate a number of things. And I think I have already touched on them in terms of the creation of new jobs. In 2015 and 2016, we created 334 jobs in total. And, according to the information that I was able to get out of the Ministry, looking at the social insurance returns, we have created about another 290 jobs since June of last year. So, we are starting to see jobs being created. But we are still battling this consolidation and loss of jobs.

The challenge to create an environment which is going to attract these businesses here is significant. But it is going to require some changes. And I will talk about the immigration situation in a minute. But there is no question that we have to look very quickly and very appropriately at things like our immigration laws, and, for example, our 60/40 rule. Businesses need to be attracted here. They need to feel that they can

come here and that it is worthwhile for them to be here. And, we will talk about some of the cost issues in a moment, as well. So, there are no quick short-term fixes. This is not something we can fix tomorrow. It is not something we are going to fix in the next 12 months. But it does require a concerted effort by all of us to try to bring business to Bermuda.

Now, there are some 7,000-plus jobs that are presently taken by non-Bermudians working in Bermuda. And there are a number of jobs in certain sections like nursing, and we have heard some of the improvements in that area; accounting; secondary education; hospitality; landscape gardening; and some of the trades, as well. And I would encourage Bermudians to look at those areas as areas that they can get into to try to find work. And [considering] the Government, again, we have heard about the initiatives that they have undertaken from an educational/retraining point of view to provide opportunities for Bermudians. And I would suggest that they look at some of those areas where there are significant possibilities for them.

Madam President, turning to the Speech from the Throne, there are some 54 initiatives in there I counted. I just cannot help it; as an accountant, I have just got to figure out numbers. Some of those initiatives are new, and some of them, as the Attorney General has said, are initiatives that are carryovers from last year. And I want to talk about some of them. My time will not allow me to talk about all of them, but I do want to touch on some.

And the first is tax reform. Madam President, on page 3 of the Throne Speech, they mention the completion of the Tax Commission's report. We all have a copy of that. I have had a chance to go through it quickly. I have a lot of questions about what is contained in there, some concerns. The Senator to my left has mentioned some of those concerns in terms of the costs that may be passed on to some of the employers and how they are going to deal with those costs. Until I have had a chance to really study the finer details of that, there are some uncertainties in that area.

But one of the areas that was touched on in the Throne Speech was the reform of the social insurance scheme. Now, at present, we all pay a flat rate per week; it does not matter how much you make. The Government is suggesting that it be based on a percentage of your gross wage, whatever that is, so that it is on a sliding-scale basis. In the United Kingdom, I did have a chance to talk to somebody in the pension office in the United Kingdom, just because I wanted to get a sense of what they do. Certainly, that is exactly how they, at present, manage their national insurance scheme. People pay a percentage of their wage into the scheme. And, obviously, it is a percentage. And so, the more money you make, the more you pay into the scheme.

There are all sorts of categories. And, within each of those categories, the percentages change, but the basic premise is you pay as a percentage of your gross salary, and there are no maximum amounts. On the retirement side of it, when you retire, essentially, under the new pension scheme in the United Kingdom, everybody gets the same amount no matter how much you put in. So, it is not based on what you put into the plan; it is based on the period of time that you have actually paid. And I think it is now 35 years. So, as long as you pay in for 35 years, you all get the same. There is no difference.

So, what the Government is suggesting here, as far as I can tell, is that they are going to, in fact, mirror that scheme. Now, one would say, logically, that makes sense; it is a fair way to do it. My only concern is, how is that going to impact the employer in Bermuda? And, you know, we do not have the details of that yet. But one of the cautions I would sound is that, again, if we start to pass too many costs on to businesses here, as was mentioned earlier, businesses will then struggle. They have a number of choices. They can either absorb the cost and make less money, they can try to pass their cost on to the consumer, and, hopefully, he will pay for it, or, they can simply close their doors, pack their bags and disappear. So, as with all tax reform, it has to be looked at very carefully in terms of its impact on the businesses in Bermuda.

Now, I understand the Government wants to reduce its substantial unfunded liability with respect to the social insurance scheme, which stands at over \$2 billion. And I appreciate that, having served on the Pension Subcommittee for the SAGE Commission, there are things that the Government needs to do and can do in order to address those unfunded liabilities. But we need to be careful that we do not put too much burden on the employer, particularly in the international business sector, or that could be the final straw that breaks the camel's back. So, I would just suggest caution there.

So, Madam President, as far as tax reform is concerned, I wholeheartedly agree it is long overdue. And there are some interesting proposals in the Tax Commissioner report, which I will be delving into in more detail when I have time. So, I am pleased to see that it is at last before us. The Government will have to make some difficult choices and some decisions, but I think it is a good step forward.

The next item is mortgage relief. I was very pleased to see in the [Throne Speech] Government's determination to try to deal with, as they say, "including, but not limited to engaging alternative financing regimes . . . ," one of which is to reduce the cost of mortgages. For those of us who have children who now want to own their own homes, and we have to go to the bank and fight their battles, it is really a daunting affair when a young person this day is faced with the fact of having to pay upwards of a 6.5 per cent

[interest rate] on their mortgage, a 1 per cent administration fee up front, and, in addition to all of that, they have got to pay upwards of a 20 [per cent] to 30 per cent down payment on the value of the house. So, for a young person today, it is extremely difficult to actually finance the purchase of a reasonably inexpensive condominium. And anything that can be done to reduce that would certainly be welcome.

For example, in Bermuda, you are paying 6.5 per cent on the floating-rate mortgage. You might get 1.6 per cent interest on a one-year term deposit. And so, the bank is making a 5 per cent spread on loans to money coming in, or what they call a "lending-to-deposit spread." In the United States, those spreads are only 3.8 per cent. So, there is this huge disconnect. In the United States, you have got a 3.8 per cent spread, or a 3.4 per cent in some cases. And in Bermuda, you have got a 5 per cent spread.

So, I really do not want to necessarily pick on the banks. But, in some cases, I know that a lot of young people are struggling, literally struggling. And they end up staying at their homes, their parents' home, because they simply cannot afford to go anywhere [else]. Or, in some cases, frankly, people are leaving the Island. And they are going to live in other countries where the mortgage rates are more reasonable and they can actually afford a home. So, I was very pleased to see that, and I look forward to hearing what the Government's plans are in that area.

Health care costs. In last year's Throne Speech, the Government undertook to do a thorough review of health care costs. And that has commenced. There have been discussions, as I understand from the forum last night, the town hall meeting, where the Health Minister said that discussions and consultation have been taking place. And so, that process has started. You know, our basic health care premiums went up by 4.1 per cent this year, and I have heard some people tell me that their actual insurance charges went up 13 per cent. Now, obviously, the 4.1 [per cent] is in there, but then their insurers have come along and said, *Well, actually, you know, things have been really bad and you're going to be increased by 13 per cent.* And that just is a staggering cost for somebody to absorb, particularly when they are retired.

There was talk in the Throne Speech about a National Health Plan that would be set up, using various pools. I am not really sure how that is going to work. Are we talking [about] a sort of national health scheme similar to the United Kingdom? Or are we talking about something completely different? And so, I would need more information on that before I could say whether I thought that was a good or a bad thing. There is no question that we need to do a very deep dive into the costs associated with providing health [care] in Bermuda.

Madam President, if I could just read some of the statistics which I took from various Health Council

reports and one or two of my own calculations, to just kind of put this in perspective?

**The President:** You certainly can, Senator Jardine.

**Sen. James S. Jardine:** Madam President, we saw decreases in 2015 from a high of \$11,297 per capita in 2013 down to \$11,102 in 2015. The Health Council reports per capita health costs rose back up to \$11,362 for 2016, which is a 2 per cent increase. They also have reported the total health system expenditures for 2017. And I ran my own calculations based on the population and what they had given us there. And those expenditures seem to have now gone up to about \$11,504, up from \$11,362 in 2016. So, it is continuing to climb again.

And here are some interesting, shall we say, historical facts. Our total health care expenditures have risen from \$378 million in 2004 to \$740 million by 2017. That is a 96 per cent increase in total expenditures during that period of time. The per capita health costs have risen from \$5,972 in 2004 to an estimated \$11,584 in 2017, just a horrendous increase. Health system expenditures now represent 11.8 per cent of our GDP and rank third in the world in terms of health care expenditure as a percentage of GDP, third only to the USA and Switzerland, who spend 17.2 [per cent] and 12.4 per cent on health care as a percentage of GDP, respectively.

So, Madam President, of course, we have to encourage healthy eating and exercise. But we need to examine every facet of our health care system costs and look for ways to reduce those costs.

The next item is energy costs. And, Madam President, one of the comments that was made in the Throne Speech . . . if I can just quote that . . .

**The President:** You may.

**Sen. James S. Jardine:** "Change the structure of energy taxes to promote energy conservation by replacing the flat rate of tax on fuel imports with a progressive tax based on energy consumption."

Now, I am not sure how that is going to work. But, presumably, as has been mentioned earlier this morning, the Government will then say to BELCO Light, *Here's your tax on fuel. You can now recover that from the users of energy, based on how many kilowatt hours they consume.* Now, I understand the purpose behind that. It is to try to get people to use less electricity. And I am probably just as guilty as everybody else with my air-conditioning.

The trouble is, if you bring this sort of thing in quickly, people are suddenly going to find their electricity bills going through the roof, and we have heard the concerns about businesses being impacted on this, before giving them an opportunity to try to put in place some of those conservation programmes or, indeed, buy some of the equipment. And I know there

is a rebate programme that has been started for seniors, which I think is admirable, because let us face it, a lot of our seniors are having to make those tough choices about paying their electricity bill or putting food on the table. But I think those rebates need to be extended to a far wider group of individuals, because buying some of those technologies is extremely expensive here in Bermuda. And when you look at the payback period, in a lot of cases, it just does not make sense. And so, it is a very difficult for people to find the economic means to deal with those sorts of things. So I would like some clarity as to just exactly how that is going to work.

There was also an interesting opinion piece by Sir John Swan in yesterday's paper, which draws attention to some of the issues which we are facing now. And it allows people the opportunity to comment on some of the alternatives, by the end of this month.

The next subject is a living wage. And on pages 5 and 6, you will see that the Government intends to begin a consultation process, with the intent of enacting, to start with, a minimum wage and then, eventually, a living wage regime. Now, there has been a lot of chatter about whether this is a good or a bad thing. And I am still ploughing through a lot of material. But, so far, my research seems to indicate that the possible adverse effects of establishing a minimum wage are inconclusive. A lot of people say, you know, you will see a loss of jobs, it is bad for the economy, and so on. And I have read some who have said, you know, they have seen a little of that, and others who have said they have not seen any.

One of the problems is that most of these studies are in large countries, and we are a small, little island. And so, it is very difficult to determine what impact this—starting with a minimum wage and moving to a living wage—will have on Bermuda. Now, minimum wage is nothing new. There are 159 countries around the world that all have a minimum wage. And some of them are very small. If you want to look at, perhaps, some of our neighbours, the BVI [British Virgin Islands], their minimum wage is \$6.00 an hour. The Cayman Islands, their minimum wage is US\$7.20 an hour.

Now, what is being proposed here, and I just want to say that Cayman's cost of living is perhaps lower than Bermuda's, but not far adrift. I have travelled there quite a bit when on business. So, they are setting a minimum wage of \$7.20 an hour. What is being suggested here is a minimum wage starting at \$12.25 an hour, moving to a living wage of \$18.29 an hour. Now, I have not been involved in all of the details of how those numbers have been created. But I think it is important when we get to that phase that we look very carefully at what impact that is going to have in a number of areas.

And I had a lot of questions, which I do not have answers to yet, such as, How many people are going to be impacted by the implementation of the

minimum wage, and then the living wage? What is the breakdown between Bermudian and non-Bermudian, or guest workers? And again, that point was raised this morning. What is the total cost of moving to a minimum wage and then a living wage? What types of businesses, which sectors, are going to be affected by this change? And, finally, what has also been mentioned this morning is, will tipping in the services sector be deemed to be included as part of the calculation of the minimum wage? Because, for a lot of people who will fall into this category, if you do that, they are not necessarily going to be making any more money.

So, there are a lot of questions with respect to the minimum wage, and certainly time does not permit us to get into it here. But I look forward to that larger discussion in subsequent meetings.

As I say, I am not necessarily against the minimum wage. I understand why there is a need for a minimum wage, and I can fully appreciate that. But I need more information, and I think the general public at large would like to have more information.

**The President:** Senator, I just want to remind you that you have 45 minutes.

**Sen. James S. Jardine:** Right.

**The President:** So, you still have plenty of time.

**Sen. James S. Jardine:** I do?

**The President:** Yes.

**Sen. James S. Jardine:** Okay. Thank you.

Education and training. First of all, I would like to thank the Government for leaving the current Minister in place for more than 11 months. I think if you look back in history, from prior governments on both sides of the aisle, generally, it has been an 11-month stint, and then you are replaced. So, I am pleased to see that the Government, at the moment anyway, is leaving our Minister in place, so at least he has a chance to get to grips and understand the issues that we are facing in our education system.

This is one of the two most important areas of concern in Bermuda. And this was identified in a poll that was conducted by Total Research Associates in August of last year. There were two things: It was the economy, and there was education.

So, our senior school students continue to perform poorly at the GCSE [General Certificate Secondary Education] level in the key subjects of math, English and science. And that really, really concerns me. And I am not a professional educator; I am not an educator at all. We are fortunate to have one in our Senate, who, I am sure, will tell us more about what she thinks. But my concern is those three basic subjects, math, English and science. And, Madam Presi-

dent, if you will allow me again to quote some of the results of that . . .

**The President:** Certainly, you may.

**Sen. James S. Jardine:** First of all, the Minister said, in a February 15<sup>th</sup>, 2018, article, with respect to the GCSE results, he said the following: “We also examined IGCSE results for the percentage of students falling in the A to C band.

“The results of this band of grades dropped significantly in all three subject areas.” So, we are going backwards. We are not going forwards.

And here are just some of the statistics, and this really concerns me. Of the 445 students in the public school system in Bermuda who took the math examination in 2017, only 18 per cent achieved a grade of C or higher. The international average was 75 per cent. In the sciences, the Bermuda public school results for grades of C or higher was only 12 per cent. And the international average was 78 per cent. In English, the Bermuda public school results for grades of C or higher were 41 per cent, while the international average was 80 per cent. And with respect to the GSCE results for all subjects for 2017, the average for the three Bermuda *private* schools was 90 per cent, so 90 per cent between C and A-star. The international average for all subjects was 82.7, [whilst] the Bermuda *public* schools was 25 per cent, down from 32 per cent in 2016. I have not been able to obtain the 2018 results from the Ministry, but I would be interested to see what those are.

So, Madam President, it is a tragedy that our schools are achieving such poor results at our senior school level and continue to produce results well below the international average. If we cannot see our children achieving much better results in what I would call the basic subjects of math and English, how on earth are they going to work in the Bermuda of tomorrow, which is going to require some mathematic skills and some basic English skills?

Now, as I said earlier, I am not an educator. And, so, replacing the middle schools with signature schools is something outside of my scope of expertise. I have read as much as I can on it, but unless you are actually, shall we say, at the coalface, it is difficult to understand the subtle differences between the two. But, surely, it is essential, while we try to figure out what we are going to do, that we try to bring the standards of our mathematics, English and sciences up to a reasonable level. It just concerns me when we continue to try to look at ways of changing something rather than focusing on how we can improve just the basic subjects. And that really, really concerns me.

There was one comment in the September 14<sup>th</sup> issue of the [Royal Gazette](#), and they said the following: “US experts give schools shake-up warning.” So, there were some concerning remarks there

about signature schools and the changes that are being anticipated there. I just . . . I guess the comment I would make is, *Let us not make any more mistakes with our children’s education*. This is such a key area.

Now, I was pleased to see that the current Financial Aid grant for students to be able to attend the Bermuda College has been increased, in addition to a new merit-based college promise programme. And that is a scholarship award for students with a GPA of 3.0 or higher. Now, while a GPA of 3.0 and higher is a reasonable standard, I would like to see it tied to the three basic GCSE results of math, English and science, where you could say, *Okay, if you get a 3.0 GPA, plus you have achieved at least a C grade in those three basic subjects, then you can be considered*. And I think that would, perhaps, create some incentive and some challenge for our students in our schools to try to bring up those levels.

Madam President, of course, the funds for all of these additional grants and scholarships must be found from somewhere. And, as I say, there is this disconnect between the Throne Speech and the budget. And we are kind of in the dark here. I mean, I think they are great initiatives. I do support any help we can give our students. But, again, Madam President, I do not want to keep harping on about it, but I guess I will—we need to balance our budget. We have to balance the budget. The Fiscal Responsibility Panel has said this to us in the last three reports they have issued. They said it again in the 2017 report. And so, I am pleased to see we are on target at the moment for at least meeting our budget. So, that is encouraging. Let us not lose sight of that.

Affordable housing. On page 9 of the Throne Speech, mention was made for the need to build affordable housing for Bermudians in the City of Hamilton. Now, whilst this may be a laudable initiative, there is also the question of, Where is the money going to come from to build these? And so, we are back to the same old question. Possibly a great initiative, but where is the money going to come from to build those places? Because we have to keep our eye not only on the deficit position, but on our overall debt position.

Now, Madam President, the question is, what research has been done to determine whether there is anybody out there who would want to rent them or buy them? We know we have made a huge mistake in the past by building something that one person bought, and now we are left with it as a white elephant. I would just hate to see us go down this road and make the same mistake again without some proper investigation and consultation as to whether or not there are really people out there who want to buy or, indeed, rent, if that is the case here, these units that are being created.

And I did get a little bit more insight last night at the town hall meeting that they will be sort of studio to one bedroom. So, they are small units. They are not two-, three-, four-bedroom units. So, maybe there

is a real need out there. But I do not know. And I would hope that Government would do very careful research before ploughing ahead there.

I was really pleased to see, of course, the amalgamation of some of our quangos, something, again, I have been calling for for many years. There are just too many of them. And the trouble is, with each quango, you have service costs. You have employees you have to hire. You then appoint a CEO. And all this does is thin out, what I would call “thin out” the government revenue that is generated by those quangos. Now, I am not saying that we should get rid of all quangos, and I am not saying that the work that some of them are doing is [not] very worthwhile. So, I was very pleased to see that the Minister is looking to combining some of those quangos, going forward.

I also think, with quangos, because they kind of sit out there and people do not really pay much attention to them, I think the Government needs to ensure that the boards of those quangos set some meaningful goals and objectives that they must obtain every single year, and that there is some accountability, there is review by government to ensure that those quangos continue to be relevant—that is the first thing—and secondly, that they do achieve the goals and objectives that are set for them. Otherwise, they are operating out there in separate silos, and we do not really know what is going on there.

Immigration. Madam President, it is fair to say that many have been waiting now for some time for the production and release of a report from the Bipartisan Committee on Immigration Reform. I heard last night, again at the town hall meeting, that it appears that there will be something forthcoming in early January, and that indeed they intend to have various town hall meetings across the Island to go through what is contained in that report. And that is good news. So, something is coming.

I was pleased to see that the Government is looking to amend the existing work permit processing model and making it more streamlined for those companies who are deemed to be good corporate citizens. This was an initiative that was started some years ago, and I thought was still going on, that if you were a good corporate citizen, if you had good corporate citizen status, that you were given some sort of priorities in terms of the processing of work permits. So, I was surprised to hear that, you know, this seems to be something new.

I was also pleased to read in the Throne Speech on page 11, and if I can quote it, Madam President?

**The President:** Yes, you may.

**Sen. James S. Jardine:** They said in there, “a balance must be struck between the legitimate expectations of Bermudians in their own land and the legitimate labour needs of businesses.” Let us read that

again, “a balance must be struck between the legitimate expectations of Bermudians in their own land and the legitimate labour needs of businesses.” There is no question that Government has to address, and I would say as a matter of urgency, questions and issues surrounding immigration. The recent business confidence survey made it quite clear. And in an article in the *Royal Gazette* on September the 29<sup>th</sup>, if I can just quote that, Madam President?

**The President:** Yes, you may, Senator.

**Sen. James S. Jardine:** “Survey respondents identified immigration and an improvement in work permit processes as the number one change that could positively impact the economy.” Pretty, you know, right-in-your-face; that is what they are looking for. So, Madam President, we need to move forward with immigration reform if we are going to keep the international business that we have at the moment, if we are going to attract new business to the Island, and if we are going to be competitive with other jurisdictions like the Cayman Islands.

And do not take your eyes off of the Cayman Islands. They are just going gangbusters. And from a business perspective, they are showing a surplus, a budget surplus of \$180 million for the first six months of their year. So, you know, they are watching what we are doing. They always have watched what we do. And we should be very mindful of the progress that they are making, as well.

So, Madam President, I want to work to move quickly on to some of the other initiatives that are contained in the budget. I note the plan to have students based in our overseas office to shadow representatives there—great idea. Again, how are we going to pay for that?

The section on ageing well, on page 13, talks about interest-free loans for those who would support seniors ageing in place. And again, I am all in favour. My day, I am sure, will be coming in the not-too-distant future. And I have said to my children, *Don't send me there. I want to stay right here.*

*[Laughter]*

**Sen. James S. Jardine:** The problem with all of that, of course, is, where do we find the money for it? And who is going to monitor it? Because it is going to be based on a means-based test. So, somebody is going to have to go out there and do that work. So, again, with some of these initiatives, and we have heard this morning, where does the money come from? How are we going to actually monitor these?

I agree with permitting public service employees to work beyond the mandatory retirement age of 65. I would like to see a mandatory retirement age of 67, and higher. Certainly, other countries around the world are either doing it or moving to that.

Whilst I agree with the prescribed use of medical cannabis, and we have had that discussion in these chambers some years ago, I am not convinced that domestic production of medical-grade cannabis is something that I could support. I have a lot of questions around that. I would need to know how it will be produced, who is going to license it and who is going to produce it, how it will be distributed and how it will be priced. I mean, these are all very important questions, and I am sure we will get to this in due course. So, I am not saying no. But I have some concerns, which it will be interesting to get answers to.

In the area of national security, there is little said in this area except for the cybersecurity strategy, which again was in last year's Throne Speech. And there is now talk about parish constables for each parish. And again, this was an initiative that I recall some years ago. So, is this a new initiative? Is this just something else that fell by the wayside a number of years ago and is now being brought back? I am not sure. But I do recall, some years ago, there was this parish constable initiative. And I think, again, it is a good idea. It helps the relationship between the community and the police, and I think anything of that nature is a good thing.

Page 10 of the Throne Speech mentions proposed amendments to the Tourism Investment Act to permit vacation rental properties to receive relief equivalent to that of the hotels. Now, while I understand that this is something that the Government would like to do, again, my concern there is, how much are we going to lose in the pay of payroll taxes, occupancy tax, land tax, customs duty? Because the hotels that currently enjoy that, some of them, it is a 10-year period. So, it is a significant period of time that they are enjoying relief from those taxes. And I would just like to get some more information as to, you know, does Government know how much this [relief] might be? How much are we going to lose out of our revenue pot?

I was very pleased to see, on page 8, about public sector reform, where Government is committed to ensuring that their IT systems will be linked to all the different sections throughout government. I have just recently served on a government committee, looking at some of these issues. And my view is, and again we have heard from others in the Senate, that linking all of the systems between the different ministries would be a huge efficiency move. There is no question that, when billings take place, when information needs to be gathered, if the system in this Ministry does not talk to the system in that Ministry, there is a huge amount of time wasted in trying to get information. And again, if there can be one sort of consolidated or coordinated area that deals with the collection of accounts receivable, for example, I think that would go a long way to helping. So, I was really pleased to see that initiative. I think that is an excel-

lent move forward and will help with some of the inefficiencies that exist within government areas now.

Madam, I suggested in my comments on the Throne Speech last year that it would be helpful to the public, and certainly for those of us sitting here, if the Government would produce a semi-annual report card which would let us know how they are doing, or how they are tracking, against the initiatives that they have put forward during the year. I have to troll through the papers and try to find out how the BDA is doing and how somebody else is doing. And I think some sort of central report once or twice a year, which summarises the initiatives and how they are moving, would be extremely useful to the public at large.

Madam President, I have also said on several occasions how important I think it is for Government, no matter who the government of the day is, to have an overall strategic plan, for at least five years, which says, *Here's how we see ourselves moving forward in this little Bermuda for the next five years. And we're going to take it down to the various ministries and department levels. We are going to have them live our strategy, and we are going to have them take part in developing and approving that strategic plan.* So, there is buy-in and, shall we say, knowledge throughout the government sector and, indeed, the public sector, just exactly what the plan is. Where are we going, and how are we going to get there?

And I think this would help Government to focus on putting resources in the right area, so that if we know that in *this* Ministry we are going to be doing *these* things for the next five years, then the question is, Do we have the right resources? Do we need to take some resources from over here and put them here so that we have the right number of resources? And everybody in that Ministry and in the departments knows precisely what it is we are going to be doing for the next five years. Obviously, the plan needs to be sufficiently flexible, or "nimble" is the word that everybody likes to use, so that if there are changes that need to take place, there is opportunity to make those changes. And those changes, again, are spread out to everybody in those departments. So, I would really like to see the government of the day produce what in business we all call a strategic plan.

Now, Madam President, I have emphasised before that everything that Government wishes to do is dependent on having the funds to carry out all of these initiatives. We can dream up and come up with any number of initiatives we want. But, unless we have the funds to do them, and that means continuing to balance the budget and reducing our debt, those initiatives just cannot happen, because we cannot afford to put ourselves further in debt.

So, Madam President, the challenge that every government faces is trying to protect the fragile economy we have, to create and nurture new jobs and new businesses, while at the same time containing or reducing government expenditures. We all talk about

increasing revenue. But we need to keep our eye on that little evil thing over here called expenditures, which can get out of hand unless we are watching it very, very carefully. Now, I will agree that having complete austerity for any length or period of time can cause damage, particularly in areas where you need to have more people involved, and whatever else, in what is considered to be important. But we cannot take our eyes off of the expenditure area of government.

So, it is a difficult balance. Government wants to have initiatives that help our people where they need help. They need to generate more revenue. And they need to control expenses. Not an easy job, but it is something that Government has to continue to do on a daily basis.

Thank you very much, Madam President.

**The President:** Thank you very much, Senator Jardine.

Would any other Senator care to speak? I just want to indicate that we will be stopping for lunch at 12:30. But if any Senator wants to speak for the next 15 minutes, the floor is open.

*[Pause]*

*[Inaudible interjections]*

**The President:** One of you wants to speak? [Or do] you want to adjourn now? Fine.

*[Inaudible interjection]*

**The President:** Hey, that is the consensus, and I support that. I just left it to you to make the decision.

So, the Senate stands adjourned until our normal two o'clock, until two. Yes, we will come back at two o'clock . . . 2:15, normally, 2:15.

**Proceedings suspended at 12:15 pm**

**Proceedings resumed at 2:17 pm**

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

## **DEBATE ON 2018 THRONE SPEECH AND REPLY**

*[Continuation thereof]*

**The President:** Good afternoon, Senators. I hope you all enjoyed your lunch.

We are resuming this afternoon with the Order of the Day, which is the consideration of the Throne Speech with which His Excellency the Governor was pleased to open the present session of Parliament.

The floor is open now for Senator Michelle Simmons, you have the floor.

**Sen. Michelle Simmons:** Thank you, Madam President.

Madam President, fellow Senate colleagues, a very wise man, i.e., Nelson Mandela, former President of South Africa once said, "There can be no keener revelation of a society's soul than the way in which it treats its children." Therefore, I have adopted a slightly different approach to my remarks on the Throne Speech, in that I have decided to focus on a few key areas. They are key, in my opinion, because they deal with some of the most vulnerable in our community, i.e., our children and families. So those are the areas I am really going to devote most of my remarks to.

We have a lot of accountants around this Table. I am sure they will delve deeply, as some already have, into the finances referred to in the Throne Speech. I wanted to apply my background to the Throne Speech, especially in the area of education. Senator Jardine has already referred to it earlier, and I am not going to disappoint him.

So, Madam President, the Throne Speech has only one short paragraph about the Government's plans for transforming the education system. And it is found on page 7 of the Throne Speech. I am not going to read the entire paragraph, but with your permission I would like to read one sentence.

**The President:** You certainly may.

**Sen. Michelle Simmons:** It is the sentence at the end of the paragraph which says, "The Government will continue the work outlined in Plan 2022 as well as the phasing out of middle schools and the introduction of signature schools at the senior level."

Many people have interpreted that sentence in different ways. I believe earlier one of my Senate colleagues interpreted it to mean that Government is phasing out middle schools, and exchanging them (almost) for signature schools. I am not quite sure how to interpret that sentence, so I am going to put several perspectives on the table which I hope will be fodder for people to give more thought and reflection to what will happen to our middle schools and our senior schools.

This is so critically important because everything else that we do in this community will be for naught if we do not have an educated population who can take up the new jobs in FinTech, who can help to convert our banking institutions into something more favourable to the general public. We need to make sure that our children have the benefit of the best public education school system there can be in Bermuda. We used to have it once upon a time. I do not want to go too far back in history because I will away my age, but I can remember when the public schools were the

best schools in Bermuda, and people were anxious to get their children into public schools. There is absolutely no reason why we cannot get back to that and, indeed, walk arm in arm with the private school sector to ensure that all of our children—not just some of our children, but all of our children—get the best education that is affordable to them.

So, without going too far back in history, Madam President, I would like to refer to my notes about middle schools and their introduction. In 1997 (that is where I am going to), middle schools were extensively introduced to address concerns in the community about easing the transition from primary to senior school (or secondary school, as it was known then), with an emphasis on the developmental needs of preteens and teenagers. The intention was to adopt a disciplinary approach, or a thematic approach, to learning and teaching. This was for students who would have been in the old Primary 7, Secondary 1, and Secondary 2. Those years are very vivid in my memory because I was part of the restructuring of the education system at that time. In American parlance, it would be the equivalent of grades 6 to 8. So, interdisciplinary teaching, or thematic teaching, and a focus on the developmental needs of those children.

From what I can gather—and I am putting it that way because I do not have hard, factual data—interdisciplinary planning and teaching remain the exception in our middle schools. And I am wondering if that is one of the reasons why the middle schools have been having a variety of degrees of success. Contrary to what many people in the public have been saying, there have been studies of our middle schools here in Bermuda. The issue I have is that not many of us have access to those reports and the data in them. However, there is a lot of online research we can all do to look at how middle schools have worked or not worked in countries overseas. And I have used some of that information to inform my remarks. One report, which I would like to refer to, Madam President, with your permission—

**The President:** Happy to.

**Sen. Michelle Simmons:** —is entitled “Focus on the Wonder Years: Challenges Facing the American Middle School.” This was a report which was researched by RAND Education—it is really the RAND Corporation—and prepared for the Edna McConnell Clark Foundation [EMCF], very reputable groups.

The research group intended to find out how well middle schools were serving the youths in the United States. They also set out to find out what the greatest challenges were in the middle schools. They synthesised literature and research from the previous years, 20 years prior to the study. So the study embraced quite a huge span of time. It is a significant study.

Madam President, one of the key findings of the research was this. And may I just read it?

**The President:** You certainly may, Senator.

**Sen. Michelle Simmons:** “Furthermore, the few studies that compared schools with different grade configurations suggest that young teens do better in K–8 schools than in schools with configurations that require a transition to an intermediary school.” (And I am continuing with the quote.) “Recent studies also suggest that students do better in schools that both foster personal support and emphasize academic rigor.” (End of quote)

It was interesting that the research also made a very important observation, and that was that many simultaneous changes around the onset of puberty were very stressful for young adolescents, with significant negative long-term results. Basically, they are saying [that] if you give children between the ages of 10 and 13 too many changes, then they do not like it, and they do not respond well.

Another key finding of the RAND report was that many of the core middle school practices, such as, you guessed it, interdisciplinary teaching, advisory programmes, and flexible scheduling were not implemented with any degree of fidelity. And this was mainly because it required a huge cultural shift in schools. I think we all understand that changing the culture in any school is a huge undertaking. It does not happen easily. And it does not overnight.

I emphasise that these research findings are from the United States. But are we so different? Madam President, what are “signature” schools and what are “magnet” schools, as they are more popularly called in the United States? These are typically schools that offer a unified curriculum based around a particular theme or method of instruction. The examples of specialised schools in other countries, which were provided in the Minister of Education’s brief dated July 11<sup>th</sup>, 2018, include the following. May I just read them, Madam President?

**The President:** Definitely, you may.

**Sen. Michelle Simmons:** The Minister of Education cited these examples—I stress they were his examples. He mentioned: Afrocentric education; Career and Technical Education; Information and communication technology [ICT]; Fine and performing arts; The International Baccalaureate; and, Science, technology, engineering and mathematics [STEM].

They were his main examples. These schools all recognise that not all students learn in the same way, and so they have their unique programmes which are meant to cater to the needs and the interests of young people who really would find it much more exciting and interesting to have their programme

organised around a theme, or a particular career interest or goal.

In my research I found that there are more than 4,300 magnet schools in the United States and they have emerged as educational beacons, in a sense, in communities, incorporating, as I mentioned earlier, their themed curricula, their hands-on learning, their experiential learning. They include a diverse tapestry of students and they also have academic requirements that often exceed those of the regular schools in the state, in order for students to gain admission. I will say it again: they also have pretty stringent academic requirements.

As I reflected on Bermuda's needs and the list of possible signature schools for Bermuda, or specialist schools (not that I am in support of signature schools; I just do not know enough yet), I wondered if any consideration has been given to a couple of other specialist areas. One of them is a dual-language school. As I see it, in our public schools we could do so much more with regard to improving the foreign-language capability of our students. It is missing in the primary. It is not as strong as it could be in middle, and therefore, there is a knock-on effect at the senior level. So I am throwing out the idea of a dual language signature school.

Another signature school which could go hand-in-hand with one of the schools the Minister of Education has touched on, is an early college academy, which would really cater to many of our high-flyers who already have the opportunity to enlist in the dual-enrolment programme at Bermuda College, but in tandem with International Baccalaureate, I wonder if we are just trying to do too many things with a finite population in public education at this time.

Madam President, I recognise the Government is also planning to have a period of public discussion and consultation concerning plans for eliminating middle schools and this, in my opinion, is absolutely essential. Nothing should happen without that. They need to collect as many viewpoints from as many stakeholders in this country as possible. Everybody feels that they are an education expert, or an expert on education, because we have all attended school. And therefore, we all have a view about how schools should operate. I think it is so important for everyone to be in on this sharing and discussing and tweaking to make sure that we get a plan that is right for Bermuda. Not a plan that is right for the United States, or right for Canada, or right for England, but a plan that is uniquely our own. We can only do that by including as many people as possible in the discussion.

But let me put in a plug for our educators, because they have the expertise from their experience in our schools to know what works and what does not work right now. I am sure that they also have views on the direction we should be taking. I would hope that every educator in the public school system—and it will

not hurt to include some educators from the private schools—I would hope that all those persons will be able to participate in the public consultation and discussion.

Meanwhile, Madam President, there are a few questions I would like to pose. With what will the middle schools be replaced? [I ask] because, as I said earlier, there is no clear statement about what they will be replaced with. If you read that sentence that I quoted earlier, the Government is planning on phasing out middle schools, but they do not say what they are replacing them with, if anything. Will all the schools at the middle, and let me bring in the senior level, become signature schools, or will there be some so-called "regular" schools as well organised in a similar way to what we currently have? Will the system revert back to having seven years in primary and five or six years in secondary? These are some of the questions being asked in the community at large.

In doing some more research of signature schools, I noticed that to gain admission into signature schools in some countries, there were certain academic standards that had to be met, especially in reading, English, and math. Senator Jardine's point about making sure that we are doing as much as we can to improve on the basics is very important. Will there be standards set in Bermuda for admission to the various signature schools? You might have different standards in different signature schools; I do not know. In many cases that I researched overseas, students needed to have at least an accumulative GPA [Grade Point Average] of 2.5, or higher.

In one particular area in the United States, it did not matter which signature school you wanted to go to, you had to have a GPA of 2.5, or higher. Therefore, we can correctly assume that not all students would be eligible to enter signature schools. So what are we doing for those students, as well?

Madam President, another question I have regarding what is being proposed for revamping the education system is, How many? How many signature schools are being contemplated? I am concerned that we need to look very closely at the number of students in our senior and middle schools at present in order to get a handle on this. I was able, thankfully, through the Department of Education to get some figures on current enrolment, as of November 20<sup>th</sup>, in our middle and senior schools. I will start with the senior schools. Currently, at the Berkeley Institute there are 639 students. At CedarBridge Academy there are 544. In total, our senior school enrolment is 1,183 students, Madam President. Middle schools: The numbers vary considerably from Clearwater Middle School where there are 111 students; at Whitney [Institute Middle School], 219; at Dellwood Middle [School], 245; at T. N. Tatem [Middle School], 184; and at Sandys Secondary Middle School, 157.

Madam President, the total enrolment at the middle level is 916 students. I do not have trend data,

but it would be interesting to study that to see if enrolment is increasing or decreasing at the middle and senior levels. Altogether, and this would be total senior and middle school enrolment, we have just over 2,000 students, 2,099.

I share that data because if Government is only seeking to create signature schools at the senior level, the numbers tell us that we could only have two or three signature schools with populations of no more than 400 to 600 in each school—three [schools] maximum. In my opinion, we need to make sure that we have the critical mass in our schools so that there is appropriate use of resources. If, however, we assume the Government is planning to take the middle school population and the senior school population to create the signature schools, then we could have more. But the number only goes up to four or five, especially if the population remains at approximately 2,000 students, then we could have 400 in the middle/senior school band. But we are looking at seven-year groups with 400 students, meaning each year group in those schools will be quite small and [the] class size will be even smaller.

So funding becomes a real issue. And looking at how we have historically funded our schools, this is a big concern for me because salary expenses for teachers will be high since the signature schools not only need to hire the best teachers in those particular fields, and we need to find them as well, but we also need to ensure that every single class that requires a specialist teacher has the specialist. So Government can anticipate having smaller schools, smaller class sizes, when you compare with the average size of the senior schools, but certainly not when you compare to the average size of the middle schools. Our middle schools are considerably smaller right now.

Madam President, the staffing in the senior schools will be critical to their success and we must—we must—have specialist teachers in every single field. I know from personal experience that the system has had issues recruiting enough specialists in some key areas, even now as we speak.

I would like to quote, Madam President, from the Magnet Schools of America website, if you do not mind.

**The President:** No, absolutely. Proceed.

**Sen. Michelle Simmons:** It states quite clearly, I quote. “High Quality Instructional Systems are rooted in well-prepared, well-educated professional educators. Teachers and administrators who are student-centered, collaborative, and inquisitive prepare learners to be world ready, workforce ready, and higher education ready. Teacher and administrative development through MSA [Magnet Schools of America] encourages networking, shared research and information and professional growth, the benefits of which

translate into an ever-evolving, ever-improving instructional system.”

That sounds like the ideal situation, especially when they talk about how teachers prepare learners to be world ready, workforce ready, and higher education ready. Is that not what we want for our children?

Research in the US has shown that the success of middle schools was stymied by the lack of subject matter expertise among middle school teachers who were not certified to teach at the middle school level. It was the case that the majority of middle school teachers were certified to teach only at the primary level, with those teachers lacking both training in the developmental needs of young adolescents as well as subject matter, knowledge, and understanding. This was further exacerbated by inadequate staff development.

Let me go back to Bermuda and what we know from some of the reports we have had in the public domain. One such report is the review of public education in Bermuda, produced by Professor David Hopkins, et al, in May 2007. That was more than 11 years ago. It provided a comprehensive review, focusing on primary, middle and senior schools—so the whole system. In the interest of time I can only give very short snippets of what Professor Hopkins said, but I am going to start with one quote, if I may, Madam President—

**The President:** Yes. Carry on.

**Sen. Michelle Simmons:** —from the Hopkins report regarding middle schools. This is something that was quoted in May 2007. “There is no doubt, for example, that the move to the middle schools was a mistake but the Review Team believes that a structural response would only cause more confusion and instability and leave the real issue—” [i.e.] “the low quality of teaching and learning—untouched.” (End of quote.)

This is why Professor Hopkins recommended that the system not spend its valuable time on a restructuring effort in 2007. Instead he recommended a phrase or an expression that we have all heard, I am sure, which is, the “re-professionalisation” of our professional educators.” That means he recommended that we spend time improving the quality of instruction in the classroom, as well as improve the administrative capabilities of our school administrators.

Another aspect of reform that Professor Hopkins recommended was reform to the Ministry and the Department of Education, along with many other recommendations, which I certainly do not have time to go into. Since this report has been published, there have been attempts to begin the re-professionalisation of our professional educators. But some of those efforts have been inconsistent, as far as I can see.

So 11 years down the road, Government is now considering a structural reform to the system. I am not sure if that is the best way to proceed, but that

is because I do not have enough information to be able to make an informed decision. However, I hope that those who are looking closely at this structural reform of our public education system will be considering every bit of school data that is available to them. While some of the major concerns of the Hopkins report are still present in our system, I believe that Government would still benefit immensely by going back to the Hopkins report and taking many of the recommendations on board.

Madam President, I would like to throw in a personal view, and that is, in the experience that I have had as an educator in three different countries around the world, the most effective schools I have seen and worked in, I may add, have been schools which are K through 12 schools. In these schools, students are known by staff members from the age of 5 all the way through to the time that they graduate from high school, senior school. Students have profiles which they develop as they progress through the school. There is a consistent academic programme which has a thread running all the way through from primary to senior. Students develop very strong skills over time, based on the school establishing consistent standards and expectations. There is a well-accepted school culture that permeates everything that is done in the school. And one of the wonderful aspects of such schools is the mentoring that goes on between senior students and the youngest.

If I had a free hand with unlimited licence to transform our educational system, I, personally, would push for K through 12 schools. I believe that there are too many transitions that we are putting our students through as they go from the age of 5 to 10 in primary schools, then from the age of 11 to 13 in our middle schools, and then from the age of 14 to 18 in our senior schools. Research has shown, and there is no doubt about it, the fewer transitions our young people have to go through, the better.

And so now that I have been able to get all of that out of my system about education, let me move on quickly in the time that I have left—

**The President:** Which is 10 minutes.

**Sen. Michelle Simmons:** Ten minutes? Great, that is all I need.

—to another aspect of living in this community that impacts everyone, and that is the cost of living in Bermuda. Just a few points.

I am delighted that Government is taking steps to reduce the extremely high cost of living that we all exist under here in Bermuda. Coming to grips with this single issue by employing multiple strategies, as they have outlined in the Throne Speech, will have the greatest positive impact on families in this country. Currently we see it. We see it every day—I know I do—families who are struggling under challenges which are just crippling. They are not able to make

ends meet, not able to afford housing, not able to buy healthy food, not able to pay utility bills in a timely manner, paying out exorbitant amounts for medical, and almost unable to provide tertiary level education for their children. We cannot continue to exist this way. And it is just an existence for many people at the lower end of the economic spectrum. So, thank you Government. I endorse any policies which will help to reduce the cost of living on this Island and make it better for families.

Five of the strategies that I picked out were: Removing that stamp duty on mortgages valued at \$750,000, which are going to be refinanced. That will help some people, definitely, to be able to keep the roof over their heads.

Second, the premiums paid to insurance companies. I know single people who are paying insurance premiums of \$1,400 a month. However, I also know people who pay \$380 a month. And we know that when you take the profit out of insurance, the premiums go way down. I am not suggesting that we are trying to . . . or that anyone is trying to put any insurance company out of business or trying to create unemployment for those in that sector. But we have to address this—\$1,400 to \$380 is a big difference.

Energy costs, we have to do something. We have talked and talked about it for years. BELCO . . . well, no one wants to see BELCO go out of business. But we do want to see a change in how energy is generated. I think that will go a long way towards, number one, improving our environment, and number two, reducing the cost of our very expensive energy.

Thank you, Tax Reform Commission. I am sure you did your work well. And I am sure there are a host of recommendations that the Government will review carefully. Senator Jardine [and] Senator Kempe touched on some of the recommendations earlier. I do not have much time, but I hope that those recommendations are considered, especially since we are looking for a fairer way for taxes to be assessed in this community.

Those four strategies all look at the outgoing. And the fifth strategy is the one that looks at the incoming, i.e., income, family income. Yes, a living wage has to come into being. Senator Jardine earlier gave us some insight into a minimum wage, as well as a living wage. I would suggest that anyone earning \$7.00 an hour in this community has to work for at least 140 hours a week, which is far more than the 35-hour work week. And that is why so many people have one full-time job, but they also have a second and a third job, because they have to make up that gap in hours. Is it any wonder that our children are not being appropriately nurtured in their homes?

And finally, the last thing I would like to just touch on is something that impacts, again, on family life. And that is mediation and arbitration. Madam President, as you well know, alternative dispute resolution has become much more widely accepted as a

means for negotiating agreements. It saves time, it saves money, it saves a lot of negative energy as well. Bermuda is viewed as quite a sound jurisdiction. We have a well-respected judicial system. And as one of the Senators said earlier, this is not a new idea, but it is time to bring it to fruition.

Family mediation, yes, it has gained much more acceptance here. It is a way of making sure that when there are domestic issues, especially when children are involved, that resolutions can be achieved in a much more harmonious way. I would just like to suggest that Government consider wrapping all of that into one centre, like a mediation and arbitration centre. And that—

*[Inaudible interjection]*

**Sen. Michelle Simmons:** Okay. Okay. Excellent.

So, ladies and gentlemen, as you can tell, I have very strong passionate views about education and where it should be going. I see it as a most important issue in our community because if we can educate our young people, i.e., the generation coming behind us (maybe they are about two generations behind us), then we will have done something that will be in the best long-term interest of Bermuda. And I am talking about all of us in Bermuda.

We cannot continue to have a private education sector that appears to be doing so much better than the public sector. And I put it that way deliberately because efforts are made to compare private and public education in this country, and you are comparing apples and oranges. Okay? It does not work. So we have to fix public education so that it is as good as, if not better than, what is offered in the private sector.

So with those remarks I will end, and thank you for listening to me.

**The President:** Thank you, Senator Michelle Simmons.

Senators, I just want to remind everybody, we have, for the moment, 45 minutes for the rest of the time that we have. So, each of you, until we get to five hours.

So which Senator would like to speak next on the Throne Speech?

Senator Robinson, you have the floor. And I believe this is your maiden speech, so you have our rapt attention.

### MAIDEN SPEECH

**Sen. Dwayne Robinson:** Good afternoon, colleagues.

After hearing my fellow colleagues speak on education and the like, I do not necessarily want to focus on those things, because we do not have a budget to really say where we are pulling money to do

certain initiative, but I will say that I have a lot of respect for the vision that was outlined in the Throne Speech. But I do also have a few concerns that I would like to put forward.

One of the things that I was looking for in the Throne Speech was gaming. The reason why was because I did a lot of personal research into this industry and it was going to . . . there was talk of training and indoctrination of Bermudians into this new industry. And it looked very achievable; it looked like it was moving. And then, after the loss of Mr. Schuetz, we have heard very little on it. So I would like to put forward to the Government that I would like to see the position [where] the gaming industry is now, and I think it could be a very viable way to employ many Bermudians.

Another thing that stood out to me was, I did not really notice a stimulus of the economy that was not really tax based. And I looked. Now, I know that there were some ideas, but I did not see something very concrete as far as stimulating the economy from the outside. Now, I understand that there is a lot of political football being done with the America's Cup. Regardless of how we might feel about it individually, it was something that did stimulate the economy. And I know many feel that it did not touch every "everyday" Bermudian, but I do think that we need to look at avenues in which we can bring income that does not necessarily revolve around tax.

With a shrinking population, that is going to be a very finite [source] of income, because, frankly, we are looking at an ageing population and a population that we will have to sustain. And a lot of young people who are supposed to be sustaining it are planning on leaving, or have already left. We have to change that environment. We have to touch the young people in a way that basically makes them believe that Bermuda is the place where they can get those opportunities.

So, I am going to go through the Throne Speech and just give my concerns on certain things that jumped out to me. If I have . . .

**The President:** Certainly. Continue.

**Sen. Dwayne Robinson:** Thank you.

The cost of living. I do not want to get too deep into that as well because we do not have a budget, but I do definitely think that there has to be an alternative way for people to make income in our country. I do think that right now we put a lot of emphasis on tourism, and we have not really put emphasis on innovating the economy in a way where newer, like more fresh, ideas can come forward because we have a lot of social media influences. We have a lot of jobs like that that are being done online that have reaped rewards for younger people in other countries. I do hope that one day, you know, we can implement some of these things here in Bermuda that can kind of widen the amount of income sources that people have

available to them, because a lot of times people are making more of their wealth kind of on the side of their job doing certain things that are now available to the mass public, like YouTube partnerships and all of the likes. I feel like that it is kind of stringent on our population that we have not exactly updated ourselves when it comes to those sorts of things.

Another thing was tax reform. I very much like the idea of a progressive tax. I think it is long overdue that folks who are making more should pay more. They should pay their fair share. Everyone should. My only concern with tax reform of that like is that when people's bottom lines are affected, they always pass the buck. And I am fearful that if we are not vigilant that that buck will be passed on to the everyday Bermudian. So even though they may not be getting as much money taken out of their pay by payroll tax, or social insurance, they still may end up paying more for fees such as cell phone bills, groceries, and all the like. So the money that is supposedly being saved eventually will be spent having to keep up with the cost of living because somebody's bottom line is being affected. And as every business has loyalty to their bottom line, they will pass that on to people who are not necessarily well endowed when it comes to assets and income.

Mortgage relief. For me as a young person, I absolutely enjoy it. I am keeping my optimism open for this point. I really do hope to see it further developed as we go along in the [Throne Speech] Reply. Because I know personally of the scare and fear of somebody who is growing up looking at trying to get into owning a house or being a homeowner and realising that this dream is impossible for a young person who does not necessarily have a hand-up or have maybe even property left to them. If you wanted to be somebody who worked by the sweat of your brow, and wanted to own a house, a lot of young people are deciding to move to the UK.

I know this has been touched on as well by Senator Jardine, but it is, to me, a burning, burning point. There has to be opportunities made for people who are working in their own country to live and own property of some sort. There has to be! It is akin to the American dream, really, to have your own little spot [that] you can call yours, that you can pass on to your family. And I think that having mortgage relief, though the specifics might not be as hammered out as I like. I do hold that optimism that further on down the line that will be something that I can look at and say, *Well, I want to purchase a home, I can purchase one*. So I am still really excited about that specific point.

A liveable wage. When I read this, the concept of it was good. However, there are extenuating circumstances, like the growing amount of taxes and the weight that businesses are facing right now, especially local businesses, to keep up with paying so many different expenses at the moment. And, again, with a shrinking population you end up having a much

smaller profit margin. So I do think that the concept of a liveable wage is a good thing. And I do believe that everybody who works, and works hard at an honest living, deserves to be able to be able to make a wage that they can sustain their family on in their own country. But with the way things are going at the moment, with all of these different payments, I fear that people will instead choose to lay off people if they feel as though they cannot keep up with the payments being made in certain taxes, and also with the cost of living continuously rising.

So I am nervous that we will see people, instead of looking to move around their income, they will instead move around their expenses, which to some businesses that is exactly what workers are—expenses—unfortunately.

Education, Madam President, was just outlined in depth by my fellow Senator. I support a lot of her views as far as education goes. I personally believe that it is time for us to take politics out of education and to look towards an Education Authority, because I keep hearing the same things when an Education Minister comes in. They try to do their best. A lot of times you really need something called “continuity.”

And I feel like the way Bermuda's education is set up, we make strides, and then sometimes we do not make strides. But if you left it to people who are experts in that particular field, which we have seen with the BTA [Bermuda Tourism Authority] . . . if you left it to experts, you would be able to set up a 5-, 10-, 15-year plan that even if a Government was removed from power, that plan would still continue. And, frankly, this sort of educational pitfall that we are in, where our children are struggling with the basics, it is going to take years to overhaul that and to touch the next generation. It is not going to happen overnight.

I feel like you need continuity. You have to have an Education Authority that is working on that continuously throughout whichever administration is involved, with oversight from the Minister, of course.

I love the initiative put forward with the increase in maternity leave. I just wanted to see a little bit of emphasis put on paternity leave, as well. Now, I know that was mentioned already, as well, but there are fathers who are supporting households that are not necessarily put in that box, you know, needing to take that time off to rear a new born. I think that just a bit more emphasis on paternity leave, as well, could have kind of sealed that completely for me.

Madam President, I looked at the tourism part of the Throne Speech, and I found it to be relatively small. I see that there is an interest in the Government getting involved in the BTA. I am very reserved about that because of the amount that was put into the Throne Speech regarding their views on tourism. There were not many initiatives, not many stimulating ideas put forth in the Throne Speech that would make

me feel as though the BTA should be brought under the directive of a Minister.

I do think that the old saying rings true, *If it ain't broke, don't fix it*. I feel like the things that were put forth in the Throne Speech did not really hit too many nails, as far as tourism goes, because there was not much mention of ecotourism, which I was looking into, which is tied to conservation. We do not do a lot of land conservation. And a lot of tourists do come to view native species of local flora and fauna that we could be [promoting]. We could be marketing Nonsuch Island a bit more as well, in that regard. Because I remember a lot of folks went there when they were younger, and I did a few school trips there too, and it was like . . . they had no idea that this actually existed.

Now, youth development for me was a massive thing that I was pretty much sitting there waiting to hear about. And I just feel as though it is almost . . . I would not say "lacklustre," but it just did not make me feel confident that we were really, really, really, really putting that invested time in youth, because I would put forward an idea that we do a community centre in every parish, like a revamped community centre that provides, you know, alcohol- and drug-free interaction for young people that gives them an alternative to just kind of going to Front Street and drinking, or whatever other recreational activities.

I think a centre in every parish would be good as well for career planning, because I feel like one thing that education somewhat lacks is the industry-led, sort of, initiatives, where you have somebody who literally outlines to you, *Okay, these are the types of jobs that are prevalent in your country*.

I remember that when I was going to high school one of the biggest things was picking what you wanted to do; picking what you wanted to basically dedicate your entire life to. And, really, that was a tough decision for many of us because the career planning, as far as what exactly . . . if I go away to school for something, will that degree warrant me a job? Will that degree give me a job? It is okay to like something; but where exactly is the initiative or the guidance that says to you, *Okay, you like this thing, but there may not be a job for you here in this current climate*.

Sometimes a lot of people who are young and coming up do not necessarily really look at those things. *[They say] I like something; I want to go away for it*. But how many barristers do we have (you know, before you commit to a law degree)? And I understand that it looks, it sounds as though you are kind of stifling somebody's dream. But it is good to get somebody to really sit down and commit to something with the proper channels of being able to pursue that to sustain themselves and/or a family later on. Because the last thing you want to do is to shoot our kids off, and then they come back finding out that there is nothing for them.

And this tends to be the case, which is why they either stay away, or grow up planning to leave anyway. So, a lot of these ideas are formulated in high school—whether somebody wants to stay or go. And we have to be getting to the youth there from middle school onward. I also reserve a lot of pensiveness when it comes to signature schools as well. So, I would look forward to seeing whether that would be implemented as far as career progression and the likes.

I was also struck by national security, Madam President. I feel as though it would solve a lot of our problems if we strengthened the Royal Bermuda Regiment. I think that we have an opportunity to really foster an employment option if they were given the tools to actually make a transition into a viable humanitarian force, because their personal goal is to become a humanitarian force. And I feel like if we supported them more in their endeavour, a lot of young people who are having trouble finding jobs and a lot of, not just young folks, but a lot of unemployed folks may find that there is something in that sort of organisation for them. And with a larger budget and more support, I feel they could provide a very, very, very lucrative sort of employment for many folks who are looking for something to benefit the community and looking to get involved, and also to take a lot of practical skills and translate them into a viable workforce later on.

Because you serve . . . right now, if you volunteer you would go in for a year and then you can resign on as you go. And that would be able to cultivate a lot of people and also to give viable job opportunities. I did not see any mention of that in the national security segment. And the Royal Bermuda Regiment is having some troubles right now. It is shrinking; it is having trouble getting bodies. And, you know, it is really good at moving around what little budget it has. But I would call to try and build it up to be comparable to the police force, as far as an employment option goes.

With environment and planning, Madam President, I mentioned earlier about conservation for local flora and fauna. I was approached by an expert in the field who told me that there is basically barely any conservation in that sort of area. Now, we do a lot of marine conservation, and we do a lot of conservation as far as the oceans go, based on, I guess, the motivation [of] tourism. I believe that we could strengthen our local flora and fauna and also translate that into a tourism avenue and maintain a lot of our species that have been going extinct, or species that we did not even know that we had, that could also provide a job-avenue point for folks who are getting involved in environmental science and studies. Like my good friend, Kyasia Fishenden.

Arts and culture is something near and dear to my heart. I have put a lot of time in supporting local artists myself, and though the \$40,000 grant to the Bermuda National Gallery is a good move (and I do

support it), I do feel as though we, again, have not had that facelift when it comes to actually engaging and assessing the arts community in our country.

We have a very vibrant arts community selection here where we have rappers and models and artists and all the like. And they rarely, rarely, get mentioned for these sorts of initiatives. Now, I did hear about a meeting with the department for creatives, the Department of Youth and Cultural Affairs, and I was very happy to hear about that. But, not having an initiative mentioned in the Throne Speech, to me kind of makes me wonder how serious the Government is regarding these other industries of art because there are a lot of people who are getting recognised now on social media who have nowhere to perform.

[There are] no competitions for them. No avenues to showcase their art unless you are somebody who paints. But there are so many more artistic opportunities that should be made available in our country that I feel as though can help with the economy as well. I feel as though an arts culture that is bolstered can actually become a very viable pillar of the economy because a lot of people do travel and a lot of people do invest in things that support a culture—that bolster people's national pride.

And we know from history that this is typically based in art. And we have constantly neglected our artists for a long time—especially vocal performers who have been going to events like Big Chill and trying to survive off of private events when we could be providing a platform for them that could bolster that portion of the economy. And we have a lot of people who are unemployed who are artistic who could find a different avenue of income if we just gave them a bit more backing.

So, I really am making a call that platforms be really made and invested in as far as—even if we are using Cross Island—that could be a good avenue to invest in, to really give the arts a leg up because I feel like we are missing out. And I feel like that is a viable, viable, viable economic standpoint there with the artists.

And my final question is with the creation of the Bermuda Event Authority, I am wondering whether or not that will be brought under the BTA because it seems to me as a . . . somewhat of a . . . not . . . I would not say a waste, but I would say it seems like it is somewhat of a double-tap, if you have a BTA which kind of oversees these sorts of things that you would have a complete separate event authority.

Now, I think that it will work in tandem well, because the BTA could then provide what it is doing and the Events Authority could provide logistical support to the BTA, but I do not think they require another standalone Events Authority.

So, all in all, I look forward to these many initiatives being outlined and to figure out exactly where the funding is coming from for all of these initiatives and I definitely remaining optimistic.

Thank you, Madam President.

**The President:** Thank you, Senator Robinson.

Would any other Senator care to speak on the Throne Speech?

Senator Jones, you have the floor . . . sorry, did you . . . ?

*[Inaudible interjection]*

**The President:** Senator Jones, you have the floor, and this is also your Maiden Speech.

### MAIDEN SPEECH

**Sen. Marcus Jones:** Madam President, good afternoon to you and my fellow Senators.

As this is the first time that I am addressing the Senate, I would like for you, Madam President, to indulge me just before I start talking about the Throne Speech to first of all extend my appreciation and gratitude to the party Leader of the OBA, Mr. Craig Cannonier, for affording me the opportunity to represent the party and the country in this particular role as a Senator. Also, I will be remiss if I did not extend recognition and appreciation to my wife and family that have released me and allowed me to spread my wings within this part of the vineyard, as they say, within the political arena. So, having gotten that out of the way . . .

As I read the Throne Speech, there were lots of things that came to my mind. And I am a person that is more of a half-full glass as opposed to half-empty, and my DNA dictates that I look on the sunny side of life. As I read the Throne Speech, I was impressed. I felt that it was an aspiration—very ambitious, [with] a lot of good things in there. As I went through the Throne Speech, and did a forensic analysis of that speech, Madam President, I would have been absolutely exhilarated by the Throne Speech if it was 2003 as opposed to 2018.

If we can go back in time and remember those times back then, that is when the PLP Government had been in power, for the first time after 30 years, for three or four years, by that time. They had successfully been able to put out balanced budgets. In fact, the PLP Government was able to decrease our debt. I believe it was back in 2003, jobs were plenteous. You were able to quit your job at five o'clock on Friday evening and by Monday morning you were gainfully employed somewhere else. They were wonderful times and, so, a Throne Speech of that magnitude would have been absolutely perfect for the year 2003. But, unfortunately, here we are. Our times are different today.

We have experienced, as per last data that we have retrieved, six months of continuous dropping of retail sales. We know where our debt is. Many of our people are still unemployed. As much as we do

need to as a Government and as parliamentarians to make legislation that takes care of those that are the least amongst us, there is also a need for us to be realistic. There is a need for us to be very measured in the way that we address our year-to-year budgets and our initiatives that we want to take on.

Let me say from the outset, as I address this particular topic, I do not want to repeat myself (many of the points that were raised by my fellow Senators around the Table), I do not think it is of any benefit if I just repeat the same figures, if I repeat the same points. But what I will do is highlight those themes that I think are very important.

Now, whenever I consider legislation, or if I consider putting ideas for the benefit of the country, there are three things that I consider. And I would like to put these markers down as I begin this discourse. The one thing I think about most strongly is future generations. The decisions that we make today, Madam President, will have reverberating effects on generations that follow us. So, I am not just looking to plan for today, tomorrow, for one year, for two years. But we are looking into the future to 10, 15, 20 years—decisions that are going to impact the next generation. How will these policy and legislative decisions factor into future generations?

Secondly, I am thinking of solutions versus problems. When we sit around this Table, are we more geared into providing solutions for what ails our country or are we more interested in amplifying the problems? We know that we have talk radio, we have *The Royal Gazette*, we have the blogs—there is no shortage of a very over-intensive, over-excitabile verbiage in the public marketplace about what ails Bermuda. You will not be hard-pressed to find people that can give you a very colourful narrative of what ails our country. What I do find in scarcity are people that are willing to step up to the plate and bring solutions as opposed to exacerbating on the things that are wrong in our country. So, when I contemplate a Throne Speech like this, I am thinking of future generations. I am thinking about whether this Throne Speech is presenting enough solutions.

And, finally, another thought that captures my attention is the fact that we are one Bermuda. The fact [is], despite our ethnic, racial, gender differences, party affiliation differences, we are one. We are one country. We are one identity. We should have one purpose which is how do we make Bermuda better for its citizens.

Now, we know that each party has its own definition or has its own pathway to improving the lives of its citizens. I think, for example, if you live in the west and if you are trying to get to Hamilton during morning traffic, there are different ways that you can get to Bermuda . . . sorry, that you can get to Hamilton. We are all in Bermuda, right?

So, really, parties have different routes to get to success for the country. And, as the electorate,

every five years they get to determine which party can best get them to their destination. Just as an aside, those of you who are trying to get to Hamilton from Somerset in the morning, the best route to take is to go Bay Road, Harbour Road into Hamilton. You will get the most quickest and efficient way getting around the traffic.

So, when I consider this Throne Speech, I am thinking of those three items—future generations, solutions, one Bermuda. And, as I said earlier, I live on the sunny side of life. So, one of the things that I think about is to consider the good in things and praise it, and that is what I did when I first picked up the Throne Speech. I said, *Before I go to look to criticise it, let me look and see what I can get behind—what I can applaud, what I can celebrate*. And there are some things in there that I absolutely am thrilled about—roadside sobriety testing, fitness equipment in public parks, eliminating paper forms by 2022, naming the old Hamilton Police Station after Mr. Ottiwell Simmons, eliminating single-use plastics by 2022. Those were some of the initiatives that the Government put forth in their Throne Speech that I think are worthy of applause—it is worthy of a standing ovation. It is worthy of the praise that it deserves without putting a “but” behind it. Just congratulations, a great thought, exclamation point.

But I am duty-bound in the place that I hold to also highlight some concerns of ours, things that we need to consider. Things [which] we can, as a body, regardless of party affiliation, [consider] together and make Bermuda better.

On page 1 of the Throne Speech, there is a phrase there on the bottom that says, “Government revenues are up.” Like Senator Jardine, I have had my experience within the accounting field as well. Numbers do get my attention right away. And numbers tell a story. Numbers can be manipulated. We also have heard the adage that numbers do not lie. Numbers are there to tell a story, and we realise that revenues were up primarily because of the increases in taxes. But we know that increased taxes do not raise the economic viability, do not necessarily increase GDP. Taxation of a citizenry is a light form of redistribution of wealth.

I was reminded of my childhood as a young man growing up in God’s Country, which is, for those of you who do not know, in the West End, which is in Somerset!

[Laughter]

**Sen. Marcus Jones:** So, if God’s Country is in the West End in Somerset, then I would think “heaven” is in the neighbourhood of Cooks Hill Road, in Somerset village. And I was reminded, as children my brother and I thoroughly enjoyed playing marbles. I do not know how we gained these marbles. I do not know if my mom gave us an equal amount of marbles. But for the

ages between five and seven the economy in the Jones' home for those two boys (my brother being the oldest) was marbles.

Now, my brother was older than me. He was a far better marble player than I was, so he consistently wanted to play "keeps" as opposed to "funsies." So, on a regular basis I was unloaded of my supply of marbles by my brother's expertise as a master marble player.

Now, the reason for this scenario and this illustration that I am putting out here . . . let us say my mother gave me 50 marbles and gave my brother 50 marbles. After a week of playing marbles, if she would come and find out how much each of us had at the end of the week, it was quite normal to discover that my brother at the end of the week would have 80 marbles and I, the younger brother not as skilled as him, would have, say, 20. In a perfect world, my mother would be the sovereign arbiter of the dispensing of those marbles, and I would like to have thought that at the end of every week, after counting those marbles, realising that the younger brother, Marcus, had only 20, she would, by rule of law, take 20 or so marbles from the bigger brother and be able to dispense them to me—who was clearly *one of the least of these*.

That is what Government does in a very simplistic manner. But, that action of . . . if my mother was able to take those marbles, [that] is not making the economy of marbles for those two boys any better. It is just shifting around the marbles. So, from a simplistic standpoint, the answer for those two boys would be to look to diversify. They would need to go beyond those two brothers to bring in more people, more marbles. So, we would have to get beyond playing marbles with one another. We would have to invite the boys down from Beacon Hill, from Broome Street, from Bob's Valley, invite them over so that they could be potential victims of our marbles game and would increase the pool of marbles within that economy of the Jones' brothers.

You may be saying, *Senator Jones, you are being very simplistic*. But our economy is very simple. We have to widen and diversify to a point that our economy can be stimulated, it can be allowed to widen the tax base. No, we would not be inviting expat workers as willing victims to this Island, but know that we will be rolling out the red carpet for us to be able to employ them, to be a part of our economy, to sit and spend time in our restaurants, to rent our homes. I am reminded of back in the 1980s when we had the American military here in Bermuda. They rented our homes. They ate in our restaurants. They were able to prop up our economy. They were able to bring a lot of resources to this country. A lot of times we tout what tourism did for us back in the 1980s, but it was also in tandem of that military arm that was brought here that helped to boost our economy.

The reason why I am belabouring the point is because in this Throne Speech, I believe what was missing were the ideas for expanding and diversifying of our economy. I realise that we have put a lot of our trust in FinTech and the industries that would support this particular initiative. But there is definitely a need to for us to go beyond that.

I was also concerned (on page 7) about education. And after listening to Senator Simmons talk about it, there is no need for me to go into too much detail. But I remember being a part of the public school system back in 2007. My kids were part of the public school system. I was a Parent Teacher [Association] president at the time and we battled, and we really discussed and we really worked over that Hopkins report.

I remember it very clearly because it was a very emotive subject back then, and we realised that to a large degree the middle school system was becoming the scapegoat for some of the failures within our public school system. But I have to ask the question today—keeping in mind that that report was produced was over 10 years ago—are all the stakeholders on board? Has everyone been fully consulted? Would there be too much disruption at this time before we take that very critical step? And what are the prospects that this structural change will . . . will it improve the outputs, or the outcomes, of our students? We have to ask that question, and we need empirical evidence to prove it—not just anecdotal examples—but we need hard data to be able to make that decision.

Immigration reform. As I said earlier, it is very important that we widen and diversify and invite more people in. Will the reforms that we are looking at put us in a position as a country, which is witnessing the loss of too many of our next generation . . . whether they are staying in university longer, whether they are determining that the Bermuda dream is not for them. What are we doing, first of all, to keep our young people here? What is the Bermuda dream? Is it still the same as it was 20 or 30 years ago? Maybe the Bermuda dream that we grew up with is not realistic today.

So, when we talk about immigration reform, we need to be able to let go of the fear that lingers amongst us, that our foreign workers are more of a danger or risk to us, to our livelihood. We need to be able to let that fear go, but at the same time have a balance so that we do all that we can to reward good corporate citizens as far as immigration is concerned so that we can widen our tax base and be able to see the fairness and the spreading of the taxation around our workers, which is fair for everybody.

Tourism and transport. Having worked within the tourism industry for most of my career, I was very much a part of the Concession Act that was part of legislation . . . we are talking, now, 30 years ago. And we saw the benefits of that particular legislation. It

came through at the right time. The question always remains whether that particular concession . . . if it was viewed as corporate welfare that was extended too long, and now it has become the fabric of concessions that we in Bermuda expect, and those within the industry expect—it is something that is going to be there in perpetuity. We have to look at what we are going to do with these vacation products that our citizens are now looking to get away from providing rental properties for our locals, to opening up for Airbnb. If we are going to do these tax breaks, we need to look at it very carefully. We need to make sure that the monitoring of the quality of these homes is in keeping with what Bermuda would expect.

I know that many of us are concerned about over-regulation, but we definitely do not want to cheapen the Bermuda product and if we are going to consider giving concessions to these vacation rentals, then there should be at least a little measure of monitoring how these products are rolled out to our visitors.

Then, on page 9, we saw the proposal of creating residences in the City of Hamilton for Bermuda's young people to own their own place. And, after listening to my fellow Senator, Senator Robinson, talk about how this initiative would interest him as far as mortgage relief is concerned as well, I said to myself we need to pump the brakes just a little bit. And one or two Senators have mentioned around the Table even today when we look at Grand Atlantic and we see that this particular project . . . \$42 million I believe was the cost of that particular project. We definitely need to step back and say, *Is this the right use of limited funds at this time for a country that has debt this high?*

And, then, if you step back again and you look at the demographic that the Government has outlined as target persons for these particular one-bedroom homes, we recognise through the Population and Housing Census Report of 2016, that this demographic group, between the ages of 25 and 45, is the largest emigrant number out of this country. That particular demographic group is also the one group that has experienced since the last Population and Housing Census anywhere between 6 [per cent] and 8 per cent of a decline in their gross salaries.

So, it begs the question, if we are targeting that particular demographic, taking into account that we have empty units there at Grand Atlantic and South Shore in Warwick, is it smart for us to be engaging and getting involved into that risky enterprise? We know the world over that governments do not do very well when it comes to getting involved in private real estate schemes—maybe because the profit aspect is not first and foremost. But I do believe that we can step back and rethink that a little bit.

Now, if you look at the Opposition Party's Reply to the Throne Speech, you will find that there are over two dozen ideas and suggestions to improve the welfare of our citizens here. I do not like very much

the title "Opposition Party," although that is the legal and official title of the party that is not in power. I would like to think of this side of the Table as the "Alternative Party," the party that offers alternative ideas. One thing that I think all of us can all agree with is that we all have the same purpose and desire in mind. And that is the best for Bermuda.

So, during the course of this session for this next year, I believe that we will have more of a chance to expand on the ideas that were presented by the Opposition Party, because I believe that our mandate is to provide alternatives to this country. Our job is to enrich and to expand on the ideas of our Government and give the electorate opportunities to make a decision on which work best for them, the alternatives or the Government's plans.

So, real quickly, some of the things that came out of our Reply: Education—an independent Education Authority. Having seen the success of the Bermuda Tourism Authority and having seen the successive failures of the output and performance of our young people, it is definitely worth checking out, and at least looking at, to see if it would work for us. We have the fate of the next generation in the palm of our hands and I think we need to all say as a legislative body, we *will not allow our kids to fail*. Not on our watch!

Also, in the Opposition's Reply there were suggestions put forward in regard to economic stimulus and growth, which involved increasing the pension pool, bankruptcy legislation, things of that nature. There was also a suggestion that we have a Public Registry to track utilisation of services and health care and the like. These are all suggestions that we shall put some more meat on as time goes by.

But I would also be remiss if I did not address the elephant in the room, and that is the debt that we look at on a continual basis. Bermuda's debt stands at about \$2.6 billion. And with a balanced budget aspiration being pushed back for another year, it leaves me with great concern. Our debt-to-GDP ratio is somewhere between 40 [per cent] and 45 per cent. The UK is about 47 per cent. The United States is 75 per cent. Canada is 90 per cent. Japan is some crazy number like 122 per cent of its GDP. Heaven help us, not on my watch will we allow it to get that bad. But it makes you stop and think.

Our debt financing represents 20 per cent of our annual operating expenses. That is more than the Government spends on health care; more than it spends on public education. Here is a number that would give you chills at night: \$62,000. That is the per capita cost of debt for every American that lives in the United States. That represents \$20 trillion. Each American represents \$62,000—that amount of money in debt. [That] \$62,000 sounds like a lot, does it not? Guess what? If you rolled that out for every Bermudian [it] represents about \$62,000 per Bermudian to cover our debt. When we look at America's debt, it

looks crazy. Oh, man, we are not that bad. In real numbers, no; but per person we are just as bad.

But you know what? What I also realise is that the Bermudian public is weary of us blaming one another. This debt that we have . . . each party can own it. To the public, it is a colossal waste of time regurgitating who started it, who added to it, who made it worse. It is a nonpartisan issue that all of us need to own up to. But the Government that actually holds the public purse is mandated to bring leadership to managing and eradicating that debt. And, so, to some degree, we on this side of the Table . . . our hands are tied. So, we will be holding the Government to account when it comes to our debt.

Very little was spoken, or addressed, about the debt in the Throne Speech. I would like to suggest to the Government that it put together a long-term plan, a plan that outlines different steps, or different stages, by which we can improve on our debt situation. Forty-five per cent of GDP is unsustainable for a country of this size, where our debt lies today. A decade or so ago, our debt was about 25 [per cent], 26 per cent of our GDP. This was very much in line with the islands to the south of us. It was manageable. We could handle it.

If we could plan different fragments of improvement from 45 [per cent], say in five years we could be at 40 per cent; say in 15 years we could be at 35 per cent and then in 20 years we could be below that 30 per cent of GDP mark. It would get the population stirred up to see a target. And then, as much as everyone hates to pay more taxes, if they saw that the Government of the day . . . regardless if it is the PLP or the OBA in Government. If they were able to see improvements to the debt situation of this country, people would be more willing to take a little bit out of their pocket because they see it going somewhere.

One of the most exciting days of my life was when I paid the last payment on my mortgage. I mean, the sky was bluer, the sun was brighter, my wife looked absolutely gorgeous, because we together had been able to make some sacrifices. We had planned it out. We saw it coming down and then we were able to celebrate it together. Can you imagine what this country would be like if we were able to see it going down and down to a point where it is manageable? Where the public does not see us pointing at each other, fussing with each other, but together in a bipartisan manner, we are attacking this public debt. So, I was hoping that more could have been said by the Government in regard to plans to eradicate our debt.

There is much more that I could say. And like I said, there is much that was said before I rose to speak. And I hope and trust that some of the things that I laid out today would be helpful and food for thought.

Thank you, Madam President.

**The President:** Thank you very much, Senator Jones. Would any other Senator care to speak? Senator Campbell, you have the floor.

**Sen. Vance Campbell:** Thank you, Madam President.

As an aside, I am not sure which population figure the Senator who just finished speaking used, because I get a figure of around \$40[,000] to \$43[,000]. However, nonetheless, it is still a huge figure.

Madam President, the purpose of a Throne Speech is to lay out the legislative agenda of the Government for the upcoming session. So, I would like, with your indulgence, Madam President, to focus on the Opposition Reply, keeping in mind what a Throne Speech is.

For much of the Reply, it was anything but a reply to the Throne Speech. It read more like the prelude to the launch of a general election. Much was said that was incorrect, and, with your indulgence, Madam President, I would like to go through and quote what they say, picking pieces from their Reply and then just outlining the reality.

The OBA stated, Madam President, and I quote, "Opportunities for Bermudians were bearing fruit." That is one quote. *Jobs for Bermudians were being created.* Second quote, Madam President. *It was the OBA that increased employment opportunities for Bermudians.*

The reality, Madam President, is there was a net loss of jobs under the OBA. Some use the figure of 2,000. I do not know what the exact number is, but it is commonly accepted that there was a net loss of jobs. And you can dispute the 2,000, whatever the number is. But there was a net loss. What you cannot dispute (because this was borne out in the census data) that jobs for Bermudians decreased while jobs for non-Bermudians increased under the previous administration.

Another quote, Madam President, "The number of Bermudian jobs created by the PLP thus far seems to amount to zero." Well, as was stated earlier (by, I believe, Senator Jardine), governments do not create jobs. They create an atmosphere for job creation to take place. However, again, the reality is since the PLP took office in July 2017, there has been a net increase in jobs in the economy.

Continuing on this theme, Madam President, the OBA, in criticising the Government's efforts in the area of FinTech, were critical of the sale of the land and building on Victoria Street, saying it was sold to a foreign-owned company with no Bermuda track record. Those are their words, Madam President, not mine. The reality, Madam President, with the new airport deal, is the OBA negotiated the loss of control of a significant asset for approximately 30 years, I think people estimate, along with the significant revenue generated by this asset. Hundreds of millions of dol-

lars—hundreds of millions of dollars—to a foreign-owned entity with no Bermuda track record.

The reality, a second reality, the proceeds of the sale of the building on Victoria Street went to Bermudian owners. Those Bermudian owners have a choice of keeping those funds within Bermuda, reinvesting in the Bermudian economy. The Bermuda public have no say in how AECON uses the \$100 million that will be taken out of the economy. But when you have a Bermudian owner, or owners, receiving funds, they have the choice to reinvest in Bermuda. They also have the choice to invest outside of Bermuda. But at least they have the choice to invest in Bermuda. AECON have no interest in investing in Bermuda. They are here for the profits and those profits will be shipped off Island.

Another comment: The OBA realise the comments made about St. Regis and Morgan's Point. The reality when it comes to St. Regis. They were issued, *carte blanche*, dozens of work permits. Most projects in Bermuda, even the ones with overseas partners, have a local general contractor. The majority of the staff onsite at any one time are staff of that general contractor. That general contractor, historically, has been Bermudian. That is not the case with the St. Regis. They are using those dozens of *carte blanche* work permits, Madam President, to bring in workers. They are acting as the general contractor. So, that has significantly affected the numbers of Bermudians that are working onsite. And it is no secret, Madam President, that the work at Morgan's Point has slowed considerably.

An OBA comment, again, this is all from their Reply to the Throne Speech outlining the Government's legislative agenda for the upcoming year. In 2012, we were on the brink of total economic disaster—on the brink of total economic disaster, Madam President—with a debt of \$1.4 billion at the time when they took office, approximately. The OBA adds \$1 billion to the national debt and calls this turning the economy around. And one member of the previous OBA Government even sought to write a book—did write a book, *Back from the Brink*. Do we understand what “back from the brink” means? We were on the brink; we are no longer on the brink. But everything we have heard today is we are very much still on the brink.

The OBA: “If the OBA Government did not make some of the tough decisions to pull [all of] us back from the precipice.” The OBA . . . one of the first things they did when they took Government was form the SAGE Commission to look into government spending and efficiency. How many of the decisions . . . rather, how many of the recommendations, Madam President, of the SAGE Commission were actually implemented? The tough decisions that needed to be made . . . the party that can make those tough decisions, that brought us back from the precipice, the

unpopular decisions. I would say little to none; little to none.

Perhaps they were afraid to make tough decisions, but it cost them the general election. Maybe they were “Term 2” initiatives. But the fact remains, those tough decisions that needed to be made based on their own Commission's recommendations were not made.

The OBA: “The legacy of the America's Cup has been squandered by the PLP,” Madam President. The reality: the OBA spent over \$100 million on the America's Cup. There was no guarantee that it would return for a second year. There was no foresight into how the \$39 million spent on creating Cross Island would be repaid. There was no plan even as to how to use Cross Island after the America's Cup. All this for a short-term boost. And, yes, it was. I am an America's Cup fan; have been one since returning from university in the early 1980s. But, again, a short-term boost. Money borrowed to create Cross Island, with no plan to repay it.

The OBA: “The reason the OBA was able to increase taxes without a revolt from the business sector, which shouldered most of the tax burden,” Madam President, “was because there was a demonstrated commitment by the OBA to use those tax increases to eliminate the Island's deficit.” Reality: The OBA increased taxes. They would have you believe the rhetoric that we hear, Madam President, that they did not increase taxes, the PLP increased taxes on the average Bermudian. The reality: OBA increased taxes. Reality: The OBA did not eliminate the Island's deficit, Madam President.

Madam President (again, quoting from the OBA response to the Speech from the Throne), we are talking about the legislative agenda for the Government in the next year. I do not believe I have actually spoken in regard to any of the items that we laid out in our agenda so far.

OBA, in reference to the Gaming Commission where we still do not have an executive director almost 18 months after his departure . . . that is, in fact, correct. That is the reality. Part of that reality is also the reason why the former director departed. Madam President, do I have leeway to read his own words—

**The President:** You can.

**Sen. Vance Campbell:** —the former executive director?

In a letter to the Commission Chairman, he wrote he <sup>1</sup>“quit his job after he decided the island's leaders lacked the ‘political will’ to keep the industry corruption-free.”

If I jump down further, he says, “He wrote: ‘My primary reason for resigning is that I have lost confidence that the Government of Bermuda,’” (we are

<sup>1</sup>[Royal Gazette](#), 23 November 2017

talking during a time, the final days of the OBA Government. So he is referring to the OBA when he is talking about the Government of Bermuda) “and its legal system . . .”. And he says, “My primary reason for resigning is that I have lost confidence that the Government of Bermuda, and its legal system can provide the necessary protections to offer well-regulated casino gaming on the island.”

He says a whole lot of other things as well, Madam President, but I will not go into them.

Again, in reply to the Government’s initiatives for the upcoming year, in reference to the Government’s refinancing some of the more expensive debt with lower cost debt, the Opposition Leader said, “I am duty-bound to remind the people of Bermuda that this was pioneered by the OBA.” Madam President, the reality is that refinancing has been around long, long before there was an OBA.

Again, the OBA: “It was the OBA that reduced health care costs for all Bermudians.” Reality: I never received a reduction in the cost of my health care. Did you, Madam President? Did anyone around this table receive a reduction in the premiums that they were paying for health insurance? Hmmmm. Interesting. The reality: The average Bermudian never saw a reduction in the premiums they paid for health insurance.

The OBA: “It was the OBA that helped those less fortunate in Bermuda through a progressive payroll tax.” There was relief, but the reality is had the OBA been in power in 2018, there was a plan to increase payroll tax. They never got to deliver that budget. Instead, Madam President, in 2018, the PLP did not follow through with that plan to increase the tax and in fact reduced the taxes on the lower band for those who needed it most.

Again, Madam President, quoting the OBA, “The PLP gave concessions on employee and employer contributions to payroll tax for small and medium start-ups, which certainly assist with critical year-one expenses.” The reality, Madam President, is the PLP gave concessions on employee and employer contributions to payroll tax for small and medium start-ups which certainly assisted with critical year-one expenses. That is the reality.

OBA: “We are disappointed that the Government is putting all Bermudians’ hopes and dreams in the FinTech basket.” Madam President, this is simply not true. FinTech is one of the areas the PLP, this Government, is looking at in an attempt to diversify the local economy. The Government of the day, the PLP, continues to look for more ways to diversify and strengthen our economy. We are not putting all our eggs in one basket. And one of the things that the PLP has always said, we are looking to strengthen our economy whilst protecting our hard-earned jurisdictional reputation.

The OBA, Madam President, says, “Bermuda is not as advanced as other nations on the issues of women’s rights and equality.” The reality, the OBA

missed an opportunity when appointing (no offence, gentlemen) an all-male team to the Senate. But yet they call for a big conversation on these issues.

Madam President, there was an initiative by the OBA offering early retirement to employees of the government who qualified, and then freezing those posts for two years. They would then fund those posts, Madam President, and take that money and divert it, redirect it, to be used for the America’s Cup, primarily.

What the OBA administration will be remembered for, as a result of such initiatives, Madam President, will be the lack of attention to the physical plant of our public schools. They are in a deplorable state.

What they will be remembered for is the crumbling infrastructure that we see and that this Government is now trying to rectify, as evidenced by the neglect on our roads—both the surface of our roads, the overgrowth of foliage, and our parks. The Botanical Gardens was a disgrace as a garden.

What the OBA administration, Madam President, will be remembered for is not providing the appropriate resources to maintain our buses—our ageing fleet of buses. And this is all as a result of this policy of early retirement, freezing the positions, funding the positions, and then diverting the funds elsewhere.

For the same reasons there is a lack of resources to collect our garbage on the day it is supposed to be [collected] without the incurrence of great amounts of overtime.

Madam President, the OBA Government will be remembered for passing zero anti-money laundering and anti-terrorism funding legislation when we had this review coming this year. Were they too focused on the America’s Cup? Maybe. Maybe it never entered their minds. Hence . . . and we all know, I think there were 42 pieces of legislation that dealt with the AML/ATF. We are not going to say that this is the only reason why some of our other initiatives did not get completed, but it did take up an enormous amount of time in this Senate.

Madam President, we agree on the PLP side that we must increase immigration. But as, I believe it was Senator Jardine, again, that said, *You can broaden your tax base, you can bring these people here. But what are they going to do if you don’t already have the jobs for them to occupy?* No jobs. They have no money to pump into the economy. But we do believe there must be a balance between increasing the tax base and meeting the needs of the businesses in Bermuda—both local and international—and the expectations of Bermudians that they should find employment within their country.

Having said all that, Madam President, no one group has all of the ideas. No one group has all of the answers. And I truly believe (as was borne out in our history) that if we are to succeed with the challenges that . . . in addressing successfully those challenges that we face we will require a bipartisan approach to

solving [them]. This Government, Madam President, welcomes input from the Opposition, the relevant government departments such as the BMA and the Registrar of Companies and others, our industry partners, and the general public.

What you see, Madam President, in the Speech from the Throne presented by Government, is an attempt to look long term. Our efforts to continue to diversify the economy of Bermuda are long term. We hope to have some short-term successes, but we are looking long term. We are looking towards growing new sectors of industry. We would like to see and contribute to the continued growth in tourism that we have realised, Madam President. And we would like to reduce long term—not for a week, not for six months, long term—the cost of living in Bermuda, putting more disposable income in the hands of families that they can then turn around and pump back into the economy as well as reducing the cost of doing business in Bermuda.

We are committed to these things, Madam President, and with that I will conclude my comments.

**The President:** Thank you, Senator Campbell.

Would any other Senator care to speak on the Throne Speech?

Senator Hayward, you have the floor.

**Sen. Jason Hayward:** Good afternoon, Madam President.

**The President:** Good afternoon to you.

**Sen. Jason Hayward:** Thank you for giving me the opportunity to weigh in on this debate regarding the PLP's 2018 Throne Speech and our legislative agenda set out for the next fiscal period.

I believe this Throne Speech [can] be well-considered to be transformative. And I say "transformative" because it hits in a number of areas that are required for us to break down what we call "systematic income inequalities." Interesting enough, when I look at the cover of the OBA Throne Speech Reply they used these sustainable development goals on their cover. And that is fitting, because those sustainable development goals help us to achieve a fairer and better Bermuda. Those sustainable development goals, if achieved, help to reduce income inequality within the countries that are able to get to that standard.

Madam President, income inequality is a huge issue. It is probably one of the single-most issues plaguing countries worldwide because the trickle-on effect of this income inequality is social and economic deterioration for groups of people within countries. So I was glad to see the shift in the Government's Throne Speech. It is good to have a balanced Throne Speech, but then it is also good to have one that is focused on the people. And that is what I believe this

Throne Speech is—one that is surely focused on the people. We can talk over and over and exhaust the dialogue regarding economic growth. But, more importantly, what this Throne Speech seeks to do is improve on our economic development, and the economic development is focused on the people, the citizenry of the country.

Progressive taxation. We talk about equity versus equality. Progressive taxation is something that a Labour Party always has in its arsenal of things to do to level the playing field . . . always has in its things to do to level the playing field. Where there are individuals that make more, they have a responsibility to contribute more. I think that has been embraced by the President of the Chamber of Commerce, Mr. Wright, in a recent *Royal Gazette* article where he has admitted that the burden of taxes has been placed on employment and the workers of this country. The Financial Responsibility Panel has also highlighted twice in their annual reports the disproportionate burden of taxes that are placed on workers and the lowest earners within the country.

There has been no secret that wealth in Bermuda has gone largely untaxed. The rich get huge tax breaks in Bermuda compared to the taxes they would have to pay in other jurisdictions. I am not talking about income tax. I am not even talking about corporate taxation. But certainly inherited wealth that has been passed on also goes untaxed. It is sensible for us to consider expanding our tax base.

But we cannot get across the argument, when we say that, is the importation of individuals into our society going to displace Bermudians in their home country? And this is what we have seen. Based on a number of factors we have seen Bermudians displaced in Bermuda. When we look at our unemployment rate, which is roughly around 7 per cent, and has remained relatively static since 2010, what you will find is that what we have is what we consider structural unemployment. We see a mismatch between the skill sets which businesses demand from our citizens and the skill sets our citizens present for a portion of the unemployed.

However, for another portion of the unemployed there is this thing that we call "discriminative hiring," and Bermudians are not getting a fair share or having fair access to employment opportunities, so much so that the Government is looking to progress workforce equity and pay equity legislation in this session. Workforce equity and pay equity means if a woman is equally as qualified as a man, then we should look to employ that woman, if the demographic makeup of the company does not possess or have large portions of women . . . or is not reflective of the population. And it is not forcing companies to employ women, but also the company has to justify why it has no women as senior executives when women are qualified.

We have to look at that when we look at our black population. Why do blacks not have access to certain jobs, but whites do?

To what level does one's disability prevent them from obtaining a job? A person who is in a wheelchair who possesses a masters' degree is less likely to be employed than the person that is not in a wheelchair that has that exact same masters' degree, because when they go on that interview they are discriminated against based on their disability.

The census data shows us that there are pay equity issues in our system. Men make more than women in the exact same occupation, even though [men] generally, across the board, have a higher median income than women in the exact same occupations. In the private sector women make less than their male counterparts.

Bermudians make less than their non-Bermudian counterparts in high-end jobs and it is the reverse at the low end jobs, where non-Bermudians make substantially less than Bermudians in low-end jobs. Pay equity seeks to rectify that.

I just did not want to stick to the census data when we were looking at equality . . . workforce equity and pay equity. So what I did was I took the time to speak with persons who were in certain industries who were ably qualified for certain jobs and asked them about their workplace experience. I asked a black Bermudian female who works in insurance what her experience was. And she said that her male counterparts make more than her for the same job.

I asked, *Why?*

[She said,] *They were able to negotiate better salaries.* That is, despite what she can bring to the table, they were paid more based on their negotiating ability.

When asked regarding her counterparts that are non-Bermudian, it was revealed that non-Bermudians make substantially more than Bermudians in the international business or insurance sector. When asked about reinsurance the response was, *That's a playing field that Bermudians simply can't penetrate. Forget being a black female in reinsurance.*

And when you look at the numbers, you have to ask yourself how this is the case where we have qualified black women who cannot penetrate certain industries, number one; and then, number two, get paid substantially lower than their male counterparts and substantially lower than their non-Bermudian counterparts—all with the same level of ability. And so pay equity seeks to rectify that situation.

The insurance companies have recognised that this is an issue and so they have run a huge campaign "Dive In"—Diversity in Insurance Campaign. And part of the dialogue was embracing [the fact] that they have dropped the ball in these areas. The conversation [and] the dialogue then translates into whether or not legislation is needed or can act as a catalyst to the change.

But while I highlight insurance and reinsurance, it happens across every industry in Bermuda. And so we have to ensure that we break discrimination down and we ensure that persons that are ably and suitably qualified receive the remuneration that they deserve and also have access to employment opportunities. Unless we break down those barriers, we will continue to see our young persons attain a certain level of education and leave the Island because there is no opportunity.

Madam President, this Government seeks to extend employment for public service officers beyond the age of 65. That is commendable. That is something we have been championing for a while. Madam President, you would know that a person's life does not end at 65. But somehow their employment, or the way in which they are viewed in the employment market, changes when that person reaches that magic age. There is legislation in Bermuda that makes it mandatory for individuals to retire at the age of 65. The Public Service Superannuation Fund or Act ensures that any public servant reaching the age of 65 must retire. And that legislation needs to be amended.

However, many persons sign up to retire at the age 65 when they sign their employment contracts and they do it without full knowledge of knowing what they are doing. And so, naturally, persons' employment contracts have an end date at their 65<sup>th</sup> birthday. And when you are being employed at a younger age you do not really look at that line, you are happy to get that job. However, when you want to continue to work, most times persons are denied that opportunity.

But we recognise that we do have an ageing population. The census data indicates that the unemployment rate for those over the age of 65 has increased. That is strange because naturally you would think that persons are no longer looking for work after the age of 65. But they are, and the unemployment rate for those individuals has increased because there is more willingness from persons over the age of 65 to continue to work.

Madam President, the number of persons 65 and older has also increased, which means there are more persons 65 and older being retained into the workforce, recognising that they are capable of continuing to work after that magic age of 65. The Government, understanding that in its wisdom, is looking to push the retirement age up past the age of 65 . . . looking at those factors. In some countries they have moved to a point where they have removed any sort of retirement age altogether.

But we are making steps. I was part of a Labour Advisory Council subcommittee which actually looked at putting a report together. That committee contained: individuals from the Pension Commission, Peter Sousa; individuals from Age Concern, which would have been Claudette Fleming; members from the Hotel Association, Corporation of Hamilton, and the unions, and the Bermuda Government's labour

officers. A tripartite committee looked at this and put recommendations forth to the Government, and those recommendations were considered when the Government sought to place this item in their legislative agenda.

Reducing the cost of health care is huge. It is a huge undertaking and a huge exercise. It is easy to say what we need is to have some type of restriction on utilisation and put caps on or regulate the cost of health care. It is easier said than done. And so I was part of a committee that the Bermuda Health Council put together to look at health care financing reform. And when those questions were asked about the outcomes of ensuring that there is accessible and affordable health care for all, ensuring that everybody has health insurance, and ensuring that the health insurance premiums that people pay are actually affordable, we said, *Why don't we just do those two things? Let's put some restrictions on utilisation so that persons are not utilising the most costly procedures over and over or over-testing and things of that nature, and let's just reduce the cost of health care across the board.* And the financial . . . the health care economists informed us that it is not that easy.

You see, within our health system costs are interlinked. So you cannot just reduce one cost. The whole finance . . . the whole model is an interdependent matrix. And so it is not like you can just adjust certain levels or restrict certain costs, you have to make fundamental changes to the whole costing system.

In order to do that the actuaries that actually looked at providing the options of either a unified or dual payer system said that what you need to do is change your financing system so that you create a level of efficiency across your board. Once you have that unified system, then it is easier to make the tweaks. And that is why the Government is looking first to adjust the financing strategy, which we currently operate under because they believe, or we believe, that this will be the best approach for allowing us to make those necessary changes in the system that we require.

Madam President, you will see that there will be revisions to labour legislation, but also the strengthening of national sexual harassment law and policy. Sexual harassment in the workplace is something of concern in Bermuda. It largely goes unreported. So if you went to the Human Rights Commission and asked for the cases of reported sexual harassment, you would get a handful, if that. But when we do internal employment studies . . . and one of the largest employers in the country did a study. We saw that sexual harassment was actually up there at 7 per cent of the workforce . . . said that they had been sexually harassed in the workplace. It is not . . . when you are talking about 100 people, we are talking about 7. But when we are talking about an organisation that employs a couple thousand people, now we are talking about 140 persons who are saying that they have

been sexually harassed while working in the workplace. That is alarming. That needs to be addressed and the Government is seeking to address it.

But I would be remiss if I did not say that there are huge differences in the way genders view sexual harassment. And so studies have shown that males view sexual harassment fundamentally differently than females. Males who are subjected to sexual harassment in the workplace, a study showed that 60 per cent of the males found it flattering (sexual advances in the workplace), while 61 per cent of the females in that same work environment found it insulting. And so there has to be a shift in what is acceptable and unacceptable in the workplace.

But these things are things that we need to put forth because if we do not create that working environment, for women in particular, . . . most times these women are the backbone of families. So if they are not treated right in the workplace, or are denied opportunities in the workplace, or are not living in a dignified working environment, those problems translate into the house and translate into further social problems.

And so when we talk about the education system and the reforms that are needed, what model would be best? People can refute what model and have their own opinions on what model is best for our education system. If we do not address the social problems that are now in our education system, it does not matter what model we go to. We have teachers who are unable to teach because children have so many social issues. We have seasoned teachers who have been in the education system for 15-plus years who have said, *This is the worst cohort of students* . . . the environment is one where it is not conducive to learning. We have more paraeducators that have to sit in class for non-disabled kids. These are kids with social issues that require paraeducators to sit in class with them.

See, if we do not begin to address some of the root causes of the problems, primarily where I began with income inequality, we breed these social environments that are not conducive to families, and then we have kids emanate from these social environments that are incapable of learning once they get into a school.

I met with a school counsellor and she told me that she has to keep women's—girl's—underwear in her office because young girls are going to school . . . because their parents are not washing their underwear. So they go to school with no underwear on. They come to her office every day for fruit and lunch—kids. She did a presentation and she was talking to the class about the negative effects of smoking. And one student asked her whether she was talking about marijuana or crack. The teacher was talking about cigarettes. We have children who have now . . . they are in households where they are exposed to drug use to the extent where crack cocaine . . . the use of

crack cocaine is being observed by our young kids. And if it is being observed, it is probably being inhaled.

We have issues with our social environment and this is why . . . forget the balance. We try to provide a people-focused Throne Speech. Because if we do not focus on the people, we are not going to have a business environment that businesses want to come and operate in.

Ensuring that people have access to secondary, post-secondary education is key, breaking that cycle of dependency. And so because your family does not have the financial means, but you have the skill sets to operate in a college environment, does not mean that you should not be able to attend. And so this Government is going above and beyond to ensure that more and more individuals have an opportunity to attend. Hopefully those young kids take advantage of the opportunity which is provided, they go off, they get an education, and they come back and they are able to find a job in our community.

We want to ensure that we implement a living wage. I have had the unique opportunity to be on two committees responsible for looking at the living wage. One was the LAC subcommittee looking at that matter, and the second would have been the joint select committee.

The majority of persons that were interviewed regarding a liveable wage were able to provide a social argument in terms of why it is needed. Everybody embraced the social argument in terms of why a living wage was needed. The difficulty is the application of applying it. But if the social argument is so strong, then we should move forward with implementation. Yes, we recognise that the views of the business community need to be taken into consideration. And that is what we seek, and plan to do. And so if you saw the report that was provided by the joint select committee, it actually said that we are not in a position to establish a living wage . . . the committee was not in a position to establish a living wage. What the committee wants is that a tripartite wage commission be established and those people will be in a better position of establishing a living wage, taking into consideration everybody's view.

We looked and said that a living wage is desired. But a minimum wage is still required, because we do have persons who are making deplorable wages in this country. And without any regulations they will continue to make those wages. What was actually recommended was \$12.25. No, it is not too high based on our jurisdiction. We cannot be blind to the fact that we live in a country with one of the highest costs of living in the world. And so we should expect that our minimum wage rate be a bit higher than other jurisdictions, especially comparative jurisdictions to ourselves.

But what we sought to do was not just pluck a magic number out of the sky. In February of this year

the ILO released a minimum wage price setting policy guide, and we were able to follow that guide in terms of establishing the number required for a minimum wage. And so what we wanted to do was produce a number that would be in alignment with international best practice. So what we did was ensure that we provided a figure that was well within the range of the recommended policy framework that the ILO had put out.

There is no policy framework for a living wage, which made it more difficult. And so what we sought to do regarding a liveable wage was look at thresholds that currently exist. We recognised that there were studies done regarding a low-income threshold in Bermuda. And so we determined that if a low-income virtual number was established, we looked to see if other jurisdictions were actually using low-income threshold figures as benchmarks. And what we found was that, yes, in other developed jurisdictions, which have strong statistical offices, those low-income threshold levels are actually used as benchmarks to deriving some sort of living wage figure. And so we were on a very sound footing with recommending that some sort of benchmark around \$18.00 to \$18.25 be utilised.

The conversation would have to continue. We would have to have extensive industry consultation. But, certainly, that will improve the lives of many. Yes, there is a consideration around how gratuities will be factored into the equation. But apart from the unionised environments, there is major concern in this country regarding how gratuities are shared in the first place. Many employers are not sharing gratuities with their staff. And so we attend restaurants and the expectation is the tip that we leave goes to the person that served us, or the person in the back room who cooked the delicious meal. That is not the case. And so we have had numerous amounts of complaints coming into the Government from employees regarding the inequitable distribution of tips. So that is an item that is currently on the agenda of the Labour Advisory Council and something the Government will look at to put some sort of policy framework in place to address.

Madam President, it was interesting to note Senator Robinson and his comments regarding what is being done for the youth, because I was also part of another committee, which is the Bermuda National Workforce Development Team. [This committee] was responsible for the implementation of Bermuda's National Workforce Development Plan. And if I can just read excerpts from that particular Plan for my fellow Senator who had concerns in terms of what the Government is doing regarding the youth . . .

**The President:** Yes, you may.

**Sen. Jason Hayward:** "Strategic Priority 4: Youth Workforce Programmes. This Plan prioritises support

for youth and young adults, ensuring that there are substantial investments in programmes and services that help young persons to lead healthy, safe, and successful lives. This Plan also seeks to ensure Youth Workforce Programmes are developed and implemented. Youth Workforce Programmes will be primarily targeted at middle level school students and support them on through their academic journey. Youth Workforce Programmes will be used to create avenues to employment. This would include ensuring that students increase their career awareness by providing them with data-driven career advice and providing them opportunities to develop skill sets that align with current and future job market demands. Youth Workforce Development Programmes will integrate basic education with college-level course work, leading to an industry-recognised credential, and can be the first step toward an academic certificate or degree.”

In this calendar year, Government also hired a consultant to advance an implementation plan for the strategic and operational plans outlined in this document. And so we will be actively working on the Workforce Development Plan. I would encourage every Senator to read it. It is one that did not really get the national coverage that I believe it deserved. We saw the roll-out of a National Training Plan, and that was kind of promoted and tooted and floated. But this document is far more comprehensive than the National Training Plan that was produced. It progressed past a lot of the concepts that were in the National Training Plan. And when we have our stakeholder meetings, when we speak with industry and the likes, they are impressed by that Plan. And so I would encourage everyone to take an opportunity to read this Plan because this is a strategic plan in terms of how we get Bermudians skilled-up and how we get Bermudians active in the world of work in Bermuda.

Madam President, we talk about what the Government’s plan is regarding economic diversification. It seems as though we have put all of our eggs in the basket regarding FinTech. But that is not the case. In the last legislative session the Government created a position in the BEDC for a Director of Cooperatives. Last night I had the opportunity to go to a presentation that presented an impressive model for cooperative development. The work has begun regarding non-traditional forms of economic enterprises, which are cooperatives.

Cooperatives are what I consider to be a viable option for economic growth and development in this country. Cooperatives can create jobs. Cooperatives do not necessarily have to be a new industry, but what they can do is penetrate and expand current industries that we are in. The BEDC is doing a lot of work. They have two further sessions regarding cooperative economics and cooperative models. I believe the sessions are on December 4<sup>th</sup> and 5<sup>th</sup> of this year, and I would encourage everybody to attend.

What I realised [and saw] last night was something that was insightful. I actually saw tangible movement in the area in terms of informing and educating the population regarding cooperatives. We have one major cooperative in the Island that is operating, and that is the Bermuda Credit Union. And they are doing a yeoman’s job in terms of servicing persons who cannot get access to capital from banks. So they operate on a not-for-profit model, one where employees, one where end-users can also be owners of those particular enterprises.

Senator Campbell did an excellent job of highlighting and filtering out noise. And so what I found in this particular Speech from the Throne was that there was very little regarding noise, and persons say that it lacked detail. Certainly it will . . . and every Speech from the Throne that you have read thus far would lack detail because it is not designed to provide a great level of detail. It is not designed to provide great insight in terms of how these initiatives will be funded.

It always seems as though when you raise a new initiative in a legislative agenda somebody says, *Well, how is it going to be funded?* as though we do not have government departments that have funding already. Some of these [require] just shifting priority and funding that is already within government in certain areas and departments into these priority areas. Certainly, for capital development we have to look at creative ways of funding projects. But for the most part the Throne Speech items will be funded by current department allocations. That was the case in the last fiscal period, and that will be the case in this one.

The Government is not prepared to go and ask the House of Assembly to adjust its debt ceiling. We ultimately want to pay down our debt. We have a plan in place to do so. We have a Finance Minister who is capable and competent enough to execute that particular plan. We just saw where the Government refinanced its debt. But we also see now where the Government has given the average Joe the opportunity to refinance his debt, especially his largest debt, which is the mortgage. I cannot underscore how significant that will be to a number of families.

We can talk about growth, growth, growth. But this particular Throne Speech was about social and economic development. I was very pleased to see the shift from what I would consider to be neoliberal policies that we have been pandering to in the past.

The unions of this country have been doing a lot of advocacy over the years, and in this Throne Speech we were able to tick off six or seven items that we have been actively advocating for that the Government is moving forward with implementation. We do our, the unions do their, advocacy selflessly. Most times our members are not in the conditions that we are advocating improvement for. But it is nice to see a translation . . . from the translation of advocacy to be now in the position of Government where we can ad-

vocate some of those things that will improve the lives of the average everyday people.

And when you look at the Throne Speech . . . I want to go over with a measure and use the measure to say . . . tick the items and say, *Will this item improve the lives of the everyday person? Yes or no?* Regardless of what concerns you may have in terms of how it will be funded, or your concerns you may have in terms of where it may have missed the mark regarding job creation, when you look at this Throne Speech you can tick off almost every item and say, *You know what? This will improve the lives of the everyday person.*

I am pleased to be associated with the Progressive Labour Party. I am pleased to be associated with this year's Speech from the Throne. The initiatives are certainly ones that I would consider to be progressive. They are social democratic principles that I think that a Labour Government should espouse.

But, Madam President, after this debate the hard work begins. And I will be pleased to assist the Government in any way in carrying out these initiatives.

Thank you, Madam President.

**The President:** Thank you, Senator Hayward.

And Senator Richardson . . . I believe you . . . you have the floor.

**Sen. Anthony Richardson:** Good afternoon, Madam President.

**The President:** Good afternoon to you.

**Sen. Anthony Richardson:** And fellow Senators, especially those who are new as of last week.

What is the time limit?

**The President:** We still have 45 minutes. After five hours of debate, then we reduce it. So you have up to 45 minutes.

**Sen. Anthony Richardson:** Madam President, you will be pleased to know that I am not going to take 45 minutes.

*[Laughter]*

**Sen. Anthony Richardson:** As you know, I rarely take that much time to speak.

But as an opening comment, I want to say that I actually attended one of the living wage forums that was held. And what I came away with from that as a real learning point, which was really emphasised, was that, guess what? Behind all that we do there is a person. Sometimes we refer to these persons as being Mr. and Mrs. Smith. Sometimes we refer to them as being Mr. and Mrs. Bermuda. And sometimes we

refer to them as just being Joe Public. But I want to emphasise the fact that there are people behind all that we do who will be impacted, and I hope that we are able to keep that at the forefront of our minds as we go through this legislative session, and even as we go through now—not now, but as we go through—and really put in place some of the initiatives that have been outlined in the Government's Throne Speech as we have all articulated today.

When I sat last week, Friday, and listened to the Throne Speech, like everybody else, it was the first time I had heard it. I knew of some aspects, but I heard it for the first time. And my immediate thought was, *I am going to go home and tell my daughter to read the Throne Speech.* My daughter is 17 years old. I did exactly that. And what did she say?

*Daddy, no way, I'm not going to read this thing, it's too long winded.*

And I said, *No, yes you are.*

And the reason I had that thought was because I was thoroughly impressed by the level of detail within the Throne Speech in terms of how it touched almost everything. And I wanted her to understand that she, as a future university student, had to make sure that whatever she wants to do should align with what Bermuda will be like going forward. Because as some of you have said already, it makes no sense to be going overseas to get an education to come back and find out, guess what? *What I have now learned and become expert in is no longer relevant in the context of having a job.*

And so we had that conversation, and I am saying this now for fellow Senators and those in the listening audience—whether it be parents or students alike. I want to encourage them to do the exact same thing. It is not about being lazy and listening to the sound bites, because, by definition, sound bites are just that. They are meant to be headline catchers and that is it. They do not carry any detail. And I think it is irresponsible for us not to take the time to do that.

We, as Senators and the Ministers and other members of the public will do their bit, I guess, to provide information. But I think we are at a stage now whereby each of us has to take our personal responsibility more seriously and understand where we are, because Bermuda is definitely changing. And, again, we need to make sure we are in the right place to participate in where Bermuda is going, because otherwise we are going to increase our own level of frustration.

One of the things I was going to highlight, to be honest, is the education, because those Senators sitting around who were here in the last session know that I am a proud advocate of public education. But based upon the comments that have already been made, there is no need for me to do so. Certainly Senator Simmons more than ably led off with, I think, a very complete commentary on education. And Senator Hayward just added to that, primarily I believe

from the social aspect, because for good or for bad . . . I am not sure quite how to phrase this. But I almost live vicariously in the education sphere because my wife, as you know, is a school principal. And I am very much aware of the significant and sustained social issues that impact our children when they come to school.

And I know it is very difficult to manage a classroom when you are trying to teach and you have children that have come to the school . . . and I do not even blame the children. But their social environment is such that they are not prepared to learn. And you are right, they might have no clothes, in some cases, maybe no breakfast. But, more importantly for me is the fact that they came out of a dysfunctional family. And so we think, okay, fine, it is whatever . . . *It is eight-thirty, nine o'clock, I am here to learn. But I have come out of an area whereby I might have had . . . myself had what we called licks whatever. Or my parents might be dysfunctional. I might just be in a dysfunctional environment.* And this has to be addressed.

And Madam President, the Attorney General referred to the budget discussion earlier this year when we talked about the Education brief. I believe the number was \$16.5 million which was spent in public education and support services. Right? That is a huge amount of money. And while I am at it, I think many people sometimes mischaracterise [the situation] because public education, when compared to private education . . . because if any of you have any friends or otherwise in the private system, you know full well that the level of support systems in private is not the same as in public. And if you happen to be, unfortunately, dysfunctional in the private system you are going to be moved out for whatever reason into the public system and then, as Senator Hayward said already, there is going to be a significant additional effort put in place for your child, which increases the cost of public education.

But as I said I am not going to go there because certainly Senator Simmons and others have already done a very good job in that arena.

So what I will do instead is simply focus on and area where I am going to have more impact going forward, which is a more full review of the cost of living for Bermuda. Members may be aware that the Premier and former Minister of Finance, the Honourable David Burt, did put in place a Cost of Living Commission, and asked me to chair that. And we are doing some work around that. And I was pleased, again, to see that many of the areas [which] we are addressing have been addressed in the Throne Speech in trying to, in a very practical way, assist Mr. and Mrs. Bermuda or Mr. and Mrs. Smith, or Joe Public, as I said, to really get a handle on the actual cost of living in Bermuda.

Clearly, for the household there is emphasis on both the revenue, i.e., how much do people earn? And that is going to be a derivative of what job you

may have, which is based upon a lot of different factors. Because in some cases you may be well-qualified, but not able to get the job that really meets your potential, because in Bermuda there are, in some cases, structural, sustained, compromises when it comes to employment, and so this has to be addressed.

But the first one I want to talk about, to be honest, is that in terms of cost of living, one of the most significant underlying factors is, in fact, the cost of credit, or lending, or mortgages, whatever we call that, which comes really down to how banks operate in Bermuda. And it almost seems, I suppose, that now there is a greater focus on lending institutions, of which we really have three—three major ones in any event. And there is definitely a disproportionate amount of funds being earned in that arena because of the difference between the deposit rate (i.e., what you can get if you put your money into the bank) and the [rate] that you borrow at.

It is actually ridiculous in comparison to almost anywhere else overseas. And for many reasons there is resistance in the Bermuda marketplace for additional competition from a banking perspective. I believe the capital requirement is probably about \$15 million, plus there are many other aspects in terms of who can actually operate a bank. We know that there were some almost well-publicised persons who had banking licences in the past and for whatever reason allowed them to be merged with other banks, which [resulted in] less competition.

And so I want Bermuda to get behind the Government's attempts or plans to introduce competition in the banking sector, because that is going to be really the only way by which we can actually start to reduce those costs.

Based on today's discussion, I did a very understandably rough calculation. And that is that if we assume that there are 16,000 households which have mortgages—16,000 mortgages outstanding—and you could reduce those mortgages by reducing the actual mortgage rate to the extent that the mortgage itself is reduced by \$500, the monthly impact is \$8 million. And we often talk about the idea of there are reductions in terms of retail spend and other things in the economy. And it is patently obvious that if householders had an extra \$8 million a month to spend, then the economy would actually be more energised. Because if any of us had, for example, an additional \$500 per month to spend, or just had that money, rather, some of us around this Table would clearly spend that money. A few of us may decide to save the money, but several of us I am sure would decide to spend it. So, therefore, there is a legitimate discussion around really working to reduce the lending rates overall to boost the economy.

Similarly, if you have a business loan outstanding, you have to factor your interest cost into your prices. And so even if a reduction in the lending

rates did not cause you to reduce your prices, as a business owner you would still have more money to spend as you choose, because you will then also spend it. You may do other things. For example, you may not go to a retail store, but you will start doing things such as you may renovate your house or do other things that would definitely start, again, to energise the economy.

And so that, for me, is a significant component within the Throne Speech, and I definitely look forward to how the Government will now move forward to make that a reality. I hope that the increased discussion in the community around the concerns of the spread between deposit rates and lending rates will cause the existing banks to be more responsive to what is an acknowledged need in the community. The general public will be aware that the Government, and by extension all of us as taxpayers, took a significant role in ensuring that one of our local banks did not, in fact, experience even more financial difficulty than it did. Effectively, the Government rescued that bank. And it now seems as though that bank forgot that Bermuda ensured its survival.

Clearly, the management at the bank has changed. Certainly, at the head level and the senior executive have changed. However, I think there is a recognised need for social responsibility for them to demonstrate that they do remember what Bermuda did for them, and to act accordingly. And if that does take place, then, clearly, other banks will respond.

So even the initiative, whereby there will be a reduction of the stamp duty to transfer mortgages, it would hopefully stimulate persons to become more knowledgeable and understand which banks have the lower lending rates and then move their mortgages from one bank to the next.

I will say, Madam President, that in the debate in another place on Friday, there was some discussion in terms of whether or not that would be effective. And politely I will say that some of the commentary was disingenuous in the sense that, clearly, if you have been granted a mortgage at one institution it is not as though you cannot afford the mortgage. So you should, by and large, qualify for a mortgage at another institution. So I would encourage persons in the community that, if they have a mortgage and, once the legislation is passed, to actively look at the possibility of moving their mortgage from one institution to another.

What Bermuda does not have, by the way, which happens in other jurisdictions, is legitimate mortgage brokers. When you want to borrow money, you have to go to the mortgage broker, and their job is to look in the economy and find the best mortgage that fits your particular criteria and then recommend where you should go. And in doing so, you have more expert knowledge around how to place your mortgage, and you benefit by hopefully getting the best possible mortgage.

The other area is health care. Other Senators have already commented about the health care costs, but, clearly, to the extent that I can reduce my monthly health premium, I would have more money to spend on other things, or just reduce my stress. I get paid at the end of the month. And my first thing is to review which bills have to be paid. I am more frustrated if my total expenses are more than the amount of money I am earning. So, to the extent that we can get it more balanced for each household, there would actually be, I believe, a positive impact on the home environment because those persons who feel frustrated in terms of not being able to pay their bills have almost a natural dysfunctional interaction with their families [compared to] the persons who are paid each month and are comfortably able to pay all their bills each month and have an excess.

I think that is standard human behaviour in terms of if you believe you have less, it is more difficult to manage your family. And from . . . I want to say from a male perspective, it is disheartening if you work a full week and you are still unable to provide for your family in terms of paying expenses and then having something in excess to do certain things. So I think that is a natural reality that we have to face up to.

So I certainly look forward to the additional discussions around how we are going to form these, I believe it is two, pools, and the impact it is going to have on overall health care in Bermuda.

Another aspect is housing. There have been some comments in terms of, yes, is there a demand to satisfy the proposal to allow one-bedroom and studio apartments to be built in the Hamilton area. I guess I want to say politely that, clearly, no one is going to spend \$10 million, \$15 million, or \$20 million to build these units without doing the necessary work to [know if] persons are desirous of obtaining those places. I will say, as an aside, that to use the Grand Atlantic as an example of how it cannot be done is not giving full description as to what happened with Grand Atlantic. And even now, in terms of how the Housing Corporation is making use of the Grand Atlantic speaks to the fact that when things do not go the way you want them to go at first, there is always a Plan B. It requires more work sometimes, but, yes, there is a Plan B. But in this instance, I do not think the comparison between the Grand Atlantic and what is proposed for Hamilton is appropriate.

Anecdotally, I suppose, Senator Robinson's comment earlier, in terms of how he hoped that the mortgage relief comes into play to allow him, for example, to get a housing letter would be but a small example of how many others there are who would be in a similar position. So, again, we encourage everyone to get behind Government and support their efforts in that regard.

The next aspect, which is not directly touched, but will have an impact going forward, is food prices in Bermuda. We need to ensure that persons are able to

buy healthier food and, again, to the extent that these initiatives allow persons to have more disposable income, they can then start to make better choices when it comes to their food purchases. That is important, of course, because to the degree that we are able to eat healthier food, we will be healthier for sure, and that will also lessen the need for us to engage in health care services, and so we do have that overall trickle-down effect, whereby we would have more disposable income. Again, that is going to be important.

The next category is education. I am not speaking to education in terms of the proposal to change how we educate our children, but more so to the extent that the Government has pledged to continue the success around granting additional funds to qualifying students to attend Bermuda College. It is always so true that to the extent that you have education beyond high school, your employment opportunities are also increased. And to the extent that the employment opportunities are increased, you have a greater chance to earn income and, therefore, again, the trickle-down effect, you will be able to better provide for yourself or your family if that is the case. So, I too look forward to the idea of providing additional funds for persons to effectively leave high school and then attend Bermuda College using the additional funding from Government.

I will also say that for education, I am aware that parents do recognise in the public high school system that it is financially advantageous for them to sometimes have their children go to private schools to get the GCSE [General Certificate of Secondary Education] and then transfer into the public system and do the dual enrolment programme, as opposed to IB, because, again, it is financially advantageous to do so. I know this because, similar to Senator Hayward, it is not just what I think, but I sometimes ask persons, and that is very often the reason why some students will leave the private system and come to the public system, because they know they are going to get the equal educational value at a lot lesser cost. And then if they do that, certainly, through the dual enrolment programme, they can leave high school properly qualified to transfer overseas into their third year. And by doing so, of course, the parents will save the first two years of schooling, which, of course, is a significant savings.

And to that degree, I do commend Dr. Duranda Greene, the president of the College, and her staff, because they have done a significant amount of work to ensure that there are proper articulation agreements between Bermuda and several overseas universities which allow our children to attend Bermuda College and get an associate's degree and then transfer directly overseas. Again, I believe that they are more prepared academically and also emotionally because of the difference between going to, say, a high school and then to college in terms of the college giving you much more flexibility in terms of you can come

to class, not come to class, and it is on you, and so it creates an additional level of responsibility and, therefore, I believe that children that do participate in the dual enrolment programme will go overseas and be better prepared for college life and then come back to the Island.

Another fundamental cost in the Bermudian context is, in fact, electricity. I have been pleased to see that Government is committed to ensuring that the cost of electricity is lessened as compared to what it currently is. I certainly accept that the current BELCO, being a private company, would have expectations in terms of its return on equity. However, we have to recognise that BELCO operates in a monopoly environment, and has done so for a significant period of time. The current conversation in terms of there needing to be additional capital expansion, and having to have additional fees to pay for that is almost counter-intuitive in the sense that they knew they would have to do this and they should have been putting aside funds to cover this cost.

So, to fellow Senators, and to the public at large, I want us to ensure that we remain engaged in terms of the conversations about electricity, and you attend the public forums as and when they are available and you respond to public information, because it is going to definitely impact each of us going forward. And, clearly, it is true that even when it comes to businesses relocating to Bermuda they do consider what the costs are in this jurisdiction. And one of the costs would be the cost of electricity, because that will factor directly into their monthly operation costs.

Then, beyond the expense reduction, which, of course, is very, very important, is the aspect of immigration. Immigration, I believe, is fundamental to Bermuda moving forward. There have been many comments around that. And my question, rhetorically, is how many of us complain about the fact that there are too many actuaries in Bermuda, too many non-Bermudian actuaries in Bermuda? I would offer that there are very few complaints about that. And you may ask, why?

The reason why is because we generally accept that . . . I am gently aware of one concern around that. But we generally accept that every single qualified Bermudian actuary is employed. Every single qualified Bermudian actuary is employed. Now why is that important? It is important because we have to recognise that once you are qualified there should not be any unnecessary or artificial stumbling block for you to achieve your potential. And I would suggest from experience that one of our issues when it comes to immigration is not so much that we are worried about our guest workers, we are worried about our guest workers to the extent that they displace qualified Bermudians.

And I completely reject the idea that there are Bermudians that may be qualified on paper, but the majority of them do not have the experience for the

job. Again, if you ask around and do a little research you will find in many cases you would have a worker, a visitor, come to Bermuda that has the basic qualifications, let's say whether it be in accounting or otherwise, and then they are given additional exposure and development opportunities that are not given to Bermudians. And that is how they progress. So I am positing a theory that the reason why Bermudians right now are so sensitive about immigration is because they are not given a fair shot when it comes to their ability to progress within the industry. That is the issue.

In the past, Bermuda, I guess has been misled about the idea that *I am going to come to Bermuda as a non-Bermudian, and I am going to train a Bermudian so that they take my job within three years*. That's not going to happen. That is contrary to human nature. You may get one or two that would do that, but it is contrary to human nature. I believe that we have fooled ourselves into believing that is going to be possible in the past. It makes no sense; because you know that if you come to Bermuda on a three-year contract, if there is no qualified Bermudian you get to stay for another three, and then potentially more than that. So why would you compromise your own financial interest by training a Bermudian? It really makes no sense.

In the past I have only seen it happen on one or two occasions. And sometimes it is a person who is not Bermudian who is coming to the end of their career. Then they do not have a vast interest, necessarily, in staying. So they don't mind passing on the information. But, again, those things happen very, very infrequently.

But what I will say to all of us, as Bermudians, when it comes to the immigration changes, is that we also have to adjust our expectations, because if I come to Bermuda (and I am obviously not Bermudian) to work in the business arena, depending on my level of engagement, i.e., my seniority, I might actually have what I want to call personal staff that I want to bring with me. And one of those personal staff might be what we refer to as a nanny. And my nanny has been with me for the past three, four, five, or six years bringing up my children. So there is the personal connection. And it is not that easy to say, *Well, I'll come to Bermuda, Anthony, and just hire somebody else to take care of my child*. That is where I think we have to start to adjust our expectations to be realistic.

But that is only going to be in the instance whereby the fundamental job that is being offered is not available to . . . sorry, there is no qualified Bermudian for that post. That is when I believe we can make some progress.

And then, we have to be mindful of the sound bite which says we have to simply increase our non-Bermudian population. I say it is a "sound bite" because in and of itself it is not correct. You cannot, as others have said, simply bring in a thousand people

tomorrow and let them be employed, because without the thousand jobs, you are going to obviously displace Bermudians. And what I have then seen is you displace Bermudians even at what we refer to as the lower end of the employment range, because if we allow easy immigration . . . and let's just use . . . and I do not mean this to be derogatory, but a dishwasher. And Anthony is a Bermudian, and [he says] I am going to be a dishwasher. I cannot do so at \$6.00 per hour. Unfortunately, if we allow it, some employers will bring to Bermuda a guest worker and pay them \$6.00 per hour. And that person can sometimes survive because they will stay in, maybe a one-bedroom apartment, with two or three others. And their requirement for expenses is a lot less than a Bermudian because effectively they have no attachments.

Some of us may remember that when we were younger we could work virtually 24/7. We had no obligations. We did not have to go home, we did not have to worry about a wife, did not have to worry about a child, did not have to worry about anything, and we could just work. If I recall correctly, when I was in university that was my life. I did not mind coming here and working at the hotel. You leave at 7:00 in the morning and work until whatever time and go back, all that drama. But that is not the lot of a Bermudian now who might be prepared to work as a dishwasher, even if they are aged 25 and older, because that is what they want to do. But you cannot do so if the level of payment is so low.

Similarly, I want to offer that even when it comes persons who have graduated, and I will use accounting as an example, and they are now working on a designation, even though they may not have the responsibility of an entire family, they do have almost a social obligation. So they cannot work as many hours as maybe their non-Bermudian counterparts. And in the past what happened was they were criticised for not being as committed or not having the social skills and otherwise, when the reality is the Bermudians have other social responsibilities that others do not have.

I am saying all of that to say that I believe that, yes, immigration has to be adjusted. We have to be more flexible. But, there has to be a balance in terms of ensuring that qualified Bermudians are able to be employed to the extent that they are able to reach their potential. And if we can do that in a genuine way, then I do not believe that opening up immigration would be as emotional, I want to call it, as it has been in the past. I think that is going to be a key consideration going forward.

I would continue on a discussion, but I am not going to do it today, in terms of being more factual about Bermuda's deficit and national debt. Again, I believe that there are a lot of disingenuous comments being made about that. As a quick example, I will only say that one aspect of the current debt is the wharf terminal up in Dockyard. In times past I went through

an analysis to figure out really where the Government spent money to create the debt, the \$1.5 billion. And it is interesting because in the . . . I know there may be some comments in terms of, yes, but there were overruns. But I am ignoring that for the moment to say that in the absence of debt Bermuda would not have had the safety net of the cruise ship passengers that have come and energised the Government's coffers, particularly, for cabin tax, but also the transportation industry.

As we all know now, many persons have benefitted in terms of minibuses, in terms of taxis, benefiting from the revenue that derives from cruise ship passengers. So I do not want us to be misled by, again, the sound bite, as to where the current national debt is. Yes, it has to be addressed. Yes, it must be paid down, and yes, it would be nice if we did not have to pay the interest, the daily interest amount. But the reality is that there is a reason why we have these debts. And in the absence of that debt Bermuda would be in a very different space.

So, Madam President, to conclude my comments, the Government has certainly recognised that we do have Mr. and Mrs. Smith, we do have Mr. and Mrs. Bermuda, we do have Joe Public that has to be addressed, and has been addressed in terms of initiatives in the Throne Speech. And in a concrete way the Government has done that through the Living Wage Commission, which has now concluded. Their report has been given.

The Tax Reform report has been given and we will obviously go through and decide which aspects of that will be implemented. For the Tax Reform Committee, in particular, it has given a report that talks about how the Government can generate increased revenue. And I trust that we will get to a stage whereby those in the community that are earning more realise that they have a social obligation to pay more, because in the absence of doing so, I believe Bermuda will experience additional significant social unrest that will be to the detriment to the entire Island. There is no way that any of us can enjoy our lives in Bermuda if there is increased social dysfunction and unrest from those persons that are not able to benefit from what they see around the Island.

The last two obvious aspects from the Government are, as I said earlier, the Cost of Living Commission, of which I chair. We are doing our work. I will report on that at a different time, but we are doing some work even in terms of looking at food prices and trying to understand how the supermarkets determine their price structure. Obviously we recognise they have the original cost, but we have to deal with that. And the other committee the Government has in place, which has not been talked about too much, is the overall efficiency committee which looks at the actual cost of collecting any intended tax-based revenue, because as I think someone said earlier, it does not make sense putting in place an additional tax re-

gime when the infrastructure to collect the taxes outweighs the cost of the amount generated through the revenue centre. So Government is looking at that. I believe that is being chaired by the Junior Minister of Finance, Wayne Furbert.

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

**The President:** Thank you, very much, Senator Richardson.

I would just like to say that regarding the Throne Speech, my comments will be very brief. The Throne Speech has been very well received. I think we can all agree to that. It has been very well received by the public. And we know that because of the comments that have been made by stakeholders in the community. And I have been very impressed, and I am sure everybody has been, by the roll-out of this Throne Speech and the fact that the Premier has gone about to speak at the Berkeley school and he was also interviewed on television. I do not know if you all saw that.

So, I am saying that in terms of this roll-out it has been really, really well received. I also want to commend each and every one of you here present because, as Senators, you have really gone through it with a fine-toothed comb. And with your background and your expertise you have spoken very, very well. And I think the general public will be most impressed with each one of you and your presentations today, as, indeed, I have been listening.

I am a former health care worker, and I have been very impressed with the fact that the Government is going to deal with the cost. I mean, when you look at the OECD countries and what they pay on health care, ours is . . . as you have heard around the Table, we have the third highest health care cost.

I am also impressed with the fact that the Government is focusing on seniors and on health care generally. So, I think that there is so much in this Throne Speech, and I am looking forward when the budget comes so we will be able to address and try to ensure that the money is behind a lot of these objectives, because that is going to be key.

So, I would just say that I am sure the general public has been most impressed with the debate and what they have heard from each and every one of you. And I want to personally commend each one of you for the work, and for your comments today. I think it has been most informative.

With that said, I would just like to hand over to our Attorney General and Leader of the Senate, Kathy Lynn Simmons.

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

I, too, have enjoyed the debate today. There are things that I did not know that I now know. I have come to know each and every one of you better in the

sense that it will inform our dialogue around this Table.

I have to say, and I cannot leave this out, that I have some dismay in terms of the continued disconnect between policymaking and consideration of the human impact of our policies. I have listened very closely to all of you. The economic piece I absolutely get. However, I cannot get beyond the fact that I continue to hear a dialogue about the poor public schools results. And I have a very esteemed educator at the Table. And I have to point out the contradiction because we hear Senator Hayward, and we all know this fact, that kids are incapable of learning because of their socio-economic condition. But the prevailing narrative that we have all heard for years is that the public schools have had results.

Connect the dots. We cannot continue to promote that negative narrative without looking at what is behind it; the reasons why we have those results. The private schools do not have the same demographics. So let's look at our results realistically and focus on what we have to do as a collective to change the socio-economic dynamic.

So I encourage Senators, please do not miss the human element in what we do, because if we do [miss this], we serve for nothing.

## MOTION

### MESSAGE TO HIS EXCELLENCY THE GOVERNOR ON THE PRESENTATION OF THE 2018 THRONE SPEECH

**Sen. the Hon. Kathy Lynn Simmons:** And with those remarks, Madam President, I move that the following message be sent to His Excellency the Governor:

May it please your Excellency, the Senate has been honoured to thank your Excellency for the most gracious speech with which your Excellency was pleased to open the present session of Parliament.

**The President:** Is there any objection to that motion?

No objection. A message will be sent to His Excellency.

Thank you, very much, Madam Attorney General and Government Leader of the Senate, Kathy Lynn Simmons.

*[Motion carried: Message of thanks to be sent to His Excellency the Governor.]*

**The President:** Moving on to [Order 13] item 2 on the Order Paper, which will be carried over; [Order] 14, Motions. No motions.

[Order] 15, Congratulatory and/or Obituary Speeches. Would any Senator care to speak?

Senator Michelle Simmons, you have the floor.

## CONGRATULATORY AND/OR OBITUARY SPEECHES

**Sen. Michelle Simmons:** Thank you, Madam President.

Very briefly, I would like to ask that condolences from the Senate be sent to the family of the late Mr. Eugene Clement Wainwright. Mr. Wainwright was a very, very well-known person in St. George's. I believe he was probably as well known in other parts of the Island as well as an athlete, notably for football and cricket, and a dedicated member of Richard Allen AME Church. A former employee of Bermuda College. Most importantly, he was a family man who loved his family. He is survived by his wife, Rose, and two daughters, Tarana and Eugena, as well as a granddaughter, Tajanté.

Mr. Wainwright may be remembered for the role he used to play every Good Friday in the pageant that they have in St. George's because he would reprise the role of Jesus. He will be greatly missed by the community, and I just ask that condolences be sent to his family.

Just one more. I would also like to ask for condolences to be sent to the family of Mr. Ross Sinclair Tuzo, who was husband of the late Gloria Tuzo (the inseparables, I used to call them), and father to Dr. Deborah Tuzo and Livingston. He was a friend of our family, and I am sure he and his wife were extremely well-known up and down the Island.

Mr. Tuzo was indeed a man of many, many, many talents. I just want to highlight a few. He was politely described by close friends as, and I quote, "an introspective person who exhibited strong conviction." And you would have seen some of those strong convictions in his letters to the editor of the *Royal Gazette*, in which he articulated his political and social views for no less than two decades. He was prolific! His letters were never very long, but they were succinct and to the point. He was a master craftsman, builder, entrepreneur. He operated his own carpentry business which opened in 1962, and kept it going for 42 years.

My father was also a carpenter, and I can still hear my father speaking about the fantastic work that Mr. Tuzo used to do. In fact, I think he was one of the few people remaining who could build the original Bermuda blinds.

In his formative years he was a great saxophonist. We send condolences to the entire family, but especially to Deborah, Livingston, and his wife, Shirley. Thank you.

**The President:** Thank you Senator Michelle Simmons.

Does any other Senator . . . Senator Jones, you have the floor.

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

I would just like to make mention of Flora Duffy, who has proven to be quite the standard bearer for Bermuda. I think it is safe to say that she has put Bermuda on the map as it relates to triathlons. So I would like for this Senate to offer and send congratulations to her on receiving the Order of the British Empire. About a week or two ago, she expressed this herself in that it was an incredible experience and we would love to be able to push her on to higher heights, so she can achieve more than she already has. Thank you.

**The President:** Thank you, Senator Jones. I am sure the entire Senate body would want to be associated with those congratulations.

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

**Sen. Anthony Richardson:** Madam President, I just wanted to also acknowledge Mr. Steve Wilson who won the Gold Medal recently in boccia in Buenos Aires. It was wonderful, when you think about how he did that, in terms of how committed he is to the sport.

And while I have the microphone, I also want to say congratulations to Kameron Young, to which you should be smiling quite brightly, [as] her mentor.

**An Hon. Senator:** Yes, my niece.

**Sen. Anthony Richardson:** In terms of, like, the fundamental research that she has done in trying to trace our sweetness, let's call it, to our DNA. But beyond that, I am aware of some details in terms of the levels to which she personally did so much work to bring this to the fore. It wasn't just, *Come on, let's do it, and make it easy*. She had to go through some hurdles to make it happen. So I want to commend her.

From an obituary perspective, I just want to mention the names of persons who lived in the Devil's Hole area, certainly well-known Devil's Hole area, which is Gershwyn Smith, the great known High Priest Shiloh, everybody knows who he is. He died recently. And Mr. Allan Smith, another stalwart in the community of Devil's Hole.

Thank you, very much.

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

Are there any other Senators who would care to speak? I would just like to be associated with the comments for Mr. Tuzo. I would like to be associated with the comments made by Senator Michelle Simmons. He and his wife attended our church in Devonshire, and so I got to know the family quite well.

If no one else has anything to add to Congratulatory and/or Obituary Speeches, we will move to adjournment.

Senator Kathy Lynn Simmons you have the floor.

## ADJOURNMENT

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

I move that the Senate do now adjourn until Wednesday, November 28<sup>th</sup>.

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

The floor is open to you, Senator Kathy Lynn Simmons, Attorney General and Government Leader in the Senate.

## THANKING THE EDUCATORS OF BERMUDA

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

I will be brief, Senators.

I would like to take this opportunity to actually thank the persons in the community, particularly in the civil service, who care for our children, starting with our educators. I do not think we have an appreciation of what they deal with on a daily basis, because when we talk about socio-economic conditions and the associated dysfunctions, we fail to recognise the challenges on a daily basis.

I have met with, as most of you, some of you, have, with educators who are sorely challenged to get through a day. They are not necessarily equipped to deal with that demographic. And I think as a Government, and I am sure the Senators will join me in actually expressing some appreciation this evening for the services that they render.

I would also like to highlight our child care [professionals] who are now under my Ministry, particularly in the Department of Child and Family Services. I am happy to have that assignment and I can inform Senators that from day one after the swearing in ceremony I had cause to meet with the acting director of Child and Family Services. We met for three hours and I can honestly say that after 45 minutes I was fatigued.

So, on behalf of the Government once again, I would like to thank them, as I have already, because I had a departmental meeting at BPSU to thank them for their services, and to also give them the assurance that this Government acknowledges and will support the efforts that they make with regard to caring for our children.

On day two I visited our children facilities. I am ashamed to say that they are not in optimum condition. But I am encouraged and excited to say that on day three the Minister of Public Works and I went back to those very facilities and a plan has been made to ensure that they are in optimal condition so that our children live in dignified surroundings that will support their development.

I will say that the work will not be easy. It is discouraging. But I would like to encourage Senators

to get behind every initiative that comes to this Table so that we do right by our children. In the upcoming sessions I will take the time to highlight the operations that exist in that department because you do all need to know. And the public needs to know how we care for our children.

And with that, Madam President, those are my comments.

**The President:** Thank you.

The Senate stands adjourned until next week Wednesday, which is November the 28<sup>th</sup>.

*[At 5:56 pm, the Senate stood adjourned until 10:00 am, Wednesday, 28 November 2018.]*

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**BERMUDA SENATE****OFFICIAL HANSARD REPORT  
28 NOVEMBER 2018  
10:00 AM**

*Sitting Number 3 of the 2017/18 Session*

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

**The President:** Good morning, Senators.  
The Senate is now in session. Shall we pray?

**PRAYERS**

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

**Sen. James S. Jardine:** Madam President.

**The President:** Senator Jardine, you have the floor.

**CONFIRMATION OF MINUTES**

*[Minutes of 21 November 2018]*

**Sen. James S. Jardine:** Madam President, I move that the Minutes of the meeting of Wednesday, the 21<sup>st</sup> of November 2018, be taken as read.

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

**Sen. James S. Jardine:** Madam President.

**The President:** Senator Jardine, carry on.

**Sen. James S. Jardine:** Madam President, I move that the Minutes of Wednesday, 21<sup>st</sup> of November 2018, be confirmed as the correct record of that meeting.

**The President:** Is there any objection to that motion?  
No objection. The Minutes of the 21<sup>st</sup> of November 2018 are confirmed.  
Thank you, Senator Jardine.

*[Minutes of 21 November 2018 confirmed]*

**MESSAGES**

**The Clerk:** No messages, Madam President.

**The President:** Thank you, Mr. Somner.

**REPORTS OF COMMITTEES**

**The President:** There are none.

**ANNOUNCEMENTS**

**The President:** There are none.

**NOTICES OF MOTION**

**The President:** There are none.

**PETITIONS**

**The President:** There are none.

**STATEMENTS**

**The President:** The first Statement is the 2018/19 Financial Support for Bermuda College Students. And that is in the name of Senator Hayward.  
You have the floor.

**Sen. Jason Hayward:** Good morning, Madam President.

**The President:** Good morning.

**2018/19 FINANCIAL SUPPORT FOR BERMUDA COLLEGE STUDENTS**

**Sen. Jason Hayward:** This morning I am pleased to inform and provide this Honourable House with an update on the Government grant awarded to Bermuda College to offer [financial support to students for the 2018/19](#) academic year.

Madam President, let me first remind my honourable colleagues that, since becoming the Government last year, one of our first priorities was to increase the accessibility to Bermuda College for students in financial need. In this regard, the Minister of Education ensured that the Bermuda College was granted an additional \$300,000, for this purpose, which is now given on an annual basis to provide financial support to students.

Madam President, Members of this House will recall that the \$300,000 was used to financially assist students enrolled in three categories of study: (1) non-

programme and programme academic division courses; (2) Professional and Career Education programmes. This is a new benefit for students, as, prior to this, Bermuda College did not provide funding for students enrolled in the Division of Professional and Career Education (which is commonly known as PACE); and, (3) bachelor's degree programmes offered through the Bermuda College.

Madam President, to be eligible for financial support, students were required to complete an application form and a worksheet to demonstrate financial need. Current students already enrolled at the Bermuda College also needed to have a grade point average of 2.0 or higher. The financial awards ranged from 50 per cent to 80 per cent of a student's educational costs and were defined as the value of tuition plus fees.

Madam President, during the fall 2018 semester, 132 students received a total of \$223,431. Sixty-two students were enrolled in the Academic Divisions, and 70 in the Division for Professional and Career Education. Of this total, 33 students enrolled in the Bachelor of Business Administration [BBA] degree programme in partnership with Mount St. Vincent University, and six enrolled in the teacher certification programme offered in partnership with the University of West Indies. The awards ranged from \$233 to \$8,600, with the average award per student being \$1,693 for the semester.

Madam President, this additional funding of \$300,000, provided to increase accessibility to the Bermuda College programmes, has impacted students in several ways:

- Students who did not meet the criteria for receiving funding from the Bermuda College's Financial Aid programme, but demonstrated a need for financial assistance to pursue their academic goals benefited. This was particular to students enrolled in the PACE division.
- Students enrolled in the Mount St. Vincent University programme were also afforded the opportunity to take additional courses, thus decreasing the length of time it would take for them to complete their bachelor's degrees.

Madam President, let me share that earlier this month the Minister of Education, along with his Ministerial colleagues, visited the Bermuda College campus. They had the pleasure of enjoying a most delicious lunch in the Prospect Room, that was prepared by students in the Culinary Arts and Hospitality Management programmes.

While there, a mature student enrolled in the Culinary Arts programme shared with them how she had been made redundant from her job and was in the midst of ascertaining next steps in her life. She had a love for cooking, and, after finding out about the additional monies provided by the Government for students in financial need to attend the Bermuda College, she decided to apply. She shared how the funding

received is now supporting her to pursue a passion that she always had for culinary arts, one that she loves.

Madam President, this is an example of what the Government is about—helping those in need to obtain the education and skills they require for success in what they enjoy doing.

Madam President, the 2016 Census Report shows that 51 per cent of the population has some sort of post-secondary education, which is 6 per cent higher than the findings of the 2010 Census Report. Although all demographics experienced an increase when compared to the 2010 Census, there is still a significant gap between the number of Bermudians and non-Bermudians with a post-secondary qualification, with only 46 per cent of Bermudians having a post-secondary qualification, compared to 70 per cent of non-Bermudians.

The additional funding provided to the Bermuda College reflects the Government's commitment to increasing the number of Bermudians with post-secondary qualifications, while also leading the way in demonstrating the value of higher education—planting seeds to encourage a similar mind-set throughout Bermuda.

Madam President, let me close by saying that the Government continues its efforts to support Bermudians who desire to pursue post-secondary education and require financial support. This was reiterated in the 2018 Speech from the Throne. We will ensure that Bermuda College is accessible to everyone.

Thank you, Madam President.

## **ANNOUNCEMENT BY THE PRESIDENT**

### **SENATE VISITORS**

**The President:** Thank you, Senator Hayward. And before you move on to your second Statement, I would just like to acknowledge, in the Chamber, the presence of the Chief Parliamentary Counsel, Cathryn Balfour Swain; as well as the Director of Court Services, Gina Hurst-Maybury.

Welcome to you both.

*[Senate Statements, continuing]*

**The President:** Now, Mr. Hayward, you can proceed with your second Statement, Planet Math's Summer Day Camp Programme.

Senator Hayward, you have the floor.

### **PLANET MATH'S SUMMER DAY CAMP PROGRAMME**

**Sen. Jason Hayward:** Madam President, it is also my pleasure today to advise of an initiative that the Youth, Sport and Recreation Department's Summer Day Camp Programme engaged in during the school's

summer break. Madam President, one of the objectives of the Youth, Sport and Recreation Department's Summer Day Camp Programme is to provide the day campers we serve with fun education activities during the summer break. One of those activities was Planet Math.

The Senior Officer responsible for the programme, Ms. K. Charryse Bean, began the consultative process with [Planet Math](#) in February 2018. Planet Math is dedicated to improving math competency throughout Bermuda. The co-founders, Mr. Kevin Warner and Mr. Sergio Pitcher, recognised that many students have a unjustified fear and aversion to mathematics. Mike Lefkowitz, of the MIND Research Institute, puts the importance of mathematics to students quite succinctly: "Studying mathematics not only will develop more engineers and scientists, but also produce more citizens who can learn and think creatively and critically, no matter their career fields. The workforce of tomorrow, in all fields, will demand it."

Madam President, Planet Math's Summer Day Camp Programme initiative produced high-quality math lessons in one-hour sessions daily, with three hour[-long] sessions per day. It should be noted that the Summer Day Camp Programme operated for six weeks July 2<sup>nd</sup> to August 10<sup>th</sup>, 2018. The Planet Math Programme was provided to upwards of 500 campers between the ages of four and ten years old. At a cost of five dollars per child per lesson, it provided good value for money.

Madam President, the department transported these students to Planet Math from eight camp sites throughout the Island at no cost to their parents. It has been said that students often lose math skills learned during the school year, during their summer breaks. The result is that teachers spend at least a month reviewing previous lessons before they can progress.

Madam President, it was the intent of the programme to minimise the time spent on revisions so that learning new math skills can be optimised. It must be stated that the founders of Planet Math were cognisant of the fact that the campers were in *summer mode* and may be reluctant to do schoolwork. So, they provided dynamic teachers who understand that students learn and are stimulated in various ways, including hands-on learning, and audio and visual styles. A combination of technology, drills and manipulatives were used to achieve their goals. The environment was catered to successful learning.

Madam President, we agree with the words of Mr. Kevin Warner, who stated, "We feel privileged that we had the opportunity to work with these students this summer. Our hope is that they had a lot of fun while learning math this summer, but most importantly, they are able to carry this over into the new school year and were ready for whatever math came their way in the fall!" "Fear math no more."

Madam President, the programme was such a success that it is planned to run it again next summer

and I would like to take the opportunity to thank the Youth, Sport and Recreation Department's Senior Recreations Officer, Ms. Charryse Bean, and her team, for their foresight, and Planet Math, for being such valuable resources for the community. Thank you, Madam President.

**The President:** Thank you, Senator Hayward.

## INTRODUCTION OF BILLS

**The President:** There are none.

## FIRST READING OF PUBLIC BILLS

### NURSING AMENDMENT ACT 2018

### BERMUDA TOURISM AUTHORITY AMENDMENT ACT 2018

**The President:** The following Public Bills have been received from the Honourable House of Assembly and are now here read for the first time.

The titles are, respectively, the Nursing Amendment Act 2018 and the Bermuda Tourism Authority Amendment Act 2018.

## FIRST READING OF PRIVATE BILLS

**The President:** There are none.

## QUESTION PERIOD

**The President:** [Written Answers](#) from Senator Campbell to the Parliamentary Questions.

Senator Campbell, you have the floor.

**Sen. Vance Campbell:** Madam President, answers were provided to Senator [Marcus Jones] in written format, and I believe that all Senators have copies of the questions and the answers.

### QUESTION: GRAND ATLANTIC CONDOMINIUM COMPLEX

**Sen. Marcus Jones:** 1. *Would the Junior Minister please inform the Senate of the number of units which are occupied and vacant at the Grand Atlantic condominium complex on South Shore Road in Warwick?*

2. *Would the Junior Minister please inform the Senate as to the annual operating and staffing costs for the maintenance of the facilities and grounds?*

3. *Would the Junior Minister please inform the Senate of any prospects of future buyers of the property and whether the plan is to maintain its marketability as a tourism product?*

**The President:** Thank you, Senator Campbell.  
We now move on to Orders of the Day.

**The Clerk:** Questions on the Statements?

**The President:** I am sorry; I am rushing it.

Senators, we will now entertain questions on the Statements that have been read by Senator Hayward. And we will start with the first one, which is the 2018/19 Financial Support for Bermuda College Students. Would any Senator care to ask questions in this Statement?

No?

Then we will move on to the second Statement, with is the Planet Math's Summer Day Camp Programme. Would any Senator care to ask any questions on this Statement?

No?

All right; we will move on, then, to the Orders of the Day.

## ORDERS OF THE DAY

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

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

Madam President, I move that the Bill entitled the Criminal Code (Sex Offender Management) Act 2018 be now read a second time.

**The President:** Is there any objection to that motion?

No objection. Carry on, Senator Kathy Lynn Simmons, Attorney General, and Government Leader in the Senate.

## BILL

### SECOND READING

#### CRIMINAL CODE (SEX OFFENDER MANAGEMENT) AMENDMENT ACT 2018

**Sen. the Hon. Kathy Lynn Simmons:** Madam President, I am pleased to present the Bill entitled the Criminal Code (Sex Offender Management) Amendment Act 2018.

The policy resulting in this enactment aims at addressing one of the most emotional crimes and harmful social problems facing our society. Sexual crimes often target the most vulnerable members of our society, including our children. They are often perpetrated by persons in positions of trust, resulting in lifelong emotional and psychological trauma for victims.

Madam President, available data collected from the Judicial Department reveal that the number

of sexual offences, or incidents of offending, for which persons have been prosecuted in Bermuda during the last 17.5 years, is more than 440. Offenders during this period amount to approximately 260 individuals. This averages out to almost 25 offences per year. I must highlight that this number includes offences such as indecent exposure; voyeurism, commonly known as "Peeping Toms"; and unlawful carnal knowledge related to youthful offenders, usually 16- to 18-year-old young men. Although the figures are alarming, this will put the subject matter into better perspective.

Madam President, at present there are 12 sex offenders under active community-based supervision within the Department of Court Services, all of whom are, or have been, involved in sex offender programmes and/or treatment based on their risk of offending, as per the assessments utilised in the department. Those who have completed the programme and who remain under active supervision can be involved in more extensive maintenance work, as deemed necessary, to minimise their reoffending risks. Six are actively enrolled in programmes at present, inclusive of one voluntary client. Four are fitted with electronic monitoring devices.

Madam President, this Bill comprehensively reforms the way that sex offenders are reintegrated and monitored into society upon their release. Appropriate measures are implemented to ensure that offenders recognise and understand the harm that they inflict. Studies show that this is vital to ending the cycle of reoffending. Programming to this end will begin when the offenders are incarcerated and continue with an extensive supervisory regime in the community. These measures are aimed at minimising the opportunity to reoffend.

Madam President, of major concern in the current sex offender management process has been offenders' refusal to complete sex offender programmes, or treatment, while in custody. This increases the risk of reoffending, raising concerns about offenders' eventual reintegration into society. Accordingly, clause 2 of the Bill adds section 70QA to the Criminal Code, to prevent offenders who fail to complete court-ordered programmes or programmes included in their case plan during the period of incarceration from being released on licence or released on their earliest release date.

Madam President, additional provisions are made in the Bill for disciplinary offences for sex offenders who do not complete mandated programmes during incarceration in the new rule 32(c.1A) of the Prison Rules.

Madam President, to prevent identification of a victim, clause 3 of the Bill increases the penalty for an offence of publishing or broadcasting the identity of the complainant, or before conviction the accused, in a trial relating to a sexual offence.

Madam President, the current notification and registration requirements of sex offenders resulted in

*ad hoc* sex offender registration by the Bermuda Police Service. The compiled data were for law enforcement purposes only. Therefore, clause 6 of the Bill establishes a formal Sex Offender Register to be maintained within the Ministry of Legal Affairs. The register will serve to provide more comprehensive and current data on sex offenders to facilitate targeted public notification and any other notifications deemed necessary by the Minister.

Madam President, as outlined in the proposed section 329FA(2), [clause 6] of the Bill, the court sentencing a person to a period of imprisonment following conviction for sexual offence is required to order the Commissioner of Police to enter the person's name in the register. The court will inform the offender that his name has been entered on the register as per section 329FA(3) in [clause 6] of the Bill.

Madam President, the Bill further optimises effective offender treatment, supervision and collaborative mentoring, with the appointment of an Offender Risk Management Team. This team will be specifically tasked with mentoring the supervision and oversight of sexual offenders released into the community post-incarceration. The team will provide sufficient oversight to monitor compliance and to proactively prevent reoffending, with the ability to have the sex offenders assessed by professionals should their risk of reoffending appear to be elevated.

Madam President, in outlining some of the particulars of the register, the period of registration will be for 10 years or more, as determined by the Offender Risk Management Team, and, in accordance with guidance, in Codes of Practice to be issued by the Minister. Additional provisions are made for any person whose name appears on the register to have to submit to an assessment and reporting requirements as outlined by the team. It is important to note that the period of registration is suspended during any time in which the offender is in prison.

Madam President, the Bill provides that sex offenders on the register will be subject to specified conditions and must also notify the Offender Risk Management Team of any additional changes to their circumstances. In particular, an offender must inform the team in advance of plans to travel overseas, and shall comply with such conditions as may be imposed by the team for the purposes of facilitating his successful reintegration into the community. These include notifying the team, in writing, in advance of any intended change of address. An offender who fails to do so without reasonable excuse, or provides false information to the team, is guilty of an offence and liable to a fine of \$3,000, or imprisonment for six months, or to both.

Madam President, in clause 6 of the Bill, a sex offender may apply to the court to reduce or terminate their time on the register on the grounds that he or she does not present risk of reoffending. The onus is

on the offender to prove to the court their reduced risk potential.

Madam President, as the register is not a public register, there are penalties for individuals who release information on the register without lawful authority, as [inserted] section 329FB creates a new offence. In addition, Public Access to Information, or PATI, requests are not applicable to the register.

Madam President, the matter of sex offending, particularly against children, is a universal concern. This Bill also takes into consideration sexual offending outside of this jurisdiction for Bermuda residents. Therefore, any resident who offends overseas, or any person becoming a resident in Bermuda, must also register on the sex offender register, as per [inserted] section 329FA(1)(a)(ii), [also in clause 6] of the Bill.

The Bermuda Police Service has partnerships, as well as MOUs [Memoranda of Understanding], with numerous policing authorities, such as the National Crime Agency, Interpol, RCMP [Royal Canadian Mounted Police] and the FBI, to name a few, to share information under lawful authority to protect our citizens.

Madam President, concerns have been expressed about cases involving younger offenders. Judicial discretion is usually exercised in these circumstances to not impose a sentence of incarceration upon conviction. In such circumstances, it is befitting to follow the court's lead to not impose further penalties. In the Bill, registration and supervision are therefore reserved for sex offenders whose crimes warrant custodian sentence.

The Codes of Practice issued by the Minister will be a guide for judges, magistrates and criminal justice partners for sentencing purposes, as well as outlining periods that an offender should be on the register. For example, Madam President, a first-time offender for a minor offence, therefore, will not receive the same period of registration as repeat offenders for more serious offences. Conversely, a repeat offender should have more stringent conditions and longer periods of registration.

At this juncture, I would like to elaborate on the role and functioning of the Offender Risk Management Team, as per clause 6 of the Bill.

Madam President, the Minister appoints the team, comprised of representatives from the Bermuda Police Service, the Department of Court Services, and the Department of Corrections. The team manages the supervision of offenders in the community according to its policies and procedures. The team is also actively in consultation with other governmental agencies and departments, as outlined in their policy, to mitigate risk to further offending, require the offender to submit to updated risk assessments, and guide their mentoring in the community.

Once an offender is in the community under supervision, Madam President, they are supervised by probation officers, as subjects of probation, parole or

supervision orders. Supervision can also include the offenders' wearing electronic monitoring devices, if needed. All such orders require the assessment for programmes, group work and treatment. The Department of Court Services delivers such programmes and services. In the absence of significant numbers of sex offenders at any given time to constitute a group programme, interventions are conducted through individual therapy and treatment regime, in conjunction with the department psychologist.

It is valuable to share, Madam President, that maintenance work is delivered once an offender completes the required programmes and/or group. And offenders can always be reassessed by the psychologist, if necessary.

In addition, referrals are made for psychiatric services as deemed necessary. The partnership established with the consultant forensic psychiatrist from Mid-Atlantic Wellness Institute [MWI] allows for input from the consultant forensic psychiatrist for appropriate departmental clients. Further services may require additional referrals to MWI for these needs.

Madam President, persons who may no longer be subject to supervision by a probation officer will be managed by the Offender Risk Management Team, as per clause 6 of the Bill.

Madam President, there was no previous provision for monitoring, management and supervision of sex offenders post statutory orders. This new framework will allow for such oversight for sex offenders sentenced to a period of imprisonment for offences committed on or after commencement, in accordance with [clause] 6, [new section 329FA(4) of the Criminal Code (Sex Offender Management) Amendment Act 2018]. Whilst this may seem, to some, to be an oversight, it is within the confines of the Constitution and legislative context.

Madam President, the Bill necessitates revision of the 2008 protocols on the disclosure of information identifying sex offenders, according to section 329H of the Criminal Code, and imposes a mandatory requirement on the Minister to issue a protocol. The revised protocol, in turn, contains the most synchronised operational framework to coordinate stakeholders. It outlines the particulars of the more targeted sex offender management process to minimise or prevent reoffending. It also complements the more formalised system for sex offender registration mandated by the Bill.

Madam President, these measures have been mentioned previously. And from the commencement date of this Bill, the level of management, supervision, treatment and registration of sex offenders will optimise the protection of the community from further offending risk posed by these offenders. The level and extent of supervision is based on the risk posed at the community by the offender, as well as the offender's need for rehabilitation and intervention, as captured in

[proposed] section 329F(1A)(a) to (b), [outlined in clause 5] of the Bill.

Madam President, we have conducted extensive research on the subject of a public sex offender register, and we acknowledge the work of the Joint Select Committee, as well as numerous views advanced by community stakeholders and members of the public. Our research has determined that, outside of the United States and South Korea, most other countries that have sex offenders only make them available to limited sources such as government officers.

In fact, the United States is reviewing their practices, as most states have had great challenges in managing their offenders as the result of the public registers, which appear to have driven offenders underground. This has made their management and ability to protect vulnerable persons from sex offenders more difficult.

Madam President, it is significant to note that countries, such as Canada, Australia, France, England, Germany, South Africa, Jamaica, Trinidad, Cayman Islands and other British Overseas Territories, employ this practice whereby information on their registers is generally only available to police services, prisons, and probation personnel, or any combination of these agencies, as well as government child protection departments. Bermuda's position is similar. And governmental agencies involved in child safeguarding play integral roles in conjunction with the team.

Madam President, a public sex offender register is uncommon, due to vigilante justice and other factors which limit the opportunities for offenders to reintegrate into society. There is significant empirical evidence and research that shows that a publicly accessible sex offender register does not help to reduce recidivism rates, nor does it assist offenders to successfully reintegrate into society or make communities safer. In further contextualising this, Madam President, Bermuda is approximately 22 square miles in size. Our population is approximately 63,000. Unlike larger jurisdictions, individuals tend to know each other and cannot move into an area where they are completely isolated or unknown. We are challenged with the "not in my backyard" syndrome, whereby no one wants sex offenders in or near their residences. They cannot be isolated.

It is important to note that all offenders must be considered for release into the community at some point. It is against this backdrop that the necessary monitoring and supervision measures are being put in place by this Bill.

Madam President, the Bill does acknowledge that there are instances when it will be appropriate to make blanket disclosures to the entire public about an offender. However, these will be exceptional cases, where the offender's risk to reoffend is properly assessed to be very high and there is every indication that such disclosure is in the public interest.

Madam President, special disclosure arrangements with schools, day care centres and other organisations working directly with children, may be made as warranted with respect to particular sex offenders. Accordingly, special care provisions are made to ensure that victims are sufficiently armed with available information to optimise their safety. In the case of minors, their parents, guardians or caretakers are notified of a sex offender's pending release from incarceration.

Accordingly, Madam President, the Bill makes provisions for the Commissioner of Prisons to notify the Minister of a sex offender's pending release at least two months prior to the release date, as in clause 7 of the Bill. This allows for adequate consideration of notification to individuals, groups or the public, as per the revised protocol, and for release planning.

The Bill, Madam President, demands close coordination between stakeholders. These include the Bermuda Police Service, the Department of Corrections, the Department of Public Prosecutions, the Department of Court Services, and the Judiciary. The stakeholders were consulted during the process of formulating the Bill and are aware of its provisions. Whilst these partners are considered the major players in implementing, regulating and overseeing the fortified structure, they will also be close partnering with other stakeholder agencies within this enhanced framework. Governmental agencies with roles in protecting children are key partners for the Offender Risk Management Team, and subgroups will extend consultation with other service providers in the community, moving forward.

Madam President, the management of sex offenders is not an easy task. However, protecting our children and the public at large is a priority and a duty that this Government takes seriously. Therefore, Madam President, as captured by the provisions of this Bill, the effective oversight, management, targeted programmes, ongoing assessments, and registration of sex offenders will allow for more protections to the public. The established collaboration research, programme evaluation, public relations regime and information-sharing will be maintained as we continue to further develop and expand the overall framework.

Madam President, no entity on its own can be effective in addressing the accountability framework for managing sex offenders. Similarly, no framework would satisfy all segments of the community, especially those affected by such crimes, directly or indirectly. The framework contained in this Bill is a foundation for future policy and will help to provide a baseline for evaluation purposes in the future. We note that the provisions outlined in the Bill cannot be retroactive, for constitutional reasons, which will surely disappoint certain individuals and groups. The Offender Risk Management Team, in mitigation of this, will aid in management responsibilities, as well as offer services

and support for offenders waiting to receive such assistance who have already been sentenced.

In the past year during this administration we have made at least one public notification and disclosed information to victims in at least six cases when sex offenders were released from incarceration. In addition to the data presented at the beginning of this brief, at least two sex offenders have been recalled to prison for infractions of their orders. We have utilised all resources at our disposal to monitor sex offenders, including electronic monitoring devices; case conferences and case reviews, both at court and before the Parole Board; curfew checks; regular home and site visits; referrals to treatment; as well as contacts and collaboration with significant others to verify information. These measures have tightened the accountability framework for working this and monitoring sex offenders. As previously mentioned, there is also one sex offender who is voluntarily in a sex offender programme at the Department of Court Services.

Madam President, I can assure Senators, as well as the wider community, that this Government will continue its innovative research-based and balanced approach to addressing matters of significant concern in the community, inclusive of managing offenders, while thoroughly protecting the public from such crimes.

Thank you, Madam President.

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

And I would just like to indicate that, while I mentioned the Chief Parliamentary Counsel, Cathryn Balfour Swain, and the Director of Court Services, Gina Hurst-Maybury, earlier, they are here specifically for this Bill and to assist in any questions.

So, the floor is open. Would any Senator care to speak on this Bill?

Opposition Senator Jones, you have the floor.

**Sen. Marcus Jones:** Good morning, Madam President.

**The President:** Good morning to you.

**Sen. Marcus Jones:** Good morning, fellow Senators.

I first of all would like to send congratulations to the Attorney General and Senator for rolling out this piece of legislation. I believe it is long overdue. And I believe it is moving in the right direction.

My question would be, and I guess my concern at this juncture would be for victims of sexual offences. Today, as they listen to us deliberate this particular legislation, do they feel protected as much as they could be? Are they going to feel that no longer will they have to be looking over their shoulders? No longer will they have to be looking around corners? No longer will they have to be, shall we say, shackled in fear? Because I believe that one of the things, and

one of the purposes of this particular legislation, this amendment to the Act, is to bring a level of comfort to the victim.

Which brings me to my next thought, which I believe we need to consider and ask the question, Does this legislation go far enough as it relates to making this sex offenders register public? We have heard from the Attorney General some of the concerns that they have considered. And one of the issues is that of Bermuda being such a small jurisdiction. The logistics and the challenges that would be created because of having a public register that is going to be accessible to the whole public . . . there is some concern there.

I would say that is exactly the reason why it should be considered public and easily accessible to guardians, to parents, to those who are, especially, taking care of our children. Because we live in a small jurisdiction, a victim can very easily run into their offender. With 63,000 people on 22 square miles, I would say it will be virtually impossible not to have sightings of that person who may have inflicted pain, not only physical pain, but the emotional pain. And we know, from either experience within our own families, [or of] those whom we know, that it only takes one incident that can absolutely steal the innocence of a child, or of an adult, for that matter.

So, when considering this piece of legislation, my thought, first and foremost, is the victim. We know that the US has had public access to their sex offenders register from at least 1994. And from new information that I heard this morning, the Americans are having another look at that. They are finding some issues with that. That notwithstanding, the needs of the victims do overshoot those of the perpetrator.

Now, we also do need to consider the rights, the human rights of the offender. And I believe that some of the punitive damages that are in the amendment for those who go beyond the law and violate the spirit of the law by being mischievous, in getting the name of that victim to places where it should not be . . . I believe that the amendment allows for the punitive damages that will look out for the human rights of the offender. But we should not, in light of that, discount the feelings of that victim.

Also what got my attention was the role of the Offender Risk Management Team. Now, I understand from this amendment that that group is made up of persons from the Bermuda Police Service, persons from the Department of Corrections and, thirdly, one of the persons from the Department of Court Services. My question would be, and I do not know if this is delving too deeply where we would be required to go into Committee, but my question would be, Would those numbers of people include an expert in child sex offenders, someone who has to deal with the children, someone who has had experience both academically and experientially on these cases?

Now, you may pick someone from these three departments. But they may not necessarily be experts. I think that that is something that we need to consider. Because if this offender, repeat offender, keeps on coming back to the [Offender] Risk Management Team, do they have the necessary tools within their expertise toolbox to be able to determine if this person can actually be eligible for early parole, whether they are following through on the programmes that they were supposed to do through interviews, be able to detect whether they are being contrite, serious, repentant enough to actually be released? So, I think there needs to be some consideration into getting experts involved in that [Offender] Risk Management Team.

We also need to consider . . . I believe that a notation was made that organisations that are connected with our children will be informed about these offenders. My question would be, If organisations are being informed, why not the parents? Why not the guardians? I may have misunderstood clearly what that was.

**An Hon. Senator:** They are.

**Sen. Marcus Jones:** They are. The parents are told directly. My error. But it still makes one wonder and be concerned that the entire public be aware of what this is about.

Now, there is also a question about mandatory treatment. As far as we can understand, if an offender appeals for early release, it is mandatory that they take the programme. I believe I understand that correctly. But, as it stands right now, if an offender is in prison for the entire time, there is nothing in place to make it mandatory for him to take the treatment. Am I understanding that correctly? If they are in there for 10 years, and they refuse to take the treatment, then they cannot be made to do so. I am made to understand that.

I do not know how we can change that. I do not know how we can place the onus on that offender to take some type of programming. That is something that we also need to consider.

Also, the issue of a tiered system, the intensity of the offence—whether for a violent crime, sexual crime, whether for a crime that involves children at a certain age . . . should there be a different tiered system in regard to punitive actions that would affect their appeal for early release?

I am also concerned about the overseas aspect. We understand that if a person is coming to Bermuda, let us say, for employment, and they are a sex offender. How do we lasso in that person to find out if they are a risk to our community? How we can address that issue becomes something to consider, as well.

But, as I said, this piece of legislation, I believe it is good. It is moving in the right direction. With

a concern to public access to this information . . . that would be something which I would target as part of this legislation that we can look at again. And those are my comments at this time.

**The President:** Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

[Pause]

**The President:** Someone, speak.

[Laughter]

**The President:** Senator Michelle Simmons, you have the floor.

**Sen. Michelle Simmons:** Good morning, Madam President—

**The President:** Good morning.

**Sen. Michelle Simmons:** —and fellow Senators.

It has been roughly four months since the Joint Select Committee on (and it has a long title) the Necessity for a Public Sex Offenders Register Along with Other Pertinent Matters Relating to Convicted Sex Offenders submitted its report. Four months. Madam President, I am very pleased to note that the Attorney General and the draftsmen in her department have acted swiftly to provide these amendments to the Criminal Code of 1907.

I served on the Joint Select Committee. And the group agonised over the final report. We had many sessions where we went back and forth, because we understood how important the report was going to be in terms of impacting the lives of individuals in this community who have been victims of sexual abuse. We are talking about children, to a large degree. We are also talking about adults.

The amendments before us today do not give us everything. And we knew that that would be the case. But, they will help significantly to improve the management of persons convicted of sexual offences in this community. And the most important thing is to try to stop persons from reoffending. Of course, we also want to deter others who might be thinking along these lines—i.e., committing sexual offences—to choose a different path. But, as I see it, this Bill primarily deals with the offender and the attempts to prevent persons from reoffending. No one can undo the past; but we can certainly learn from the mistakes that have been made. And we can put procedures in place to ensure that the future looks very different.

One of the changes to the Criminal Code, which I believe will make a huge difference, is the fact that a convicted sexual offender's eligibility for parole or licence will depend on his completing any pro-

grammes mandated in his case plan. That is a huge difference. Because, right now, no one has to participate in any of the programmes that they, supposedly, are mandated to engage in. The current state of affairs is really unsatisfactory. And this change alone will help to address some of the concerns that the community has regarding the behaviour of convicted sexual offenders, and their thinking, which could result in reoffending if steps are not taken to help that person address whatever made them offend in the first place.

In clause 4 of the Act, I note that a person who has been convicted and sentenced to more than three years for a sex offence will be supervised for a period of time upon release from prison. And the length of the period will be decided on the basis of the person's risk of reoffending. So, if it appears that they are high risk, then they will be supervised for a far longer period. Hopefully, this will also give some comfort to victims, knowing that these offenders will have individualised case management plans, and they will be supervised by a probation officer, who will determine the level of supervision on the basis of the gravity of their offence. That is excellent, in my opinion.

But I have a question about this section. And Senator Jones has already raised the biggest question I have, which is this: What if a convicted sexual offender completes his full sentence and has not engaged in any of the so-called mandated programmes? Will he still be released? Or, is this seen as the person committing an offence for which he will be liable to a further sentence?

I really am not clear at all about that. I think, earlier, I heard the Attorney General refer to [rule] 32(c.1A), [of the Prison Rules], which talks about an offender who "fails to complete programmes mandated under section 70QA of the Criminal Code [1907]." But it appears that what happens there is that the person forfeits their entitlement to probation or licence, or to be released on licence. But, if they are not applying for early release, what happens? Will we still release this untreated sexual offender into the community at large?

That is the biggest issue I have with the amendment so far, because I do not see a clear process for dealing with someone who is saying, *I am not going to engage in any programmes. I am not going to change my behaviour. And you have to release me at the end of my sentence.* What happens there?

The sex offenders register. I have to admit that I have gone back and forth, back and forth about whether it should be public or not. And the concern I have is about public safety, the protection of victims. That should be our primary focus, because victims have suffered life-changing negative events from which I do not think they ever will recover. How, then, can we even contemplate a victim's walking down the street in Hamilton and running into the person who committed this grave offence against them, and not

knowing that this person has been released? I believe there is a provision for informing the victim and the family. But how, then, can we ensure that schools, that other institutions which are hiring, are not hiring a sexual offender who may be put in a position to be interacting with children, or, I dare say, even with vulnerable adults?

Is a public register something we should seriously consider here in Bermuda? I am going to be very honest and say I still have not come to a final conclusion, because one part of me says yes. As a former principal, I would want to know if I am hiring someone, [a sex offender,] who will be in contact with children on a regular basis. But, how would I know that without having access to a public register? On the other hand, I do hear the arguments against having a public register and just, I guess, informing those who really need to know. But do we not all need to know? Because are we not all at risk? On that one, I am just going to defer, because that is a very difficult thing for me.

I am going to quote from an article dated October 20, 2017, in the *Royal Gazette*, in which the reporter says—and this is based on something that one of our leading social workers, Ms. Laurie Shiell-Smith, who is Executive Director of the Centre Against Abuse, said. And I quote from the article: “Numbers provided by police in April showed an increase in sexual assault reports in recent years.” Remember, this is October 2017, a year ago. “Police said that 40 sexual assaults were reported in 2016, up from 35 in 2015, and 30 in 2014.” So, is that a trend?

It is for the protection of the community that we are considering these amendments. And I believe, as I said earlier, that the amendment before us today will go a long way toward addressing some of the concerns. I fully support the creation of the sex offenders register. And I am totally in support that persons will be on the register for a minimum of 10 years. But, they can be on there for longer, depending on their interactions with the [Offender] Risk Management Team.

I also am very appreciative that the Minister will be issuing guidance for the processes that people must follow so that there is a consistent approach to the handling of sexual offender monitoring. Furthermore, anyone who does not comply with the requirements of registration, as the Attorney General said earlier, or anyone giving false information, will have committed an offence and will find themselves back in court again.

Finally, the Minister will also establish a protocol governing the disclosure of information in relation to sex offenders. And I am very happy to see that because there has been inconsistency in the past, depending on who the Minister is. But, from now on, going forward, the Minister will have established a protocol, and that protocol will have to be followed. It will no longer be at the discretion of the Minister to decide

whether information will be released to the public or not. And I can wind the clock back to some very high-profile sexual offenders who had been released into the community without notification. But, thankfully, earlier this year, or maybe it was late last year, there was a notification given by the current Attorney General, and, in my opinion, that is the way we need to go.

So, Madam President, with those comments, I will end. And, once again, I thank the Attorney General and all of those who have had anything to do with this for moving quickly to advance these changes to the Criminal Code.

Thank you.

**The President:** Thank you, Senator Michelle Simmons.

Would any other Senator care to speak?

I will take Senator Jason Hayward.

You have the floor.

**Sen. Jason Hayward:** Good morning, Madam President.

**The President:** Good morning.

**Sen. Jason Hayward:** It should be noted from the onset that sexual offences actually vary in their nature. And, based on the offence that is committed, the appropriate risk management and resources, in addition to the punishment, should be allocated. And this is primarily what this Bill aims to accomplish, putting the appropriate mechanisms in place, risk management resources in place, to monitor sex offenders upon release.

This Bill comprehensively reforms the way that sex offenders are reintegrated into our society and monitored on a day-to-day basis after release. I am pleased that this Bill includes measures that prevent individuals from being released on probation, or what they consider “on licence” from jail, if they have not completed the programmes that were designed for them.

Madam President, as a parent with three young kids, I believe my children’s basic needs are of paramount importance to me. And those are their food, their housing, but, more important, their security. And, as a parent, you see, in terms of protection of your children, we should just lock individuals up and throw away the key. But that is an extremely emotional response. And it could be leading me down a mindset where I become inhumane. And recognising that sex offenders are human beings also, and despite the hurt and the hardship they place on others, they also deserve to be treated in a dignified manner.

Now, some may not have any sympathy for [such] individuals, and this is not one for sympathy. But we have to understand that there are considerations that need to be made, based on the varying sex

offences. So, you have a public register. You say to yourself, *Well, who goes on the register? Does the 18-year-old who has sexual interactions with a 15-year-old remain on a register for his entire life? Or do you move down the mechanism where you assess the risk of the individual who has committed an offence and those who commit the most heinous crimes, or sex offences, and on that basis determine whether [there needs to be] public notification for those individuals?*

I am also satisfied with the level of assessment that will be had upon release to determine how the person should be monitored, moving forward. What is important is the Offender Risk Management Team, and I think that is a critical component. What happens after that person is released? That person is not just released into society to do their own thing. That person, if still deemed to be a risk to society, will be placed under risk management. It is also important to note that, if that person fails to comply with whatever risk management requirements [are in place], that person can be fined or reimprisoned. And so, it is about how we monitor the [reintegration] of sex offenders back into society.

We grapple, again, with whether the register should be public or not. But the Bill does not exclude, or prevent, persons from being placed on a public register. It just determines that notification to the public will be given when persons are deemed to place a high risk on society.

The Offender Risk Management Team will be made up of the Bermuda Police Service, the Department of Court Services and the Department of Corrections. And with this, this cohort of bodies, there will be persons with the appropriate skill sets to make reasonable and measured decisions regarding sex offenders. Also, psychological referrals and evaluations will be part of the risk management programme. So, you would have those sorts of professionals integrated into the [Offender] Risk Management Team.

The Offender Risk Management Team is probably the most critical portion of this particular Bill, because this is the team that will ensure that the public remains safe after the release of sex offenders.

The intended outcomes of this Bill are to ensure the public that risks posed by sex offenders are managed, that sex offenders are monitored after release and sex offenders will be evaluated. Children and the community need to be safe from the harm posed by these individuals. I believe that the amendments in the Bill are comprehensive enough that we have a robust plan in place.

This may not be satisfactory to all victims who experienced trauma. This may not be satisfactory to all stakeholder groups. A public register may be desirable to some, to name and shame. But the Attorney General also talked about the risk that comes with a public register. We do not want persons going underground, and then we are no longer able to track these individuals. And that is a realistic risk. The other thing

is that we do not want an increased sense of alarm in our community.

Certainly, persons will be prevented from working in certain institutions. And so, relevant institutions will be notified. Sex offenders will not come out and work in our nursery schools. They will not come out and work in our school systems. It is how we have a robust strategy in terms of managing the employment of the individuals, also, because what we do not want them to do is come out of jail, and then they cannot translate into being productive citizens. And so, that is an important human element that we miss.

We have murderers who have removed people from this earth unjustly. They do their time. They come out, and they are reintegrated into society. There is no higher level of monitoring. But some of those people are capable of killing again. This, while I do not want to compare it regarding crime . . . but what we are trying to say is, I am trying to share the human element of the individual. And so, persons should be allowed to reintegrate into society. And it will be our responsibility as a government to mitigate the risk, to ensure that this Offender Risk Management Team does what is required to keep the society safe.

We do not know whether or not these individuals may reoffend. But what we do know and what we can control is the strategy we put in place to continuously monitor individuals who, we deem, place risk on our society. And the burden will grow because, like Senator Simmons said, the numbers of cases and offences are increasing. We still need to do a greater job regarding raising awareness of sexual offences in our community, having victims speak up. There are people who have committed these heinous crimes who continue to walk amongst us today. They have never been reported, whom their victims see on a daily basis, who may be family members of individuals. Those persons pose as much threat to society as somebody who has been convicted, served time, and put on some sort of rehabilitation programme.

The reality is that we cannot monitor all sex offenders in our community, because many are unknown. The reality is, if I want to keep my children safe, I have to put the proper parental mechanisms in place to ensure that I do not place my child or children in risky situations. And so, maybe three Cup Matches ago, or three or four Cup Matches ago, my son is asking me to use the bathroom. I tell him, *Go ahead*. But I made sure his brother—they are twin boys. I made sure his brother went with him. And when they came back, one of them said, *Daddy. This guy was calling me into the stall*.

I sat there, and I cried. I cried for two reasons—number one, I do not know what I would have done if something were to have happened to my boy; and number two, I would have realised it was all my fault because, at Cup Match with young kids, I should have been the one to escort my son to the bathroom,

and not his twin brother, rather than being preoccupied with the game.

And so, it is a role that we all have to play. And I do not share that story lightly. But, what the Government is trying its best to do is to put a team in place that monitors the situation.

Even if we put everybody on a public register, we still need a robust risk management team. And so, I do not want to close here today without saying that the Offender Risk Management Team will be the most critical portion of our moving forward. And whether that person is on a public registry or not is less important than the risk management that will go along with that person's release. Thank you, Madam President.

**The Speaker:** Thank you, Senator Jason Hayward.

Would any other Senator care to speak on this?

Senator Robinson, you have the floor.

**Sen. Dwayne Robinson:** Thank you, Madam President. Good morning to my colleagues.

I would like to commend the Attorney General, as well, for the work done with her team on this particular amendment. And I do agree with the comments made by Senators prior that we cannot simply forget that they are people. And we cannot just lock them up and throw away the key. I was especially hopeful and optimistic by the comment, when it came to the framework for future policy, made by the Attorney General. And I think that this is a great start and that we need to get something in place to properly police sex offenders, and also to make sure that our children have some sort of mechanism at work so that these sorts of heinous crimes do not continue.

I do have one reservation, as far as the PATI request. I kind of do want that to be available to parents who have experienced trauma of some sort, or children who have, because I know a lot of parents may actually want to find out which sex offenders are around them in this particular area. And you mentioned, I think, that they would be notified through school. But I know some people like to do their own research. But I am, as well, happy that you mentioned targeted notification, because that gave me a lot of reassurance that you are, indeed, looking at making sure that people are properly notified and that the community is protected.

So, I also share a lot of reservations, Madam President.

[Laughter]

**Sen. Dwayne Robinson:** My gripe is that they are supervised by a probation officer, Madam President. And I would like to know how the numbers of offenders stack up [compared] to probation officers. Because I know that, in government agencies, we do

have people who have a higher workload placed on them than they might be able to keep up with. And I would like to make sure that we have adequate numbers of officers [compared to the] numbers of offenders so that they can properly police these people and keep some supervision on them. Because the last thing we want is to have a great, robust system in place, and then we have an influx of offenders—like Senator Hayward has said, some of them have not even been identified yet—and we end up overwhelming the probation officers and having them [assigned] to monitor 20 or so people on their own. So, I would like to know how the numbers stack up, probation officer to offender, which would make me feel a bit better about that system.

I also want to remind us all, and those who are listening, that I respect and see both sides of this terrible issue, where you have a government that has to make sure that people are able to be viable citizens and reintegrate into society. And then, you have a segment of our population who has been hurt by these people, who want it to be public, who want them to be able to name and shame. However, I do understand that the Government's priority is to all people, Madam President. And we cannot lose sight of either the victim or the offender.

The offender should be able to be reintegrated into society. However, I do feel as though there are a lot of moving mechanisms in place for this particular plan. I know that there is a history, sometimes, of the Attorney General being notified late on offenders being released, the Attorney General from the past. I am not sure about the current Attorney General. But they have been notified late on certain releases. And I feel as though we do leave a lot to be desired when we put in so many moving compartments, and basically hope and pray that each compartment is operating efficiently to make sure that these notifications . . . that these people are properly policed and that they are, indeed, handled correctly throughout the system.

It is great to put a system in place. And it is great to say, *This is a great system, and this is something that works*. But we have not really been told if there are any personnel issues even within the prison, as far as maintaining psychologists and the proper staff who are qualified to work through these rehabilitation programmes with these offenders. We do not know whether or not they are properly staffed within Corrections with these people, to make sure that each sex offender is actually rehabilitated properly and that it is not a huge workload on maybe one person or two people, for all we know.

So, I also would like to outline that, with all of these rehabilitation programmes [which are] put in place for the offender, we must also look to put into place a lot more rehabilitation programmes for victims, as well. And I do feel as though we have a very, very, very, very flat mental health policy and trauma policy

here, as far as community-wise. I really am not just putting it on the Government.

But, community-wise, we do not discuss these things. We do not really give as many outlets to people who were on the victim side to really deal with trauma. And we have not really put a lot of mechanisms in place for those victims to reintegrate into society after they have dealt with their traumas, because we just simply do not put a lot of emphasis on mental health in this country. And it has been called [for] years before me. And I do think that if we are going to put this mechanism in place for offenders, then we need to make sure that we have adequate mechanisms regarding mental health and trauma rehabilitation for victims, as well.

And I am only putting that out there as a suggestion, because I do not know exactly what is happening within the Government. They may be looking at these specific things, as well. But I still think that it is good for us to highlight them, to caution people, that we are not just here to make sure that the sex offender can reintegrate into society, but that we are also putting that emphasis on healing and reintegrating our people who have been hurt by these offenders, into society as well, Madam President.

We have a history of gaps in systems within Bermuda. I do not want this to become a system that gets gaps, because, at the end of the day, we do not know the future. So, we can only do what we best can do now to put these mechanisms in place, which I want to make sure that there are fail-safes upon fail-safes as far as hiring goes, as far as qualifications go. Because, as Senator Hayward said, this Offender Risk Management Team is going to be very important. And we have not really heard or been reassured as far as how that will be maintained and how the personnel will be picked. Will they have to take certain courses or [get] qualifications within Corrections or the Bermuda Police Service, or whichever entity they come from, to make sure that they are properly qualified to really deal with this specific issue? Because it is a very pin-point issue.

And we have to make sure that this [Offender] Risk Management Team is up to task, because we do not want it to become something where we put it down on paper, and then, when the operation comes about, it is not up to snuff. So, I would like to also caution, as far as that goes, that, with such an integral, pivotal piece of this legislation being on the Offender Risk Management Team, the public is properly reassured that this Offender Risk Management Team is indeed the best that we can put up for maintaining this particular team.

I just also want to make sure that we understand and take into account, which I am also praising the Attorney General for doing, looking at both sides. And she was able to adequately address both sides of the argument, as far as public and private. So, I just want to urge us as an entirety, as well as the commu-

nity, to make sure that we look at both sides, as well. And to the victims and those others, we will provide that sort of insight. So, I will not stand in the way of this particular Bill, because I feel as though it is a step in the right direction. And I do feel that we have to get it in place. But we also have to make sure that this is properly serving the community and that everyone's thoughts have been tallied and put into place, as far as the victim. It is hard for us, looking in, to step into the shoes of a victim. And they need to be properly reassured, because this Bill is for them. It is not for the offender. It is for the victim.

Yes, we have to manage offenders. Yes, it is a tough, tough job. And it is something that a lot of us dread even discussing in communities. But this is for the victims. And we have to make sure that, whichever way we decide to go with policy now and policy in the future, the victim feels comfortable and safe to walk the streets of their country. Because, regardless of how many mistakes we make as a community regarding our children, there is no excuse for someone to then capitalise on that mistake and to violate somebody.

So, I will leave on those comments, that the victim must be satisfied and feel secure, Madam President, in this policy and the policies going forward. And that must be the focus.

Thank you.

**The President:** Thank you, Senator Robinson.

Would any other Senator care to speak?

Senator Jardine, you have the floor.

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

Madam President, I will be brief because much has already been said around this table. In fact, I was going to mention, myself, and in fact, I wonder sometimes whether ESP exists between people. I was looking across at Senator Hayward, and it was as if our minds were somewhat linked, because exactly what I had planned to say today he has already said. And, certainly, my initial comments are that I wholeheartedly support this legislation. It is something that is long overdue. And we had a very good summary of certain issues, which was put forward by Senator Michelle Simmons, which I listened to with great interest.

My own views—and I did wrestle for some while with the question of a public register—I will say that the Attorney General gave us a very good overview of what, in fact, will take place here. I have listened to other comments around the table. And I share Senator Hayward's views in that, so often in our system of justice, people are found guilty of a variety of different offences. And we try to assimilate them back into our community, with a variety of different methods. We are an incredibly small place of [22] square miles. We see people all the time, whom we

know, who have, for a variety of reasons, found themselves convicted of crimes, a variety of different crimes. And we try to assimilate them back into our community.

So, my own views on a public register—I do not really think that this, shall we say, serves a great value. I think it serves to, obviously, notify people of sex offenders. But it also puts those individuals in a very difficult position in terms of trying to assimilate themselves back into the community, to find a way forward out of whatever crime they have committed—in this case, a sex offence. And we have heard about the example of someone who is 18 years old, perhaps. One can draw the same, shall we say, side conclusions about people who have been convicted of possessions of cannabis, for example, at a very young age who are then prevented from travelling overseas to gain further education. And, you know, we have all seen the changes we have made in that area, which I think are long overdue.

So, from my point of view, from what I have heard today and what I have read, I think that this Bill is an excellent first step. As with all legislation, and for those who have been around this table for a long period of time, we have seen amendments to legislation that we passed even a year or two before. So, it is not unusual for legislation to be amended on the basis of circumstances as they unfold, once legislation has been put in place. And I think that this is, as I say, a very good first step. But there will be, no doubt, tweaks as time goes by.

I listened to Senator Hayward in terms of the importance of the Offender Risk Management Team, and I agree that it has a very important role to play in going forward in all of this. I listened to, obviously, concerns about the victims. With daughters, wives, one is always conscious of sex offences. And we talk about children, but there are also others in the community whom we should be concerned about, as well.

So, I understand the importance of this. As I say, I think it is a great first step. And, no doubt, we will have amendments to it as time goes by. And I want to thank the Attorney General for a very detailed explanation. I see that she has been scribbling notes over there, and I am sure we are going to get even more information that will make us all feel as comfortable as we can with respect to this legislation.

So, Madam President, without talking any further at length, I would just like to say I support this legislation. Thank you.

**The President:** Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Kempe, you have the floor.

**Sen. Nicholas Kempe:** Thank you, Madam President.

First of all, I would also like to extend the gratitude to the members who served on both Joint Select Committees, the one formed in 2015 and reformed again in 2017, for the work that they did researching and interviewing, and speaking to community groups and victims and police and government works to try and come up with the recommendations from the Joint Select Committee, which formed the basis of this legislation.

A couple of notes just as we go through this: I think the argument seems to be focused primarily around paedophilia. But there are many other types of sex crimes, of people who would qualify for the sex register. It is not solely a crime that is committed by men unto girls or men unto young boys. Some of the findings that I think jumped out, at least based on stats from the US, were that 25 per cent of sex offenders are women. Forty per cent of child abusers are older children. Ninety per cent of children who were victims know their abuser. So, there is definitely some decent stats information around what kind of comes in here.

And I think it is also important, and something which was highlighted a few times in the Joint Select Committee report, [to note the] tiers of offences, tiers of qualifying people who would be on a sex offenders register, from low-risk to medium-risk to high-risk/dangerous. And, certainly, the recommendation that came out of the report, and I think it is important that we not conflate this issue when we are discussing whether to have a public register or not . . . the Joint Select Committee did not recommend that low-risk or medium-risk people be on a public register. So, that would pertain when you are talking about, as Senator Jardine said, the 19-year-old who has sex with a 17-year-old girlfriend, or whatever the case may be.

And that is actually another curiosity, where there are a lot of assumptions, I think, in inequality and gaps in the legislation. The age of consent for females in Bermuda is 16, whilst the age of consent is 18 for males. So, there are a number of areas where the follow-up legislation, I am hoping, will be on the heels of this sex register legislation to close the gaps, tidy the gaps identified in this report.

My concern about not having a public register, I understand the mechanisms in place, and I certainly believe the [Offender] Risk Management Team will play an essential role, but there are a number of other areas when high-risk individuals or individuals who risk reoffending . . . especially when we talk about things like paedophilia, which I believe is, among the psychologist community, widely believed to be part of that person's nature and there are not, from what I have read, a lot of kind of beliefs in the rehabilitative process.

So, it is all good and well that people who are hiring for a school, or a day care, be aware when people are made public. I think it would be useful that they could also query the registry about hirings, which

is where the PATI mechanism being exempted is something that caused me a bit of a challenge. Or, if you are sending your kids to someone down the street who offers babysitting, they are not doing this under the construct of a company. Or, if you work in any company not in the child care industries, but there are staff members who bring their children to work, they hang out in the kitchen, or do whatever around the company after school. I think it would be useful if we know of these sorts of individuals who have potentially incurable predilections. You might not be informed when you are hiring them as an employer, just because you do not work in a child care industry. It does not mean that you should not be, as someone ultimately responsible, informed about the potential for things to look out for, for employees or employee's children on the site of your business.

The other side of it, of course, when we take the paedophilia argument out of it, is the sexual assault for disease. So, the people who are cognisant of the fact that they have communicable diseases (HIV, chlamydia, et cetera) and are knowingly having unprotected sex with unknowing victims, people who are serial offenders like this . . . who would you inform? The dating pool is not necessarily linked to a school environment. So, these types of high-risk, dangerous individuals, being on a public register would allow potential victims to protect themselves far better.

And I understand the arguments about it, [how this] would hamper their ability to reintegrate into society. But, at the end of the day, if assessments are made and they do not seem to have the remorse, the commitment to reform, then I believe a public register is the only protection. And if it means that they live somewhat uncomfortably in Bermuda, then so be it. Quite frankly, I will put the protection of their past and future victims at far higher priority than the possible reintegration to a comfortable life for the offenders.

Laws without compliance are somewhat useless. I mean, certainly, in this House our function is to legislate. However, I worry when I look at systems. The more complex a system, the more likely it is to have gaps or have failures in the future. I know we talk about assessing people when they go into the prison system. I know there is meant to be, or in theory, there is meant to be three [assessors] at all times. I know, historically, there has been challenges between whenever the work environment gets to someone and they leave, the hiring process can take some time to refill . . . this kind of thing. So, at times when [prisoners] are onboarded, they might not have that initial assessment, and they can fall through the cracks.

So, again, the more steps we have in the process like that, the more challenging the gaps in communication, fail-safes can fail, and then there is not the communication that is needed to protect the community. So, again, for the high risk, for the dangerous category of sex offenders, a public list would be, in my view, a far better solution.

The Attorney General, when she gave her statement, mentioned that we have information exchanges with Interpol. When she responds, I would like to know if those exchanges are automatic or not, because the Joint Select Committee seemed to suggest that information sharing was missing in Bermuda. They spoke to the Lanzarote Convention, and Interpol, amongst other things, about this automatic exchange. If a sex offender moves to Bermuda, and does not register, we seem to put all the responsibility and onus on the offender. If we had automatic exchange of information, we would be in a far better position to, again, protect our people, especially from people who are coming from outside our community, [at] risk of offending. At that point they could be assessed and, again, deemed whether they should be on the private or the public register and for how long.

So, again, there were a number of issues highlighted that need beefing up as follow-up to this legislation, [to] gaps in our legislation. People who have been convicted of sexual acts . . . and this is the legal term, of a "defective." They are speaking to people with mental disability, and this kind of thing. That seems to only be an offense for a male that has sex with a female member of our society with mental disability, not the other way around. So there are a number of gender-biased legislations and protections in our laws, and I think it is under the, initially, ill-informed belief that certain activities and certain crimes only go one way. And it does a disservice to the conversation; it does a disservice to protecting our society. And I would love to see a commitment to a timeline to fill in the rest of the gaps that were highlighted in the report from the Attorney General.

I think those are really my comments. I certainly support the Bill. I commend the Government for bringing this forward on the heels of the Joint Select Committee, but I have severe reservations about the PATI exemption and the fact that there is not a legislated public element for those high-risk offenders, as opposed to [being] at the discretion of whoever is sitting in the chair of the Attorney General at the time.

Thank you.

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

Would any other Senator care to speak on this Bill?

Senator Campbell, you have the floor.

**Sen. Vance Campbell:** Thank you, Madam President.

The Attorney General in her brief spoke about that there is an average of approximately 25 prosecutions per year in this area. There is a concern [of] how many more reported cases are not prosecuted because of a lack of evidence, and how many cases go unreported, as was mentioned by other Senators earlier. But the status quo, Madam President, is that these individuals are currently being released into our society without any kind of . . . very little or no, man-

agement, and no treatment. No programmes have been fulfilled. So that is the status quo. These offenders are released, having served their time. No matter what that sentence was, whether it was 10 years, 15 years, they are released having served their time, while the victims continue on suffering a lifelong emotional and psychological trauma.

As was mentioned, Bermuda is a small community, and [they are] released into this small community. And there is a risk that the offender and the victim will come face to face. That is, without a doubt, a concern. However, it also works the other way in that news travels extremely fast in Bermuda. So it can work where once that information is known by one or two individuals it can spread. That is not something that you really want to rely on, but it can work the other way as well.

As far as a public register, like many Senators around the table, I have mixed feelings on this, but the thing that clinches it for me as far as living with the register not being public for now, is [that] in Bermuda we have many people with similar names, and same middle initial. They have the same first name, same last name, so let's look at the middle initial. *Oh, that is the same as well.* How do we avoid Vance Campbell being labelled incorrectly for something that he did not do because he has the same name—first name, last name [and] middle initial—of someone [else]?

And so you say the register has a picture. I am sure all of us around this table, Madam President, have friends that we have known, or people we have known for a long time, many years, and yet we bump into them and [they] say, *Oh, I saw you last week, didn't I, at a function?*

[We say,] *No, I was not at that function.*

So . . . mistaken identity. And in Bermuda, once you are labelled, it is hard to remove that label. And many can attest to that fact.

As far as the legislation, Madam President, I know that when you see the term “he” or “his” in legislation, it refers to the opposite gender as well. I do have some concerns that this legislation has “he” and “his” in here because, like was mentioned by the Opposition Senator, the offenders are both male and female. So, it bothers me a little bit that that is in there, as opposed to “they” or . . . but again, as long as we keep in mind that the offender is not just male.

It has been mentioned, Madam President, that the Offender Risk Management Team is critical, and I agree. I agree. Their work is critical in that they set the level of oversight and supervision according to the risk of reoffending. We cannot lose sight of that. Do I think it is perfect? No. Do I believe that offenders released should have to wear an ankle bracelet? Yes, I do. But, again, and I will conclude with this, this Bill is the first step, Madam President.

And whilst I may believe, and others may believe, that the provisions of this Bill do not go far

enough, each of its provisions is an improvement on the status quo.

Thank you, Madam President.

**The President:** Thank you, Senator Campbell.

Would any other Senator care to speak on this Bill?

Senator Crystal Caesar, you have the floor.

**Sen. Crystal Caesar:** I will be very brief.

Also, as a member of the Joint Select Committee who submitted the report earlier this year with regard to this subject matter, I am happy to see this amendment in place.

I would like to reiterate that the Joint Select Committee's report spoke to a myriad of issues, and this speaks to a portion of that. There are varying policies, procedures, [and] issues that we discussed, and I think it would be prudent of me to remind Senators and the listening public that we all also have a responsibility to educate ourselves on these particular types of issues. Legislation is not a panacea to all problems that Bermuda has.

Having sat on the Joint Select Committee, I became aware of things that I was not aware of; in fact, I even attended a SCARS [Saving Children And Revealing Secrets] class, in which I became SCARS certified, and found out things that would not necessarily fall under this particular legislation, but I, as a mother, as a member of this society, need to be aware of. So I think we need to be careful in thinking that this is going to solve all of our sex offender issues. That is not what this is for. This is just a small portion of managing that particular [sector] of society. So, I think we also need to be diligent ourselves in understanding the risks, [and] not putting ourselves, our children, our loved ones in positions where things can happen.

I think we tend to look with blinders on at just this particular legislation sometimes, and I think we need to just step back and reconsider that there are other things that we as a society can do to ensure that everyone is safe. Bermuda has, in the past, had a culture of, *Well, if you don't talk about it, it doesn't exist.* Now we see that this is changing; but we need to do more. I just wanted to sort of mention that because I feel that we are expecting the Attorney General's Chambers to come up with this robust and all-inclusive legislation that is going to solve all problems. It will not. This is an excellent first step.

It is putting things in place that we did not have before, which I think is phenomenal. There are [other] things that I would like to see; however, again, this particular legislation is not necessarily for that.

So, I just wanted to mention that. I am, obviously, in complete support of the legislation and I thank the Attorney General and her team for bringing it forth.

Thank you.

**The President:** Thank you, Senator Caesar.

Would any other Senator care to speak on this Bill?

Senator Richardson, you have the floor.

**Sen. Anthony Richardson:** Good afternoon, Madam President—or, good morning, I believe it is—and fellow Senators.

**The President:** Good morning.

**Sen. Anthony Richardson:** I will follow what everyone else is saying, I will be brief.

*[Laughter]*

**Sen. Anthony Richardson:** My opening comment actually follows from Senator Caesar in terms of [that] I think that Bermuda, as a community, has to be aware that there is a heightened sexual sensitivity in the community, and it is based upon just how we live these days. Whether it be television, whether it be music, whether it be our dress code, the whole nine yards, there is definitely a very heightened, I want to say, sexual sensitivity in the community that we have to be aware of, again.

I, too, am a parent of younger children, and I am very mindful, especially for my son, in terms of there are things that we sometimes make assumptions about that may not be applicable. So I am very, probably, overly conscious of where I see him being exposed to potential dangers. And I would just encourage others to do the same. And it also applies, of course, to any school environment, any nursery school environment, basically any environment [where] children are involved. But also I think it extends to both males and females that are older, because, again, we make a lot of assumptions, so I will say that.

In terms of what a lot of us are focusing on now, which I think should not be the real focus in terms of should the register be public or not, I was encouraged (to be honest) in terms of what the Attorney General had said in that in her role as Attorney General she has effectively mandated that the victims are always notified. And do I believe, I hope, that we get to a stage whereby it becomes more than Madam Attorney General's perspective, but it becomes necessary that whenever an offender is going to be released, that the victim is notified 100 per cent [of the time]. Because in doing so it will allow those persons, as best they can, and I am not sure what that really means, to equip themselves with any available information such that (I will say) when they see the offender, they are as best, as they can be, prepared.

I also want to endorse the earlier comments in terms of ensuring that Bermuda does what it can in the whole mental health space to provide assistance to victims in those circumstances, because we never

know when a victim will come into contact with the perpetrator.

The other thing I want to make a comment about is [that] very often when we deal with these issues and others, we tend to conclude based on our personal emotions. But in this instance, I am happy to note that, again, the Attorney General has emphasised that this is not an emotional response, it is actually evidence based. Again, her brief (I won't repeat it) did talk about other jurisdictions that have actually used a public register to the detriment, actually, of the community, because it becomes more difficult to manage the offenders.

And, certainly, we do not want to get to the stage in Bermuda whereby there are many persons released into the community that basically just fall off the radar, because as small as Bermuda is, that can happen. We would want, of course, to better be able to manage and maintain the contact with them so that they can be managed to the community's overall benefit.

I guess my final comment is, given the subject matter, to, as best I can, encourage those in the community that have been victims of sexual offences in the past to do whatever they need to allow the offence to be reported. Because, again, we are talking today about convicted offenders, effectively, but I would almost estimate that there are many others . . . there are many other offenders that have not even been reported yet. And, therefore, you have many victims that are virtually suffering in silence and having the negative consequences develop in themselves and, by extension, in the community.

And with those comments, Madam, I will say thank you.

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

I would just like to make a couple of comments myself. As a person who has worked in mental health for many years and counselled quite a number of people, I can tell you that anyone who is traumatised through such an experience as having a sexual offence [committed] against them—and I will say to you, that I have counselled both males and females, and have been aware of children who have been sexually abused.

For some . . . I want to say that I am glad this is being addressed, because for these individuals who have been traumatised in this way, it is a horrific experience for them. It affects their lives for years to come. I am sure you have read of situations where people are traumatised, and even [after] they reach the age of 50 and beyond, they are still traumatised by it. People suffer from anxiety; people take overdoses; they have difficulty in their interpersonal relationships, either in their marriages or in whatever type of intimate relation they try to get into. It is very, very traumatic for them.

So, I am glad to see this legislation here. I think that each one of you has brought particular comments that I am sure the Attorney General would take on board, as will her technical officers (who are here). I view this legislation as extremely important and I am sure it will go a long way to assist the individuals. And hopefully this discussion will allow people who are traumatised and who have been silent all this while, to seek the support, counselling, and whatever else they need, because I think that it is . . . having seen the other side, where people leave it for so long, that their lives are totally [traumatised] and they cannot relate to individuals.

So, with that, Madam Attorney General, I hand it over to you to address some of the comments that have been made.

Thank you.

**Sen. the Hon. Kathy Lynn Simmons:** Thank you, Madam President, and thank you, Senators.

Let me start by thanking my team. We have been fortunate to have the Chief Parliamentary Counsel, who is with us today, as the drafter of this Bill. The policy was developed within the Ministry by our policy team; Livingston Wedderburn headed it, and was supported by the Director of Court Services, who is also with us today. But we did have extensive input from the Deputy Director of Public Prosecutions, Cindy Clarke. And to all of these persons, we are grateful.

I have to dispel a myth and advise Senators and members of the listening public that this Bill was actually drafted before the Joint Select Committee rendered its recommendations, and we did not table it at that time because we wanted to have the benefit of the recommendations to see if there was anything that we needed to take on board at this time. So, I will reiterate Senators' comments, and thank the Members who actually took the time to explore this subject. We did, in fact, go before the Committee, myself and the Director together, and I know the DPP's [Department of Public Prosecutions] offices also had an audience with the Committee.

What was very apparent to us was that this is such an emotive subject that even in the context of the mandate to make recommendations, people had to work very hard to divorce themselves from the human aspect of it and take an objective approach to benefit the community with their deliberations. And to them we are grateful because you did an excellent job.

You all had so many comments; I have a book here.

*[Laughter]*

**Sen. the Hon. Kathy Lynn Simmons:** Let me just say at the outset. Underlying most of what you have heard today is an acknowledgement that we do not have prisons in Bermuda. We have correctional facili-

ties. That forms a basis of the thrust of this legislation which demands that we make every effort to reintegrate people into the community who are sex offenders. And Senators have acknowledged that this balanced approach is necessary. And I hope that when you all are out in the public domain that you reinforce this to members of the public, who are still very emotional about this subject. That will not end. But we all have a joint responsibility to make sure that we impart the facts around this subject matter. And you will be aware that the Ministry has released a fact sheet. And we will continue to inform the public every step of the way, as this is rolled out.

Now, to the "book" of questions. Okay, I will start with Senator Simmons. I thank you for your contributions. You raised various matters, but the management framework actually gives control and it is a foundation for future paths for development and programming. That was one of your concerns.

The high-risk offenders will be supervised for longer periods, and the level of supervision will be based on the gravity of the offence. And that continues to be mentioned in the brief.

The Bill is actually a response to persons being released, having served their time, and [who have] not done programmes. And so, what we have in that situation is the supervision and monitoring component, which is imperative through registration. So, in the past, without naming names, offenders who did not comply, simply came out, and they were gone. And so registration allows us to monitor the category of offender who does not take programmes.

But the amendment to the prison rules is penal in a sense that time can be added to the incarceration period. So we are happy that we sort of balanced that, to some extent. But the key to this entire regime is the monitoring and supervision once the offenders are released.

The protection of the victims and the community are considered, advice is given to them, and they are notified of the release of the offender. And that was mentioned several times. We did actually have a Victim Care Unit in the Department of Public Prosecutions, which, in addition to my notification to the victim saying that the offender is going to be released, we offer services and support in that communication which they can avail themselves of. But understand that this is voluntary. Victims often do not avail themselves of the services that are in the community. It is a process, like the process of actually reporting an offence.

And I will draw a reference to one evening when I was collecting groceries from Supermart and one of their packers who accompanied me to my car, thought it necessary to tell me of an incident in her neighbourhood where the neighbour's five-year-old was being abused by the partner of the mother. The entire neighbourhood knew, and no one reported it.

So I piggyback on Senator . . . Caesar's comment (I did remember your name)—

[Laughter]

**Sen. the Hon. Kathy Lynn Simmons:**—that it is a joint responsibility. And we all have to step up, and we all have to ensure the safety of, particularly, our children—particularly our children.

Senator Simmons and Senator Jones . . . he was concerned about the victims being shackled in fear and having to look over their shoulders. We are satisfied that the notification processes are sufficient, for taking notification to the victim. There will be reassessment and renotification when necessary. The notification regime has different levels. And it is very important for Senators to know . . . and I will be general in my comments because there was some overlapping in the questions that came.

In the first instance, when I receive a psychologist's report from the Department of Corrections, it clearly indicates the level of risk of reoffending. There are instances where, based on the profile of the offender, we have categories of great mental illness. And in those cases it is essential that we monitor and supervise and offer services. The victims will be protected. The victims are always protected. I did say in the brief, when people actually breach the orders, they are reincarcerated. So the consistent monitoring of the level of risk that they pose is necessary.

And the level of risk can often be determined by the interaction with the therapeutic staff with the offender. So based on their expertise, and the questions, and the interaction, and the responses that they get from the offender, they know when the risk is going up. Okay?

The curfew checks. There are models of behaviour for these offenders, which only experts will be aware of. And it is based on those models and its behaviours that they are able to identify certain triggers. And they know the risk factors, and we govern ourselves accordingly.

In the past there has been not sufficient coordination between the different agencies, and that is why this team is very important. I depend on the Department of Corrections to give me timely notification of the release of an offender. That does not always happen. It did not always happen in the past, so it is essential now when you see those gaps . . . the coordination has been such that we are closing the gaps. And the legislation supports that. So the two-months' lead time gives us plenty of time to do our own assessment and put in place the safeguards that are necessary. So we feel that we have closed that gap, for sure.

I am just trying to go through these . . . and that consultation and collaboration of departments and experts in the field is absolutely ongoing. The parents and guardians are always notified. This is essential. A

minor cannot protect himself, so no worries in that regard.

And the overseas vetting piece, persons who come into Bermuda are always vetted, whether it is people coming here to work, there are security checks that are undertaken by the Department of Immigration as a matter of course. We do have a relationship, as I said, with overseas authorities, but they will be more formalised as we go forward so that the reporting is consistent, and the exchange of information is consistent. And we will monitor whether we need to enshrine that in legislation, but there will be conventions that we will have extended to us, which speak to those relationships.

And Senator Hayward made general comments. Senator Robinson was concerned about the [number] of probation officers to service the offenders. There are, in fact, ample probation officers and a high-risk team is an added resource. So we have been doing this consistently, forever, but we are adding to, we are enhancing the system to make sure that we can actually target this more effectively. The numbers are manageable at present, and specialist interventions are available through certifications and training and this will be ongoing. It is actually essential to the system.

The Offender [Risk] Management Team will have training, but they currently consist of various senior personnel who are experts in this field already. So we have the officers from the BPS who are particularly trained for this role.

The Department of Corrections are actively recruiting for psychologists. And what we do in the interim period is outsource and share the available resources. And across the board, the psychologists do have the training that is necessary. The question keeps arising as to whether we have specified paedophile psychologists. That component is integrated into their training, but I have made note of . . . I would not call it "outcry," but the consistent mention of that, and I will actually take some steps to get the stats, because everything we do is evidence based, to see if that is actually a necessary speciality, separate and apart from what they are already specialising in. Okay?

In terms of the resources available to victims and particularly the mental health considerations, mental health for victims and trauma rehab are available through other resources in the community, and everyone will be familiar with the Women's Resource Centre, SCARS (which was mentioned earlier). We have community mental health sources, and as I mentioned, also the DPP's Victim Care Unit.

Have I missed anyone? I think I have generally touched everyone's questions.

Again, I thank Senators for their contributions.

So, without further ado, Madam President, I move that the Bill be read a [third] time.

**The President:** Is there any objection to that motion?

No objection. Carry on.

## SUSPENSION OF STANDING ORDER 26

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

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

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

*[Motion carried: Standing Order 26 suspended.]*

## BILL

### THIRD READING

#### CRIMINAL CODE (SEX OFFENDER MANAGEMENT) AMENDMENT ACT 2018

**Sen. the Hon. Kathy Lynn Simmons:** I move, Madam President, that the Bill entitled the Criminal Code (Sex Offender Management) Amendment Act 2018 be now read a third time.

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

No objection.

**Sen. the Hon. Kathy Lynn Simmons:** Thank you.  
I move that the Bill do now pass.

**The President:** It has been moved that Criminal Code (Sex Offender Management) Amendment Act 2018 do now pass.

It is passed.

*[Motion carried: The Criminal Code (Sex Offender Management) Amendment Act 2018 was read a third time and passed.]*

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

**The President:** Thank you, Senators, and thank you, Kathy Lynn Simmons.

## MOTIONS

**The President:** There are none.  
Senator Jones, you have the floor.

## CONGRATULATORY AND/OR OBITUARY SPEECHES

**Sen. Marcus Jones:** Madam President, I would just like for us as a Senate to extend congratulations to Nikki Bascome, who was able to successfully win the

IBA International Welterweight Championship [Title]. After having suffered a brutal loss a year ago on home soil, Nikki Bascome returned home to a raucous crowd and was able to regain redemption by winning this bout last Saturday night. What he proved was that one can make a successful comeback if you can commit to hard work, be willing to learn different tactics, and listen to one's coach. He is an example to young, aspiring boxers and local athletes in general. We wish him well in his future fights as he holds the Bermuda flag high.

**Obituaries:** I would like for this Senate Chambers to extend condolences to the family of the late Elois Grace Swan, a Somerset resident, who had a zeal for travel, was one of the founding members of the Freemason's Wives Island Fellowship Circle, formed over 45 years ago, whose mission was to provide financial assistance to students and families in need. One of her favourite passions was discussing local politics, with an eye to the historical context. I had the pleasure of being a recipient of her tutelage before she succumbed to her long-term illness. She will be [surely] missed.

Thank you, Madam President.

**The President:** Thank you, Senator Jones.  
Would any other Senator care to speak?  
Senator Caesar, you have the floor.

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

I would like to congratulate the Bermuda Economic Development Corporation for a successful Global Entrepreneurship Week of activities. In particular, I would like to mention that the Women's Entrepreneurship Day [Conference] was held on Friday, November 16<sup>th</sup> in which two international guest speakers and eight local speakers, all female, were at Rosewood and had sessions throughout the day.

The two international guest speakers were Stacey Ferreira, she is the CEO of Forge, and spoke on: Navigating in a Male Dominated World. The other was Shelly Bell, founder of Black Girl Ventures Foundation, and she spoke on the Alternative Ways of Funding.

The local entrepreneurs were Gaynete Jones of G.A.M.E. Changing Industries; Tania Kowalski, health and happiness coach; Nishanthi Bailey, a noted actress, teacher, and host; Pamela Barit Nolan from Transform Bermuda Coaching; Kristin White of Long Story Short; Trina Roberts of HSBC Bermuda; Christie Hunter-Arscott, who speaks on gender and generational strategies; and finally, Kidist Emery, of Salon Pink.

I would like to just acknowledge again the BEDC and the great work that they do for entrepreneurs, and in particular, for the Women's Entrepreneurship Day.

Also, I would like to congratulate the Market-Place for putting on the very well-received Santa

[Claus] Parade. I have an eight-year-old so I had to attend. And they even had snow in Bermuda—

[Laughter]

**Sen. Crystal Caesar:** —so I thought that this was quite interesting and fun. But it was actually . . . the displays . . . all of the participants from dance schools to the Gombeyes and of course Santa, at the end, it was quite special for the children, so I wanted to just thank them for continuing to do that.

Thank you, Madam President.

**The President:** Thank you, Senator Caesar.

Would any other Senator care to speak?

Senator Richardson, you have the floor.

**Sen. Anthony Richardson:** Madam President, at risk of stealing the thunder of Senator Simmons, I wanted to comment that last week, Thursday, I had the absolute pleasure of attending the prize-giving ceremony at the Berkeley Institute. We were all reminded that this year Berkeley celebrates 121 years of existence, and they continue to do a stellar job.

I clearly cannot read all this information; however, I want to highlight the fact that Ms. Douglas, the Principal, did advise that 251 students wrote one or more IGCSE/GCSE examinations, which comprised 51 different papers; 156 students received one grade between A-star and C; and 25 students received one grade between 4 and 9, using the new grading system for several subjects.

The other comment, I guess, is that the graduates from last year secured a total of \$565,000 in scholarship monies to assist in their further education. There is a lot more information. I guess I will give it to the Clerk to determine what he would want to include in the Minutes, because I could not read all of this information. And maybe with your permission, I could bring a more concise commentary next week, maybe under . . . yes, I have the potential for that, I suppose.

But I really want to commend the fact that . . . you will know that I am an avid advocate for public education. I do not do it in the context of it being good or better or worse than private, but just to highlight the fact that within the public system there is a lot of good being done. And as Madam Attorney General said last week, the story is not what the results are, it is the context in which those things are being done. I guess my final comment would be that at Berkeley they even introduced a programme for autistic students, to assist those [autistic students] who are coming out of middle school, and this is also having significant success. I will end there.

In addition, I want to commend Mr. Paynter, who is the Deputy Principal at Berkeley, him and his students, because there is a programme in Bermuda whereby they are trying to reduce the cost of food, and they import containers on a monthly basis. Mr.

Paynter and some of the S4 students, both male and female, assisted on Monday evening to distribute those goods.

The comments about the others who helped organise that, where the S4 students themselves were so attentive in what they were doing, more than what they were doing, but in terms of the impact on the community. I believe it bodes well for our young people when they are involved in these activities because it helps them to understand that there are others in the community that need assistance and the can provide assistance in doing so.

Thank you, Madam President.

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

Would any other Senator care to speak?

No?

I would just like to make a comment. I would like to have the Senate send condolences to the family of Mrs. Clara “Keggie” Hallett, who was laid to rest last week Wednesday when we were debating the Throne Speech. I had really wanted to go to the funeral, but obviously could not.

Much has been written about the legacy of this phenomenal woman and her literary brilliance, and I would like to invite all of you to read, if you have not done so already, Dr. Harris’ report in the paper. I think that this was really telling.

For my part, Mrs. Hallett was a most humble and gracious woman who volunteered in the Admissions Unit at St. Brendan’s Hospital, it is now MWI, [Mid-Atlantic Wellness Institute. But when I was there years ago as a nurse manager, Mrs. Hallett had called and said she wanted to volunteer, and she came, and she worked for a couple of years at St. Brendan’s Hospital, at that time. And she really had a humble approach and she got along very well with staff, but particularly with the patients.

She had time to talk to the patients and it was just a wonderful opportunity for me to have her volunteer on the unit at the time. And this was at a time when most people, [if they] wanted to volunteer, they volunteered at King Edward [VII Memorial Hospital]. But here was a woman of her stature who wanted to volunteer at MWI. And it was just a great opportunity for the patients, for myself, and for the staff.

We stayed in touch beyond the time she was there. We exchanged Christmas cards and things, and she always let me know what she was doing. But she was a brilliant woman, and I would just invite you all, if you do not know very much about her, to read about her and her work, because as I said, she not only helped her husband . . . and I do not know if you are familiar with it, but the *19th Century Church Registers of Bermuda*, if you don’t . . . I am not sure if it is still in print, but I remember having a copy of it and was able to look up my family members on both sides of my family and distant relatives, and it was . . . it is an excellent [book].

I am not sure it is in print. But this was something that will, I think, be important for all families going forward. I would just like for the Senate to send condolences to her family.

Thank you.

[Crosstalk]

**The President:** We now move on to adjournment.  
Kathy Lynn Simmons, Attorney General.

## ADJOURNMENT

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

I move that the Senate do now adjourn until Wednesday, December 5<sup>th</sup>.

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

Senator Jones, you have the floor.

### GRAND ATLANTIC CONDOMINIUM COMPLEX

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

In response to the Parliamentary Questions, which I would thank Senator Campbell for furnishing us with the answers to the questions that were put forward to the Junior Minister in regard to the Grand Atlantic condominium complex there on the South Shore Road, to the question of how many of the units were occupied? Of the 78 units, all are presently vacant.

Also, to the question of how much it costs the Government for operating and staffing costs. The amount was \$168,400.

The reason why I have a desire to highlight that, these particular questions, is because the present Government in the Throne Speech has desires of actually continuing this direction of creating affordable housing for Bermudians of a different demographic, though it might have been from the Grand Atlantic. But it really bodes well that the Government paused, and had another look at this particular scenario.

Now, as per the Throne Speech, if Madam President you would just allow me to just quote one or two sentences from the Throne Speech?

**The President:** You certainly may, Senator Jones.

**Sen. Marcus Jones:** "One specific project being advanced by the Bermuda Housing Corporation is the construction of residences in the City of Hamilton, which will provide affordable studio and one-bedroom apartments for rent or purchase. This will meet the Government's mandate of putting independent living in reach of many of Bermuda's young people who want to own their own place and move out of their family homestead."

A very familiar adage that we are all used to is that one should *measure twice and cut once*. And so in my contemplation of this particular initiative, and looking at Grand Atlantic as a backdrop, we see that with the empty units that are there, and the demand that was suggested to the public over 10 years ago, that there was a demand there, it means that we need to reconsider moving forward.

We know that there may be some young people within our community that would like to live in single units in the City of Hamilton. If those persons are out there, I would definitely like to know who they are. Having tapped into some friends in the real estate market, agents who are pounding the pavement trying to find as many buyers as possible, it was made abundantly clear to me that there is little-to-no demand from that particular demographic group desiring single homes within the City of Hamilton. That can definitely be substantiated because we know that in large part it is the foreign workers who come here to live who would enjoy and really take advantage of living, working, and playing within walking distance of their lives.

So we know that for the Bermudian young person of that age group, there may not be a large demand. We also know that one of the major issues for young people is actually access to capital. I believe that the Government has done well in their Throne Speech in tackling the issue of mortgage relief, of finding ways to negotiate with the banks to make it easier for young people to gain help as far as their down payment is concerned. I think that is where the Government needs to focus its efforts and its energy because that, I believe, would go much further in facilitating this opportunity for our young people.

And as a side note, as I am about to finish off, as I drove by the Grand Atlantic, and have done so on a number of occasions late at night, I am a little surprised that there is no one occupying those units. I have seen lights on at night. I have seen cars parked in the parking lot. Of course, that may not mean anything, but it just makes me curious as to want to ask the question, Do we have freeloaders who are hanging around in those units? It may be something that we may want to check out to make sure there is no one just living there freely.

And also, this summer I had the pleasure of having guests come to Bermuda from overseas and in the Somerset area we tried very hard to find places, Airbnb units, for our friends and family to stay close to where we live. We tried everywhere. And I got the response that there were no units available all through the summer for Airbnb occupation. And the thought occurred to me that, being that these units are totally empty, maybe the Government could look to, you know, exercising its energies toward vacation rentals during the summer months. This annual operating cost of \$168,000, you could definitely recoup a large sum of that money back through temporary vacation

rental opportunities for those who are looking for an Airbnb experience.

So with those thoughts, I thank you for the time, Madam President.

### GRAND ATLANTIC CONDOMINIUM COMPLEX

**The President:** Thank you, Senator Jones.

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

Senator Richardson, you have the floor.

**Sen. Anthony Richardson:** Yes, good afternoon, Madam President, again, and fellow Senators.

Thank you, Senator Jones. I was preparing to actually exit the Chambers subject to everything being considered, but you have given me a chance to speak yet again today.

In terms of the . . . first of all I want to say that your comment in terms of is there any demand for . . . let me back up a minute. What the Government had said is that in order to stimulate the economy and also provide additional resources, that they would contemplate building studios and one-bedroom apartments within the City of Hamilton. And if you recall, perhaps you don't, last week, if you move to your left, Senator Robinson, said he would be one of those persons who would be looking to that type of accommodation as a single person, I believe. And so, that would be an example of someone who would want to avail themselves of these opportunities.

I do not know what the intended price point would be for these units, but that would be all part of the process in terms of Government deciding to move ahead or not move ahead. And so that is key.

My bigger point, however, is that . . . and I am not sure, but I will say this for members of the public, I am not sure whether you, Senator Jones, are aware, but the Minister has already announced that there is an agreement in place for the Grand Atlantic to do just what you are suggesting, which is to move it into an apartment-style hotel, effectively. You will see that part of the process in doing so is that they are going to now remodel those units, such that they do provide up to three-bedroom units for rental.

And they have what is referred to as "lock-offs" such that there can be a three-bedroom unit, but it can be divided into a two bedroom and a one bedroom, each of them having, of course, a bathroom, to do just what you are saying. Because the reality is in the Bermuda tourism economy (I want to call it) there are several price points for accommodations. The standard hotel accommodation price point sometimes is too high for those who want to come to Bermuda. Therefore, we are trying to develop now a broader spectrum of price points.

The Airbnbs would offer, typically, a lesser price accommodation, but they also offer a different experience because when you come to the Island for

Airbnb, more than likely you will be in contact with the actual owner of the Airbnb, which gives you a more homey experience. Very often they provide these services in terms of maybe getting groceries for you before you come. They will ensure that you now have access to what are effectively car rentals. And so all those things are now being engaged. My understanding is that the Grand Atlantic is intended to be in that price point between, say, Airbnb and the standard hotel prices.

So I would suggest, again, that we all look forward to the opening of the Grand Atlantic. I am not sure what the opening timeframe is going to be, but that is the intention. You will also note, if you come from that area, that the Grand Atlantic has actually been painted. So now the units themselves are more attractive even just in terms of their colouring. If I remember correctly, the Minister of Public Works has stated that the persons who actually painted those buildings were non-traditional in that it was not a company that did that, individuals were able to do it to allow them to have an opportunity to get gainful employment.

As an aside, I will also say that we . . . or at least I tend in this Chamber not to be overly political, but in the context of the Grand Atlantic, I think that if we are all honest, part of the reason why the Grand Atlantic was not successful in its inception was because it became a political football in terms of whether the units were physically safe—yes or no—and the whole nine yards. But we do know that, notwithstanding the public commentary [which stated] the units were not physically safe, they were actually used during the America's Cup to house some of the teams. And so, the actual ability of those units to be used has now been demonstrated already.

I hope that going forward all of us in this Chamber, and others, are able to, when appropriate, be more constructive, because it does not bode well for us when we are unnecessarily political.

### REFINANCING GOVERNMENT DEBT

**Sen. Anthony Richardson:** And the final comment I will make today is that we are all aware now that the Government recently went to market, in terms of raising funds to effectively refinance the existing debt. The Minister of Finance has already commented that the issue was oversubscribed. What that speaks to is the fact that, notwithstanding what we may say locally, the international community is still very positive on investing in Bermuda. If that was not the case, then of course, the subscription would not have been oversubscribed.

I also believe that . . . well, not believe—the Minister has also said the success of that offering is also evidence of the excellent outlook of Bermuda going forward from an economic perspective. There will be some other comments around, I know. But I

think that we need to be as factual as possible when we speak of these things because it does have an impact on Bermuda from an international perspective.

So, thank you, Madam President.

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

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

Senator Kempe, you have the floor.

#### **GRAND ATLANTIC CONDOMINIUM COMPLEX**

**Sen. Nicholas Kempe:** Like Senator Richardson, I was not planning on speaking today, but on the vein of being objective and not using political conjecture, the cost of the Grand Atlantic units, when you did the math with the zero money down guarantee scheme, that was offered at the time, was, if you looked at it, certainly far more than what could be afforded by someone who fell into the low income bracket, which the units were destined for. So I think there was a major misalignment between the purpose of the units and the ability of the target demographic to afford them.

#### **REFINANCING GOVERNMENT DEBT**

**Sen. Nicholas Kempe:** On the point of the new issue of debt, the term “investing in Bermuda” was used. I think we need to be careful that this was an issue of debt, not a new business creation.

Everyone involved with the deal, whether they are getting interest or they have locating fees on the bank side, make money off of a refinancing process. It is not Bermuda; we bear that cost.

If I read the article correctly, there are some short-term notes that were converted into long term, but it effectively added another \$200-or-so million to our debt burden.

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

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

No?

Then the Senate stands adjourned until the 5<sup>th</sup> of December.

*[At 12:30 pm, the Senate stood adjourned until 10:00 am, Wednesday, 5 December 2018.]*

**BERMUDA SENATE****OFFICIAL HANSARD REPORT****5 DECEMBER 2018****10:01 AM***Sitting Number 4 of the 2018/19 Session*

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

**The President:** Good morning, Senators.

The Senate is now in session.

Shall we pray?

**PRAYERS**

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

**CONFIRMATION OF MINUTES**

*[Minutes of 28 November 2018]*

**The President:** Senator Jardine?

**Sen. James S. Jardine:** Madam President, I move that the Minutes of the meeting of Wednesday, the 28<sup>th</sup> of November 2018, be taken as read.

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

**Sen. James S. Jardine:** Madam President.

**The President:** Senator Jardine, you can continue.

**Sen. James S. Jardine:** Madam President, I move that the Minutes of the meeting of Wednesday, the 28<sup>th</sup> of November 2018, be confirmed as a correct record of that meeting.

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

So moved. The Minutes of the 28<sup>th</sup> of November 2018 are confirmed. Thank you, Senator Jardine.

*[Minutes of 28 November 2018 confirmed]*

**MESSAGES**

**The Clerk:** There are no messages, Madam President.

**REPORTS OF COMMITTEES**

**The President:** There are none.

**ANNOUNCEMENTS****APOLOGIES**

**The President:** Senators, I would just like to announce that Senator Michelle Simmons and Senator Nicholas Kempe have indicated that they will not be present in the Senate today.

**SESSIONAL AND STANDING COMMITTEES—  
UPDATE**

**The President:** Additionally, I would like to give information about the present committees. Senator Nicholas Kempe has been appointed to the **Members' Interests Committee** in replacement of Senator Andrew Simons.

Senator Marcus Jones has been appointed to the **Joint Select Committee on the December 2<sup>nd</sup> Incident** in replacement of Senator Swan.

Senators Jason Hayward and Senator Dwayne Simons *[sic]* will be the **Fire Safety Officers** for the Senate. And we thank you, gentlemen.

*[Inaudible interjection]*

**The President:** Senator Dwayne Robinson. I beg your pardon, Senator. I am giving you a lot of work. Yes. [It is not Dwayne Simons but should be] Dwayne Robinson.

Thank you very much for offering to do that.

Further announcements: We have an announcement on the Annual Report of the Human Rights Commission for the year 2016.

Senator Campbell, you have the floor.

**ANNUAL REPORT OF THE HUMAN RIGHTS  
COMMISSION FOR THE YEAR THE 1<sup>ST</sup> OF  
JANUARY TO THE 31<sup>ST</sup> OF DECEMBER 2016****ANNUAL REPORT OF THE HUMAN RIGHTS  
COMMISSION FOR THE YEAR THE 1<sup>ST</sup> OF  
JANUARY TO THE 31<sup>ST</sup> OF DECEMBER 2017**

**Sen. Vance Campbell:** Thank you, Madam President.

Madam President, I hereby present for the information of the Senate the Annual Report of the Human Rights Commission for the year the 1<sup>st</sup> of January to the 31<sup>st</sup> of December 2016; and the Annual

Report of the Human Rights Commission for the year the 1<sup>st</sup> of January to the 31<sup>st</sup> of December 2017.

It is my understanding, Madam President, that [electronic] copies of the reports will be forwarded to Senators.

**The President:** Thank you, Senator Campbell.

**Sen. Vance Campbell:** Thank you, Madam President.

## NOTICES OF MOTION

### MERCHANT SHIPPING (CARRIAGE OF PASSENGERS BY SEA) ORDER 2018

**The President:** Senator Crystal Caesar, you have the floor.

**Sen. Crystal Caesar:** Good morning. Thank you, Madam President.

**The President:** Good morning.

**Sen. Crystal Caesar:** Madam President, I hereby present for the consideration of the Senate the draft Order entitled the Merchant Shipping (Carriage of Passengers by Sea) Order 2018, proposed to be made by the Minister responsible for Maritime Administration under the provisions of section 179(3)(b) of the Merchant Shipping Act 2002.

And I give notice that at the next day of meeting, I will move that the said draft Order be approved.

**The President:** Thank you, Senator Caesar.

**Sen. Crystal Caesar:** Thank you.

## PETITIONS

**The President:** There are none.

## STATEMENTS

**The President:** There are none.

## INTRODUCTION OF BILLS

**The President:** There are none.

## FIRST READING OF PUBLIC BILLS

### CUSTOMS TARIFF AMENDMENT (NO. 3) ACT 2018

### DEBT COLLECTION ACT 2018

### MERCHANT SHIPPING AMENDMENT ACT 2018

**The President:** The following Public Bills have been received from the Honourable House of Assembly and are now read for the first time. Their titles are, respectively, the Customs Tariff Amendment (No. 3) Act 2018; the Debt Collection Act 2018; and the Merchant Shipping Amendment Act 2018.

## FIRST READING OF PRIVATE BILLS

**The President:** There are none.

## QUESTION PERIOD

**The President:** I believe there are [written answers](#) to the Parliamentary Questions to Senator Campbell. Senator Campbell, you have the floor.

**Sen. Vance Campbell:** Thank you, Madam President. Madam President, written answers have been provided to the Senator, and copies have been provided to all other Senators.

### QUESTION: COST OF PREMIER'S SUPPORT STAFF

- 1. Sen. Nicholas Kempe:** *Would the Junior Minister please inform the Senate of the PS Level of the Special Aide to the Premier presently seconded from the Department of Child and Family Services?*
- 2. Sen. Nicholas Kempe:** *Would the Junior Minister please inform the Senate of all the support staff working for the Hon. Premier E. David Burt as of 21<sup>st</sup> November 2017 and the costs relating thereto? Kindly detail any and all non-Civil Service positions, including but not limited to, political consultants and employees at both the Premier's Office and the Premier's Official residence.*

**The President:** Thank you, Senator Campbell.

**Sen. Vance Campbell:** Thank you, Madam President.

## ORDERS OF THE DAY

**The President:** The first Order of the Day is the second reading of the Nursing Amendment Act 2018.

Senator Hayward, since it is your Bill, you have the floor.

**Sen. Jason Hayward:** Madam President, I move that the Bill entitled the Nursing Amendment Act 2018 be now read a second time.

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

**BILL****SECOND READING****NURSING AMENDMENT ACT 2018**

**Sen. Jason Hayward:** Madam President, I present the Bill entitled the Nursing Amendment Act 2018.

Madam President, the regulation of health care professionals is essential to meet the Health Ministry's mandate to protect and promote public health and ensure high-quality care. The Nursing Act 1997 is the legislation that ensures standards of practice for nurses, through registration, monitoring, complaint handling and disciplinary procedures.

The Nursing Amendment Act 2018 [the "2018 Bill"] proposes to improve the regulation of midwives by incorporating midwives under the existing regulatory framework for nurses, and transferring the regulatory authority for midwives from the Bermuda Medical Council to the Bermuda Nursing and Midwifery Council. The 2018 Bill tabled today is the incorporation of midwives under the 1997 Act and the repeal of the Midwives Act 1949.

Madam President, the Ministry is committed to improving health professionals' regulation as a means to addressing efficiency in regulation and public safety. Honourable Members should be aware that the Midwives Act 1949 contained an outdated regulatory framework for midwives, resulting in a limited scope of practice and regulatory oversight. The Ministry considered proposing amendments to the outdated Midwives Act; however, maintaining separate legislation for one profession with a small number of practitioners is not practical.

Madam President, the Ministry remains in ongoing consultation with registered midwives and other stakeholders for a phased approach to enhance safety and quality of care for women and babies, as well as to address choice and potential cost savings for the health system.

The first phase involves a transfer of regulatory oversight from the Bermuda Medical Council to the Bermuda Nursing and Midwifery Council ["the Council"], improving the criteria for registration and re-registration, and creating a code of conduct. Both Councils support the incorporation of midwives into the 1997 Act, which will align Bermuda with many other countries in the Caribbean, the UK and Ireland. The second phase will require continued engagement with multiple stakeholders to address some of the limitations impacting midwifery practice in Bermuda, such as prescribing rights specific to midwifery, and the formalisation of collaborative practice amongst stakeholders and policies that ensure safe care of women and babies.

Madam President, the updates to the 1997 Act will include midwives in the majority of the provi-

sions established for nurses. These updates include the following:

- defining the midwifery profession and protecting the use of the title "midwife";
- including a midwife on the Council, and making the necessary changes to the title of the 1997 Act, the Council and its Committees;
- ensuring a midwifery registration process that includes registration criteria and re-registration every two years that is linked to continuing education and minimum required practice;
- prescribing a code of conduct that includes a scope and standards of practice for midwifery;
- including midwives within the complaint-handling and disciplinary process; and
- improving the Council's procedures, as required.

Madam President, many of these provisions are similar to currently registered midwives, because all of the midwives [who] registered under the Midwives Act 1949 are also nurses and dually registered under the 1997 Act. However, it is important to acknowledge that midwifery is a separate profession from nursing, and the updates of the 1997 Act will include the regulation of midwives who are not nurses.

The rules to accompany the Act will define a "midwife" as a person who has completed a midwifery education programme recognised by the Nursing Council and is registered as a midwife in their country of training, as approved by the Nursing Council. Jurisdictions approved by the Nursing Council include, but are not limited to, Jamaica, other Caribbean countries, Canada, the United States, the UK and Australia.

Madam President, the 2018 Bill aims to standardise practices for midwives across health care professions, therefore improving Bermuda's regulatory system. In addition, the changes ensure that midwives are subject to a more robust regulatory framework. Overall, Madam President, the Nursing Amendment Act 2018 ensures a higher regulatory standard for midwives that aims to protect the public by ensuring competent and safe providers of care for women and babies.

Thank you, Madam President.

**The President:** Thank you, Senator Hayward.

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

**Sen. Marcus Jones:** Good morning, Madam President.

**The President:** Good morning.

**Sen. Marcus Jones:** Good morning, fellow Senators.

I would like say I will not talk too long about this because, in spirit and in all practicality, we on this

side definitely agree and are in support of this particular amendment to the Nursing Act.

One or two observations that I believe may have been mentioned in another House, but I notice that there is a lack of gender-neutral language in the Act. And I do not know if any work can be done to make this more amenable to our present-day language. I do not know if there are many males within the industry who actually [practice] midwifery. But I think this is something that I thought I would just raise as an observation.

Also, if this country sees this particular professional career as something that we can encourage a few of our young people to get involved with, I think it behoves us to do all that we can to encourage it, to highlight it, and even to protect it as an industry and a career path that our young people can partake in and [excel] at.

Thank you, Madam President.

**The President:** Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

Well, I will speak on it.

*[Laughter]*

**The President:** Good morning, Senators. I need some notes that I would like to refer to.

First of all, I would like to thank the Junior Minister for his presentation of this Bill.

And as I sit here and reflect on the issues highlighted in the Bill, and listening to your comments and those of Senator Jones, I would like to express my personal interest from a nurse/midwife perspective, having worked in the United Kingdom, in the London suburbs, in the teaching hospital for a number of years as a midwife.

The Midwives Act of 1949 is certainly outdated, being some 69 years old. Given the advances that have occurred in midwifery during the intervening years, the implementation of this Act is timely. However, in reflecting on the comments of the Junior Minister's brief, I see this Bill as part of a process, the end of which is for midwives to have more authority in working with expectant mothers during their pregnancy, delivery and postpartum, or after delivery [time], looking after their babies, as well as care for the mother.

The Bill, therefore, is the beginning of a process and, according to the brief read by the Junior Minister, is, as I said, the first stage, which is to transfer the regulatory authority from the Medical Council to the Nursing Council, improving the criteria for registration and re-registration and creating a code of conduct, which I fully support. This change is long overdue and has been an objective for the Bermuda Nurses Association for many years. I was pleased to be

informed that the Medical Council had supported this in November 2014.

I noted in the brief that a second phase is described as "continued engagement with multiple stakeholders to address some of the limitations impacting midwifery practices." I do believe that this is important because midwives do not work alone. This is a role for physicians, the general practitioner of the patient, who will assist in determining whether the mother can have a home birth. The mother's general health has to be taken into consideration.

Midwives conduct normal births with a vertex presentation—meaning, the head is the part that is presenting. Generally speaking, most babies do present in this manner. But there can be varying presentations, which I will not go into at this point. The midwives delivering a baby in the community must have a relationship, a rapport, with the physician, an obstetrician, who can be called on in the event of a problem. Contact with a hospital could also be necessary.

As an aside, I looked into the number of births that have occurred in Bermuda. And I note that we have a declining birth rate, with only 578 births in 2017, of which a mere 2 per cent (11) were delivered in the homes by midwives. There are currently in Bermuda 15 midwives on the Bermuda Register kept by the Chief Medical Officer, and they are all nurse midwives. All are not Bermudian, and many are not practicing.

There is a trend worldwide towards certified midwives, without the nurse qualifications, working in community settings. It will be for the nursing and midwifery councils to review this. Additionally, this could spur more young people to consider, and in that I reiterate your point, Senator Jones, that, yes, this is a profession that gives a lot of satisfaction. I certainly can speak to that, having spent 15 years doing it.

I will say that I have been provided with a copy of the Clinical Guidelines for Midwifery-Led Care in the Bermuda Community. This is a most comprehensive document, 90 pages actually. And this gives some sort of reassurance, for me, in seeing it, because it tells me that a lot of thought has gone into this whole exercise of ensuring, if we are going to encourage more births in the community, that they have looked at all of the facets that can occur and made sure that anybody delivering babies in the community, in the homes or in the birthing centres or whatever, and that the safety issues are covered. In fact, I do have an outline of some of them . . . (I will not go into that right now).

But I have been presented with an outline of many of the conditions that are included in this document. As I said, there are 90 pages.

So, when the midwives, now that they are under the nursing profession, when they get the opportunity to roll this out in its various phases, I think that the Bermudian public will be very pleased with all of the facts that have been covered.

Of concern to me at the moment, though, is the fact that currently, not all insurance companies provide coverage for home births. And those that do offer it require a waiver from the mothers. There is a need for some intervention here, I would think.

With all of this said, however, I would like to thank the Health Minister, the Chief Medical Officer and all staff, as well as the Medical Council and the Nursing and Midwifery Council, for this significant piece of legislation.

And those are my comments so far.  
Senator Hayward.

**Sen. Jason Hayward:** Thank you, Madam President.

As is common practice in legislation, masculine words also refer to females. And so, legislation is written in the masculine form. But the masculine form of the word refers to both males and females.

It is also important to understand that there is a difference between midwifery and obstetricians. But it is important to note that they do work hand in hand. And so, at the end of the day, we want the best care for our mothers and newborn babies. And so, we want to ensure that this relationship continues to work hand in hand. The Midwives Act is aimed to align the regulations and standards that are under the 1997 Act with the midwifery profession.

It is important to know that there is a phased-in approach. This is the first step of the phased approach. The second step to the phased approach will allow adequate consultation for further policy development in this area. Yes, we also recognise that there is a decline in the birth rate. And, certainly, we want to promote more births, but also give mothers the comfort of having a different variety of births outside of the hospitals.

Madam President, there were not many questions asked. But, certainly, there are nine practicing or registered midwives currently in Bermuda. The aim is to expand the number of midwives practicing in Bermuda. All of the midwives, yes, are currently nurses. But, as stated earlier, you do not have to be a nurse to be a midwife. And so, we want to ensure that we have regulations in place for those individuals who are not nurses, who want to practice midwifery, that they have the requisite standard and requirement that is required by the Council.

I believe this legislation will be further amended once further consultation is taken. But, at this point, Madam President, I would like to move that the Bill entitled the Nursing Amendment Act 2018 be now read the second time.

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

## SUSPENSION OF STANDING ORDER 26

**Sen. Jason Hayward:** Madam President, I move that Standing Order 26 be suspended in respect to this Bill.

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

*[Motion carried: Standing Order 26 suspended.]*

## BILL

### THIRD READING

#### NURSING AMENDMENT ACT 2018

**Sen. Jason Hayward:** With that said, Madam President, I move that the Bill entitled the Nursing Amendment Act 2018 be now read a third time.

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

**Sen. Jason Hayward:** Madam President, I move that the Bill do now pass.

**The President:** It has been moved that the Nursing Amendment Act 2018 do now pass.  
Is there any objection to that motion?  
No objection.  
The Bill is passed.

*[Motion carried: The Nursing Amendment Act 2018 was read a third time and passed.]*

**The President:** Thank you, Senator Hayward.  
We move now onto the second Order of the Day, which is the second reading of the Bermuda Tourism Authority Amendment Act 2018.  
Which Senator is presenting that?  
Senator Caesar, you have the floor.

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

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

**BILL****SECOND READING****BERMUDA TOURISM AUTHORITY  
AMENDMENT ACT 2018**

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

Madam President, the Members of the Senate are aware of the importance of tourism to the economy of Bermuda. In 2013, the Bermuda Tourism Authority Act established the Bermuda Tourism Authority (the "Authority"). The purpose of the Authority was to develop and promote Bermuda as a tourist destination; advise and assist the government on matters relating to travel and tourism; contribute to the economic growth of Bermuda by increasing the travel and tourism sectors' contribution to the Bermudian economy; implement the National Tourism Plan and review and update the Plan on a periodic basis; provide appropriate tourism education and training; ensure social and economic enhancement of Bermuda through the development of tourism and the implementation of the National Tourism Plan; ensure that the development of tourism is appropriate and sustainable, given the size, environment, resources and population of Bermuda; charge fees for services rendered to travel and tourism enterprises as the Minister may determine in consultation with the Minister of Finance; and such other functions as the Minister may authorise the board to carry out.

Madam President, our approach to tourism requires constant review and fine-tuning to ensure that we are agile and responsive. As such, the Bill before the Senate today amends the powers of the Minister as they relate to the Board of the Bermuda Tourism Authority. Given that the BTA [Bermuda Tourism Authority] is an entity that receives substantial taxpayers' funds, it is appropriate for proper oversight to be in place for the board's work to be in alignment with the vision, goals and objectives of the government of the day.

Madam President, the Authority is a corporation governed by a board made up of the chairman and seven other members. The Minister appoints the chairman and members of the board, including the deputy chairman, which are elected by the board itself after consultation with the Minister. The chairman is appointed for a three-year term and, on the expiry of that term, may be re-appointed by the Minister. The board members serve for a four-year term and may be considered for re-election by the board for one more term only, after consultation with the Minister. Such an election may be contested by another candidate, who may be nominated by the Minister or chairman.

In the context of Bermuda, this system of board members electing other board members, as well as the deputy chairman, is unusual. It limits the ability of the Minister to recommend or appoint board

members, including a deputy chairman, who might bring to the Authority useful alternative points of view. It does not allow for the Authority to be refreshed with new ideas and energy from time to time. In addition, the Act imposes a term limit on board members, preventing them from continuing to serve when it might be prudent to retain them for further terms. Further, the terms served by the board members exceed in length the term served by the chairman.

Madam President, amendments are sought which will provide for future board members, including the deputy chairman, to be appointed by the Minister after consultation with the board. This brings the Authority more in line with other authorities in Bermuda, such as the Regulatory Authority, where the responsible Minister or a selection committee comprising of several Ministers, makes board appointments. Also, board members will be appointed for three-year terms, matching the length of term of the chairman, without limit as to the number of terms.

To be clear, Madam President, the terms of appointment of the current members are not affected by the Bill before the Senate today. Furthermore, the Bill does not allow Ministers to hire or fire any employee of the BTA, to select contracts or grant recipients, or to determine the day-to-day operations of the BTA.

Madam President, whilst the existing Act enables the Minister to authorise the Authority to carry out other functions, it does not directly provide for the Minister to give directions to the board. This Bill amends the Act to empower the Minister, after consultation with the board, to give directions. Further, the board must give effect to these directions. This allows for an improved alignment between the Government and the Authority on critical matters of policy. This power to give direction is similar to the power that the Minister responsible for the West End Development Corporation, or WEDCO, and the Bermuda Land Development (BLDC) has.

Finally, Madam President, the Bill provides for members to be removed from the board if they are unable, unfit or unwilling to perform their functions as a member. As stated, tourism plays a critical role in Bermuda's economy. And, as such, it is important to ensure that the Bermuda Tourism Authority's governing board is properly positioned to succeed with full participation of, and contribution by, all members. These decisions would be made after consultation with the board.

I am pleased, therefore, to introduce the Bermuda Tourism Authority Amendment Act 2018, which proposes amendments to the Bermuda Tourism Authority Act 2013, to provide for the Minister to (1) after consultation with the board, appoint future members of the board for terms of three years, without limit on renewals; (2) after consultation with the board, appoint a deputy chairman of the board who shall be responsible for assisting the chairman in the efficient conduct

of the affairs of the Authority and for certain delegated functions; (3) after consultation with the board, give directions of a general character to the exercise and performance by the board of its functions, and require the board to give effect to any such directions; and (4) after consultation with the board, remove from the board any person, whether chairman, deputy chairman or member, who is unwilling to carry out his functions as a board member in addition to being unable or unfit.

Madam President, with these amendments, the Authority will be better aligned with and able to fulfil the Government's mandate of ensuring the social and economic enhancement of Bermuda through the development of tourism and the implementation of the National Tourism Plan. Thank you, Madam President.

**The President:** Thank you, Senator Caesar.

And before I open the floor, I would just like to indicate and to welcome Senator Kempe, who has joined the Senate. He did indicate that he had an urgent commitment, but that seems to have been resolved. So, we welcome you.

Would any Senator care to speak on this Bill?

Senator Jones, you have the floor.

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

If you would indulge me, Madam President, I would just like to read the preamble, once again, of the Bermuda Tourism Authority Act 2013.

**The President:** You may.

**Sen. Marcus Jones:** "[WHEREAS it is expedient to] establish a Tourism Authority with the objective of efficiently developing the tourism industry and promoting Bermuda as a tourism destination so as to increase the contribution of the tourism industry for purposes of the economic development of Bermuda . . . ." I believe that statement says it all. That statement lines up the creation of the BTA, which was the brainchild of the OBA Government at the time. And I believe that it is something that we need to not take lightly.

There is a saying that I am used to hearing and quoting. And that is, *Everything has a purpose. And when purpose is not known, abuse is inevitable.* When we are set to put our arms around any project, any initiative, everything starts from the first launching and the first lining out of the purpose of that particular entity. And, as I spent time reading again the original Act of 2013, there were some things about it that got my attention. And, in light of what this present Administration is attempting to do in the amendment, it struck me that many of the powers, or many of the authorities, that they would like to see as a part of their mandate are already enshrined in the existing legislation.

For example, section 5(1) of the existing Act gives the Minister the authority to appoint the chair-

man of the board. Every member who is elected has to be elected after the consultation with the Minister. The Minister also has the power to nominate, to appoint, to remove, deselect any board member from the chairman down if there is a question about his or her performance. This legislation of 2013 gives each member a term of four years, which, upon expiry, one can be considered for re-election.

So, as it stood there, it allowed for the flexibility of these members of the board, as well as the chairman, and also allowed for continuity, which I also felt was very important.

Another thing that this board has power in, it has the power to appoint agents. It has the power to appoint promoters, contractors, both locally and internationally. I believe it is very important that we establish a gap between the level of a Minister and the board, to remove the appearance of ministerial interference in the day-to-day operations of the BTA.

Allow me to declare my interest. I have been very fortunate to have experienced 25 years within the tourism industry. I have been a director of finance of hotels here in Bermuda and in Canada. I have also had the pleasure of being the GM [general manager] for a few hotels here on the Island. So, suffice it to say that I was able to cut my teeth in this industry from as early as 16 years old.

The thing I love about tourism in Bermuda is that it is the one industry that a local can enter from the ground and make their way to the top, without any sophisticated, higher learning in a university. And there are many stories that are bandied about around this Island of locals who have been able to achieve that most prestigious position from starting, like I did, washing plates and cleaning toilets and driving around in the golf carts to take towels around—all those things I learned to do as a teenager. And although at the time I was only looking to do it as a way to earn some change in preparation to going away to university, I got the tourism bug.

And so, it became my lifelong career, both behind the scenes as an accountant, and then later in my career at the front of the house. I got to the point where I grew weary of accounting what people did and wanted to be actually the person who made the action happen.

So, with that as a context of my comments today, if you were to wire every general manager of a hotel in this country with a lie detector, there are three things that they would say in regard to government's management of tourism for the last 30 years. Most GMs will say to you that they are very much interested in the government of the day who offer them the most concessions. Because we always whine and complain about how the industry is so hard on us, and we need as many handouts from the government as we can get. Most GMs will readily admit that.

They would also say, especially going back as far as I can remember in the 1990s and the early

2000s, that *We want a plan that's going to be consistent, that's going to be long-term, that's going to be able to meet all the needs that we in the market as stakeholders may have to make sure that our industry thrives*. So, we were always looking for a plan, a national plan, which met the demands of the marketplace that was relevant, that was nimble, which was able to address the needs of that particular industry. We were very much concerned about that.

And then, thirdly, we would say in our quiet times away from a microphone and away from discerning ears that, once the government does those two things, which are give us concessions and give us a good National Tourism Plan, *Get out of the way*. Because we really felt that, as much as the government of the day, whether it was the OBA or the PLP, as much as they would trot out Ministers who had a passion for the industry, who had good intentions, we really believed and felt that this industry, being so important to the economy of this country and our tourism industry, is a true reflection of who we are as Bermudians—we are a hospitable, friendly people.

And I will say that the secret sauce of Bermuda's tourism industry is its people. It is a well-known fact that, many times, we masquerade our pokiness by friendliness. When we meet the tourists on the bus, on the side of the road, when we are seen as being very friendly and asking them, you know, *What's your name? Where do you come from? What do you do?*, they take it as being extremely friendly, when in actual fact, we are just pokey. We want to know what people do.

And what is interesting is that the major players within the hotel industry around the world, especially during the 1970s and the 1980s, they would take a trip to Bermuda just to see how we did it. And we did it well. And we did it well because it was a part of our nature. We were able to be naturally friendly and hospitable. They would take our natural habits and codify it and make it a part of their training manuals, when we did it just as second nature.

So, Bermuda had a lot to be proud of through the 1960s, through the 1970s and through the 1980s. And if we were to be honest, we would have to admit that the business practically laid on our laps. It just dropped on our laps because of our location, because of our beaches, because of our natural beauty. It became an industry that thrived.

But, at some point, as other jurisdictions started to catch up with what Bermuda was doing, we had to learn the industry and become experts at it, be creative, be innovative. And the question still remains, Were the ministers of the day, were the governmental administrations of the day able to handle such a complex industry such as what we call "tourism"?

The amendment to the Bermuda Tourism Authority Act of 2013 seeks to give the Minister the authority to appoint the deputy chair of the board and [at clause 6, proposed section 12A] to "give to the Board

directions of a general character as to the exercise and performance by the Board of its functions in relation to matters which appear to him [or her] to affect the public interest . . ." That sounds very much to me like getting involved with the day-to-day operations.

Now, this amendment may seem practical and logical to the layman not directly involved with it. But, to us who have been in the industry, it is a red flag. What I think was extremely admirable of the OBA Administration at the time of the inception of this Tourism Act 2013 was that they recognised that, with all of their good intentions, they were not quite up to task when it came to running an industry such as tourism. I think that took great wisdom; but more importantly, it took humility. Because which government does not like to know that it calls all the shots and it is smart enough and bright enough to run an industry? There is something very heady about being the one who steers such an industry like tourism, especially in a place like Bermuda.

And I remember back in the old days of Mr. Tourism himself, the Honourable and [the late] Jim Woolridge, it was a very powerful position to be the Minister of Tourism. You flew all around the world. You were able to represent Bermuda. It looked like a very attractive Ministry to be heading up. And I am sure, at those times, it was. But as time went on, it became more and more difficult to be able to navigate through these murky waters, through these competitive waters of tourism, as other countries started to catch up with us.

I was very fortunate this week to attend the National Tourism Plan session that was held by the BTA this week. And if I had any doubts in my mind [about] the direction that Bermuda was taking by having this independent body which was steering our tourism industry and was making the most inroads, all of my concerns, all of my misgivings were put to rest once I was able to sit there for 90 minutes and hear their team talk about their successes, their challenges, their goals and objectives for the next six years—because I believe that they rolled out a six-year tourism plan.

If we could remember and go back in time, the original National Tourism Plan was drafted in 2012. Actually, it was proposed by the former PLP Administration, prior to the OBA coming into government in 2012. I thought it was a very good National Tourism Plan back then, and it was well-thought-out. It was a great idea. And the beauty of it was that more than one administration was able to put their weight behind it. It had continuity. It was nimble. It was easily understood not only by the stakeholders, hotel owners and tour operators, but also everyday Bermudians could tap into this National Tourism Plan and easily see that it was a plan that they could get behind.

So, this week, when I was able to go to this National Tourism Plan session, there were a couple of things that came up. And I think it is worth noting in

my discourse at this moment. Some of the successes that have been experienced under the BTA direction are that tourism jobs have grown 28 per cent. There has been a 10 per cent growth in visitor arrivals in these last two years. Development of new hotels in St. George's and Morgan's Point accelerated under the BTA. These hotels should be online by 2020, and they can, potentially, create 500 jobs. Also, 11 per cent of our visitors stay in Airbnb, and this figure is trending up. So, we witnessed this particular phenomenon within our tourism product really skyrocketing. And cruise visitors are at an all-time high.

Now, there is a long list of more successes that I could talk about. But suffice it to say that those six successes can be heralded by the BTA and are something that Bermuda, all of us, can hang our hats on. This is something that both parties, the party that actually instituted the BTA and the party in power now that has been passed to oversee it, can celebrate. We can all get behind it.

Some of the goals that the BTA has in the next coming years—and, as I said, it is a six-year tourism plan that goes up into 2025. Tourism to contribute \$1.2 billion to the Island's GDP. This is by 2025. That 30 per cent of visitors [will] come by air. Now, presently, we are at 25 per cent. [Also, that] 56 per cent of leisure arrivals [will] come in non-summer months. Presently, we are at 51 per cent. Now, we all know, as Bermudians, that our challenge is to fill our hotel beds between the months of October and March. The BTA recognises that this is a huge obstacle that they have got to be able to overcome. And, increase the African American leisure visitors numbers by 4 per cent. There are not enough people who look like us who are coming to these shores, and they have a lot of money. And we want to unload them of that money, and get them into this country.

Taking account of the successes that the BTA has been able to trot out since their inception gives me great hope that they are going to be able to continue doing this, and go from strength to strength.

Madam President, most Bermudians would consider themselves experts in travel. Why? Because, over the last 100 years, the tourism industry has been an integral part of our culture and economy. But not only that, we all think that we are experts because we have travelled all around the world. We figure, because we have been able to cruise to the outermost parts of the earth, because we have been able to afford to live or vacation in five-star hotels, that we are experts in this industry.

I will tell you a story. In my day job, let me put it that way, I am part of a partnership that takes tourists up and down this Island on tours. So, I drive a minibus that can take anywhere from 10 to 14 people through the Island of Bermuda for about six hours. I absolutely love it. I have always said that I would like to have a corner office somewhere with a beautiful view. But I tell you that nothing can compare to driving

around Bermuda and having changing views from the seat of my minibus on a day-to-day basis.

But I remember one day when I was sitting there, waiting for my clients to come to my minibus, there was a lady who came off of the ship. And she was walking by me. And she may have looked at the condition of my minibus, because I do not have a state-of-the-art brand-new minibus. My minibus is pretty dated, so it has got a couple of dings and a couple of rust spots.

So, she came up to me, and she said, *Sir, can I have a word with you?*

I said, *Sure.*

She said, *I was just thinking. I said to myself, 'You know what? The cruise line should allow you minibus drivers and taxi drivers the chance of coming on the cruise ship and having a look around and see what we passengers get to enjoy.' I think it would be a good thing.*

Now, two impulses came to me quite quickly. One, I was going to roll over and laugh. That was my first impulse. But my overriding second impulse was to do as my mother raised me, which was to be kind and diplomatic.

And I said to the lady, *Ma'am, do you see those taxi drivers lined up on the side of the road?*

She says, *Yes.*

I said, *How many taxi drivers do you see standing outside of those taxis?*

She said, *There are about 20.*

I said, *Ma'am, I can tell you with utmost confidence that at least 15 of those 20 taxi drivers have been to more places around this globe by way of cruise ships than probably you ever have been on.*

She looked at me, amazed. And I said, *And another thing, ma'am. Of those 20 taxi drivers, I would say at least eight of them will park their taxi for about two months over this winter and spend those two months travelling all around the world.*

I use that story just to underscore how well-heeled and well-travelled we as Bermudians are, which sometimes makes us justify our claim to be such experts when it comes to the tourism industry. So, you can forgive many Ministers in latter years who have felt that they were experts.

Madam President, may I ask how much time I have?

**The President:** Plenty. You carry on, Senator Jones. We are not limiting you.

*[Laughter]*

**Sen. Marcus Jones:** Okay.

**The President:** Yes. You can have up to 45 minutes.

**The Clerk:** An hour.

**The President:** An hour. Actually, you are the first speaker. An hour.

**Sen. Marcus Jones:** Thank you.

So, I am belabouring that point just to underscore the fact that locals alike, as well as Ministers, have claimed to be experts. And so, if one justifies the fact that they are experts, they are going to see the need to get involved in the day-to-day operations, to get themselves fully engaged in what happens within the tourism industry.

Now, one would readily say you would never accept an accountant and give them the responsibility for drafting your architectural plans for your house. You would never think of doing that. Of course not! You would say, *Senator, I would never, ever allow someone outside of the expertise of drafting a home, like an accountant or a nurse, or anyone else, to be given the responsibility of drafting and designing my house. I would never, ever allow that.* How about a mason conducting surgical operations on a patient? That mason may say, *I've had lots of surgeries done on my body. So, surely, I should have the expertise to be able to do it.* We would never, ever consider that as reasonable.

Let me also declare my interests. I worked not only as a GM in several hotels, but I also worked for the Department of Tourism for a number of years. And I was able to see first-hand the effect that changing visions, changing plans would have not only on the hoteliers and the other stakeholders, but, more importantly, right within the Department of Tourism. Just when we, as civil servants within the Ministry, got used to letting ourselves go, we were told that we had to feel the love. That is schizophrenic. That is all over the place. Well-intentioned? I would say to you, *Absolutely!* But an industry like tourism needs a plan that is good, well-worked out, well-written up, well thought of, but something that has the ability to last throughout several administrations, not just enduring the life of one minister or one administration.

And that was the beauty of the National Tourism Plan at its inception. And that was the beauty of the inception of the BTA as an independent enterprise.

I remember so many times being at the Department of Tourism and trying to rally the troops to get behind changing visions. And many a time we would be frustrated, especially those of us who had come out of the private sector and were faced with the challenge of keeping our hotels vibrant, especially during those winter months. I took a personal interest in my housekeepers, in my bellmen, in the guys who worked on the beach, knowing that I made life better for them economically if I was able to keep that hotel open as long as possible, if I was able to get as many people to come through our doors as possible, because it was important that we make sure [we sup-

ported] the jobs that they had, although in the eyes of the public they may not have seemed very important.

I would oftentimes tell my staff, *Listen. Our repeat guests do not come to see me, the general manager. They come to see you. Because you are the one who deals with them on a day-to-day basis. You are the one who interacts with them every day. They are not going to see the general manager every day. They are not going to see the financial controller every day. But they are going to see you every day.* And so, I always impressed upon them the importance that they make that connection with the guests who would come to our hotels.

So, my concern when looking at this amendment is that this is a move for the Minister of the day to get closer and closer to the day-to-day operations, especially when there are powers and authority already in the existing legislation where the board, its members and the chairman especially have to consult with the Minister to get things done.

Now, I remember through my days at the Department of Tourism that every Minister had their pet project that they would be concerned about. And as a department, we could be going in a certain direction, trying to make things happen, and then the Minister would come and say, *I know what you're trying to do. But take care of this project.* Now, no matter how much we would try to make the case that that particular pet project of the Minister was in direct conflict with what the department had been tasked to do, many times from that particular Minister's directive months ago, we understood that, with his authority, we could not refuse or counteract his now most recent idea of what he wanted to do for tourism. We saw that from time to time. And many times, it took us off stride.

So, it is the spirit in which this amendment is being proposed that we on this side are very concerned. Is it the start of a full takeover of this BTA? Now, the Government may say, *No, Senator. That's now what we plan to do. We're planning to just increase our influence a little bit more so that we can have more of a direct control of what goes on.* I say, with the successes that the BTA is experiencing on a year-to-year basis, let us be careful. Let us step back and pause, and say to ourselves, *Do we want to get so much involved that we stop the momentum and flow of this independent entity that is bringing about so much success to this country? In an industry that, over the last 20 years, we have seen go into decline?*

We definitely need to have another look. We definitely need to put on the brakes and say, *Let's look at this again.* I remind the Senators around the table that 500 jobs are what we are predicting through this industry. We do not want to send a message to our corporate partners within the hotel industry that the Government is interested in jumping back into tourism like it did years gone by. They are watching. They are paying attention to every word that is being said from the Government, and they want to be as-

sured that the BTA will be able to function as it is and how it was originally set up.

Madam President, with those few words . . .

[Laughter]

**Sen. Marcus Jones:** I would like to say that, from this vantage point, I could not support this amendment. And I would solicit my colleagues around this table to give this amendment a second thought.

Thank you, Madam President.

## ANNOUNCEMENT BY THE PRESIDENT

### SENATE VISITORS

**The President:** Thank you, Senator Jones.

And before I open the floor to another Senator, I would just like to acknowledge and welcome the Permanent Secretary for Tourism and Transport, Ms. Aideen Ratteray Pryse. Welcome, ma'am.

[*Bermuda Tourism Authority Amendment Act 2018, Second Reading debate, continuing*]

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

Senator Jardine, you have the floor.

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

Before I begin my comments on this Bill, I wanted to acknowledge the excellent work that is being done by the Bermuda Tourism Authority. Over the last two years, we have seen some excellent results, as a result of a lot of hard work by the BTA and other people, as well. I do not want to minimise the efforts by people outside the BTA, and there are many whom I will not try to list here.

So, we have seen over the last two years the impact that this has had on our tourism industry, and the results have been excellent. And we need to ensure that these positive results continue as we move forward from strength to strength. There are good people at the BTA who have produced excellent results for Bermuda. And this should be remembered as we move forward. Let us not lose sight of the excellent work that they have done.

At the moment, it appears to be running well. I am not an expert in tourism, and I do not pretend to know all of the ins and outs of what is happening at the tourism board, other than what I read in the press. But, certainly, from what I hear, it is running well. And we need to be careful that, moving forward, we do not tinker too much with something that is running well.

Madam President, I wanted to make a very brief summary of the key amendments that are being proposed in clauses 2, 3, 4 and 5 of the current amendment before us, just very briefly to go over

them and to do a little comparison with what currently exists in the Act as it stands now. So, under the current Act, the chairman is appointed by the Minister and holds office for such a period not exceeding three years, and under such terms as the Minister directs. On expiry of the chairman's term of office, the Minister may re-appoint him for a further term, in accordance with section 5. There is no change being contemplated at all. What is there now will remain, moving forward, as far as the chairman is concerned.

There is a new position being created called "deputy chairman." It is an appointed position rather than an elected position. And that, too, is appointed by the Minister. And this person will hold office under the same terms as the chairman does.

So, one important thing to mention here is that the creation of this new position does not increase the number of people on the board, but leaves the number of people on the board at eight. So, we now have a chairman and a deputy chairman. That leaves six additional members, again to be appointed by the Minister after consultation with the board. And that, again, is for a period of three years.

Now, previously, under the current Act—and I just wanted to spell this out so that there is no question about what the current Act says—the remaining members could be appointed in one of three ways. They could be elected by the board, but only after consultation with the Minister. So, the Minister is involved in any elections that the board may wish to make. Secondly, they could be appointed by the Minister in certain cases. And thirdly, and this is the one key thing to note, they could be appointed by the board from candidates nominated by either the Minister or the chairman in certain cases. Now, I am not sure what *certain cases* means. But there appears to be a situation where the board could appoint a board member without the Minister's intervention.

So, the key change here is that only the Minister can now appoint board members, but only, again, after consultation with the board.

So, the six remaining members of the board, just like the chairman and the deputy chairman, are eligible for re-appointment by the Minister for a further term. And it appears for three years, and for multiple re-appointments. So, the key change here is that there is no limit to the number of times that a person can be re-appointed to the board, whereas in the current legislation, under section 4[(3)], there is a limit of one further term only for board members. So, you can effectively serve for six years and then you are history. That has now disappeared.

The second significant change is the addition of section 12[A] of the current Act. And, if I may quote from that, Madam President?

**The President:** You may, Senator Jardine.

**Sen. James S. Jardine:** And it says [in clause 6, proposed section 12A], “The Minister may, after consultation with the Board, give to the Board directions of a general character as to the exercise and performance by the Board of its functions in relation to matters which appear to him to affect the public interest; and the Board shall give effect to any such directions.”

Now, the wording of this is somewhat similar to what is contained in the amendment made in the Casino Gaming Amendment back in 2017, which those of us who were here at the time will remember.

The third significant proposed amendment—and I am talking about *significant* proposed amendments. There are other minor ones, which dovetail on some of these. So, the final significant proposed amendment contemplated in this Bill is the addition of the word “unwilling” in [clause 7(d), which deletes and substitutes a replacement for] paragraph 2(e) of the Schedule to the principal Act. And again, this is similar to the wording used in the Casino Gaming Amendment Act from last year. So, those are the three sort of principal changes, or four principal changes, that are being contemplated here.

Now, Madam President, I wanted to see how these stacked up against other legislation. So, I ploughed through 12 pieces of legislation from all of the other quangos that I could find. And I have been through 12 of them just to see what is going on with the legislation that applies to all of these different quangos. And, Madam President, if you will let me just summarise what I found there.

**The President:** Certainly, Senator Jardine.

**Sen. James S. Jardine:** The first thing is that the Minister is responsible for appointing members to the various boards for all 12 quangos, at present. So, the Minister is responsible for appointing members. The only exception, as I have described earlier, was that section (b), which allowed the board of the BTA, in certain circumstances, whatever those certain circumstances are (and I have no idea), to put forward a member of the board.

The terms for board appointment in all quangos are three years, except in the case of four quangos where no period of years was specified. However, the number of times that a board member can be appointed for a second or greater number of terms varies. Four quangos appear to limit the number of re-appointments to one additional term. That includes the BTA. While no restriction on the number of times a person can be re-appointed was specified in the remaining eight. So, there are eight quangos where there are no limits at all.

Currently, in 11 of the quangos, the Minister is able to give direction. And this is kind of a key amendment that everybody sort of focuses on. So, in 11 of the current 12 that I looked at, the Minister is

able to give direction to the board. The BTA is the only quango where this is presently not the case.

Now, the only exception to this, and it is kind of a strange exception, is the Regulatory Authority. Now, the Regulatory Authority has a fairly detailed process. It limits what direction the Minister can give in certain cases. So, this is specific procedure that one goes through. And that is set out in section 8(5) of the Regulatory [Authority] Act [2011]. And if there is a disagreement, Madam President, between the board and the direction that the Minister is giving, and the board, after several attempts of discussions with the Minister, does not carry out the direction of the Minister, then there is the further process that one goes through before it ends up, frankly, at the Supreme Court. So, there is a process there. That is the only one of the quangos which actually has a process for dealing with differences in direction.

So, Madam President, you can see that, in some cases there is a high degree of consistency, and in others there is a degree of variance, among the various quangos.

So, Madam President, having looked at this proposed amendment carefully, having considered the present situation with respect to the 11 other quangos, my conclusions are as follows: First of all, I have no issue with the appointment of a deputy chairman by the Minister. I have no issue with the Minister’s being the sole person who is able to appoint members to the board, after consultation with the board, for the following reasons: First of all, this is the case for the other 11 quangos I looked at, and it is standard practice.

Since the BTA relies substantially on the grant given to it by the Bermuda Government, over \$25 million for 2018/19, the Government must exercise some control over whom it appoints to be responsible for the governance of this key authority. Politics must not play a part here. The current BTA legislation provides for the Minister to appoint members to the board, except in one case, where it is not clear to me just exactly what that other possibility was. And, finally, the Minister will consult with the existing board regarding any appointments.

Madam President, as you know, I have some concerns over the number of quangos that we have at present. And, to me, the concerns are (a) that the money that these quangos are given by the government is being properly and appropriately expended; (b) that proper goals are being set by these quangos, that they are being evaluated and they are accountable for their actions each and every year; and (c) that there is a follow-up by the Ministers responsible for those quangos to ensure that they are actually doing the job that they were originally established to do.

The third point. Since the current Minister stated on November the 23<sup>rd</sup> and has disclosed in the *Royal Gazette* article of November 24<sup>th</sup> . . . And if I can quote this very briefly, Madam President?

**The President:** You can, Senator Jardine.

**Sen. James S. Jardine:** And he says, “[The present legislation] does not allow for the Authority to be refreshed with new ideas and energy from time to time.” I was, therefore, somewhat surprised to read that there was going to be no limit on the time within which a member could serve. In other words, there is no time limit. And I would have thought, if one wants to refresh the members sitting around the board, that there should be some time limit set for the members of the board. And the only exception that I would think would be possible would be if a member of the board is to be appointed chairman, where you would give a further period of three years. And that is nine years on the board. And I think, if one is looking to refresh, terms of six years, or a term of three with another term of three, is satisfactory. I know that you want to keep people around for a period of time who have experience and exposure. But I would have liked to have seen some sort of cut-off point. And that would be two terms.

Madam President, the proposed amendment adds the word “unwilling” to the circumstances in which a Minister may remove a member from the board. And when I had a look at all of the legislation for all of the other 11 quangos, it was all over the place. It is kind of interesting. Of the three words, “unwilling,” “unfit” and “unable” (and these are the three words that are being bandied about with respect to the removal of a board member), only one presently uses the word “unwilling.” Five use the words “unfit” and “unable.” Two use only the word “unable.” And two use none of these descriptors at all. So, again, if you look across the legislation, there is no consistency with these three words that are used to describe a circumstance in which a Minister can remove a member.

Madam President, as I mentioned earlier, the Regulatory Authority has far more instances when they are able to question. And I have no idea whether it has ever occurred. I am certainly not aware of any. But they do have an opportunity. Where they cannot reconcile the directions set by the Minister, there is an opportunity to go to some form of arbitration. And it would seem to me that this is something that should be considered for all quangos so that there is some method of resolving differences which may appear between a Minister’s direction and the board or the quango in question.

So, Madam President, having carefully considered all of this, having looked at this amendment, having reviewed all of the other pieces of legislation with respect to quangos, I am prepared to support this Bill. But I would encourage the Government to do two things. First of all, I think they need to carry out a detailed review of all quango legislation to ensure, where appropriate, that there is consistency with respect to the Government’s governance aspects of all quango

legislation. Now, I recognise that there will be circumstances where consistency is not possible, for whatever reason. But I think there needs to be some consistency in board appointments, board terms, chairmen appointments and terms, terminology which is used in terms of giving direction and in the circumstances where a Minister is able to remove a board member.

And, secondly, I think the Government needs to look at amending their legislation to provide for a mechanism to resolve any disagreements in policy direction between quango boards and their Ministers so that the public at large, politics aside, can look at a situation and say, *Okay. There was a difference of opinion between the Minister’s direction and the board. And there is a mechanism which allows for that difference to be fairly and appropriately considered and adjudicated and resolved.* Now, I do not think this is going to happen very often. But there may be occasions when this will arise, and I think that it is particularly important to do that.

So, those are my comments on this Bill, Madam President. Thank you very much.

**The President:** Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Hayward, you have the floor.

**Sen. Jason Hayward:** Thank you, Madam President.

Firstly, I would like to thank Senator Jardine for his measured comments regarding this Bill. But it would be remiss of me if I did not address the comments from my fellow Senator, Mr. Jones, who provided us with a grandiose exercise in pontification this morning.

This Bill is not about the Government taking control of an industry. This is not increasing the powers of a Minister. This is simply providing the Minister with greater input on the makeup of the Bermuda Tourism Authority Board. That is simply what it is doing. It is not new. Senator Jardine has highlighted the consistencies between what we are doing here and what is found in other pieces of legislation. This same House also passed a very similar piece of legislation in the last legislative session, where we explained the exact same thing that we are doing now.

I do not profess to be an expert in tourism. So, no, all Bermudians do not believe that they are experts in tourism. I am pleased with the current chairman who was appointed to the Bermuda Tourism Authority Board, who is a hotelier, who has an excellent track record in tourism. And that is what the Government does—uses capable, qualified individuals to lead the tourism industry in this country.

I may not know much about tourism, *per se*. But I certainly know much about the economic impact of tourism. As a statistician within the Department of Statistics, I produced the tourism satellite account for

a number of years. And so, I saw the significant impact it has on our GDP. I also saw the significant impact it has on our jobs, and I also saw the significant impact it has on the employment of our people. We are not trying to play games with tourism. If tourism is doing well, certainly we do not want to put measures in place that impede the success of the tourism industry.

If certain things in international business fail, we all fail. When the tourism industry fails, we all fail. There is one thing which has not been said. When the Bermuda Tourism Authority was established, it was supposed to be a private organisation, a non-governmental organisation. And it was supposed to collect revenues, and [become] independent of Government funding. I am not sure what happened to the business model, but that is not the case, Madam President. The Government heavily funds the Bermuda Tourism Authority and its objectives. We had a conversation last legislative session about funding and no accountability. Because when tourism fails in Bermuda, when people are losing jobs in Bermuda, nobody looks at the BTA for why their jobs are lost in the tourism industry. Accountability is left with the Government.

The BTA does not have responsibility to the voters of this country. It is the Government that does. And despite that, we recognise that we need capable, qualified persons to run our tourism sector in our community, and that is what we aim to do. But you cannot tell the Minister he should have no say in the makeup of a board that runs an Authority, which is almost fully funded by the government. This is not about control grabbing. I do not like that narrative.

You say that persons indicate that people are listening. Nothing changes the day after this Bill passes to the day-to-day operations of the Bermuda Tourism Authority. The CEO of the Authority will still have all of the power and the control that he currently possesses. The chairman of the board and the board itself will have all of the power and control that they currently possess. So, Madam President, I ask you, what really, fundamentally changes?

So, should not the Government have a little bit of say in terms of policy direction at a very broad level, in terms of where we go regarding tourism because of how important tourism is to our economy? Taking politics out of tourism and removing tourism from being a Government department to an Authority was promoted because when you take out the bureaucracy, decisions can be made more quickly. You are able to [quickly] respond. It also talked about efficiency. The ability to hire and retain qualified and suitable staff members [is better] since you are able to pay persons better underneath a private sector model than underneath a government model. Those were the reasons why we transitioned into an Authority.

We still support the independence of an Authority. But let us not sit here fooled and think that all

is rosy with the BTA because we have successful tourism numbers. We saw decisions made where Bermudians, qualified Bermudians were let go. I have had a group of members from the BTA walk to my offices with a slew of complaints regarding the way they are treated within that Authority. So, let us not paint this rosy picture that all is well with the BTA, that they are independent, they do not need any sort of direction. That somehow this is a power grab for the BTA, the false narrative.

Two things are being accomplished. One, the Minister has greater appointment powers on selection of board members, and number two, the Minister is also trying to ensure that the policy direction of the BTA is in alignment with the government of the day. It has nothing to do with the day-to-day operations. Let us not fall into the narrative of misconception. And what we are doing is no different from what we are doing in other areas that are heavily funded by this Government. Thank you, Madam President.

**The President:** Thank you, Senator Hayward.

Would any other Senator care to speak on this Bill?

Senator Richardson, you have the floor.

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

**The President:** Good morning to you.

**Sen. Anthony Richardson:** My comments actually are formed by previous experience as the Chair of the original Bermuda Health Council. I currently work at the BLDC [Bermuda Land Development Corporation], and previously I was the Chair at the Bermuda Hospitals Board. And I also served on the Corporation of St. George's. And I mention those because, at each of those entities, I had the experience of interacting at a board level, but also with the Minister of the day, depending upon who was the Minister at that stage.

And I would actually comment that today is not about the operational aspects of the BTA. It is [about] more governance. And to counter some of the comments in terms of, is the Minister in any way trying to involve himself in operations, that is clearly not what is intended nor reflected in the proposed amendment to the Bermuda Tourism Authority. And I will just reinforce some of these comments in terms of, it is impractical to expect that the Government or any other contributor, if you will, will almost fully fund an entity with limited ability to influence, in a broad sense, the direction of that entity. And so, in this instance, to the extent that the Government is almost fully funding the BTA, you would expect that there would be a level of influence, if you will, over what they do at a policy level.

And clearly, as has already been stated, the Government does have a responsibility to ensure that

the expending of public funds is done in accordance with Government policy. And, ultimately, as Senator Hayward said earlier, the arbiter of success will be the voting public. And so, in this instance, this Bill actually is quite appropriate in ensuring that the Minister does have the appropriate level of influence.

What I will also do, though, in my comment is to fully commend the BTA in terms of what they have done and what they are doing. Because, particularly in my role on the Corporation of St. George's, we had lots of interaction in terms of what the BTA were going to do in terms of the tourism economy, especially the impact on the beaches and some impact on St. George's as being the World Heritage site. And I fully commend them in terms of how they were able to be evidence-based in what they were doing. And, certainly, if you ask them about almost any policies that they are following through with, they can show you the research. They can show you the results. And they can then show you the goals that they are going towards. And so, I do not have any issues in terms of the actual operations and the results that we have seen.

However, from a practical point of view, I also think that it is not correct to describe the BTA as being independent. Because, as I said earlier, there is no way that you can say, *I am going to fund you, say, at 90 per cent, and you expect to be independent.* It just does not work. And so, in that context, I do not think it is correct.

And I also want to counteract, I guess, in a more direct way, Senator Jones's [comments], what he said in terms of the hoteliers looking at Government askew in terms of this proposed amendment. Because on a more factual basis, the Government recently looked to amend the Hotels Concession Act 2000, in terms of hotels, in order to ensure that the application for concessions was more predictable so that you would not have so much one-off considerations. And so, now, as a hotelier, for example, I can make application and I can have a higher degree of certainty as to what the outcome is going to be. Because, clearly, as Senator Hayward has said, and others also, Bermuda's success is in large measure tied towards the hotel sector in terms of the number of people who are employed. And so, the Government has already demonstrated that it is fully supportive of the entire hotel sector.

And we have also had amendments in terms of Airbnb. And so, I just want to make sure that there is absolutely no misinterpretation, intentional or otherwise, that the Government is fully engaged and fully supportive of the entire hospitality sector.

And the other comment I would make is that, in terms of how you, in a public way, ensure that any ministerial directives are appropriate or even consistent is that, normally, as Senator Jardine referred to in some of the other Acts, the Minister will give a direction if it is deemed to be in the public interest. But what is interesting, by the way, at least in the BLDC

Act, is that all of the directions that are given by the Minister have to be in writing and disclosed as part of the accountability process. And, clearly, that would obtain in this instance such that the public would not be unaware of any broad directives given by the Minister.

Also, Senator Jones mentioned that part of the current BTA plan is to improve or increase the number of African American visitors to Bermuda, which is really black persons, coming to the Island. And if persons will recall, at one stage, the BTA actually had determined that that was not one of their focuses. And so, it is important and interesting to note that now [it is]. And, just as an example, if the Government determined that this is what they would want to take place, and let's say the BTA was not doing that, it would be appropriate for the Minister to say, *Listen. As a general plan, I would like for you to aim to do that.* And the BTA would be expected to carry it out because that would be the Minister's role, certainly in terms of being the elected person to represent and be responsible for tourism.

So, we have to be mindful of some of these things. And, overall, I think it is to not get caught up in the personalities in this instance, but to be practical such that, even as has been referred to earlier, we need to have a plan that is more long-standing. And this would obtain in this instance because you are not worried about the individual person who, for example, is the Minister right now. It is on a long-term governance perspective that, yes, a Minister has influence.

And so, I would say again that this proposed amendment is entirely practical. As Senator Jardine referenced in some detail and also supported by Senator Hayward, it is not unlike the other quango Acts that currently obtain. And so, again, I want to say one more time that I think this is very practical, and when we have discussions around the table, it is for us to really look long-term when we give comment about any proposed amendment.

With those comments, thank you, Madam President.

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

Would any other Senator care to speak on this?

**Sen. Dwayne Robinson:** Good morning, Madam President.

**The President:** Senator Robinson, you have the floor.

**Sen. Dwayne Robinson:** Thank you. Good morning, Madam President. Good morning, colleagues.

**The President:** Good morning.

**Sen. Dwayne Robinson:** I have been listening adamantly to my fellow Senators, each of whom have

brought out the BTA's accomplishments and the stance that the Government is taking as far as this amendment.

Now, what is perplexing to me is that the tone which I am hearing from the Senators is not necessarily in line with the tone which I am hearing from the Minister of Tourism, who has indicated publicly that he wishes to get closer and more involved with the BTA. So, in hearing that we are basically not looking to get involved in day-to-day operations; this is just simply to give the Minister influence on the board, to me seems a bit disingenuous. Because when I am listening to the House of Assembly, and I am reading the articles produced by the Minister, I am seeing a totally different story painted there.

And my biggest concern with this Bill is similar to Senator Jardine's, that there are no guidelines set as far as how disagreements will be managed between the Minister and the BTA. Because we have a direction being set here that we know is doing well. The numbers that have been stated by my colleague, Senator Jones, the BTA is doing well. So, we know that the direction that they are going, and as Senator Hayward has said, as well, he agrees and supports the BTA in that direction. How will that be resolved if that direction conflicts with the direction of the Minister?

Because what I am hearing today is basically, *Let's take the personalities out of it.* Well, we have to take the personality into account when regarding a Minister who is now being proposed to have the influence over promoting these board members. We have to take those personalities into account because that is how we can then try to register which direction this will go. And if we have a directional challenge between a Minister and experts in the field, Madam President, how will that be rectified? Also, the Bill sets no guidelines for how this direction will be implemented.

Now, I have heard that, *Oh, well, yes, there are guidelines as far as other quangos.* But, as Senator Jardine has mentioned, these guidelines and these quango [pieces of] legislation are not in line. So, it would be comforting to know that this Bill would have in it guidelines for the Minister to submit his direction in a way that is publicly transparent. Because I have heard suggestions made by Senators, but that is not the Minister. And I would like to hear that particular . . . from the Minister who is going to be directly working with the BTA.

As far as ministers behind, or in the future, as well, we have to take into account what this legislation empowers them to do, as well. Because, yes, this Minister and PLP Government may not be government forever, and we have to look into the future, as well, as was stated earlier. So, I am looking at the original Bill, and I see a lot of oversight already vested in the Minister. I see annual reports having to be submitted no later than May 31<sup>st</sup>.

So, I am trying to piece together why this issue of transparency has been bounced around and why this issue of lack of ministerial influence is also being bounced around regarding this particular amendment, because, to me, it looks as though it is the Minister who appoints the chairman. The Minister is also who is in charge of the fees paid and allowances paid to the BTA. He has already got a significant amount of influence over this organisation. And it is independently run, and it is government funded. That is why the Minister is given the influence that he has currently vested in him.

My biggest issue is, if the Minister wants more influence on the policy at the BTA, then what is the actual purpose of the BTA when you have a Ministry of Tourism already in effect? So, it is like if you were to have a Minister implementing the BTA's policy as far as influence on that policy, then, to me, it seems like it would be conflicting with its original purpose for which it was created. So, on that note, Madam President, I will close my comments.

**The President:** Thank you, Senator Robinson.

Would any other Senator care to speak on this Bill?

Senator Kempe, you have the floor.

**Sen. Nicholas Kempe:** Thank you, Madam President.

I have noticed a few themes come up around the table. And I am going to spend the bulk of my time, I guess, going through a bit of rebuttal, if I may. I think we are confusing the purpose of a quango and the purpose of an authority quite a bit, so that the language used by many Members seems to conflate the two structures. Quangos, specifically, are there to be directed by the government and are kind of special-purpose vehicles, for lack of a better word, that manage certain assets or are set up for a certain amount of time or need to hire people outside of the public service salary scales, whereas the authorities, the two that are mentioned, are specifically meant to be independent from government. Whether or not their funding comes from government, they should not be beholden to broad political influence or direction from Ministers as they come and go.

One of the things we spoke about around the table was this belief that the BTA was not self-funding. If we look at the hotel occupancy and cruise ship taxes for the years since its inception, and compare that to BTA funding, the hotel occupancy and cruise taxes presently go to the government, to the Consolidated Fund. And then, a grant is given to the BTA. If those taxes, which are the two primary taxes created by the tourism sector, went directly to the BTA, they would have a large overfund every year. So, I think that is a bit of a fallacy, just because the taxes have not yet been directly directed to the BTA.

And I will give you, Madam President, some context pre-BTA in the Tourism Department's days, and post. So, in 2011/12 and 2012/13, the Tourism Department's budget was about \$30 million. In 2014, the Bermuda Tourism Authority's budget was \$21.8 million. In 2015, it was \$22.7 million; [in 2016] \$22.7 million again. In 2017, it was \$25 million; and in 2018, the estimated grants, \$26 million. I will get to the estimated revenue. So, the BTA, everyone has recognised their successes, how they have grown tourism. They have done that with much less. So, the BTA, free of political interference, free from jumping from pillar to post as each Minister's ideas, they wake up and eat their Cheerios in the morning, you know, they are free to simply execute on the National Tourism Plan in a systematic, coherent way. And they are doing that with far less money.

The amount that tourism taxes, those hotel occupancy and cruise ship taxes, have brought in, 2014 was \$29 million. In 2015, it was \$33 million, [and in the succeeding years] \$34 million, \$36 million, \$39 million. So, if we look at 2014, there was a gap of \$8 million between the tourism revenue and the BTA grant. Fast-forward to 2018's estimated revenues, there are now a \$13 million delta. So, the BTA is providing even more benefit to government, based on its grant. So, to allege that it is somehow still not able to stand on its own feet financially, I think is a bit of a misnomer. The increase in spending over that five-year period is about 19 per cent, whereas the increase in revenue is 34 per cent.

So, the BTA is showing value for money year in, year out. This is not an America's Cup lift. This is from 2014 to now, 2018, a year which is almost done. So, they are doing more with less.

The National Tourism Plan is developed over a five-year period. And it is developed with broad consultation. Government policy can be changed from one Cabinet meeting to another. Senator Richardson spoke about the amount of research and analytical thought that goes into the BTA's decisions and the way they develop programmes. That is the point of a broadly consulted and widely developed National Tourism Plan. That should trump government policy. That should be the reason why an Authority was set up with board members who last more than a one-year term. It is so that the direction of our tourism industry does not zigzag every year with a new board and a new Minister's opinion on what is important for Bermuda's tourism industry.

And Senator Jones spoke about the OBA relinquishing control of tourism despite it being, for lack of a better word, the most fun industry. Certainly, for a Minister, being the Minister of Tourism and being able to gallivant around the world and sing songs at baseball stadiums and all this other stuff is a lot of fun. But we need to have a managed, independent, industry-driven use of these tourism tax dollars, something that

provides a greater income from the tourism revenue, than it does on the spend.

If we look back at that 2011/12 and 2012/13 Bermuda Department of Tourism budget of \$30 million, that is more spend than the hotel occupancy and cruise taxes were bringing in in 2014. So, we were not even breaking even on those two taxes. So, the fact that we have a structure now that is creating value for money, is creating a surplus that can go towards schools and all of the items in our social safety net that needs funding, I am struggling to understand why we want to fix something that is not broken.

We talk about term limits for board members. And again, I think we need to separate quangos and authorities here. If you look at the UK Corporate Governance Code 2018, it advocates for term limits for non-executive directors. These are the board members who are not members of staff. So, the fact that someone cannot just kind of get stuck in there for inertia allows the renewal of a critical eye of processes, allows for that fresh thinking and innovation that I believe Senator Jardine, as well as the Minister, spoke to. So, walking back that best practice in this new Bill just does not make any sense to me. We are writing torts that do not exist here.

Again, the independence of the BTA is very important. And the fundamental difference that this new Bill puts in, that the previous Bermuda Tourism Authority Act had, is that it inverts the consultative process. And statutory consultation is defined in court cases and judgments. So, if it is not followed, there are some precedents out there about what consultation looks like. But the original Act says that the board must consult the Minister. This Act, basically, turns it on its head and says the Minister must consult the board. We have undermined in this new Act—not we. This new Act attempts to undermine the autonomy of thought and the autonomy of direction of the board.

Sure, it needs to consult with the Minister, but inverting that process and inserting directly appointed people into the board feels like a poison pill to this independent body built to be independent on purpose. In the same way that gaming's chalice was poisoned, and we have seen what has come of that. It has not come off the ground. And it is that if you are going in to do a job as an independent board member, but you are going to be micromanaged or second-guessed or interfered with at the ministerial level, you are going to struggle to find quality candidates who want to put their name and professional reputation and time on the line. And the quality of direction of our tourism industry will suffer because of it. We will end up with yes-men. We will end up with whatever else. And the quality of the direction of tourism, which has shown excellent growth in the last five years, will suffer.

This is one of the few shining lights we have in Bermuda right now for economic growth, for job creation, for positive exposure of the Island internationally. And I think we need to really have a proper

think about what tort we are trying to fix before we bring any legislation to tinker with a well-functioning machine.

There seems to be an almost Trumpian desire to dismantle all OBA successes, whether it was walking away from building on the America's Cup legacy and the Event Authority, to the attacks on the BTA right out the bat, when the previous Minister called into question the auditing reports and practices of the BTA, based on a poor understanding of the audit process, which came out in due course. But there seems to be this inherent desire to own or control all things in Bermuda. And this tinkering with the BTA does not seem to be driven on the basis of a desire to improve an entity, improve governance, improve processes or outcomes, it seems simply driven by this desire to control and be respected.

As Senator Robinson said, if you listen to the language in the House of Assembly when this same Bill was debated, it was all about respect. This Government must be *respected*. And for me, that is very dangerous language, when we are talking about not just the Minister of the day feeling important, but the well-being of Bermudians. When an individual minister is able to direct the funds of a national industry towards the epicentres of their own support, you will end up with outcomes that are not aligned with a consultative national process. If I know that the beach in my constituency is going to get attention, despite that not being part of the strategic plan, because that is going to placate my voters, you end up with basically pork-belly politics.

And the point of the BTA was to remove political and ministerial interference from these types of decisions. And that was calculated, and that was on purpose, and with the best interests of Bermuda at heart.

I think that . . . I do not want to drawl on and on here, Madam President. But those are the main challenges. I struggle to see what tort exists that is trying to be remedied. And I have not heard any arguments to clarify that. So, I will not support this Bill.

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

Would any other Senator care to speak on this Bill?

No? Then, Senator Caesar.

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

I have listened with interest, and I thank all of the Senators for their comments today.

There are a couple of words that have been said, which I think people are throwing out and expecting everyone to have the same understanding of themselves. But I think we need to be somewhat open-minded with regard to what that word actually means. In Bermuda's context, "tourism" is not just about hotels. Tourism is small businesses who sell their wares at the different events around Bermuda,

say, Harbour Nights or up at Destination Dockyard. Tourism is taxis, buses, restaurants, vacation rentals, vehicle rentals, any of the stores around the Island, not just Hamilton.

So, I think when we talk about tourism, we need to be very careful about what we think tourism is. I think some of the smaller vendors would be somewhat, for lack of a better term, offended that they are not mentioned when we say the word "tourism." The individual who does have a conversation with a tourist who is lost, who needs direction, we are helping tourists in that regard. The security guards who keep our tourists safe, that is all part of tourism. So, let us be careful, when we talk about tourism and we use the word "tourism," that we are not just talking about hotels. We are talking about Bermuda. We all are touched by this industry.

The other word that we have been using, which I think we all seem to feel we have a definition in our own minds of what that is, is "consultation." I actually looked up the word "consultation" when I was sitting here, because we are using *consultation* in a way that seems to mean, from most of the discussion that we have had today, that it is direction. Consultation is not direction. Synonyms for the word "consultation" are discussion, dialogue, discourse, debate, negotiation, deliberation, a meeting, a talk, an interview. These are all words which are encompassed in the word "consultation." All [these words] could mean consultation. Consultation does not mean, *I'm telling you what to do, and you have to do it*. It is not direction. So, I think we need to be careful when we use the word "consultation" and understand what that word means.

The amendments that have been put forth through the Bermuda Tourism Authority Amendment Act 2018 speak to consultation with the board in three different areas, about future members, about direction, about who is appointed. Well, I guess that is future members, as well. But each of the areas refers to consultation. Consultation is not telling someone what to do. It is not direction. Let us be clear on that.

I thank Senator Jardine for his comments and his diligent work with regard to doing an analysis of what quangos and other authorities actually do in Bermuda. And the wording of the new section 12A is actually almost the same, I would like to point out, as what the WEDCO's Act is. In fact, WEDCO's Act goes a bit further.

Now, do the quangos and/or authorities require some sort of synergies and/or analyses going forward? Granted, that may very well be the case. But we are where we are with the Bermuda Tourism Authority. So, the other word that I want us to be careful about is continuing to use the word "independent." As a mother with a 20-year-old . . . my daughter is in medical school. And I fund it, and I am going to say 110 per cent.

[Laughter]

**Sen. Crystal Caesar:** Because she is not able to, or does not work. And I must say I am very proud of this young lady because she is very independent in her studies and the choices that she makes. And I am proud of what she is doing with her life.

However, I fund it. Let me be clear. So, that means that she is not completely independent. So, when she returned home this summer after being in school and being independent, I asked for dishes to be washed. And because [she] had been *independent* (and, listening audience, I am putting that in air quotes), she felt that she would do it on her own time and in her own manner. Let us just say Mommy was not happy.

So, now did I bring down the big stick? She is a 20-year-old. She is a woman. She is a young lady. As I said, I am actually very proud of a lot of the decisions that she makes. However, there are times when we need to sit down and have a conversation about some of the things that I am asking her to do. She not only is supported by me financially, but also when it comes to when she is talking about, *I can't do it anymore, Mommy. I need help.* She is not completely independent. She still needs some assistance. And our views need to be aligned as to how to go forward.

So, I use that example to show that one can be independent. But it does not mean that they are *independent*. Because let us just say that if Mommy decided that she did not want to assist financially anymore, one is not quite sure what this young lady would do. So, I am just, you know, playing devil's advocate. Nonetheless, you get the example.

We have spoken, or it has been spoken about today that this smacks of interference for day-to-day operations. In fact, my brief spoke, actually, very contrary to that. These amendments have actually nothing to do with the day-to-day operations. This all speaks to how the Minister and the board interact. So, I am not going to say how the Minister *instructs* or how the board *reports* to the Minister. Because it is how they interact.

And the precedent has been set in other authorities and/or quangos as to the way forward, as to the way forward as to what these amendments are trying to achieve. So, this is not new. Until such time as the BTA can say, *Hey. We're doing it all by ourselves.* And I am not sure that we would want that. Why would one want a tourism authority and the government of the country in which they operate to not be in sync? I think that just does not make sense to me. So, why would we not want them to have some synergies?

In addition, because the Government is [providing] the majority of the funding to the BTA, there is a level of fiscal oversight and policy direction, which are required. This is what is required in any type of governance and/or financial relationship.

There needs to be oversight. There needs to be guidance. There needs to be a level of direction.

So, I think we need to be clear and understand exactly what is trying to be achieved here. No one is eroding anyone's ability to continue to do the good work that has been done. The BTA has done a great amount of work. I also think, as have others, as I have said, in the tourism industry in Bermuda, not just the BTA. The increases in our numbers are not just because the BTA has done it. There are a number of people in this country who contribute to why people want to visit, and they return year after year.

So, let us be careful that the tourism numbers are not just attributable to the BTA. But I will say that they are doing a remarkable job.

So, with that, Madam President, I think that my colleagues have said a lot of what I was going to say. And I am not in the habit of repeating myself, as my daughter will know.

[Laughter]

**Sen. Crystal Caesar:** So, I would like at this time, Madam President, to move that the Bill entitled the Bermuda Tourism Authority Amendment Act 2018 be now read for a second time.

**The President:** Is there any objection to that motion?

No objection.

Carry on, Senator Caesar.

## SUSPENSION OF STANDING ORDER 26

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

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

**The President:** Is there any objection to that motion?

No objection.

[Motion carried: Standing Order 26 suspended.]

## BILL

### 1<sup>st</sup> THIRD READING

#### BERMUDA TOURISM AUTHORITY AMENDMENT ACT 2018

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

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

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

<sup>1</sup> See procedural correction at page 93

**The Clerk:** Objections.

**The President:** Yes. Who all objects?

*[Crosstalk]*

**The President:** All three Senators. We will have to take a vote.

*[Pause and crosstalk]*

**The President:** I will just say, because there are three Senators who object, we need to take a vote. The Clerk will do a division.

**The Clerk:** Okay.  
On the third reading.

## DIVISION

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

### **Ayes: 7**

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

### **Nays: 3**

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

### **Absent: 1**

Sen. Michelle Simmons

**The Clerk:** The third reading is confirmed.

**The President:** Yes. The third reading is confirmed because the totals are 7 to 3.

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

**The President:** Is there any objection to that motion?

No objection.

The Bill entitled the Bermuda Tourism Authority Amendment Act 2018 is passed.

Thank you all. And thank you, Senator Caesar.

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

## MOTIONS

**The President:** There are none.

## CONGRATULATORY AND/OR OBITUARY SPEECHES

**The President:** We will start with Senator Campbell.  
You have the floor.

**Sen. Vance Campbell:** Thank you, Madam President.

Madam President, I would like for condolences to be sent to the family of Mr. Edmund Kirkland Cooper. He was a pioneer in the accounting field in Bermuda. He formed the firm of Cooper and Lines, he eventually became known as a member of the Coopers & Lybrand group. I was fortunate enough to do most of my training there at Coopers & Lybrand. He was a very down-to-earth person. You tend to view the individuals in those partner offices with some trepidation. But he was very adept at putting you at ease and very down to earth. He was also a champion sailor and represented Bermuda in many competitions. So, Madam President, I would like condolences to be sent to his family. Thank you.

**The President:** Thank you, Senator.

**Sen. James S. Jardine:** Madam President, I would like to associate myself with those comments.

**The President:** Fine.

**Sen. James S. Jardine:** Certainly, Mr. Cooper was a neighbour and a friend and, again, a business associate, although I was a partner in a different firm. It was Arthur Young back then, now Ernst & Young. But we all got on well together. And I certainly valued his advice, as I was a much younger man than he was when I first started here. So, I would like to send condolences to his family, to Helen, his wife, in particular. And I know this is a very difficult time for them. But I would certainly like to associate myself with your comments. Thank you, Madam President.

**The President:** Thank you, Senator Jardine, for your comments and your association with those condolences. It is acknowledged.

Would any other Senator care to speak?

Senator Richardson, you have the floor.

**Sen. Anthony Richardson:** Madam President, today I would like to recognise and congratulate the Harrington Workmen's Club, home of the great Cleveland County Cricket Club, on the occasion of their awards presentation for the cricket team, which was held on Saturday, December 1, at Pennos Wharf in St. George's. They actually had an excellent season. They were first division champions. And I will say, I spoke to the coach yesterday, that although they were first division champions, the highlight was actually for destroying Bailey's Bay in the Eastern County's classic. They then defended against Flatts Victoria and

put up a valiant fight in the third round, but lost to St. David's.

And I also want to mention the name of the senior captain, Steven Brimmer, who is a young man whom I have known for quite a while. He has now gone from strength to strength. And I see him taking a lot of responsibility from that role. He is a young person, right? But he takes responsibility and really enjoys the game. And he is also quite adept at the great game of snooker. The junior captain is CJ Fubler. I will give to the Clerk the other names of the committee members for appropriate recognition. But, again congratulations to Cleveland County.

While I am speaking, I would also like to generally commend all of the persons who were in any way involved in organising the [Christmas] Boat Parade in St. George's. I actually drove there on Friday, and—amazing, absolutely amazing in terms of the numbers of people who were there. And I know it is the first time for this year. But I saw in the paper that they are now going to do it on alternate years from Hamilton so that every year now, Bermuda will have a boat parade. It was absolutely fantastic. And also, to commend St. George's again, especially the corporation because the town is absolutely lovely. I would encourage everyone to drive down in the night time because it is lit up—in my mind, the town hall is like a gigantic gingerbread house, giving the colour and the whole background. So, those are my comments, Madam President.

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

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

Senator Hayward, you have the floor.

**Sen. Jason Hayward:** Madam President, I just would like to use this opportunity this morning to congratulate PartnerRe. They are experiencing their 25<sup>th</sup> anniversary in Bermuda. And they have done a good job in terms of their impact towards our insurance industry, but not just that, [towards] our community. Last night, I was able to be part of a presentation where they contributed \$240,000 to our schools through a campaign which they called "Dollars for Hours," where students volunteer and give their free time to charity. And then, PartnerRe makes a donation to the schools, which the students donate. Over the last 13 years, Madam President, PartnerRe has given up close to \$3 million to our schools. And so, I would like to congratulate them on their 25<sup>th</sup> anniversary and thank them for their contribution to our community.

*[Desk thumping]*

**The President:** Thank you, Senator Hayward. I am sure the entire Senate would like to join in with those comments of yours.

Would any other Senator care to speak?

No?

Then, Senator Kathy Lynn Simmons, Attorney General and Government Leader in the Senate, over to you for adjournment.

## ADJOURNMENT

**Sen. the Hon. Kathy Lynn Simmons:** I move, Madam President, that the Senate do now adjourn until Wednesday, December 12.

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

Senator Dwayne Robinson, you have the floor.

## SUPREME COURT RULING ON SAME-SEX MARRIAGE

**Sen. Dwayne Robinson:** I will be extremely brief.

I would like to take this opportunity to caution and to make a mild plea. I am aware that the Government is currently within its 21 days of considering whether or not to appeal the Supreme Court ruling regarding same-sex marriage, Madam President. And I would like to ask, respectfully, that they do not. There has been a lot of word reaching me, as far as this goes, and I understand that the original figure of [\$]200,000 to [\$]400,000 was not correct. But I feel as though any dollar spent on this issue is a wasted dollar, Madam President. And I feel as though the amount of resources being dedicated to a small segment of our community is ludicrous.

And on those comments, Madam President, I will close.

**The President:** Thank you, Senator Robinson.

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

Senator Richardson, you have the floor.

## MORTGAGE RATES

**Sen. Anthony Richardson:** Madam President, really by way of information, at one of our previous sessions I commented on the cost of living in Bermuda and spoke to the impact of interest rates, whether it be mortgages or loans in general. And, as I prepared for the session today I wanted to be more factual.

I actually looked at the BMA [Bermuda Monetary Authority] annual report to get the appropriate information. And, as at December 2017, which would have been just a year ago, based upon their reporting the domestic Bermuda dollar loans outstanding were approximately \$3.6 billion.

And my comment today is that in terms of the efforts being made to have the banks be, I guess, more conscious of their loan rates to the extent that there would be even a 0.25 per cent reduction in the

current loan rates, the annual impact to Bermuda would be an increased discretionary cash of \$9 million, which comes down to a monthly amount of \$750,000. And if you go as high as a 1 per cent decrease, the annual impact on the economy would be about \$36 million, which is quite a bit, which then translates down to about \$3 million [monthly].

And then, I went further. The information was not in the BMA report. But I just made the assumption that if we looked at the average mortgage being about \$750,000 the impact of a 25 basis point reduction in the mortgage rate would have the family save almost \$2,000 a year. And the higher amount would be if the lending rates could be reduced by, say, 1 per cent, then the annual impact would be about \$7,500, or \$625 a month, which, in the overall scheme of things, if every mortgage holder, for example, was able to have an extra \$500 a month to spend we could understand the impact on the family itself, which is stressed to make the payments. But also, I think for the general economy in terms of the fact that if those funds would be available for that person to spend, whether it be on groceries or otherwise, you know, it would certainly impact the economy.

### CHRISTMAS SPENDING

**Sen. Anthony Richardson:** I would also like to say, just as a general comment, that around this time as we get closer to Christmas, we are also, of course, and everyone is mindful of the general economic activity. And it is interesting. I do not say it as a criticism. But it is interesting on the one hand where we say, *Let's now, as best we can, support the local economy.* But we are actually bombarded with comments and advertisements, if you will, or encouragements to actually buy overseas and then use the reduced shipping rates, or the greater efficiency and whatever.

So, I think all of us, clearly, will make decisions based upon what we believe is an appropriate variety. We will also make decisions based upon what we see as being cost. And I just want to generally make that comment in terms of its meaning that our personal decisions will have an impact, going forward, and will inform comments that we make in this arena going forward.

Separate conversation, or separate commentary, is that I also had the interesting opportunity to speak to one of the Bermudian librarians, at some length, to be honest. And her comment—her actual name is Ms. Tucker at the Berkeley. Her comments were in terms of her observation that there seems to be a lessening interest of persons just attending the library and then, by extension, the impact on persons' reading. So, my comment today, again in the context of the Christmas season, would be for all of us, even as parents, to consider what we can do, whether it be buying books as Christmas presents or online opportunities to encourage our children to continue to read.

And it does not mean a book in the traditional sense. It could be something that is online. Sometimes, there are comic books or just other things. Because, clearly, there is the positive correlation between comfort in reading and then generally being able to be excited about learning, but also to teach yourself things. Because nowadays, of course, with the extensive information available online and otherwise, if you can read there is almost nothing that you cannot learn. And the challenge would be for us to encourage our young people, and some older ones, also, to be more comfortable in reading and to, you know, make it much, much more enjoyable.

So, thank you, Madam President.

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

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

No? Then, the Senate will stand adjourned until next week, Wednesday, December the 12<sup>th</sup>. Thank you, Senators.

[At 12:16 pm, the Senate stood adjourned until 10:00 am, Wednesday, 12 December 2018.]

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

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

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

Shall we pray?

**PRAYERS**

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

**CONFIRMATION OF MINUTES**

*[Deferred]*

**Sen. James S. Jardine:** Madam President.

**The President:** Senator Jardine, you have the floor.

**Sen. James S. Jardine:** Madam President, I move that consideration of the Minutes of the meeting of Wednesday, the 5<sup>th</sup> of December 2018, be deferred.

**The President:** Is there any objection to that motion?

No objection; the Minutes are deferred.

Thank you, Senator Jardine.

*[Minutes of 5 December 2018 deferred]*

**MESSAGES**

**The Clerk:** There are no messages, Madam President.

**The President:** Thank you, Clerk.

**REPORTS OF COMMITTEES**

**The President:** There are none.

**ANNOUNCEMENTS**

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

Senator Campbell, you have the floor.

**Sen. Vance Campbell:** Good morning, Madam President.

**The President:** Good morning.

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

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

**PROCEDURAL MATTER**

*[Standing Order 35]*

**The President:** Thank you, Senator Campbell.

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

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

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

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

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

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

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

## BILL

### THIRD READING RESCINDED

#### BERMUDA TOURISM AUTHORITY AMENDMENT ACT 2018—RESCINDED

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

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

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

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

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

Senator Caesar, you have the floor.

## BILL

### THIRD READING

#### BERMUDA TOURISM AUTHORITY AMENDMENT ACT 2018

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

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

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

**Sen. Crystal Caesar:** Thank you.

Madam President, I move that the Bill do now pass.

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

Is there any objection to that motion?

*[Inaudible interjections]*

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

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

**The Clerk:** Passed with one objection?

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

**The Clerk:** Okay.

**The President:** Clerk, you would do a division?

**The Clerk:** Yes.

*[Inaudible interjection]*

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

**The Clerk:** Yes.

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

## ANNOUNCEMENT BY THE PRESIDENT

### SENATE VISITORS

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

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

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

## DIVISION

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

### Ayes: 8

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

### Nays: 3

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

**The President:** These votes are 8 to 3.

**The Clerk:** The Bill is passed.

**The President:** The Bill is passed.

Thank you, Senators, for your indulgence this morning.

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

## NOTICES OF MOTION

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

Senator Campbell, you have the floor.

## ORDER

### CONTRIBUTORY PENSIONS (AMENDMENT OF BENEFITS) ORDER 2018

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

Thank you, Madam President.

**The President:** Thank you, Senator Campbell.

## PETITIONS

**The President:** There are none.

## STATEMENTS

**The President:** There are none.

## INTRODUCTION OF BILLS

**The President:** There are none.

## FIRST READINGS OF PUBLIC BILLS

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

### ALLIED HEALTH PROFESSIONS ACT 2018

### INVESTMENT FUNDS AMENDMENT ACT 2018

## BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 3) ACT 2018

### INSURANCE AMENDMENT (NO. 3) ACT 2018

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

## FIRST READING OF PRIVATE BILLS

**The President:** There are none.

## QUESTION PERIOD

**The President:** There are none.

## ORDERS OF THE DAY

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

Whose Bill is that?

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

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

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

## BILL

### SECOND READING

#### CUSTOMS TARIFF AMENDMENT (NO. 3) ACT 2018

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

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

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

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

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

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

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

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

**The President:** Certainly, Senator Campbell, you can.

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

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

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

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

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

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

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

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

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

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

the Residential Care Homes and Nursing Homes Act 1999.”

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

**The President:** You certainly may.

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

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

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

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

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

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

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

Thank you, Madam President.

## ANNOUNCEMENT BY THE PRESIDENT

### SENATE VISITOR

**The President:** Thank you, Senator Campbell.

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

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

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

**Sen. Marcus Jones:** Yes, Madam President.

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

**Sen. Marcus Jones:** Thank you. Good morning.

**The President:** Good morning to you.

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

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

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

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

**The President:** Thank you, Senator Marcus Jones.

Would any other Senator care to speak?

Senator Jardine, you have the floor.

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

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

*[Laughter]*

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

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

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

**The President:** Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Kempe, you have the floor.

**Sen. Nicholas Kempe:** Good morning.

**The President:** Good morning.

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

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

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

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

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

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

Would any other Senator care to speak on this Bill?

No.

Then, Senator Campbell, over to you.

**Sen. Vance Campbell:** Thank you, Madam President.

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

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

So, thank you, Senators, for your support.

Madam President, with that, I move that the Bill entitled the Customs Tariff Amendment (No. 3) Act 2018 be now read a second time.

**The President:** Is there any objection to that motion?

No objection. Carry on, Senator Campbell.

#### SUSPENSION OF STANDING ORDER 26

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

**The President:** Is there any objection to that motion?

No objection.

*[Motion carried: Standing Order 26 suspended.]*

**The President:** Carry on, Senator Campbell.

### BILL

#### THIRD READING

#### CUSTOMS TARIFF AMENDMENT (NO. 3) ACT 2018

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

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

No objection.

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

**The President:** It has been moved that the Bill entitled the Customs Tariff Amendment (No. 3) Act 2018 do now pass.

Is there any objection to that?

The Bill is passed.

Thank you, Senator Campbell.

**Sen. Vance Campbell:** Thank you, Madam President.

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

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

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

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

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

**The President:** Is there any objection to that motion?

No objection. Carry on, Senator Caesar.

## BILL

### SECOND READING

#### DEBT COLLECTION ACT 2018

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

With that, I conclude my remarks, Madam President.

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

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

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

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

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

[Laughter]

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

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

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

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

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

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

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

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

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

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

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

**The President:** You may.

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

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

Thank you very much, Madam President.

**The President:** Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Kempe, you have the floor.

**Sen. Nicholas Kempe:** Thank you, Madam President.

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

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

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

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

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

Thank you, Madam President.

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

Would any other Senator care to speak on this Bill?

Senator Haywood, you have the floor.

**Sen. Jason Hayward:** Good morning, Madam President.

**The President:** Good morning.

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

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

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

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

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

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

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

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

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

*[Laughter]*

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

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

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

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

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

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

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

**The President:** Thank you, Senator Haywood.

Would any other Senator care to speak on this Bill?

Senator Campbell, you have the floor.

**Sen. Vance Campbell:** Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**The President:** Thank you, Senator Campbell.

Would any other Senator care to speak on this Bill?

Senator Richardson, you have the floor.

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

**The President:** Good morning.

**Sen. Anthony Richardson:** Good morning, fellows Senators.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

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

Would any other Senator care to speak on this Bill?

No? Then, Senator Caesar.

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

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

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

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

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

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

**The President:** Certainly, you may.

**Sen. Crystal Caesar:** Thank you.

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

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

**The President:** You certainly may.

**Sen. Crystal Caesar:** Thank you.

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

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

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

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

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

So, with that said, Madam President, I would like to move that the Bill entitled the Debt Collection Act 2018 be now read a second time.

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

### SUSPENSION OF STANDING ORDER 26

**Sen. Crystal Caesar:** Thank you, Madam President.  
I move that Standing Order 26 be suspended in respect of this Bill.

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

*[Motion carried: Standing Order 26 suspended.]*

## BILL

### THIRD READING

#### DEBT COLLECTION ACT 2018

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

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

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

**The President:** It has been moved that the Bill entitled the Debt Collection Act 2018 do now pass.

Is there any objection to that motion?

No objection.

The Bill is passed.

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

**The President:** Thank you, Senator Caesar.

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

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

Who has this Bill? Senator Caesar.

You have the floor.

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

**The President:** Yes. Take your time.

**Sen. Crystal Caesar:** Thank you.

*[Pause]*

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

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

## BILL

### SECOND READING

#### MERCHANT SHIPPING AMENDMENT ACT 2018

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*[Pause]*

**The President:** Well.

*[Laughter]*

**The President:** Senator Caesar.

**Sen. Crystal Caesar:** I wonder why.

*[Laughter]*

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

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

**The President:** Absolutely.

**Sen. Crystal Caesar:** With that said, Madam President, I move that the Bill entitled the Bermuda Merchant Shipping Amendment Act 2018 be now read the second time.

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

#### **SUSPENSION OF STANDING ORDER 26**

**Sen. Crystal Caesar:** Thank you, Madam President.  
I move that Standing Order 26 be suspended in respect of this Bill.

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

*[Motion carried: Standing Order 26 suspended.]*

## **BILL**

### **THIRD READING**

#### **MERCHANT SHIPPING AMENDMENT ACT 2018**

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

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

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

**The President:** It has been moved that the Bill entitled the Merchant Shipping Amendment Act 2018 do now pass.  
Is there any objection to that motion?  
No objection.  
The Bill is passed.

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

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

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

**The President:** Absolutely. You have the floor.

## **ORDER**

#### **MERCHANT SHIPPING (CARRIAGE OF PASSENGERS BY SEA) ORDER 2018**

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

**The President:** Carry on, Senator Caesar.

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

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

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

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

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

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

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

Thank you, Madam President.

**The President:** Thank you, Senator Caesar.

Would any Senator care to speak on this Bill?

[Pause]

**The President:** Senator Kempe were you . . . ?

[Laughter]

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

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

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

“May it please Your Excellency:

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

**The President:** Thank you, Senator Caesar.

Are there any objections to that?

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

Thank you, Senator Caesar.

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

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

**The President:** That completes the Orders of the Day.

## MOTIONS

**The President:** There are none.

## CONGRATULATORY AND/OR OBITUARY SPEECHES

**The President:** Would any Senator care to speak?

Senator Michelle Simmons, you have the floor.

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

**The President:** Good morning.

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

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

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

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

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

[Laughter]

**The President:** You have the floor.

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

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

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

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

**The President:** Thank you, Senator Michelle Simmons.

Would any other Senator care to speak on this?

Senator Richardson, you have the floor.

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

**The President:** Good morning.

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

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

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

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

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

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

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

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

*[Laughter]*

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

*[Laughter]*

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

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

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

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

**The President:** Thank you, Senator Campbell.

Would any other Senator care to speak?

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

## ADJOURNMENT

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

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

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

**Sen. Anthony Richardson:** Yes.

**The President:** You can speak to it.

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

**The President:** Are there any objections to that motion?

No. The Senate will meet on Monday.

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

**The President:** You need to move that we adjourn.

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

**The President:** Thank you.

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

Senator Michelle Simmons, you have the floor.

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

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

*[Pause]*

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

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

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

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

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

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

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

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

Thank you.

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

Would any other Senator care to speak?

Senator Hayward, you have the floor.

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

**Sen. Jason Hayward:** Thank you, Madam President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Laughter]

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

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

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

Thank you, Madam President.

**The President:** Thank you, Senator Hayward.

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

Senator Jardine, you have the floor.

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

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

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

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

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

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

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

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

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

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

**The President:** Thank you, Senator Jardine.

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

No? Then we will . . .

*[Inaudible interjection]*

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

Senator Richardson.

**The Clerk:** You have the right to speak.

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

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

**The President:** You have the floor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### CONSTRUCTION—INDICATOR OF HEALTHY ECONOMY

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

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

#### GOVERNMENT FINANCES AND UPCOMING BUDGET

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

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

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

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

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

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

Would any other Senator care to speak on the motion?

*[Inaudible interjection]*

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

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

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

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**BERMUDA SENATE****OFFICIAL HANSARD REPORT  
19 DECEMBER 2018  
10:00 AM***Sitting Number 6 of the 2018/19 Session*

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

**The President:** Good morning, Senators.

**Some Hon. Senators:** Good morning, Madam President.

**The President:** The Senate is now in session.  
Shall we pray?

**PRAYERS**

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

**CONFIRMATION OF MINUTES**

*[Minutes of 5 and 12 December 2018]*

**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 meetings of Wednesday, the 5<sup>th</sup> of December, and, Wednesday, the 12<sup>th</sup> of December 2018, be taken as read.

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

**Sen. James S. Jardine:** Madam President.

**The President:** Senator Jardine, carry on.

**Sen. James S. Jardine:** Madam President, I move that the Minutes of Wednesday, the 5<sup>th</sup> of December, and, Wednesday, the 12<sup>th</sup> of December 2018, be confirmed as the correct record of those meetings.

**The President:** Is there an objection to that motion?  
No objection.  
The Minutes of the 5<sup>th</sup> and 12<sup>th</sup> of December 2018 are confirmed.

*[Motion carried: Minutes of 5<sup>th</sup> and 12<sup>th</sup> December 2018 confirmed.]*

**The President:** Thank you, Senator Jardine.

**MESSAGES****CHRISTMAS GREETINGS  
FROM HOUSE OF ASSEMBLY**

**The Clerk:** Yes, Madam President, we have a message from the House of Assembly. The message reads as follows:

“To the Honourable the President and Members of the Senate:

“The Members of the Honourable House of Assembly desire to extend to the President and Members of the Senate our greetings and best wishes for Christmas and the New Year.”

And it is signed Dennis P. Lister, JP, MP, Speaker, from the Sessions House, dated 17<sup>th</sup> of December 2018.

**The President:** Thank you, Mr. Somner.

**APOLOGY**

**The President:** And I also have a message from Senator Campbell who has sent his apologies for his absence this morning. He is not well. We all wish him well and that he has a nice Christmas.

**REPORTS OF COMMITTEES**

**The President:** There are none.

**ANNOUNCEMENTS****REPORT OF THE AUDITOR GENERAL  
ON THE WORK OF THE OFFICE OF THE AUDITOR  
GENERAL FOR THE YEARS ENDED  
31<sup>ST</sup> MARCH 2011 TO 2017**

**The President:** Senators, I do have an announcement on the Auditor General's Report.

“Senator the Honourable President:

“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 years ended 31<sup>st</sup> March, 2011 to 31<sup>st</sup> March 2017, has been forwarded” (to myself as President of the Sen-

ate) "and that copies of the said report are hereby tabled in the Senate for the information of Senators."

Further announcements?

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

#### FINANCIAL STATEMENTS OF THE CONSOLIDATED FUND FOR FISCAL YEAR 2018

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

I hereby present for the information of the Senate, the Financial Statements of the Consolidated Fund of the Government of Bermuda as at 31 March 2018.

**The President:** Thank you.

You have others?

**Sen. the Hon. Kathy Lynn Simmons:** I will continue.

#### FINANCIAL STATEMENTS OF THE FINANCIAL INTELLIGENCE AGENCY FOR FISCAL YEARS 2016 AND 2017

**Sen. the Hon. Kathy Lynn Simmons:** I hereby present for the information of the Senate the following report, the Financial Statements of the Financial Intelligence Agency for the year ended 31 March 2016 and the Financial Statements of the Financial Intelligence Agency for the year ended 31 March 2017.

**The President:** Thank you.

**Sen. the Hon. Kathy Lynn Simmons:** Shall I continue?

**The President:** Please do.

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

#### ANNUAL REPORTS OF THE WEST END DEVELOPMENT CORPORATION 2016 AND 2017

**Sen. the Hon. Kathy Lynn Simmons:** I hereby present for the information of the Senate the Annual Report and accounts of the West End Development Corporation for the year ended 31<sup>st</sup> March 2016, and the Annual Report and accounts of the West End Development Corporation for the year ended 31<sup>st</sup> March 2017.

**The President:** You have another?

#### BERMUDA LAND DEVELOPMENT COMPANY LIMITED AUDITED FINANCIAL STATEMENTS FOR FISCAL YEARS 2010, 2011 AND 2012

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

I hereby present for the information of the Senate the audited financial statements of the Bermuda Land Development Company Limited for each of the fiscal years as at 31<sup>st</sup> March 2010, 2011 and 2012.

#### BERMUDA LAND DEVELOPMENT COMPANY LIMITED REPORTS ON OPERATIONS FOR YEARS 2010, 2011 AND 2012 TO 2017

**Sen. the Hon. Kathy Lynn Simmons:** And finally, Madam President, I hereby present the following reports for the information of the Senate, the Bermuda Land Development Company Limited Report on Operations for the year ended 31<sup>st</sup> March 2010, the Bermuda Land Development Company Limited Report on Operations for the year ended 31<sup>st</sup> March 2011, and the Bermuda Land Development Company Limited Report on Operations for the year ended 31<sup>st</sup> March 2012 to 31<sup>st</sup> March 2017.

Thank you.

#### OVERSIGHT COMMITTEES SENATE APPOINTMENTS

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

I have an announcement to make, which is . . . Senators, I wanted to advise that there are three oversight committees that have been struck, and we have been asked to appoint Senators to these committees.

The first one is the **Infrastructure and Transport Committee**, which deals with Home Affairs, Public Works, Transport, and Regulatory Affairs. And the Senate representation on this Committee is Senator Michelle Simmons and Senator Dwayne Robinson.

The second is **Education, Health and Welfare Committee**, which deals with Social Development and Sports, Health and Education. And the members who have been recommended to this Committee are Senator Marcus Jones and myself.

The third Committee is the **Central Policy Security and Economic Growth Committee**, which deals with the Cabinet, Finance, Economic Development and Tourism, Legal Affairs and National Security. And the Senate representation on this Committee is Senator James Jardine and Senator Anthony Richardson.

I would like to thank each one of the Senators for agreeing to serve on these committees. Thank you.

#### NOTICES OF MOTIONS

**The President:** Senator Caesar, I believe this is your motion.

**Sen. Crystal Caesar:** Yes. Good morning, Madam President.

**The President:** Good morning.

### **TOURISM INVESTMENT (BERMUDIANA BEACH RESORT) ORDER 2018**

**Sen. Crystal Caesar:** Madam President, I hereby present for the consideration of the Senate, the draft Order entitled, the Tourism Investment (Bermudiana Beach Resort) Order 2018, proposed to be made by the Minister responsible for Tourism, with the written agreement of the Minister of Finance and under the provisions of section 5 of the Tourism Investment Act 2017. And I give notice that at a later [time] in the meeting I will move that the said draft Order be approved.

**The President:** Thank you, Senator Caesar.

### **PETITIONS**

**The President:** There are none.

### **STATEMENTS**

**The President:** There are none.

### **INTRODUCTION OF BILLS**

**The President:** There are none.

### **FIRST READING OF PUBLIC BILLS**

#### **ECONOMIC SUBSTANCE ACT 2018**

**The President:** The following Public Bill has been received from the Honourable House of Assembly, and it is now read for the first time. Its title is the Economic Substance Act 2018.

Senators, I would like to advise you that this will be taken up [today] under the Orders of the Day later in the meeting.

### **FIRST READING OF PRIVATE BILLS**

**The President:** There are none.

### **QUESTION PERIOD**

**The President:** There are none.

### **ORDERS OF THE DAY**

**The President:** The first Order of the Day is the second reading of the Chief Medical Officer (Transfer of Functions and Validation) Act [2018].

## **ANNOUNCEMENT BY THE PRESIDENT**

### **SENATE VISITOR**

**The President:** Senator Hayward, before you begin, I would just like to acknowledge the presence of the Permanent Secretary for Health who is sitting in the Gallery.

### **BILL**

### **SECOND READING**

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

**Sen. Jason Hayward:** Madam President, I move that the Bill entitled [Chief Medical Officer \(Transfer of Functions and Validation\) Act 2018](#) be now read a second time.

Madam President, the purpose of the Chief Medical Officer (Transfer of Functions and Validation) Act 2018 is to transfer certain statutory functions from the Chief Medical Officer to the Chief Environmental Health Officer, the director of the Department of Health, the Bermuda Health Council and very appropriately, the registered medical professional. The Act effectively regularises many of the functions assigned to the Chief Medical Officer but are performed by these relevant persons or entities.

Madam President, the Chief Medical Officer was previously referred to in 26 Acts and 24 Regulations, a total of 50 pieces of legislation, with countless responsibilities and an overwhelming number of roles. The placement of the Chief Medical Officer in every decision-making role in health and non-health legislation is a historic feature of how the Ministry of Health used to be structured and [was] based on a Bermuda with a smaller government, fewer businesses and less activities.

Madam President, what has happened over the years is that the Chief Medical Officer has been used as the default position for everything from administering child care to registering hospitals, regulating milk storage and providing personal health assessments. The scope and the expectation of expertise in the role are wholly untenable, out of alignment with the public health role of the position, and not representative of the same position in other jurisdictions. As such, we have undertaken a review of all of the Acts and Regulations where the Chief Medical Officer is referred to and have made amendments where a different person or organisation is better placed for the role.

Madam President, one example of the incorrect use of the Chief Medical Officer, who is a trained physician, is in the Liquor Licence Act 1974. In the Act, the Chief Medical Officer is tasked with certifying

that premises have enough sanitary accommodations or bathrooms for both sexes, and the premises are clean in order to receive a licence, a task that would be better suited for the Chief Environmental Health Officer who oversees inspections [and] inspector tasks with the inspecting of premises.

Madam President, transferring these functions from the Chief Medical Officer to the relevant authority with the capacity and background to handle the area just makes sense. But it also ensures that the Chief Medical Officer can focus on the vast responsibilities she has which include registering and regulating health professionals, monitoring and controlling communicable diseases throughout Bermuda, regulating control of licenced drugs, and acting as the public health focal point to report to international agencies on our health in Bermuda.

Madam President, the Chief Medical Officer (Transfer of Functions and Validation) Act 2018 will allocate the handling of functions within the Ministry of Health appropriately ensuring that everyone is able to act in the role and with the expertise they were placed there with.

Madam President, in conclusion, it gives me great pleasure to introduce the Chief Medical Officer (Transfer of Functions and Validation) Act 2018 on behalf of the Ministry of Health.

## ANNOUNCEMENT BY THE PRESIDENT

### SENATE VISITOR

**The President:** Thank you, Senator Hayward, and my apologies to Dr. Attride-Stirling who has now joined us in the Chamber. Welcome.

*[Chief Medical Officer (Transfer of Functions and Validation) Act 2018, Second Reading debate, continuing]*

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

Senator Robinson, you have the floor.

**Sen. Dwayne Robinson:** Good morning, Madam President.

**The President:** Good morning to you.

**Sen. Dwayne Robinson:** We, over here in the Opposition, very much support this Bill. We enjoy that it creates a much more efficient way for the role to operate and allow the people who are meant to be doing the job to do that job.

That is all. Thank you.

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

Senator Michelle Simmons, you have the floor.

**Sen. Michelle Simmons:** Good morning, Madam President—

**The President:** Good morning.

**Sen. Michelle Simmons:** —and fellow Senators.

I would just like to briefly say that it is really interesting to hear that the Chief Medical Officer was mentioned in 26 Acts and 24 Regulations. I think that clearly makes it pretty untenable in this day and age for the Chief Medical Officer to be able to deal carefully and attentively with all of her job requirements. So, as I see it, this Bill brings the role of the Chief Medical Officer into the 21<sup>st</sup> century. So, I am very happy to support it.

Thank you, Madam President.

**The President:** Thank you, Senator Michelle Simmons.

Would any other Senator care to speak on this Bill?

No? Then, Senator Hayward, over to you.

**Sen. Jason Hayward:** Madam President, I thank my fellow colleagues for their support on this Bill and I now move that the Bill entitled the Chief Medical Officer (Transfer of Functions and Validation) Act 2018 be now read a second time.

**The President:** Is there any objection to that motion?

No objection.

Carry on, Senator Hayward.

### SUSPENSION OF STANDING ORDER 26

**Sen. Jason Hayward:** Madam President, I move that Standing Order 26 be suspended in respect of this Bill.

**The President:** Is there any objection to that motion?

No objection. Carry on.

*[Motion carried: Standing Order 26 suspended.]*

## BILL

### THIRD READING

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

**Sen. Jason Hayward:** Madam President, I move that the Bill entitled Chief Medical Officer (Transfer of Functions and Validation) Act 2018 be now read a third time.

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

No objection. Carry on.

**Sen. Jason Hayward:** With there being no objection, Madam President, I move that the Bill do now pass.

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

Is there any objection to that motion?

No objection.

The Bill is passed.

Thank you, Senator Hayward.

*[Motion carried: The Chief Medical Officer (Transfer of Functions and Validation) Act 2018 was read a third time and passed.]*

**The President:** Moving on, we have for the second Order of the Day the second reading of the Allied Health Professions Act 2018.

Senator Hayward, I believe this is your Bill as well. You have the floor.

## BILL

### SECOND READING

#### ALLIED HEALTH PROFESSIONS ACT 2018

**Sen. Jason Hayward:** Madam President, I move the Bill entitled the [Allied Health Professions Act 2018](#) be now read a second time.

**The President:** Is there any objection to that motion?

No objection.

Carry on, Senator Hayward.

**Sen. Jason Hayward:** Madam President, I would now like to introduce the Bill entitled the Allied Health Professions Act 2018.

Madam President, the Ministry of Health is committed to its vision *healthy people in healthy communities* and its core values of quality, equity and sustainability. I invite all of my fellow Senators to review the Ministry of Health's roadmap 2018–2022 on [www.gov.bm/reports](http://www.gov.bm/reports), because there are a wide variety of initiatives under way to move us closer to attaining this vision. Today I will like to focus on the Ministry's ongoing work to improve the regulation of health professionals in our community.

Madam President, the regulation of health care professionals is essential to ensure high quality care and protecting public health. The Allied Health Professions Act 1973 is the legislation that assures standards of practice for several health professions through registration, monitoring, complaint handling and disciplinary procedures. The Bill entitled the Allied Health Professions Act 2018 proposes changes to the 1973 Act in order to align it with the Ministry's other legislation for health professionals, to enable efficiency in regulation and to regulate five new professions. The professions proposed for regulation are acupunc-

turists, chiropractors, counsellors, massage therapists, and social workers. Consequently, the changes include the repealing of the 1973 Act, and the Chiropractors Act 2002, and replace it with the 2018 Bill introduced today for your consideration.

Madam President, the Council for Allied Health Professionals is the legislative body charged with ensuring that high standards of professional competence and conduct are upheld and to advise the Ministry on issues pertaining to them. The Council currently regulates more than 10 health care professions through the establishment of its boards that assist the Council in achieving its functions.

Madam President, since the 1973 Act was last updated, the Ministry has been in consultation with the Council. Further amendments were identified to address key issues around registration and renewal of registration, complaint handling processes and other procedures including a reorganisation of the legislation for a more logical flow of content for stakeholders. Additionally, the proposed changes for the complaint handling, disciplinary and appeals procedures were identified in order to ensure the constitutional right to a fair hearing. It is important to note that the Council and the Ministry's efforts to advance standards for professional practise and regulation are ongoing.

Madam President, the majority of the provisions in the 1973 Act are incorporated into the 2018 Bill; however, several other updates are required. As previously stated, these updates include the incorporation of chiropractors and four other professions, as well as the repeal of the Chiropractors Act 2002 which was never operationalised. The Ministry is in consultation with the available professional associations and members of each of the five professions proposed to be regulated and there are working groups currently developing standards and registration criteria in preparation for regulation under the 2018 Bill.

Madam President, specific updates to the 2018 Bill are:

- To improve the representation and efficiency of regulation by streamlining the composition of members on the Council inclusive of a provision for the creation of boards with more than one's profession represented.
- To insert a provision to protect the Council and its boards and the professional conduct committee from liability.
- To require the renewal of registration to be tied to continued professional development.
- To amend and correct the professional titles of several professions in order to effectively ensure title protection and to reflect the changes in education and practice over time.
- To significantly improve complaint handling, disciplinary and appeals procedures including:
  - To extend the power to establish a code of conduct that includes stand-

ards and scopes of practice for each profession.

- o To eliminate the complaint handling process under the 1973 Act and establishing a new process that aligns the legislation for other health professionals and satisfies the constitutional right to a fair hearing, and to change appeals for registration decisions from the Cabinet to the Supreme Court.

Madam President, the 2018 Bill aims to standardise and improve regulation across health care professions and to ensure that allied health professionals are subject to a more just disciplinary system. Overall, the Bill entitled the Allied Health Professions Act 2018 ensures high standards of practise that protect both allied health professionals, their patients and service users.

With these brief remarks, I am pleased to introduce this Bill today. Thank you, Madam President.

**The President:** Thank you, Senator Hayward.

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

**Sen. Dwayne Robinson:** How are you doing, Madam?

**The President:** I am wonderful. How are you?

**Sen. Dwayne Robinson:** I am good. We just wanted to say that we definitely support the improvements made to the regulation. It is definitely a great step in modernising it, to encompass, you know, a more 2018 health professionals' regulation.

So, thank you for that.

**The President:** Thank you, Senator Robinson.

Would any other Senator care to speak on this Bill?

Senator Kempe, you have the floor.

**Sen. Nicholas Kempe:** Thank you.

The one question I have about it [because] I have had feedback from, I guess, related industries is about physical trainers. I was not sure if we could just get some insight into how they were viewed as it relates to this Bill.

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

Would any other Senator care to speak on this Bill?

Senator Michelle Simmons, you have the floor.

**Sen. Michelle Simmons:** Madam President, thank you.

I just wanted to point out a very important clause in this Bill. It is clause 2, subsection (2), on page 4, and Madam President, may I read it?

**The President:** Yes, you may—certainly.

**Sen. Michelle Simmons:** It says, "The Council shall," and the Council it is referring to is the Council for Allied Health Professions. "The Council shall, so far as is practicable, discharge its functions under this Act after consultation with members of the specified profession concerned or, where there is a Board for the specified profession, after consultation with the Board." That is the end of the quote.

I believe that this Bill will go a long way to ensuring that standards are maintained throughout all these allied health professions, and clearly there has to be consultation—ongoing consultation—with the various professions themselves.

So, having said that, I am very happy to see that this is happening and that it is bringing under the umbrella of this Council some professions which have not been regulated until now. So, I am very much in support of this. Thank you, Madam President.

**The President:** Thank you, Senator Simmons.

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

Then Senator Hayward, you have a question to answer.

**Sen. Jason Hayward:** Madam President, I thank my fellow Senators for their support on this particular Bill.

As it relates to physical trainers, they are not deemed to be health professionals. I would like to state that there are currently 400 registered allied health practitioners in Bermuda and with the addition of these five new professions it is estimated to increase to 500 registered allied health professionals.

Madam President, [with] just those brief remarks, I would like to move that the Bill entitled the Allied Health Professions Act 2018 be now read a second time.

**The President:** Is there any objection to that motion?

No objection.

Carry on, Senator Hayward.

#### SUSPENSION OF STANDING ORDER 26

**Sen. Jason Hayward:** 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, Senator Hayward.

*[Motion carried: Standing Order 26 suspended.]*

**BILL****THIRD READING****ALLIED HEALTH PROFESSIONS ACT 2018**

**Sen. Jason Hayward:** Madam President, I now move that the Allied Health Professions Act 2018 be now read a third time.

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

No objection. Carry on, Senator Hayward.

**Sen. Jason Hayward:** With no objection, Madam President, I move that the Bill do now pass.

**The President:** It has been moved that the Bill entitled the Allied Health Professions Act 2018 do now pass.

Is there any objection to that motion?

No objection.

The Bill is passed.

Thank you, Senator Hayward.

*[Motion carried: The Allied Health Professions Act 2018 was read a third time and passed.]*

**The President:** We will now move on to the third Bill for the day, that item, and that is the second reading of the Investment Funds Amendment Act.

**ANNOUNCEMENT BY THE PRESIDENT****SENATE VISITORS**

**The President:** And Senator Kathy Lynn Simmons, Attorney General, it is your Bill.

As you prepare to respond to that, I would just like to acknowledge the presence of the Financial Secretary, Mr. Anthony Manders, as well as Kevin Anderson from the BMA, and the BMA technical officers. Welcome to you all.

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

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

Madam President, I move that the Bill entitled the Investment Funds Amendment Act 2018 be now read the second time.

*[Pause]*

**The President:** Sorry, I beg your pardon. I just wanted to acknowledge a few more people here.

I think Shanai Swan, Alisha Francis, Ifor Hughes, Laila Burke, and Kevin Anderson. I just want to . . . because, you know, you take time out to come here and be supportive, so I just want to acknowledge your presence and to thank you.

**BILL****SECOND READING****INVESTMENT FUNDS AMENDMENT ACT 2018**

**The President:** Senator Kathy Lynn Simmons, you can carry on.

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

The Government wishes the Senate to give consideration to the Bill entitled the [Investment Funds Amendment Act 2018](#). The purpose of the Bill is to introduce a provision under the Act to exempt a Class A Exempt Investment Fund with an insurance linked security, which we will refer to as ILS investment strategy, from the requirement to appoint a custodian when certain criteria has been met.

Madam President, by way of background, there are a number of techniques which have been developed to allow for the transfer of insurance risk to capital markets. ILS is an example of financial instruments, for example derivatives or securities, which may be linked to insurance risk. While this form of reinsurance contract is similar to a traditional reinsurance contract, (this is insurance contract), the defining feature of these risk transfer arrangements is the prior direct funding of the reinsurance risk exposure or loss event, for example, a catastrophe, is funds raised through investment and capital market.

If there is a loss event, the funds are reduced when the loss is settled. If there is no loss, the investment fund plus any interest are distributed to the ILS investor. ILS transactions have provided capital market investors with an avenue to participate in the insurance and the reinsurance market beyond buying company stocks.

Madam President, the fundamental principle underlying the amendment to the Act is the fact that the policyholder or investor is not exposed to any additional risk where the fund has been exempted from the requirement to appoint a custodian because the investor proceeds shall be managed by a trustee in accordance with the terms and conditions of the trust agreement governing the ILS transaction.

The ILS investor is aware of this arrangement because the offering memorandum is required to provide, amongst other things, an express disclosure to all investors and proposed investors that the proceeds of the share issuance of the fund are held in trust for the purposes of collateralising the insurance loss event linked to the securitised insurance transaction.

Furthermore, the interconnectedness of the various agreements, such as the offering memorandum, trust agreement, the reinsurance agreement and investment guidelines, self-govern the ILS transaction.

Madam President, the amendments to the Act remove the requirement for the operator of a fund to appoint a custodian or prime broker where the operator meets such criteria as the Authority may determine and has published on its website. The criteria the Authority is currently considering could, for example, require an operator to demonstrate that the fund proposes to issue insurance linked securities to investors.

Additional requirements to be met could include the express requirement to ensure that the investment proceeds are held on trust, a trustee is appointed to manage the investment proceeds and that the offering memorandum provides express disclosures of the same. It is intended that there will also be an annual requirement imposed on all funds availing themselves of the exemption to satisfy that such requirements are met.

Madam President, the purpose of this proposal is to remove the duplication of custodial services which would in essence be provided by both the custodian trustee, should both be required to be appointed. The trustee is required to hold the proceeds of the share issuance in trust as collateral in accordance with the terms of the reinsurance contract, the reinsurance agreement and any investment guidelines.

Therefore, in certain circumstances, there is no further security or additional benefit to be provided regarding the appointment of the custodian. Existing fund operators who have been granted the Class A Exemption will also be permitted to avail themselves of the Custodian Prime Broker Exemption provided that they also meet the new criteria.

In addition, Madam President, these funds are registered under the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist [Financing] Supervision and Enforcement) Act 2008 as non-licensed persons pursuant to section 9 of said Act. The requirement to register as a non-licensed person will remain unchanged. As per the Bermuda Monetary Authority's normal custom and practise, a consultation paper together with the draft Bill was published on April 11, 2018 to receive comments from a broad spectrum of the market.

The House . . . I am sorry, the Senate, is also advised that the Authority had been meeting with industry partners since 2017 and following on from consultation, there were no material issues raised.

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

Thank you, Madam President.

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

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

**Sen. Nicholas Kempe:** Thank you, Madam President.

We recognise that the custodian prime brokers and the custodian trustees serve a duplication in the process. I would like to thank the BMA and Ministry and Attorney General's Chambers for responding to industry's concerns on this. I know it has been a busy month responding to regulatory changes and I am sure we will get to that later in the day. So, just our ongoing efforts to stay competitive in these markets is appreciated.

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

Would any other Senator care to speak on this Bill?

No? Then, Senator Kathy Lynn Simmons, Attorney General—

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

I move that Standing Order 26 be suspended . . . no, sorry, I move that the Bill be read a second time.

**The President:** Is there any objection to that motion?

No objection.

Carry on, Senator.

#### SUSPENSION OF STANDING ORDER 26

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

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

**The President:** Is there any objection to that motion?

No objection.

*[Motion carried: Standing Order 26 suspended.]*

### BILL

### THIRD READING

#### INVESTMENT FUNDS AMENDMENT ACT 2018

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

I move that the Bill entitled the Investment Funds Amendment Act 2018 be now read a third time.

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

No objection.

**Sen. the Hon. Kathy Lynn Simmons:** Thank you. I move that the Bill do now pass.

**The President:** It has been moved that Bill entitled the Investment Funds Amendment Act 2018 do now pass.

Is there any objection to that motion?

No objection. The Bill is passed.

Thank you, Senator Kathy Lynn Simmons.

*[Motion carried: The Investment Funds Amendment Act 2018 was read a third time and passed.]*

**The President:** We now move on to the next Order of business for the day and that is the second reading of the Bermuda Monetary Authority Amendment (No. 3) Act 2018.

Senator Kathy Lynn Simmons, I believe this is your Bill. You have the floor.

## BILL

### SECOND READING

#### BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 3) ACT 2018

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

I move that the Bill entitled the [Bermuda Monetary Authority Amendment \(No. 3\) Act 2018](#) be now read a second time.

**The President:** Is there objection to that motion?

No objection. Carry on.

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

It gives me pleasure once again to introduce this Bill entitled the Bermuda Monetary Authority Amendment (No. 3) Act 2018. The Bill highlights the proposed fee changes made to the Bermuda Monetary Authority Act 1969 by which the Bermuda Monetary Authority, or BMA, has proposed a revised fee structure with corresponding amended fees for regulated financial institutions established under the following Acts: the Banks and Deposit Companies Act 1999; the Credit Unions Act 2010; the Insurance Act 1978; the Investment Business Act 2003; the Investment Funds Act 2006; the Money Service Business Act 2016.

Madam President, the Bill also includes the proposed fee changes made separately in amendments to the Banks and Deposit Companies (Fees) Act 1975 under which the Authority has proposed re-

vised fees for banks and deposit companies governed by that Act.

Madam President, the Authority has established a track record of success and earned a positive reputation for itself amongst industry stakeholders and international supranational bodies, and this has also been a reputational benefit to Bermuda. However, to maintain its regulatory capability in the international and local marketplace and to continue to meet the increasing demands of international standards and expectations while continuing to deliver on strategic objectives among heightened complexities within supervised sectors, the Authority must further enhance its operations and augment its supervisory resources.

Madam President, in this regard, the Authority recently undertook a comprehensive target operating model, called a TOM review, with the assistance of an international management consulting firm. The result of this review was a multiyear plan to effect improvements in the organisation and operations of the BMA. Based on this plan, the Authority has already begun the process of implementing changes through aligning its human capital with business procedures in the context of its evolving strategic priorities.

Madam President, an important aspect of the target operating model review involved an analysis of the BMA's structure in staffing levels and in particular an examination of the costs related to supervising different elements within all regulated sectors. As part of this analysis, the external consulting firm conducted an independent third-party benchmarking exercise in which they studied peer jurisdictions to ascertain the fees charged for comparable supervisory activities to those performed by the Authority. In addition, these costs were reviewed in relation to the staffing levels needed to effectively perform these key supervisory functions.

Madam President, the output from that review and benchmarking exercise reflected that the current fees levied by the Authority often did not reflect the supervisory effort needed to undertake the various supervisory activities they performed. Human and financial resource levels within the Authority were found to be below expected levels given the organisation's continually expanding mandate and what it will need to achieve in the future.

Furthermore, activities were identified for which the Authority charges no fee, yet the supervisory resources devoted to them are substantial. Due in part to the financial challenges facing the financial sector during the global financial crisis, it has continued into recent years. Fee increases which the Authority might otherwise have introduced were moderated to reduce the impact on Bermuda's financial services industries. This has, however, contributed to the Authority operating at a deficit with resulting budget shortfalls being covered from existing BMA reserves.

Madam President, there are significant financial implications associated with implementing the

necessary increase in staffing levels and other strategic improvements to the BMA's organisation and operations recommended by the review. Specifically, annual operating costs are projected to increase to \$61 million by 2020, an increase of \$11.7 million over the 2017 year-end figure. The Authority incurred an operating loss of \$1.6 million in 2017 and is projected to again incur an operating loss in 2018. It is therefore essential that fee structures for regulated firms be revised.

Madam President, notwithstanding the need to implement fee increases, the Authority recognises that market conditions remain challenging in a number of regulated sectors. Accordingly, the revised fee proposals now tabled considered prevailing conditions, were carefully researched and were presented with the sustainability and continued credibility of the Bermuda regulatory regime in mind.

Madam President, in this context it is proposed that certain existing fees be adjusted and that other new fees be introduced to reflect the Authority's resource utilisation in discharging its ongoing supervisory duties. Also, the basis on which fees are charged is to be simplified so that entities will find it easier to determine what fees they need to pay. This same philosophy will be applied in the future as the Authority's mandate expands to encompass new activities.

Madam President, the revised fees proposed has been informed by four guiding principles being:

1. to fund the Authority's operating budget and specifically counterbalance its projected annual cost increase of \$11.7 million by 2020;
2. to align fees to supervisory activity by sector by adjusting fees to closely reflect resources utilised in regulating firms within that sector;
3. to increase discretion of supervisory teams by allowing fees to be levied for activities that require exceptional BMA resources; and
4. to maintain competitiveness through consideration of pricing relative to peer regulatory bodies to ensure Bermuda remains competitive.

Madam President, it was initially intended that the revised fees be introduced over two years (2019 and 2020). During the consultation process, and in subsequent meetings which the Authority held with relevant industry stakeholder groups, the most prevalent comment was that the impact of the fee increases should be ameliorated by adopting a longer implementation period. As such, a three-year phasing in period (2019, 2020 and 2021) is now proposed.

The industries request that the Authority give greater flexibility regarding fees to be applied in specific circumstances such as for affiliated insurance [which] has similar risk profiles, and in cases where combined application fees would otherwise be paya-

ble has also been addressed through separate creation in the Insurance Act of a power to waive or reduce certain fees. For the relatively new corporate service provider regime, the Authority proposes to retain the existing fee structure for one more year only with fees for that sector to be subject to an industry specific consultation process in 2019.

Madam President, in closing, I would like to once again thank the technical officers who have contributed to the developing of this Bill.

**The President:** Thank you, Senator Kathy Lynn Simons.

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

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

Madam President, before I make sort of general comment on the Bill itself, I just wanted to point out two fairly significant errors. One of the problems, I think, with this type of legislation is because the numbers are scattered over so many pages, sometimes it is difficult to see the woods from the trees. So, what I tried to do was put everything in a spreadsheet, so I could actually see what it looked like. So, I ran all of this on a spreadsheet for the next three years and I put the current rates on so I could see where we were going and a couple of errors popped out. And there may be more because they just popped out when I did the spreadsheet and there could be some other errors.

The first one is on page 33, registering as an insurer, 3[(a)](iii), it says "Class 2 insurer carrying on general business" it says \$35,000. I believe it should be \$3,500 because if you look on page 55, you will see it goes to \$4,000. So, that particular fee, as I said, went to \$3,500 and then it went to \$4,000. So, the fee on page 33 should be \$3,500 and not \$35,000.

The second error is a pretty alarming one on page 39. You will see we have a fee for (F), under class C insurer fee of \$590,000. I do not think anybody would want to pay \$590,000. That should be \$59,000. So, it might be an idea for someone just to go through and check these numbers and make sure that they all tie together because those are two errors and there could be others.

**The President:** Mm-hmm.

**Sen. James S. Jardine:** I think I understand the needs of the BMA. There is no question that our regulatory authorities have been challenged over the last number of years with a significant number of requirements—not requests, but requirements—from various bodies, in particular, CFATF, also the OECD and most recently the EU. And at each step of the way, the BMA has had to turn and deal with those particular circumstances which have required hiring consultants,

hiring additional individuals, who can deal with the issues of the day.

And, as we heard, and as we will talk about later with on the Economic Substance Bill, in certain cases, there has not been much notice given and so they have had to literally bring in consultants to help them do the work.

So, there is no question that the BMA has been challenged with staffing and consultancy needs over the last number of years and as a result, finds itself short of funds in order to meet its expenditures. So, I understand the rationale, the reasoning behind increasing these fees.

There is no question about it, but I would sound a note of caution having run all this on a spreadsheet and just quickly done some analysis of what the fee increases look like, for example, if we take the Class 3Bs and Class 4, they are going to increase by some 21 per cent over the next three years, so that is 7 per cent a year. Some of the other Classes are far more alarming, although the amounts involved may not be that significant. Some, for example, a Class C insurer at a certain level the fees will go from \$20,600 to \$40,400.

So, there are some very significant increases that are taking place here. I was pleased to hear the Minister say that there had been a period of consultation. I think this is always important to do so that our industry knows what is coming down the pike, but it does concern me that these increased costs, to some extent over which we have no control because we are being pressured by CFATF, the OECD, the EU and everybody else who is trying to give us a hard time, means that we have to turn and deal with these kinds of situations.

I just sound a note of caution, this is yet another increase in costs that our insurance industry will have to bear and, obviously, they have been consulted and they are aware of these costs going forward. They are necessary in order for the BMA to do their job and I quite understand that. And so I intend to support this Bill, but I would just sound a note of caution here that we are again treading on the toes of our insurers and reinsurers. And each little chink that we take away from their profit line gets them to rethink their positioning wherever they are. And we are not the only jurisdiction which is faced with this. There is no question about it. But I would sound that note of caution.

With those few words, Madam President, I would support the Bill.

Thank you.

**The President:** Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Kempe, you have the floor.

**Sen. Nicholas Kempe:** Thank you, Madam President.

I, too, recognise the need for the BMA to fund the resources, to respond to the ever-increasing and ever-changing regulatory requirements that are being forced upon us. And, again, this is kind of the second time I have found myself not wanting to anticipate the debate because this all plays in with the piece that we are trying to get passed before the end of the year later today. And it is unfortunate when we look at the levels of bureaucracy and regulation that are thrust upon Bermuda that are not borne by the same countries that are thrusting it upon us.

Certainly, a member in another place listed an almost five-minute exhaustive list of documentation required to set up [bank] accounts and open companies [in Bermuda] where in other countries you would just need a driver's licence or in some, seemingly, a Chuck E. Cheese birthday card. So, we are certainly being held to an uneven standard here and that is frustrating, although we have little power to actually affect that.

The corporate service provider fee moratorium, I think, is a good thing because I fear that is an industry that is going to feel the most effect from this other legislation that we are going to debate later today. I am glad that the industry was consulted and, as Senator Jardine said, this is yet another layer of increasing cost of doing business here in Bermuda.

I am concerned how the Tax Reform Commission report that was laid recently . . . if that same level of consultation, if the same understanding that every layer of tax we put on is either a cost directly to the business or indirectly to the employees, and I am worried, certainly on the Tax Reform Commission, that the Government is not following that social contract of *we will take a little bit more from you, but we will work a little bit more efficiently on our end and spend a little bit less*. So, we need to maintain that balance. People who are getting taxed need to understand that they are getting value for money and that we are running an efficient ship.

So, I will support the legislation. I understand the need, as frustrating as it may be, to add and respond to this ever-increasing regulation.

Thank you.

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

Would any other Senator care to speak on this Bill?

Senator Hayward, you have the floor.

**Sen. Jason Hayward:** Madam President, I think that there is no doubt that Bermuda is a first-class business jurisdiction. Part of Bermuda's success, or a critical component of Bermuda's success, has been the effectiveness and operational excellence of the Bermuda Monetary Authority. But the reality is the Ber-

muda Monetary Authority reports that it has been operating in a deficit position.

The Bermuda Monetary Authority is expected to grow based on its additional requirements, which means if additional revenue does not come in, then the deficit will get bigger. I recognise fellow Senators discussing the shift in the additional costs on insurers and other companies that are regulated. But better them than the taxpayer, because the reality is if those individuals who enjoy a first-class business jurisdiction do not foot the bill, then it will be the taxpayers who foot the bill. And, so these increases are sensible. They are not exorbitant. These increases are there to ensure that the BMA can operate efficiently and effectively.

Thank you, Madam President.

**The President:** Thank you, Senator Hayward.

Would any other Senator care to speak on this Bill?

No? Then, Senator Kathy Lynn Simmons, Attorney General.

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

To respond to Senator Jardine, the typos, and they were no more than typos, have been noted. They were noted in the first go-around and they will be amended when the Bill is in fact posted on the website through the computerisation and revision of laws power that lies with me.

Senators will appreciate that the consultation was extensive and necessary, and will also appreciate that the fees are increased over a three-year spread and that is due directly to consideration of the impact that the fee increases have on industry.

There is no doubt that the enhanced regulatory regime will cause some angst and increases to business pressure, particularly from an economic point of view. But it is something that we all have to, I would not say suck up, but adapt to in operations as we go forward because the regime and the enhanced supervisory requirements are not going away.

So, with that, Madam President, I move that the Bill do now be read a second time.

**The President:** Is there any objection to the second reading?

No objection. Carry on, Senator.

### SUSPENSION OF STANDING ORDER 26

**Sen. the Hon. Kathy Lynn Simmons:** Thank you, Madam President. I move that Standing Order 26 be suspended in respect of the Bill.

**The President:** Is there any objection?

No objection.

*[Motion carried: Standing Order 26 suspended.]*

## BILL

### THIRD READING

#### BERMUDA MONETARY AUTHORITY AMENDMENT (NO. 3) ACT 2018

**Sen. the Hon. Kathy Lynn Simmons:** Thank you, Madam President. I move that the Bill entitled the Bermuda Monetary Authority Amendment (No. 3) Act 2018 be now passed.

**The President:** Be now read a third time.

**Sen. the Hon. Kathy Lynn Simmons:** Be now read a third time.

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

**Sen. the Hon. Kathy Lynn Simmons:** I move that the Bill do now pass.

**The President:** It has been moved that Bill entitled the Bermuda Monetary Authority Amendment (No. 3) Act 2018 do now pass.

Is there any objection to that motion?

No objection. The Bill is passed.

Thank you, Kathy Lynn Simmons, Attorney General.

*[Motion carried: The Bermuda Monetary Authority Amendment (No. 3) Act 2018 was read a third time and passed.]*

**The President:** We now move on to the fifth item on the Orders of the Day and that is the Insurance Amendment (No. 3) Act 2018.

And I believe Senator Kathy Lynn Simmons this is your Bill as well.

You have the floor.

## BILL

### SECOND READING

#### INSURANCE AMENDMENT (NO. 3) ACT 2018

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

I move that the Bill entitled the [Insurance Amendment \(No. 3\) Act 2018](#) be now read a second time.

**The President:** Is there objection to that motion?

No objection. Carry on.

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

This Bill highlights proposed changes to the Insurance Act 1978 that enabled the Bermuda Monetary Authority to put in place a new reporting framework for registered insurance agents and insurance brokers that are otherwise known as insurance intermediaries.

Madam President, the BMA is a founding member of the International Association of Insurance Supervisors, (the IAIS), and continues to be an active participant within this international regulatory body to the benefit of both the Bermuda insurance sector and the BMA supervisory regime. The Authority is committed to ensuring that the regulatory regime that governs insurance registrants is suitably aligned with the core principals set down by the IAIS through making the necessary enhancements to the local laws and regulations.

Madam President, it is to this end that the Authority proposes to take steps to enhance the regulatory regime for insurance agents and brokers pursuant to the following IAIS core principles, or ICP. ICP 18, which relates to the supervision of insurance intermediaries, requires an insurance supervisor to set and enforce requirements for the conduct of insurance intermediaries in order that they conduct business in a professional and transparent manner.

ICP 19, which relates to the conduct of business, requires an insurance supervisor to ensure that insurers and intermediaries in their conduct of insurance business treat customers fairly both before contract is entered into and through to the point at which all obligations under contract have been satisfied.

ICP 21, which deals with countering fraud in insurance, requires an insurance supervisor to ensure that insurers and intermediaries take effective measures to deter, prevent, detect, report, and remedy fraud in insurance.

ICP 22, which speaks to anti-money laundering and combatting the financing of terrorism, makes it mandatory for a supervisor to ensure insurers and intermediaries take effective measures to combat money laundering and the financing of terrorism. ICP 22 also provides that a supervisor must take effective measures to combat money laundering and the financing of terrorism.

Madam President, the Senate will note that these amendments pertaining to the insurance agents and brokers are equivalent to the requirements put in place for insurance managers in 2015.

Madam President, it is further proposed to amend the Insurance Act 1978 by making it mandatory for registered insurance agents and brokers to file an annual return with the Authority covering the following matters:

- detailed corporate data of the intermediary and its clients;
- corporate governance data;

- training interpreting data;
- cyber risk; and
- anti-money laundering and countering the financing of terrorism risk data.

There are specific provisions in the amendment that are now to apply to insurance brokers and agents such as prudential rules, principal office and payment of fees.

Madam President, industry participants were consulted on these proposed amendments from the period commencing August 2018 ending 7 September 2018. There were no material objections to the proposal.

Madam President, the Bill also makes further amendments to the Insurance Amendment Act 1978 by providing for a new subcategory definitions of special purpose business and for the registration of corporate bodies that may carry on runoff insurance business.

Madam President, the proposed amendment will become quite clear to Members—oh, *should* be quite clear to Members from their review of the Bill.

In closing, I would once again like to thank the technical officers present in the Chamber today for their contribution to this exercise.

Thank you.

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

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

**Sen. Nicholas Kempe:** Again, a bit of housekeeping and making sure that Bermuda remains a blue-chip jurisdiction. It relates to money laundering and other procedural affairs. We support this legislation.

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

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

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

Madam President, I too support this Bill. I think it is important to note on page 7, the Schedule of Cyber Risk Management, which is a significant step forward. I know that this Government was—certainly one of its platform items was dealing with cyber risk in Bermuda, and if you look at pages 7 and 8 and 9 of this Bill, you will see a fairly comprehensive list of requirements that insurers must provide on an annual basis. I am pleased to see this because Bermuda needs to protect itself as much as possible and this at least causes every insurer to consider cyber risk on a regular basis. So, with those few comments, Madam President, I support this Bill.

**The President:** Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

No, then Senator Kathy Lynn Simmons, it is over to you.

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

I move that the Bill be now read a second time.

**The President:** Is there any objection to the second reading?

No objection.

#### SUSPENSION OF STANDING ORDER 26

**Sen. the Hon. Kathy Lynn Simmons:** I move that Standing Order 26 be suspended in respect of the Bill.

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

*[Motion carried: Standing Order 26 suspended.]*

### BILL

#### THIRD READING

##### INSURANCE AMENDMENT (NO. 3) ACT 2018

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

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

No objection.

**Sen. the Hon. Kathy Lynn Simmons:** Thank you, Madam President. I move that the Bill entitled the Insurance Amendment (No. 3) Act 2018 do now pass.

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

Thank you, Kathy Lynn Simmons, Attorney General.

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

**The President:** We now move on to the sixth item, and that is consideration of the draft order entitled the Contributory Pensions (Amendment of Benefits) Order 2018.

I will give you a couple of minutes to get your

...

**Sen. the Hon. Kathy Lynn Simmons:** Mm-hmm.

**The President:** Senator Kathy Lynn Simmons.

### ORDER

#### CONTRIBUTORY PENSIONS (AMENDMENT OF BENEFITS) ORDER 2018

**Sen. the Hon. Kathy Lynn Simmons:** I got it. Thank you, Madam President. I move that the Senate do now take under consideration the draft Order entitled the [Contributory Pensions \(Amendment of Benefits\) Order 2018](#).

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

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

The Order is a reflection of the Government's resolute and unwavering commitment to improve the quality of life of our senior citizens. Madam President, you will recall that in the Government's 2017 election platform it was declared that this Government would put our seniors first and institute annual cost of living increases for social insurance pensions that will be linked to the rate of inflation to help lessen the hardships that too many of our seniors now endure.

Madam President, before I go into the specifics of this Order, it may be useful to elaborate on the pension arrangements currently in place. Bermuda, like other countries—most other countries, I should say—currently provides retired individuals with a combination of social insurance from the Contributory Pension Fund [CPF] and an occupational pension from their employer. In a perfect world, the social insurance should provide a first tier of basic pension, which would most likely be supplemented by a second tier of occupational pension. Through no fault of their own, currently a number of retired persons are not receiving an occupational pension and are therefore relying on their social insurance as their sole source of income.

Obviously, Madam President, this is not an ideal situation and the Government continues to do its utmost to ensure that seniors who rely heavily on their social insurance benefits are cared for suitably.

Madam President, notwithstanding the above, the CPF benefit provides an important base retirement income. Currently the maximum pension paid under the CPF (that is, the Contributory Pension Fund) is around 26 per cent of the median annual gross earnings for Bermudians, as indicated in the Bermuda job market employment brief produced by the Department of Statistics. This compares closely to the UK with a full basic state pension as a percentage of average earnings of around 24 per cent.

Madam President, the purpose of the Order is to increase pensions and other benefits under the [Contributory Pensions Act 1970](#) by 1.4 per cent backdated to August 2018 when increases are typically made to the benefits. The 1.4 per cent increase in

benefits would represent an additional cost of \$2.3 million per year to the Fund with retroactive pay costing \$955,420.

The Contributory Pension Fund, in principle, relies on current contributors, or workers, paying for current pensioners and for the most part is a pay-as-you-go finance plan. However, the policy of increasing contribution rates by 2.5 per cent above the rate of pension increases has allowed a significant level of funds to build up, thus the plan is partially funded which provides further security of benefits.

Under section 27 of the Contributory Pensions Act 1970, the Minister of Finance has the power to make an Order to revise the rates of contributions and benefits of the Contributory Pension Fund.

Madam President, there are seven types of benefits payable under the Act. All of the pensions and allowances will be increased by 1.4 per cent. These pensions and allowances are:

- the contributory old age pension;
- the contributory old age gratuity;
- the contributory widows and widowers' allowance;
- the contributory widows and widowers' gratuity;
- the contributory disability benefit;
- the non-contributory old age pension; and
- the non-contributory disability benefit.

Madam President, the basic contributory pension is \$1,049.68 per month. The maximum contributory pension currently payable, which includes additional increments, is approximately \$1,531.00 per month. Altogether, some 13,298 persons currently receive benefits under the Act. The proposed 1.4 per cent increase will raise the basic contributory pension to \$1,064.37 per month and the maximum benefit to about \$1,545.63 per month. Approximately 8 per cent of the 13,298 seniors covered by the [Contributory] Pension Fund receive maximum pension benefits ranging from basic to the maximum.

Madam President, the 1.4 per cent increase marks the 12<sup>th</sup> pension increase that the Progressive Labour Party Government has put through in its time in Government. The former Government made seniors wait five years for a pension increase, which is the longest period of time between increases since the UBP was in office when pensions were increased every two years. Since taking office back in November 1998 and now, this Government has put through 12 increases: August 2000 when we increased pensions by 3 per cent; August 2002 when we increased pensions by 3 per cent; August 2003, another 3 per cent increase; August 2004 when we increased pensions by an extraordinary 9 per cent; August 2005 with an increase of 3.5 per cent; August 2006 with an increase of 4.0 per cent; August 2007 with an increase of 4.5 per cent; August 2008 with an increase of 5 per cent; August 2009 with an increase of 5 per cent once again; in 2011, an increase of 3 per cent; 2017

an increase of 1.7 per cent and now an increase of 1.4 per cent.

In every case the benefit increase has exceeded the prevailing rate of inflation, or has been in line with the underlying trend rate, thereby placing seniors' pensions under the CPI [Consumer Price Index] in good stead. Senators, I advise that, based on the Consumer Price Index, the cost of living has increased by 1.4 per cent since the last increase was granted. Therefore, the proposed benefit increase fully covers the prevailing rate of inflation.

Madam President, the 2018 increase in benefits would normally be accompanied by a corresponding increase in contributions by an actuarially recommended rate of 3.9 per cent. However, Senators will recall that in the 2018 Throne Speech, Government announced that Bermuda's social insurance system will be changed from a fixed rate contribution to one based on a percentage of income. Therefore, contribution rates will be delayed until the actuary completes the modelling to affect this policy objective. Senators, I advise that the actuary is currently working on the 2017 actuary report for the CPF, and it is anticipated that this report will be completed in the second quarter of 2019 at the latest.

Madam President, it is also noted that contributions were last increased in August 2018 by 4.2 per cent. Considering the relatively strong position of the Fund, it is anticipated that the Fund can withstand the one-year delay in contribution increases. However, it is critical that the increased contributions come into force in August 2019.

Madam President, as at 30 September 2018, the Fund had total assets of over \$1.9 billion, representing approximately 11.7 times the annual value of benefits paid in the 2017/18 fiscal year. This is a relatively high level of funding, and, when compared to 14 other regional social security schemes in the 2013 study, Bermuda's ratio is better than nine of these countries. By comparison, the ratio for the Canada pension plan in 2017 was 7.5 times.

The fact, Madam President, is that if the CPF received no further contributions, it could still continue to pay out pensions at the prevailing rate for almost 12 years. However, the reality is that contributions will continue through time and will be increased from time to time. In addition, the prudent investment of the Pension Fund assets is also an important factor in the Fund's financial position. In this regard, Government's investment strategy for Pension Fund assets is achieving good results. As mentioned before, as at September 30, 2018, the Contributory Pension Fund stood at \$1.9 billion. For the trailing year, the Fund posted returns of 6.7 per cent and over the longer term 5- and 10-year periods, the Fund posted returns of 6.1 per cent and 7.4 per cent, respectively.

Madam President, as evidenced by the 2014 Actuarial Report, which was tabled in the House of Assembly in June 2016, the viability of the Fund in the

short- to medium-term is good, with the Fund being positive for the next 25 years. However, recognising the long-term challenges of the Fund, the Ministry of Finance will continue to closely monitor its performance. It shall be noted that the funding policy for the Fund is not based on full actuarial funding, but is based on sustainable funding. That is, contributions plus investment income shall cover benefits and administration expenses on an annual basis while the Fund builds up sufficient reserves to cover several years of benefits and expenses to withstand future adverse circumstances.

Madam President, despite the encouraging short- to medium-term outlook on the Fund, what is clearly evident from the latest actuarial review is that Bermuda, like most of the developed world, is facing challenges associated with the growth of an ageing population. During the next 50 years, the number of people over pension age (which is 65) is expected to increase from 10,484 people (over pension age) to 17,665, which is an increase of 7,181, or 68 per cent. This increase in our seniors will obviously place a greater strain on the country's pension system and it is essential that the Government continues to closely monitor the performance of the Fund and our overall pension arrangement to ensure pensions are set at an appropriate level.

As mentioned previously, the next actuary report for the CPF is due for the period August 1, 2017 and is currently underway. This report will be tabled as soon as it is completed. Following this review, the Ministry of Finance will propose changes to the Fund to ensure its sustainability in the long term.

Madam President, the Progressive Labour Party Government is nurturing the Contributory Pension Fund, tending to the needs of our seniors, and we are striking the right balance between social and fiscal responsibility.

In closing, I wish to ensure Senators and, more importantly, current and future pensioners that the Government is sensitive to the challenges facing pension plans of this nature and will endeavour to take the appropriate steps to enhance the benefits paid from the scheme as well as ensure the Fund has the ongoing ability to pay for such benefits.

Thank you, Madam President.

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

## ANNOUNCEMENT BY PRESIDENT

### SENATE VISITORS

**The President:** I would just like to acknowledge the presence of additional people who are here to support Kathy Lynn Simmons and other Senators. And they are Mrs. Maxine Binns, from the Business Development Unit; Mrs. Lorraine Welch, Deputy Chief Parlia-

mentary Counsel; and Mr. Wayne Brown, Assistant Financial Secretary. Welcome to you all.

*[Contributory Pensions (Amendment of Benefits) Order 2018, 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.

Certainly, we can support raising the pensions for seniors to keep up with inflation. We are glad that the short-term prospects of the Fund allow it to do it now. What I would like to find out more about, and the Attorney General spoke to it somewhat, was the long-term prospects of the Fund.

Obviously, we are all aware, it has been an ongoing trend with population reports between the number of active jobs in the workplace going down some 1,500, 1,600 jobs since 2016 to 2018, our baby boomers retiring, and the Bermudian birth rate on the decline, we are not even at replacement levels. What are the hopes that [persons] my age or younger will have anything coming out of this Fund to support them during retirement? I would like to know what the plan is that the Government has to fill that hole in the active population that we are experiencing now.

**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:** I should declare I have a conflict, but—

*[Laughter]*

**Sen. James S. Jardine:** In any event, I do support this Bill because I am aware of the fact that there are many seniors, senior to me, who do rely upon this as their sole form of income, because many of them retired either shortly before or just after the 1998 Act was put in place for businesses to have a pension plan for their employees. And so, for many of these people, this is their only source of income.

I support the increase that so many of them desperately need mainly because all their other costs are increasing—cost of electricity, cost of fuel, cost of food. And we have all heard numerous stories around this table of individuals who have had to make the choice of whether they buy food or whether they pay the electricity bill. The amount involved on a per person basis is very small. But every little bit helps, especially for those seniors who I say for them this is their sole source of income.

Certainly in the SAGE Commission, I served on one of the subcommittees dealing with pensions. And we recognised that this particular Fund needed some support, additional support financially, that there was at some point in time in the future, and I cannot remember the exact period, but it was something like 2043, I believe, the Fund would run out. And the recommendations at the time were to make sure that while increases were given in terms of benefits, that the contribution amounts were increasing proportionately more than the benefits that were being paid. And as I understand it that is precisely what has taken place in the last number of years. Obviously, I have not had sight of the most recent actuarial reports. But as long as the contributions exceed the increases in the payments, the thought was that, in fact, that plan would continue to fund itself and the unfunded liability would reduce over time.

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

Thank you.

**The President:** Thank you, Senator Jardine.

And Senator Hayward, you indicated you want to speak. You have the floor.

**Sen. Jason Hayward:** Good morning, again, Madam President.

**The President:** Good morning to you.

**Sen. Jason Hayward:** It is a fact that we are grappling in Bermuda with an ageing population. But it should also be noted that our ageing population is also struggling with their financial situation, and I say that respectfully.

Madam President, we have a growing number of persons over the age of 65 who are opting to continue to work. Yes, they have the ability to continue to work, but many must continue to work because they simply cannot afford to retire. Also, a trend that came out of the last census, where we saw the number of persons over 65, the unemployment rate for those persons over 65 increased. Now, naturally, those persons over the age of 65 would not be counted in the unemployment rate unless they were actively seeking employment. So what it tells us is that we have more persons over the age of 65 actively seeking employment.

When speaking of age concerns and other committees regarding the same phenomenon, what we found was that seniors are grappling with financial challenges. As a result, it is kind of a "need-to-work" rather than a "want-to-work" [situation], for the most part.

Madam President, there should be no doubt to anyone here that Bermuda has one of the highest costs of living in the world. As a result, cost of living increases to pensions are necessary so that our sen-

iors can maintain their purchasing power. We do not want to see the purchasing power of our seniors continuously eroding, so increasing the pension by a cost of living increase is extremely sensible. It is fair and it is reasonable. And I think it is what our seniors should expect. What we should not do is turn a blind eye to the fact that costs in Bermuda are continuously increasing and the purchasing power of our seniors is continuously being eroded, which means that ultimately their quality of life is being eroded at the same time.

There are two tiers of pension, occupational pension and old age pension, which we are discussing today. But what we should understand is that many people do not have access to occupational pensions. Many seniors worked in fields where occupational pensions were not provided. Sometimes if individuals were deemed to be self-employed individuals, they did not make those pension contributions that were required by law. As a result, in their later stages in life they have found themselves reliant solely on the contributory pensions from the government.

I have no doubt, as a 36-year-old male, that when I retire this Fund will be still around to provide me with a pension when I need it. Actuaries always predict the end date in terms of when the pot will run dry. But it is how you have what we would consider to be a sustainable funding model over the years in between the time that the pot is predicted to run dry and the time of the actuary report that makes a world of a difference.

I have had the benefit of sitting on a pension and benefits working group that was established underneath the previous administration. And in that working group we mulled over all these, you know, scenarios and things that we could possibly do because the way in which pensions work, small tweaks to pension funds can have meaningful and lasting impacts. So, small tweaks can have greater compound impacts on their pension fund. And so, when you see that there is an end date on a pension fund, persons should not be overly alarmed. That is natural. But it is how you put a model in place so that you have sustainable funding moving forward.

With that said, Madam President, I am pleased that the Government is increasing pensions. I believe that the four-year hiatus when seniors did not receive a pension increase was a shame, and I am glad that this Government is restoring cost of living increases.

**The President:** Thank you, Senator Hayward.

Would any other Senator care to speak on this Bill?

No?

Then, Senator Kathy Lynn Simmons, Attorney General, it is over to you.

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

I thank Senators for their comments which were, as usual, instructive. I would like to draw your attention . . . and this is in particular to Senator Kempe's question about the sustainability of the Fund. Have a look at the [2014 Actuarial Report](#). In this report there are several scenarios that are painted which actually address the issue of sustainability. And I will highlight several.

An increase in contributions over benefits is one, and, in particular, if you look at page 4 and, Madam President, with your indulgence, I will read one—

**The President:** You certainly can.

**Sen. the Hon. Kathy Lynn Simmons:** It speaks to the retirement age. So, they state here that, "An increase in the retirement age to 67 over a 5-year period ending [in] 2023, all else unchanged, could also result in a sustainable Fund over the projection period." So, that is really informative, and I invite Senators to have a look at the report.

So, with that said, Madam President, I move that the said draft Order be approved and that the following message be sent to His Excellency the Governor:

"May it please Your Excellency, the Senate, having had under consideration a draft Order entitled the Contributory Pensions (Amendment of Benefits) Order 2018, proposed to be made by the Minister of Finance under the provisions of section 37 of the Contributory Pensions Act 1970, has the honour to inform Your Excellency that the Senate has approved the said draft Order."

**The President:** Thank you.

Is there any objection to the sending of this message?

Then a suitable message will be sent to the Governor. Thank you, Senator Kathy Lynn Simmons.

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

*[Motion carried: Contributory Pensions (Amendment of Benefits) Order 2018 was approved.]*

**The President:** We will now move on to the second reading of the Economic Substance Act 2018 that you will do as well.

## ANNOUNCEMENT BY THE PRESIDENT

### SENATE VISITOR

**The President:** I would just like to acknowledge the presence, also (and thanks to those who are present), of Mr. Phil Perinchief, consultant. Welcome, sir.

Now, over to you, Senator Kathy Lynn Simmons, Attorney General.

*[Crosstalk]*

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

Madam President, I move that the provisions of Standing Order 25 be granted so that the Senate may proceed with the second reading of Bills brought out from the Honourable House of Assembly in giving their first reading earlier.

**The President:** Is there any objection to that motion?

No objection.

Carry on, Senator Kathy Lynn Simmons.

## BILL

### SECOND READING

#### ECONOMIC SUBSTANCE ACT 2018

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

I move that the Bill entitled the [Economic Substance Act 2018](#) be now read a second time.

**The President:** Is there any objection to the second reading?

No objection.

Carry on, Senator Kathy Lynn Simmons, Attorney General.

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

I am pleased to address Members of the Senate on what has been characterised by the Minister of Finance, the Honourable Curtis Dickinson, JP, MP, as perhaps the most important Bill to Bermuda's international business sector and to Bermuda's economy that the Legislature has had to consider in recent memory.

Madam President, we are a small jurisdiction—too small to export agricultural produce, textiles, cars, boats, or just about anything Senators can think of that would generate sufficient income to run our economy except for the qualities of our people. There have been explorations into offshore fisheries and seabed mining, but international fisheries quotas in the North Atlantic and the March 11, 2014, Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea, which is called the Hamilton Declaration for Collaboration in High Seas Conservation, signed by the then Government, are hurdles to overcome.

Therefore, Bermuda's potential to exploit our only abundant natural resource, the high seas, to create an export industry to the level sufficient to sustain our economy is not a realistic aspiration in the short run. Madam President, it is our people's renowned hospitality and service to our tourists and our people's intellect and professionalism to service our international business clients that establishes Bermuda as a country to survive.

Madam President, some parts of the world are envious of Bermuda's success and have now openly attacked the core of our economy—our strongest economic leg, which is our international business industry.

Madam President, I speak of the European Union who are fuelled by, or to use the common term, "egged on" by, some non-governmental organisations (that we refer to as NGOs) that believe that if you do not have an income tax regime then something must be wrong with you; that if your tax regime is consumption based instead of an income based, then you must be the cause of diverting other countries' tax revenue away from potential use to assist to feed some developing countries and care for refugees, migrants, war victims, and the like.

Madam President, such NGOs [Non-Governmental Organisations] have clearly won this round, for they have convinced policymakers in the European Union to attack all low- or no-income tax jurisdictions, including Bermuda. This is despite the global body for cross-border tax policy, to which the G20 has for years delegated its global tax competition mandate (and I am referring to the Tax Policy Division of the Organisation for Economic Co-operation and Development, which is better known as the OECD), which has rated Bermuda "largely compliant," meaning cooperative.

Madam President, when one of my predecessors, Minister of Finance, the late Honourable C. Eugene Cox, wrote Bermuda's May 15, 2000, Level One, Commitment Letter to the OECD, in respect of the OECD's project on harmful tax competition, along with several of our peer jurisdictions writing similar Commitment letters at that time, it ushered in an era of increased partnership and understanding between the OECD and cooperative low- or no-income income tax jurisdictions.

Madam President, Bermuda even served on the OECD Global Forum Working Group on Effective Exchange of Information which produced the OECD model Tax Information Exchange Agreement, which is the model TIEA, which was published by the OECD in April of 2002. Madam President, the OECD at that time, and continuing to this day, concluded that low- or no-income tax jurisdictions that have two key elements, (1) transparency in their laws and (2) exchange of information agreements (TIEAs) are not harmful.

Madam President, the OECD rating of Bermuda as "largely compliant," is based on [the OECD's] assessment of Bermuda in mid-July of last year for our compliance in two key elements: transparency and exchange of information. Madam President, therefore, Bermuda is one of those low- or no-income tax jurisdictions that the OECD concluded is not a harmful low- or no-income tax jurisdiction.

Madam President, Bermuda's status as a low- or no-income tax jurisdiction which is not harmful is reinforced by compliance with OECD standards of today whereby we have adopted every form of exchange of information the OECD has thrown at us, such as, automatic exchange of the OECD's version of the US FATCA [Foreign Account Tax Compliance Act], which is the OECD's Common Reporting Standard, known as CRS, and the OECD automatic exchange of Country-by-Country Reporting Information, known as CbC.

Madam President, additionally, Bermuda was among the early adopter countries of these automatic exchange of information regimes. I might add that some EU member states were not early adopters of the automatic exchange of information regimes. Madam President, as mentioned earlier, the European Union, influenced by some of civil society, broke ranks with the long-standing OECD standard for low- or no-income tax jurisdictions and independently concluded that irrespective of a low- or no-income tax jurisdiction having transparency and exchange of information protocols in place, it is nevertheless a harmful tax jurisdiction—or, in EU terminology, a non-cooperative jurisdiction—unless it submits to the EU's economic substance requirements, which is the subject of the Bill being debated today.

Madam President, as is the case when one is confronted with a bigger and stronger opponent, a bully on the school playground, you run and tell the teacher, a responsible adult, and you seek assistance from peers of the bigger and stronger opponent. Madam President, unfortunately, it has been the case that there is, to date, no intervention by the bigger and stronger countries to cause the EU to quickly reverse its demands on low- or no-income tax jurisdictions. I point out that the EU body at the top of this drive to threaten blacklisting is the EU Economic and Financial Affairs Council, a configuration commonly known as ECOFIN, the members of which are the Finance Ministers of the 28 member states.

Madam President, that body's resolutions on tax matters must be unanimous; meaning, all 28 members of the European Union voted yes to the EU blacklist regime and its economic substance criteria for low- or no-income tax jurisdictions. Madam President, while none of the bigger and stronger countries have been able to influence the EU, the OECD under the direction of the OECD Secretary General, with whom the Premier has met, has managed to intervene.

Madam President, the OECD head of tax recently, in late November, informed several leaders of several low- or no-income tax jurisdictions, including in a bilateral phone call with our Premier, that the OECD will eventually replace the EU economic substance regime with an OECD substance regime for low- or no-income tax jurisdictions. But this eventuality has been discussed between the EU and the OECD and is still a work in progress and, therefore, will not occur immediately and will likely occur long after the EU's blacklisting time limit of February or March of 2019. Madam President, therefore, all low- or no-income tax jurisdictions must comply with the EU's blacklist regime in order to avoid being blacklisted by the EU.

Madam President, yes, one of the peers of the bigger and stronger opponents, the G20 mandated global standard-making body for international tax cooperation, the OECD, has come to the rescue with an economic substance regime for low- or no-income tax jurisdictions to be administered by the OECD's Forum on Harmful Tax Purposes, which is commonly known as the FHTP. But as I stated earlier, the cavalry is not due to arrive until long after the EU's February/March 2019 blacklisting date.

Madam President, said plainly, what the media and NGOs refer to as "offshore financial services centres" [OFC] are perceived by many in Europe—and at the "man-in-the-street" level, and at the political level—as "an antisocial element." Madam President, it is our duty to continue to fight those misconceptions and prove them to be incorrect. The difficulty of this fight is that incidents like the Panama Papers indicate that some offshore financial centres and/or practitioners therein, are not up to the standards of others.

Madam President, Bermuda can and has demonstrated that we are a leading blue-chip compliant offshore financial centre. However, the level playing field concept, which global regulatory bodies applied to their initiatives, means that Bermuda, at the top end of the international cooperation, is often placed in the same bucket as others that are not. Madam President, we see opportunity arising from the EU substance regime whereby it will force those jurisdictions at or near the bottom, in terms of compliance with international standards, to raise their game up to the international standard. We also anticipate some overseas companies may view Bermuda as a domicile of choice if companies find themselves in the position of having no choice in establishing a physical presence or economic substance in the jurisdiction where they are registered and thus may seek Bermuda as a domicile of registration.

Madam President, to the intellectually honest observer, the OECD base erosion and profit sharing initiative is proof in and of itself that we, the low- or no-income tax jurisdictions are not the source of the so-called problem behind the large countries' loss of portions of their income tax revenue. Madam President,

the OECD BEPS, which is the base erosion and profit shifting initiative that I just mentioned earlier, has identified and targeted the abusive use of the world network of large income tax countries' double taxation agreements, better known as DTAs, as the leading culprit of aggressive tax avoidance when DTAs are abusively coordinated with a large income tax country's manipulation of their domestic income tax laws.

Madam President, in recent years we have read press reports about the EU's investigation of what it termed "illegal state aid," and in some cases forcing some of their own EU member states to retroactively apply back taxes on some of the giant multinational enterprises, while at the same time the OECD BEPS has pressured the revising of all of the world's DTAs through an OECD multilateral protocol document, commonly known as the OECD's multilateral instrument [MLI].

Madam President, it may be a case of, because the large countries have felt pain through the OECD's implementation of BEPS anti-tax avoidance initiative, there may be a perception among them that low- or no-income tax jurisdictions must somehow be made to feel or share the pain. Madam President, this perception has led today to an EU economic substance regime founded on questionable tax policy conclusions and applied against jurisdictions that do not have the means to manipulate the global network of DTAs, nor the means to fiddle with our domestic income tax law, given we have no domestic income tax law to abusively fiddle with to attract entities of no economic substance.

Madam President, the entities of so-called "economic substance" establish themselves in low- or no-income tax jurisdictions after they have avoided large countries' income taxes by being positioned in a multinational corporate structure in a way to take advantage of the tax avoidance effect of the DTAs and tax avoidance elements in the domestic income tax laws of large countries.

Madam President, the domestic tax laws of the large countries can be made to tax their own taxpayers' overseas income rather than the tax deferral, tax credit, or tax offset provisions large countries provide in their domestic income tax laws. Madam President, we believe that the UK is one of the few large countries that are intellectually honest and recognise that abusive BEPS practices, by that I mean, as I said earlier, the abusive use of the word "DTAs" by interfacing them with a country's domestic income tax laws so as to abuse tax avoidance can be addressed by the UK domestic tax law as opposed to attacking the internationally recognised sovereign rights of countries to have a largely consumption-based tax regime.

Madam President, the UK created the UK Diverted Profits Tax, which as outlined in the UK's Finance Bill 2015, has the stated aim to counter (and I quote) "the use of aggressive tax planning techniques used by multinational enterprises to divert profits from

the UK to low tax jurisdictions,' ultimately trying to ensure that no business with UK operations can achieve an 'unfair' tax advantage."

This measure introduced a new UK tax on diverted profits. The UK's diverted profits tax operates through two basic rules. The first rule counteracts arrangements by which foreign companies exploit the permanent establishment rules in DTAs and in domestic income tax laws. The second rule prevents companies from creating tax advantages by using transactions or entities that lack economic substance.

Madam President, the UK's diverted profits tax regime became applicable from the 1<sup>st</sup> of April 2015, and, as I just mentioned, its second rule prevents companies from creating tax advantages by using transactions or entities that lack economic substance.

Madam President, the UK diverted profits tax regime does not attack the jurisdictions where transactions or entities that lack economic substance are domiciled.

Madam President, large countries have the ability to do what the UK has done, but instead they have launched an unprovoked attack against us. Madam President, I say "unprovoked" because if you have the power to prevent your residents from avoiding your domestic income tax by simply revising your own domestic income tax law, how are you provoked to attack a low- or no-income tax jurisdiction that has cooperated with the OECD for decades by signing up to every tax information exchange agreement [which] the international community of income tax countries has created?

Madam President, to further prove my point the European media outlet, *Law360 Tax Authority*, reported on November 30, 2018, and I quote, that "a representative of Google, Inc. recently told EU lawmakers the company would be phasing out a Bermudian structure after recent tax changes in Ireland and by the Organisation for Economic Cooperation and Development remove the tax incentive to use it."

Madam President, instead of attacking Bermuda, Ireland made tax changes, and the OECD created BEPS to force all of the world's DTAs to stop abuse tax treaty shopping.

Madam President, Bermuda's centuries old consumption-based tax regime is not responsible for income tax countries loss of their income tax revenue. BEPS and the much-publicised EU state aid investigations against their own members is the proof. Madam President, if one seeks further proof *The Guardian* in London reported on 13 October 2014, the headline, "Ireland to close 'double Irish' tax loophole." And the article leads with, and I quote, "Apple and other multinationals based in Ireland are to be given a four-year window before the phasing out of a scheme that cuts their tax bills."

Madam President, one can now see more clearly the connection to a comment attributed to

Google in the 30<sup>th</sup> November 2018 article to which I referred a few minutes ago. Madam President, I encourage Google, to whom Bermuda has been a good host for years, to keep the current scope of your company in Bermuda, in Bermuda. And help your host domicile by establishing the economic substance as required by the EU to your companies that are currently in Bermuda. We will work with you, and with all of our international business stakeholders, to fulfil our collective objective to remain compliant with the EU's standard and eventually the global community standard for economic substance.

Madam President, last year on December 5, 2017, the EU listed 17 jurisdictions as non-cooperative tax jurisdictions with a list, which many refer to as the "blacklist," changing several times since then, as some of the listed jurisdictions met commitments set by the EU and were delisted, and some were added to the list and then taken off. Madam President, Bermuda has never been listed on the EU's list of non-cooperative tax jurisdictions, their blacklist. But this decision by the EU not to adopt an approach similar to that of the UK diverted profits tax has placed the world's low- or no-income tax jurisdictions on the cusp of a watershed precipice by including low- or no-income tax jurisdictions on the EU's watchlist, the so-called "grey list."

Madam President, after months of public speculation, the EU ECOFIN, on June 22, 2018, finally published what is known as the "2.2 scoping paper" setting out the economic substance requirements that must be adopted by low- or no-income tax jurisdictions. Madam President, ECOFIN is a short name for the EU's Economic and Financial Affairs Council, the members of which are the economic and finance ministers of all 28 EU member states.

Also, relevant European commissioners participate in their meetings. ECOFIN meetings generally take place once a month. This body is responsible for EU policy in areas of economic policy, taxation issues, and the regulation of financial markets in capital movements, as well as economic relations with countries outside the EU. ECOFIN takes decisions by a vote of ministers from the member states.

Madam President, there are three types of votes in the EU institutions, depending on the European Union's Lisbon Treaty provisions for the subject being dealt with. There is a simple majority of procedural decisions; a qualified majority, [which is] a weighted voting system based on the populations of member states used for many decisions concerning the internal markets, economic affairs and trade; and a unanimity [vote] for foreign policy, defence, judicial and police cooperation and taxation—and I emphasise "unanimity."

Madam President, though public speculation about the EU's intentions were rife, and all low- or no-income tax jurisdictions were monitoring events, the 22<sup>nd</sup> of June 2018 was the first time that a concrete

published EU criterion emerged as an official document of ECOFIN; the first time we knew exactly where the goalposts had been set.

Madam President, Bermuda's government technical officers have been in constant dialogue with the Code of Conduct group and its partner EU body, the European Commission, even before the 22<sup>nd</sup> of June of this year. Several further meetings have taken place post June 22<sup>nd</sup> to endeavour to ensure Bermuda's legislation meets the requirements of the 2.2 scoping paper.

Madam President, this economic substance legislation being debated today is necessary to protect Bermuda's status as an international business centre, and we will continue to lead in complying with global standards. I have already stated that the EU standard will eventually be replaced by the OECD's global standard, and it is Bermuda's hallmark that we comply with global standards. Madam President, we are confident that we can avoid any adverse designations regarding our tax regime, and the structures set by the EU. And if the EU throws more curveballs at us early next year, we will adjust and adapt our regulations in order to continue to defend Bermuda's interests.

Madam President, it was said to us, *This is a take-it-or-leave-it situation*. Notwithstanding this aggressive posture, we believe that from this difficult situation can come something positive. Madam President, among the positive aspects emanating from this situation are (1) this will level the playing field across jurisdictions, and (2) the OECD will eventually take over the administration of the substance regime, thus making it the global standard. While the origins and pathways of this substance regime toward achieving the status of a global regime could have, in our view, been handled a bit better, Bermuda has always embraced global, or international, standards. We will seek opportunity from this by continuing to market Bermuda's attributes as a blue-chip international financial centre.

Madam President, having in these opening comments spoken for and to our people, Mr. and Mrs. Bermuda, who will be impacted by this legislation, and our valued international business community, I trust my comments were not too long, but I felt that a Bill of such significance required nothing less.

Thank you, Madam President.

**The President:** Thank you, Kathy Lynn Simmons. That was quite a brief—you did well.

**Sen. the Hon. Kathy Lynn Simmons:** I am not quite finished.

**The President:** Carry on, please.

[Laughter]

[Inaudible interjection]

**Sen. the Hon. Kathy Lynn Simmons:** No, Madam President, thank you. That was a long pause on my part.

I move to address some of the specific aspects of the Bill.

**The President:** Please do. Carry on.

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

The Bill will impact Bermuda's business community, and by extension Mr. and Mrs. Bermuda, in several ways:

- By, firstly, imposing an obligation on entities, domestic or international business entities, involved in relevant activities as defined in the Bill to maintain an economic substance in Bermuda. And in that regard, comply with economic substance requirements (ESR) set forth in the Bill. Though the substance obligations will apply as well to local or domestic entities, the obligations will apply only to the extent that a local entity is one that engages in a relevant activity.
- Secondly, establishing requirements to file information through the Registrar of Companies by way of a substance declaration form, and any other appropriate forms developed by the Registrar of Companies.
- Providing for the tax treaty competent authority for Bermuda under the International Cooperation (Tax Information Exchange Agreements) Act 2005, to exchange required information with EU member states, provided there is an agreement with the relevant EU member state in place under the 2005 Act.
- Requiring regulations to be made that will provide more detail on the substance regime and whereby such regulations will be subject to the negative resolution procedure to enable the Minister to move quickly to address any required details to ensure continued compliance with the EU standard, even when the Legislature is not in session.
- Applying certain provisions of the Registrar of Companies (Compliance Measures) Act 2017 which prescribed criminal penalties for breach of confidentiality and specifies limited circumstances where the disclosure of information is permitted.
- By providing for the issuance of guidance in such manner as the Registrar of Companies thinks fit.
- Providing for offences in penalty provisions set forth in the Registrar of Companies (Compliance Measures) Act 2017, in respect of the sanctions which will be applied where an entity is determined to have failed to comply with the economic substance requirements and subject to the required prerequisites, and ulti-

mately to apply to the court to prevent the entity from continuing to carry on business, and ultimately result in the exercise of a power to strike-off the entity.

- Providing for transitional matters that apply a six-month transitional period for existing entities, but the substance regime will immediately apply to new entities registered after this Act comes into operation on January 1, 2019.

Madam President, in-scope business activities referred to in the Bill as “relevant activities” for the purposes of this new regime include banking, insurance, fund management, financing, leasing, headquarters, shipping, intellectual properties, holding companies, and distribution and service centres.

Madam President, with respect to certain regulated industries where the applicable regulatory framework already includes having substance requirements in Bermuda (such as banking and insurance) such entities that comply with those existing regulatory requirements will be deemed to have sufficient evidence of compliance with the new economic substance regime. However, this sufficiency will not include the fund sector.

Madam President, the economic substance requirements will apply to new companies from 1 January 2019 and existing companies from 1 July 2019.

And with those comments, Madam President, I will end my presentation.

**The President:** Thank you very much, Senator Kathy Lynn Simmons, Attorney General. You have done exceedingly well with your brief, which was long.

*[Laughter]*

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

Senator Marcus Jones, you have the floor.

**Sen. Marcus Jones:** Good morning—good afternoon.

**The President:** Still morning.

**Sen. Marcus Jones:** Still morning, yes. Good morning, Madam President. Good morning to my fellow colleagues, those in the Gallery, and to the listening audience.

What a comprehensive brief, which was not so brief, but I believe it was necessary for the entire country to realise the seriousness and the urgency of this particular piece of legislation.

I believe it is important to say right off the bat that we on this side are locking arms with the Government in making provisions for this legislation. We know that the lower House was in full support, and I think it is important that the country and those in the wider international audience realise that we are in lock-step together in standing in unity to ensure that

we meet all the necessary requirements for compliance.

Having said that, this directive coming down from the EU is nothing less than a back-alley shake-down of a country that has punched above its weight class for generations. I think we as Bermudians have a lot to be proud of. From the inception of this country as a nation we have been able to reinvent ourselves right from the early days of whaling, shipbuilding, even a time or two when we were what we called “privateers,” ruling the seas. Bermuda has proven to be a country that can persevere even through the hardest times. And as much as we may be looking at this as strong headwinds which are trying to hold us back from progress, we can look at this as an opportunity to pivot and be creative in the way that we do business, with a business model that has been successful. We can surely tweak it and make it work for us.

As was said earlier . . . I took note of what the Attorney General said earlier [concerning] the fact that we have no natural resources to export to the world. We are a two-legged economy that specialises in the tourism/hospitality service industry and in the finance/international business industry. And to some degree, we are limited in what we can and cannot do. But, you know, remembering the song “Bermuda is Another World” is very descriptive of who we are as a people, twenty-two square miles of limestone, 650 miles from the nearest landmass, Cape Hatteras to our west.

Sometimes we may feel like we are isolated, but if we as a people come together . . . we know how we have withstood many hurricanes, many hard times. Then even in this situation we can stand shoulder to shoulder and make a statement by our actions, by our willingness to comply even under hardest and most unfair situations that we may see it as, we make a very loud statement to the world.

As a country, especially over the last couple of decades, we have made a point of establishing TIEAs (or Tax Information Exchange Agreements), with major countries around the world, and in other areas where we have had to toe the line when it comes to various regulations. It just seems like for all of our hard efforts and our willingness to do what is right, we get rewarded by more regulations and moving goalposts.

But as I said earlier, we can make this into an opportunity. As we continue to comply with the demands made of us, we realise that we are not in a strong position of leverage, so we do not want to be put on any blacklist. What we should do is rise to the occasion and invite as many of our IB corporate community partners to, in fact, invest and take this journey with us, although it may be like holding our nose knowing that this legislation is going to affect approximately, at least 75 per cent of the companies that are here on Island.

We can also look at it as a potential spark to really focus on our immigration reform, because that is going to be a very integral piece of what we are going to do moving forward. If these companies need to prove that they have a greater presence in this country, then it is quite obvious to us that we definitely need to do what we can to roll out the red carpet and make sure that we have packages in place to make it even easier for our partners to bring in people to work in the companies, to extend their economic substance as this particular legislation is going to attempt to do.

But also, we need to educate, educate, educate. The wider international world needs to understand what we do here. We know that from time to time, especially during the election cycle of our friends in America, many times countries which are similar to Bermuda are used as a kicking ball for many within the political parties in the States to use us as a reason why their companies should come back. It is simply another indication that we are successful. It is an indication that we are doing something right.

So, by not allowing other countries to define who we are we can properly describe and promote who we are as an offshore jurisdiction, [and this] will go a long way for us. And also locally . . . you know, many times, as a tour operator here on the Island, many of the American passengers that I drive around the Island, in our discussing Bermuda they quickly say to me, or suggest to me, that no foreign corporation that comes to this country has to pay taxes. And I have to painstakingly explain to them how this is primarily a consumption-based tax jurisdiction and, yes, these foreign companies do pay taxes. And it just strikes me that little of the world knows exactly how we do our business, and it will be to our advantage to educate, educate, educate.

What we also must do is pay attention to other countries that are not as willing as us to comply. We know that there are some countries that are in our similar category that may try and skirt or get around the policies and the directives that have been laid down. We have to be vigilant. We need to take names and pay close attention to other country centres to make sure that they are, in fact, abiding by this law as well.

In essence, we need to be like a human fire-wall to any future attempts at a colossal shakedown by global actors in the financial world and present a united front against all entities that are looking to take advantage of us.

Thank you, Madam President.

**The President:** Thank you, Senator Marcus Jones.

Would any other Senator care to speak?

Senator Jardine, you have the floor.

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

Madam President, much has already been said in another place and, again, we have had a very lengthy dissertation from Madam Attorney General this morning—

*[Laughter]*

**Sen. James S. Jardine:** —which has given us a very good indication of the general feeling about this particular legislation which, frankly, has left us with little choice but to accede to the wishes of the EU if we want to avoid being placed on the list of uncooperative overseas jurisdictions. This Bill is set to achieve the desired result. So I intend to support it in order to achieve that aim. We certainly do not want to be on any uncooperative list of countries overseas.

Madam President, much has been said about the lack of fairness with respect to the way in which the EU has treated us, and the fact that, as the Premier pointed out in another place, the OECD has been moving towards adopting some form of the same requirements, but, unfortunately, the EU has moved faster. So we have to follow the pronouncements of the EU well in advance of the OECD who planned to introduce global standards which would put all of us on, supposedly, a level playing field.

That has not happened. And so we have to comply with their wishes. And I think, obviously, the concern is that we are being told as a small country sitting out here in the middle of the Atlantic Ocean that we have to do this, and so are our friends to the south and so are the Channel Island countries and the Isle of Man. And it is very galling; it is very upsetting. I have had comments from friends living in Cayman, individuals living in Jersey, and everybody is very upset about this. But they do not have a choice, and so they have all had to turn to and generate the necessary legislation.

So, as uncomfortable and as annoying as this is, we must not forget also that we have a Solvency II third-country equivalency that was granted to Bermuda in 2016 by the EU. And so, as galling and upsetting as this is, it is very important for Bermuda to maintain and to build a strong working relationship with the EU going forward. We do not know what Brexit will have in store for us. We have a very strong Solvency II equivalency agreement with the EU, and I think there is only ourselves and Switzerland [which have this], and so we need to protect that equivalency for our insurance operations here on the Island.

So, as much as this is galling and upsetting, we need to, should we say, swallow our country pride and maintain a good working relationship with the EU moving forward, because we do not know what that relationship will be long-term. And we know we are not the only jurisdiction. Jersey just passed their Law 201 (it is called) with respect to economic substance as well. So, they have had to turn to and get it done before the end of the year. And as we heard in another

er place, all the other countries that are required to do this are busy doing this between now and the end of the year.

So, Madam President, when you look at various sections of this, it is necessary to look at the Act and see what is included in there. And I am not going to go through it, I am going to sort of just summarise some comments. One of the things that struck me when I looked at our Act, compared to Jersey's, and I am sorry if people object to me comparing, but it is nice to have a look at what everybody else is doing so that you can see whether you are all on the same page or approaching it differently. And by and large we have approached it in the same way.

The only major difference between our legislation and the Jersey legislation, which I have had a good look at in some detail, is that in Article 4 of their Act, they give a very clear definition of what is considered to be core income generating activities—very clear. They devote something like two to three pages of it. In our Act, we do not do that. We simply say, and if I may quote the section, our [clause] 3(2)(b), says—

**The President:** You may.

**Sen. James S. Jardine:** “An entity referred to in subsection (1) complies with the economic substance requirements if— (b) core income generating activities (as may be prescribed) are undertaken in Bermuda.”

So, our “as may be prescribed” presumably is what is coming out in our regulations and our rules. So, we have chosen to do it a somewhat different way. Rather than stick it in our Act, we are going to do it in our regulations.

And further, in clause 11(2) on page 7 of our Bill, it says, and Madam President, if I may quote it again—

**The President:** Yes, you may.

**Sen. James S. Jardine:** “Regulations may provide for additional penalties,” and this is key, “the exchange of information relating to economic substance requirements . . .” So, the regulations are very key here, and we do not have them. I understand they are pretty much finished in terms of their draft form, but they are very key to this whole process because all of the companies that are sitting out there now are going to say, *What do I have to do to demonstrate that, you know, I have economic substance here?* And, so, it is very important that the regulations are issued as soon as possible so that the companies that are here can see what it is they have to do, and also, more importantly, those companies that may be considering coming here can see what the requirements are.

So, I stress the importance of getting these regulations out as soon as possible, as if the Attorney General's Chambers and all the technical officers do

not have enough to do. There is always a continuation to so much of what we undertake here.

I also know there is a right of appeal with respect to a notice from the Registrar to comply with economic substance requirements on page 8 of the Bill. I missed it the first time because it was sort of buried in there as just a few words, but there is a right of appeal there, which I think is important to note. Certainly, the Jersey Act gave it a much, sort of, bigger headline. But, certainly, we have it and it is there, and I wanted to mention that.

It has also been stated in another place, and we have talked briefly about it this morning, there are threats and there are opportunities. I am the eternal optimist, Madam President. I always see threats as opportunities. There has to be a way around some of these things. There has to be some advantage that Bermuda can try to put itself forward on, and I think Bermudians over the years have prided themselves on being able to reinvent something or to create another opportunity for our international business. The threats are real, Madam President, there is no question about it. There will be companies that will look at this and say, *I just don't think I can do this, or I don't want to do it.* I hope they are few.

And one of the things that, you know, I saw this as an opportunity some months ago when I became aware of what was going on here. And I made the suggestion to Government at the time that they really need to get out there and try to encourage some of the larger companies to come here and set up real substance operations, and, more importantly, too, to convince those that are already here to stay here. And that is a difficult task.

I was pleased to hear from the Minister in another place that this is precisely what the Government is doing, and has been doing. So, we know they are alive to that and there are a number of bodies that have taken this on board now and are moving forward with it. Because, rest assured, our neighbours to the south, the Channel Islands . . . I travelled extensively to all these jurisdictions during my business life. And I know the people in those jurisdictions, the Channel Islands, the Isle of Man, Cayman, British Virgin Islands, they are alive to all of this, and everybody is going to be looking for an opportunity to try to outdo the other jurisdiction. Bermuda needs to be at the forefront of that to ensure that we stand out and we are able to make Bermuda the place of choice.

As the Senator to my left has already said, a part of this has to be a change, a reform to our immigration policies and procedures. There has been a committee that has met now, I think it has been over a year. I understand something is going to be happening in January. I think the Minister indicated that there was to be some information that was going to be disclosed to the general public, in an interview I think he had on television some months ago. I hope that happens.

What is absolutely essential is that there is a reason for companies to want to come here. There has to be some incentive for people to come here. And all the other jurisdictions, Cayman, in particular, are all competing for the same business. And they are alive to these issues. So I think it is extremely important as part and parcel of this that the Government move forward on some form of immigration reform, and I have no idea of what might even be considered at this point.

Finally, Madam President, I would like to thank the staff in the Attorney General's office and all the technical officers who have worked tirelessly on this. Having had a rather exhausting year, having come off numerous pieces of legislation for AML-ATF, I am well aware of the struggles that they have had to endure and the time they have had to work to not only cope with our on-Island review from CFATF, generating all the necessary legislation for that, but then having to turn and deal with this particular situation and draft not only the legislation but the regulations that go with it.

As we talked about earlier this morning, Madam President, the cost to Bermuda in order to do all of this is significant. And we debated this morning increases in fees in one particular area, and primarily that is a result of all of the work that we have to do here. And having served on an AML-ATF body for a number of years, I know what costs are involved in order to make these things happen. So, I would just like to, again, endorse comments made earlier, and [extend] sincere thanks to the Attorney General's Chamber and all of the people involved there. There were also people external to them who gave a lot of advice, and my thanks to them.

So, as unpleasant as it is, Madam President, to be in a position such as we are now, I do not think we have a choice. We have to pass this legislation before the end of the year. I look forward to seeing the regulations when they come out.

Thank you very much, Madam President.

**The President:** Thank you, Senator Jardine.

Would any other Senator care to speak on this Bill?

Senator Dwayne Robinson, you have the floor.

**Sen. Dwayne Robinson:** Thank you, Madam President.

First of all, I would like to extend my support as well. I am very happy to see how the Government has pivoted in the face of this unexpected issue. My main focus here, as it has been outlined by Senators before me . . . but I have a specific focus that I would like to speak on. And that is just a bit more emphasis on the education of our community when it comes to how our economy works and the impact of international business on it.

It is good that we as Government officials have come together on this particular issue. But I would just like to see maybe a small curriculum change of some sort because I know that there are international business classes available in high school. I would just like to see a slight curriculum change when it comes to bringing folks up to speed on how they can play a part. And I know that this is somewhat considered common knowledge, but in my talks with many people there are many of us that are still very much not up to date on the impact of international business on the GDP—how they can fit in, how they can get in. And I think that we will face issues like this in the future, Madam President. We will have to weather many storms. And the stronger we make our community regarding these specific issues, the better we will be able to weather the storms of the future.

So, I am very happy to see that the Government is putting emphasis where it needs to put emphasis to combat this particular threat. And I just want us to also join hands with the community as well and try to get them as involved as possible with information and any sort of seminars or workshops or anything that we need to do to make sure that our future generation is just as equipped to deal with these particular threats. And I am not speaking as far as education as a whole, but just as far as exactly the inner workings of how our country sustains itself.

So, with that, I give my support to the Government and I also support this legislation.

Thank you, Madam President.

**The President:** Thank you, Senator Robinson.

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

**Sen. Nicholas Kempe:** Thank you, Madam President.

I, too, will make the obligatory comment about the length of the brief, although I must say, listening to it the second time around, it was appreciated to come from the dulcet tones of our Attorney General.

*[Laughter]*

**Sen. Nicholas Kempe:** The EU Substance legislation is obviously a long-standing, sustained decision as a country to ensure that we are considered a blue-chip jurisdiction. The Premier wrote a letter to the COCG committee in November of last year (2017) confirming that Bermuda would ensure that it met whatever compliance burden the COCG group was going to lay down on us, I certainly agree with others that this is overreaching. If you look at the affect that Ireland had with the double Dutch, when they dealt with their own issues at home instead of simply casting the blame overseas because it is convenient politically, look at the challenges that France is having internally with tax right now. So, everyone is finding it easier and, as

many of the reports have said, potentially misguidedly looking at Bermuda as if shifting further burden on us is going to somehow, you know, stop malaria or protests in France.

One of the things, without getting into the weeds about how this is kind of overreaching, I also agree that there may be a silver lining to this. There was an assessment report done. It has not been shared, but at some point I would assume that within that report the quality or the ability for the some 14,000 companies on our register to meet this compliance substance burden fell in a spectrum. On one end would be our regulated industries of insurance and banking, which there seems to be no question that they, under their exact same status quo business model, will fall well within the bounds of being considered to have economic substance. On the other end, there may be some companies in certain sectors that fall well clear, or well afoul, and choose not to . . . or do not desire to meet whatever the core economic activity requirement is that the EU Substance Act has.

There will be a group in the middle, though; some that fall just fair and some that fall just foul. And what we need to ensure that we are doing is making sure that those that do not just quite meet the core economic requirements as set out in this Act are able to do so. And, as others have said, this Act levels the playing field which means that our regulations will be similar to Cayman and others, and these companies might have a presence in both of those jurisdictions, and in both jurisdictions they might fall slightly afoul with this new requirement.

So, we need to make sure that if they are going to, say, consolidate their operation [to] one of the two [jurisdictions], to ensure that they have the minds and matter, or whatever the end-up term is, with the . . . when this finally goes to an arbitrator, that they choose Bermuda to set up.

As the Minister to my left said . . . sorry, the Senator to my left said, Bermuda has been terribly successful at adapting to changing circumstances, at finding the better approach throughout our history. But I think we need to be very careful that we do not just rely on past successes, and that we do not rest on our laurels.

This Bill, this set of regulations, is most certainly a big bag of lemons. Let us make no mistake. And we cannot just expect for lemonade to become of it. You need to add some sugar. And the sugar that we are talking about, that has been mentioned, is potentially some tax relief as is being given to a hotel development that we are going to discuss later today. It may involve finally addressing the immigration reform. That has been a hot topic in Bermuda for quite some time. And there seems to have been a lack of progress on it of late. We have seen that the work permits, even, had slowed down to a backlog and were only just addressed last month.

So, we need to ensure that there is a plan to capture the silver lining in this situation. It needs to be communicated to the country. I understand the level of secrecy that has gone on around the actual wording of the Bill to ensure that we did not have some sort of competitive disadvantage by laying ours first and allowing everyone to copy it, or tweak it, or whatever. So, I fully recognise the secrecy and the 11<sup>th</sup> hour passing of this Bill in the same day here in the Senate. I have no problem with that. But I would like to see that the plan to capture the opportunity from this situation is developed and/or communicated to Bermuda.

Obviously, as I said, there is a spectrum of companies within this. There will be some people affected negatively. How are we going to ensure that they are able to transition into those areas where there is some opportunity? And, again, I am saying this without having seen the economic impact report that was done. If that was shared, certainly people would be able to make their own plans and prepare. Between November 2017 and [when] the letter of compliance was given to the COCG, and from June 2018 when the 2.2 scoping requirements came out there has been a plan to get a . . . there has been time to prepare both a response and a communication plan to the community so that they are aware of what is going on. Again, I understand the secrecy side of the drafting, but I think the plan needs to be better communicated so that Mr. and Mrs. Bermuda can have some comfort that we are going to come out of this on the right side.

The hypocrisy of the EU and OECD stuff has been highlighted well before. There are jurisdictions . . . the same countries that are putting the onus of regulatory burden of improved KYC standards on us fall foul of those very same regulations within their own borders. And certainly, if the US puts restrictions on us, they will make it so it does not apply to the US. If the EU puts restrictions on the rest of the world, they will make sure it does not apply to the EU. I hope that an OECD global standard will measure everyone with the same stick. I somehow have a suspicion that the members will manage to put carve-outs for themselves, but my optimism remains in a fair measuring stick, until I see better.

Obviously, we are going to have to meet the EU regulations now and hopefully the more fair global standard will come out after. But in the meantime we are going to have to jump through a narrower hoop at the same time as all the other 2.2 dots in the sea. But, there will be other jurisdictions that are essentially on-shore, but without the same level of blue-chip regulation that we have offshore. And I read an interesting quote recently that I think relates to this. And it goes somewhat [like this], *You must be wrong, because, if not, then I am wrong. And I do not like the sound of that.* So, I do support this legislation and I hope we can hear the plan going forward.

Thank you.

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

Before I ask if someone else wants to speak on, there is another Senator, I just want to let everybody know that we will be working through lunch. So, we will not be stopping at 12:30. We will continue until we complete the Bills that we have before us.

Would any other Senator care to speak on this Bill?

Senator Richardson, you have the floor.

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

**The President:** Good afternoon.

**Sen. Anthony Richardson:** Good afternoon, sorry, to fellow Senators and those in the listening audience.

Some time ago I actually wrote an article that talked about . . . the example was really Bermuda, really both political parties being in a small boat off North Shore. I really used Devonshire Dock as the place. And the discussion talked about the fact that if there are two people in the boat and the boat does start to spring a leak . . . at that stage what is most important is getting back to shore. And I talked about it in a context of how sometimes we lose sight of what is really Bermuda as opposed to our own individual agendas.

And, so today, and also listening to the conversation in another place on Friday, I am very happy to note that there is strong bipartisan support for what we are doing today because it does show to all of us, and hopefully also to the general public, that when necessary we understand that we need to get together to really protect what is Bermuda. And so, again, I am very happy to see that. And I trust that there are other circumstances whereby Bermuda realises that whilst we may have different opinions on certain aspects of what we want to do, we do all want and need to get to the same place. And that same place is a prosperous Bermuda whereby everybody feels that they are equal participants in what is the Bermuda economy.

If I am an individual person, I want to know that my job opportunities exist and I am able to achieve my full potential. And if I am a local business, or an international business for that matter, I want to know that I am in a jurisdiction that allows me to participate in the local or global economy, and also though, also rather, that the Bermuda regulations themselves are amenable to what I want to do. In that context of course, we have to make sure that each of us are prepared to pay our way.

So, with those comments, I will certainly add to what was said earlier in terms of Bermuda doing what it does in the international arena will always draw attention from those who see us as being successful. And we all recall some days ago, or some years ago now, there was no such thing, really, as compliance in

that sense. But now companies have fully fledged compliance departments which add huge amounts to the cost of operation. Whilst it does provide opportunities for Bermuda and Bermudians, it is a significant impact and now, of course, we have the AML-ATF and all these other regulations coming online which means that businesses will have to pay more as they operate, but not just in Bermuda.

And so, I do want to emphasise also that the current Government continues to reinforce the need for consultation with industry. And as we all know, Bermuda is well regarded, certainly from the context of the BMA, that when there is a need to put in place regulations there is actually a relatively robust process by which industry is consulted and then appropriate regulations put into place. And so I look forward to the continued consultation and constructive commentary from the business community in terms of what Bermuda must do, and what the Government is doing to ensure that we can all succeed.

And too, I guess, the general public . . . there has been some question in terms of what this Economic Substance Bill is all about and why are we rushing. And from my experience, from the accounting side, we used a term before that in order to demonstrate that you [were] in Bermuda legitimately, *there must be mind and management in Bermuda*. And in my mind, this is similar to that. And so what the EU are now proposing, unfairly, however, is that they want to ensure that to the extent that we have all these companies here, there can be a demonstration that the mind and management (however defined) of that company is in Bermuda. So, there are some who clearly have no mind or management here and they just have it, basically, in a law firm, in many cases, and sometimes an accounting firm. And they are going to have to now adjust to show that they are actually here.

And in terms of Bermuda being nimble, I was happy for some of the comments earlier that whilst the “big bad wolf” EU are now hitting us over our heads, there are some opportunities that may arise, because there are some companies in other jurisdictions that may want to relocate to Bermuda, and there are some that are here in a nameplate basis that will now have to build their substance, i.e., have some employees. And I noted some comments earlier in terms of, *Okay, fine. Bermuda must now adjust its immigration policy to allow others to come to Bermuda more easily*. My comment though, is, no. First of all, make sure that the qualified Bermudians are availed of these opportunities. And that goes both ways. One is for us, as Bermudians, to make sure that we are able—both experience and education-wise—to fulfil those roles. But also, I guess to the international community is to be honest.

In the brief that Madam Attorney General read to us earlier, she talked about intellectual honesty. And I trust that in the business community there will

be intellectual honesty in terms of their employment practices. We know for sure that in past there have been times whereby persons would have an advertisement in year one that says *I need a basic qualification*, and by the time it comes for my work permit renewal in year three or year five, the job description has changed to be particular to me, and, therefore, it disqualifies others. That is obviously intellectual dishonesty. And I trust that we are able to encourage the business community to move away from that so that there can be more genuine opportunities for everybody.

And so, I will keep my comments brief. I am mindful of the time. But also I want to add one more commendation to all of the technical officers that were involved because very often, in this place and in the general public, public officers are not given their due for the work that they do. And what I mean by that is that working in the civil service is not always, and very rarely is it, a 9-to-5 job. When it comes to certainly at the higher levels where you are responding, a Minister in many cases, it is almost a 24/7 job. And by and large the civil service does respond to that. And so once again I want to give significant emphasis to that because in the absence of the civil servants, in many locations going over and beyond, Bermuda would not be where it is, in this instance, a week before the end of the year almost, getting through what is a significant piece of legislation.

Thank you, Madam President.

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

Would any other Senator care to speak on this Bill?

No? Then Senator Kathy Lynn Simmons, Attorney General, do you want to respond?

**Sen. the Hon. Kathy Lynn Simmons:** Thank you, Madam President, and thank you, Senators for your informative comments.

Let me just add to the acknowledgement given by Senator Richardson. Behind me, I have two people who have worked hard with me on this—Wayne Brown, the Assistant Financial Secretary, and Lorraine Welch, who is the Deputy Chief Parliamentary Counsel. I acknowledge them, in addition to, Ifor Hughes, Maxine Binns, and former Attorney General Phil Perinchief, who is consulting on this matter as well, for their tireless efforts.

And what we do not see, and I will highlight Lorraine in particular because she works in my Chambers morning, noon, night, weekends, without exception . . . and this is not an ordinary drafter. This is a former Chief Parliamentary Counsel who served in that role very successfully, who brings years of experience and legal knowledge to the exercise. And without that backdrop we would not meet these deadlines. We would not meet these deadlines. So she is to be applauded by all Senators today.

*[Desk thumping]*

**Sen. the Hon. Kathy Lynn Simmons:** With regard to the . . . and we are getting a tap on the table from Marcus Jones—

*[Inaudible interjections]*

**Sen. the Hon. Kathy Lynn Simmons:** And we will all tap, yes. Bipartisan support is always welcome.

But in this case, it is not only welcome, it was necessary. This is not a piece of legislation where anyone had a choice in the matter. So I thank Senators for getting on board and making constructive remarks as we close this out.

Senator Jardine raised the issue of regulations. The regulations have been drafted. They are almost complete. And (I will refer to my note) that is in consultation with the private sector with the previous draft, so this has been in train at the same time. So, you can imagine the work that was necessary surrounding that.

There was also an issue raised pertaining to appeals. And I will note that the Bill has to be read together with the Registrar of Companies (Compliance Measures) Act 2017, which actually sets out sanctions, and section 16 already provides for appeals. So, we are covered in that regard.

The issue of secrecy . . . a most interesting word to use in the context of this Bill. The drafting process is not a public process. Consultation is necessary and was undertaken with the stakeholders. When you have mandatory requirements, as we had with the AML regime, there is not a question of changing anything. Our responsibility is to make sure our domestic legislation reflects those requirements. There is very little wiggle room. So, consultation is more an informative exercise than it is an opportunity to weigh in or change anything.

These are requirements that had to be met and they have been met; and the team has been instrumental and very effective in making sure that industry was kept informed every step of the way because there are practical implications for everyone which has been exhaustively discussed today. So, I thank industry for their feedback because they play, as always, a very important part in the process as the users on the ground and the people most impacted by this regime.

Madam President, without any further comment, I think we can move to have the Bill 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. the Hon. Kathy Lynn Simmons:** Thank you, Madam President. I move that Standing Order [26] be suspended with respect of the Bill.

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

*[Motion carried: Standing Order 26 suspended.]*

## BILL

### THIRD READING

#### ECONOMIC SUBSTANCE ACT 2018

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

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

**Sen. the Hon. Kathy Lynn Simmons:** I now move that the Bill entitled the Economic Substance Act 2018 be now passed.

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

*[Motion carried: The Economic Substance Act 2018 was read a third time and passed.]*

**The President:** Thank you all, Senators. And thank you, very much, Senator Kathy Lynn Simmons, Attorney General, for moving us through the Bill.

Senators, we will now move on to our final Order of the Day, and that is the draft Order, the Tourism Investment (Bermudiana Beach Resort) Order 2018. And that is in the name of Senator Caesar.

It is your Bill. You have the floor.

#### SUSPENSION OF STANDING ORDER 71(2)

**Sen. Crystal Caesar:** Yes, thank you, Madam President.

Madam President, I move to suspend Standing Order 71(2) to allow the Senate to consider the draft Order, the Tourism Investment (Bermudiana Beach Resort) [Order 2018].

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

*[Motion carried: Standing Order 71(2) suspended.]*

## ORDER

### TOURISM INVESTMENT (BERMUDIANA BEACH RESORT) ORDER 2018

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

Therefore, I now move that the Senate do now take under consideration the draft Order entitled the [Tourism Investment \(Bermudiana Beach Resort\) Order 2018](#).

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

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

Madam President, the Tourism Investment (Bermudiana Beach [Resort]) Order 2018 is created in accordance with the Tourism Investment Act 2017 and is for the redevelopment of the Grand Atlantic property in Warwick as a new mid-market boutique resort renamed the Bermudiana Beach Resort.

Madam President, the Honourable Senators will be aware that the Grand Atlantic was built in 2011 as affordable housing for local families featuring 78 apartments. This property is now wholly owned by the Bermuda Housing Corporation [BHC] whose mandate is to provide affordable and quality housing and to promote home ownership to all Bermudians.

Earlier this year, Senators will recall the amendment made to the Bermuda Housing Act 1980 to enable the Tourism Investment Act 2017 to be extended to this BHC project. The specific purpose of the amendment was to provide for the statutory exemptions to Stamp Duty and Land Tax, and to apply the Tourism Investment Act to the development project that will convert the Grand Atlantic into the Bermudiana Beach Resort.

In November of this year, the Bermuda Housing Corporation submitted an application for a tourism investment order on behalf of the Bermudiana Development Company, which was incorporated on the 31<sup>st</sup> of October 2018, in respect of the Bermudiana Beach Resort Development.

Madam President, the Bermudiana Beach Resort will be a mid-market condo/hotel consisting of nine buildings with additional leisure facilities, that will be operated as a resort under a major international hotel branded franchise. The Bermuda Housing Corporation has engaged a specialist development team including MacLellan & Associates, Bermuda Realty Company, Limited and OBM Limited Bermuda to execute the conversion of the Grand Atlantic into the Bermudiana, a condo/hotel with full resort facilities.

Madam President, the nine buildings which currently contain the 78 aforementioned apartments, will be converted into 71 units for sale providing 105 hotel keys. Each of the nine existing buildings will be refitted with new and improved fixtures consistent with

a four-star hotel. Additional kitchenette and bath facilities will be added to a portion of the rooms to create the 105 keys.

Madam President, Honourable Senators will also be interested to note that outdoor amenities will include two recreational pools, one with an infinity pool design, walking and patio areas and a funicular lift to the beach below. Elevators will be added to the exterior of the buildings as part of the hotel upgrade requirements. Seven of the existing units will be converted into communal facilities to provide for a reception area, restaurant, spa and gym, back of house support, and food and beverage areas.

Madam President, the development is scheduled to take place in two phases. The commencement of phase one is subject to the process of satisfying regulatory requirements and permissions. Completion is targeted for May 2019. Phase two is expected to commence in June 2019 and be completed in May of 2020.

Madam President, as required by section 5(2) of the Tourism Investment Act 2017, the Minister responsible for Tourism, in consultation with the Bermuda Tourism Authority, must consider all relevant circumstances in determining whether a proposed tourism project is in the national economic interest of the Island, in particular, whether the proposed tourism project is likely to benefit the tourism industry and the economy generally and whether it is likely to encourage local investment.

Madam President, I can confirm the Minister is satisfied that these particulars have been met and therefore, the Minister proposes to make the Tourism Investment (Bermudiana Beach Resort) Order as follows:

- full relief from Customs Duty in respect of furniture, fixtures and equipment, as well as operating systems and associated equipment, for a period not exceeding 10 years from the hotel's opening date;
- full exemption from Hotel Occupancy Tax for a period not exceeding 10 years from the hotel's opening date;
- full exemption from Land Tax, commencing six years after the hotel's opening date and ending on the 10<sup>th</sup> anniversary of that date;
- full exemption of the employer's share of payroll tax for a period not exceeding 10 years after the hotel's opening date; and
- the furlough of the Land Holding Charges payable under section 96(2) of the Bermuda Immigration and Protection Act 1956 for a period not exceeding 10 years after the hotel's opening date.

Madam President, in order to qualify for the exemption of Land Tax, the hotel developer, for the relevant period, must confirm in writing to the Minister in years 6 through 10, after the hotel's opening date, that 70 per cent of the hotel's staff are Bermudian.

In addition, Madam President, in order to qualify for the exemption from the employer's share of payroll tax, the Minister responsible for Workforce Development shall, for the relevant period, confirm in writing to the Minister annually that a management training programme for Bermudians is in operation at this property.

I would like to highlight section 4(3) of the Order, Madam President, which states, "Where construction of the hotel development is not complete by the third anniversary of the date of this Order, the relief granted . . . shall cease to have effect." Madam President, this provision ensures that this Order, like the ones to follow it and unlike the concession orders which preceded it, will have a start and an end date.

As alluded to earlier in my statement, the Tourism Investment Act 2017 and this Tourism Investment (Bermudiana Beach Resort) Order 2018 are meant to encourage local investment, in particular, facilitate investment in our tourism sector which will ultimately prove beneficial to the economy generally.

Thank you, Madam President.

**The President:** Thank you, Senator Caesar.

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

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

Looking at this Tourism Investment (Bermudiana Beach Resort) Order 2018, there a few things that come to mind, which I think we, as legislators, need to pay attention to, if not in this particular Bill, but in future Bills.

I remember back in the day—and I am saying back in the day, a few decades ago—when the Government at the time used legislation like this to incentivise investment into the tourism industry. It was two-fold in its purpose—primarily to get investment which was the obvious primary goal into this particular industry, but it was also a way of using a carrot to get investors to invest in Bermudian labour.

I often say this, and I will continue to say this, tourism is the soul of this country. That, I believe, is part of our redemptive purpose in this world, which is to create a place where people can come [to from] around the world and find rest, tranquillity, hospitality, friendliness. And so, I am very passionate about getting as many of the next generation Bermudians into this industry.

Having said that, it makes me take even a closer look at the terms and conditions of this particular Bill; specifically where it says that part of the terms would be that 70 per cent of the hotel's staff [must] be Bermudian. I am looking at that particular facility, and not being privy to all the details of this particular project . . . it is going to be a four-star hotel. And I am envisioning what the restaurant is going to be like. I would not suppose that it is going to be a fine-dining restaurant. One of the things that hoteliers have a

challenge with, and I would say for the foreseeable future will have a continued challenge filling, is that [of] chefs and wait staff.

We readily realise the [hoteliers] need foreign workers to fill those particular positions. But if this particular restaurant is not going to be one that requires a large labour force, and if that particular area of the hotel business is the one that require the most foreign workers, then in this case I feel that 70 per cent is a little low. I believe 80 per cent is far more aggressive, but more of a welcoming mat to get as many of our young people into the industry.

The various tax reliefs that pose more of a carrot as opposed to a stick is an important tool that we can use to increase the Bermudian population. There are a number of hotels in this country, which I do not think the general public realise, that actually extend a college internship programme for college students from distant lands who actually come to this country, are able to get a work permit to work here during the summer between their times in college, and they come and they work in our hotels. And I have no major problem with that, but I really would like to see the Government, in partnership with the hotels, push this type of programme more so and incentivise it for our local students, college students, to do it as well.

I say that because on a lot of occasions, these foreign students who attend hotel colleges, mostly in the north-eastern corridor of the United States, get a chance to actually sit in on management meetings, get to be a part of the strategic planning, which I think is an incredible opportunity for up-and-coming Bermudians to be able to take advantage of. So, I would definitely want to see hoteliers be more accommodating to our local students to be able to get in that level of discussions and planning because there is so much to learn.

I also remember, back in the day, there was a component that was in some of this, in the legislation for these hoteliers that are looking to invest in the country. There was an entertainment component where it was required that these hoteliers have to employ a certain amount of local entertainment in their hotels as well. And I know that local entertainers are having a tough time being able to find good, quality work. And some may not realise this, but our visitors are still looking for local talent. It has been a part of our tourism product for years, and I would hate for us to ease away from that focus on making sure that our entertainers are an integral part of the product that we put out there for our guests.

And finally, one thing that I would like to see going forward is more safeguards within the legislation that provide and protect the government from taxes that have been given, duty relief that has been given to these investors. When it comes to a situation where, let us say, these gentleman or ladies that are interested in doing this particular Bermudiana Beach Resort . . . and I realise that in this legislation it allows

for after three years, if nothing is done, then all the privileges and benefits are taken away from them. What happens if they actually build the resort and then five or six years down the road decide, *You know what? It is not really working out for us. We are going to transfer and make this particular facility into a permanent residence.* What do we do to safeguard that sort of situation?

So, I am just throwing out those things as food for thought so that we can make sure that we safeguard this industry, ensure that as [many] Bermudians [as possible] can be welcomed into the industry, not only on the front lines but even up in the upper echelon of management.

And, with those words, I thank you, Madam President.

**The President:** Thank you, Senator Jones.

Would any other Senator care to speak on this Bill?

Senator Jardine, you have the floor.

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

I just have one question. This company, as I understand, is a wholly owned subsidiary of Bermuda Housing Corporation. Do we have any idea . . . is there a budget yet as to the construction costs for this conversion? Do we have that information at this point? That would be the one question that I have.

Thank you, Madam President.

**The President:** Thank you, Senator Jardine.

Would any other Senator care to speak?

Senator Hayward, you have the floor.

**Sen. Jason Hayward:** Madam President, tourism is a very significant component of our economy. It is no longer a second pillar of economy, but certainly a significant component. International business has out-paced tourism to the extent where tourism's contribution to GDP is what we would consider relatively insignificant, hovering around between 5 [per cent] and 8 per cent.

But it does bring in \$754 million into our economy via value added. Tourism employs many Bermudians and a total of \$460 million is paid out in wages to those persons associated with the tourism industry. Total employment in tourism is 2,996 jobs. Of that, 2,157 Bermudians are employed in the tourism industry.

Interestingly enough, that ratio means that of the persons employed in the tourism industry, 71 per cent are actually Bermudians—71 per cent, Madam President, according to the Tourism Satellite Account. Which means the 70 per cent Bermudian jobs that was proposed in the legislation falls in line with the total ratio of Bermudians and non-Bermudians within the tourism industry.

But what I have not heard today is a little bit of kudos to us actually doing something with that property and the progress that has been made. That property has been dormant for some time. We all discussed in another . . . in the past legislative session what transpired. But now we look and see that there is movement. If you drive across the South Shore, you see substantial work being done on that particular facility.

Madam President, we all often talk about economic diversification and that it is very difficult. But when we talk about expanding our industries, hotel development is probably one of the primary ways in which we can expand our industry, our tourism industry, and create a bit of economic growth and development. And so, I am pleased to support this particular Order. I am also pleased to see the level of tourism investment from stakeholders into this particular property.

Madam President, I am also pleased to note that this is a creative solution that was driven by this particular administration. You would know that the company is a [subsidiary] of the Bermuda Housing Corporation. It moves it a bit away from its core aims and objectives; nevertheless, the shift or the pivot was necessary so that we can achieve a relative level of economic growth and development.

And, with those comments, Madam President, I wholeheartedly support this particular investment Act.

**The President:** Thank you, Senator Hayward.

Would any other Senator care to speak on this Bill?

Senator Richardson, you have the floor.

**Sen. Anthony Richardson:** Madam President, I cannot help but smile because, probably about three sessions ago, Senator Jones commented about this particular development in a neutral to negative manner. And so, I thought when you started talking today you would be smiling profusely, actually, because this is clearly what we spoke about before. You appear not to remember. But, if you recall, you criticised the development some time ago. And we talked about the fact that it was slated for development or conversion into a hotel. And, so that is why I thought you would be smiling quite a bit as you gave your comments.

My real comment, though, in terms of the employment goes a little bit to what I said earlier in terms of employment. There is an opportunity right now for overseas (I will call them overseas) students to come and work in the hotel sector periodically. But the reality is that it is up to the existing hotel operators to be genuine in a desire to make the same options available to Bermudians, because, clearly, it is easier to get a Bermudian to come and work as opposed to someone from overseas. And I know from my own experience . . . actually, back in the day (I want to call it) it

appeared as though when everybody who was overseas in school or whatever came back for the summer, they worked in the hotel. You may have worked as a busboy, or a waiter, or a wine steward, or whatever.

And it was interesting because, one, it actually helped you to earn money to go back to school; and two, it gave you a permanent appreciation for what the hospitality sector really was all about. Because, I know in the dining rooms you had to [start] early, sometimes about 6:30, until say, 11:00 or so to sort out breakfast, and then come back in the evening time, so it had an impact on your social life. But you understood what it was all about. And what was also important was based upon your level of service you did receive *direct* gratuities, i.e., cash money to take home with you, as they say. And so, that was good.

And the third benefit of having Bermudians part of the hospitality sector is that, even at a young age, the visitors to Bermuda do appreciate the Bermudian (I want to call it the Bermudian) "finesse" that takes place, whether it be in the dining room or otherwise. Because we do have a way about how we communicate. And again, from experience, sometimes what I want to call the most rough-and-ready person that may be on the street, for example, in the dining room setting they are the best, whether it comes to efficiency, [being] able to give information about Bermuda, and otherwise.

And so, I say that just to say that to the extent that the hotel properties genuinely want to engage persons who are here for the summer, for example, they can do better, I believe, to ensure that those persons are engaged. And Bermuda, generally speaking, will be the ultimate beneficiary. Thank you, Madam President.

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

Senator Kempe, you have the floor.

**Sen. Nicholas Kempe:** Thank you, Madam President.

I have a few questions about this Act. The fact that the Bermudiana Development Company, [Limited] is a wholly-owned subsidiary of the Bermuda Housing Corporation, which is a quango of the Bermuda Government, makes this incentive feel a little bit circular. The Bermudiana Development Company is not going to have to pay employer-side payroll tax to the government when they are wholly-owned, essentially, and funded by the government.

So, these things sound . . . and I understand the Senators across the way are patting themselves on the back for finding a solution, per se, to the white elephant which has been sitting out on the cliff in Warwick for the last 10 or so years. But I just do not see it through such rose-coloured lenses as they do, perhaps. It seems like we are throwing more taxpayer

money at a product that we have not been able to sell or monetise effectively from its inception. So, until I see kind of the proof in the pudding to this I am . . . I mean, I certainly hope it becomes a successful hotel and we are not throwing good money after bad. I certainly hear the comments between Senator Richardson and Senator Jones. I believe Senator Jones mentioned a more Airbnb-style that did not require further capital investment to be able to monetise this underutilised taxpayer asset in Warwick.

So, I will hold my breath. I certainly hope that this becomes a successful tourism venue. I would have preferred that if we are giving tax concessions, it would be to private capital and not, essentially, government capital to develop a [brownfield] site, or the underutilised Grand Atlantic itself. Thank you, Madam President.

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

Would any other Senator care to speak on this Bill?

No. Then, Senator Caesar, over to you.

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

There were a couple of areas which my fellow Senators spoke about when they gave some comments on this particular Order. And I am happy to see that there is support for this particular property and the conversion of such. I would like to point out, as my fellow Senator Richardson has already intimated, and one of the previous Senators spoke of and sort of encouraged Government to encourage hotels to provide summer internships for our students. And I would like to just note that this is already the case, that many of the hotels do that. But I do echo Senator Richardson's sentiments in that we can do more to do so, to encourage more of our young people to get into the hospitality area.

In addition, there was a question on the construction cost as it stands right now. And let me just say that although many of my fellow Senators often have technical staff sitting in Chambers, I just want everyone to know that I do have support, even though you do not see them physically here. We are using technology.

*[Inaudible interjection]*

*[Laughter]*

**Sen. Crystal Caesar:** That is why my iPad is here. I have not been ignoring everyone. I have been communicating, particularly with the PS, Aideen Ratteray-Pryse. She is actually listening and responding as necessary. So, I just wanted to make that acknowledgment; our technical officers are still very much on the cutting edge and are still with me.

But, in terms of construction info, we are still seeking that from another department. So, at a later

date we can provide this information to the Senators in terms of how the financials or the financial information pans out for us. I can provide that later. But I am just happy to see that, because I do travel, actually, along that route on a daily basis in coming into Hamilton. And it is good to see that there is some movement and some life happening, that the Government is encouraging tourism and the hospitality industry. Although it is not our major industry anymore, it still is one which definitely utilises a lot of Bermudians and Bermudian talent. So, I am happy to see that this type of development will be taking advantage of that in the future.

So, with that said, Madam President, I would like to move that the said draft Order be approved and that the following message be sent to His Excellency, the Governor:

"May it please Your Excellency:

"The Senate, having had under [consideration] the draft Order entitled the Tourism Investment (Bermudiana Beach Resort) Order 2018, proposed to be made by the Minister responsible for Tourism, with the written agreement of the Minister of Finance, under the provision of section 5 of the Tourism Investment Act 2017, has the honour to inform Your Excellency that the Senate has approved the said draft Order."

**The President:** Is there any objection to that Motion?

No objection. A suitable message will be sent.

Thank you, Senator Caesar, and I thank you all Senators for your deliberation.

*[Motion carried: The Tourism Investment (Bermudiana Beach Resort) Order 2018 was approved.]*

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

## MOTIONS

**The President:** Senator Jardine, you have the floor.

## MESSAGE TO THE GOVERNOR

### CHRISTMAS AND NEW YEAR'S GREETINGS

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

Madam President, I move that the following message be sent to His Excellency, the Governor:

"May it please Your Excellency:

"The Senate has the honour to present its compliments to Your Excellency and family, and respectfully extends its greetings for a very Happy Christmas and a prosperous New Year."

**The President:** Thank you.

Is there any objection to the message being sent?

No objections. The message will be sent.

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

**The President:** Senator Jardine, you can carry on.

## MESSAGE TO THE HOUSE OF ASSEMBLY

### CHRISTMAS AND NEW YEAR'S GREETINGS

**Sen. James S. Jardine:** I have another message.

Madam President, I move that the following message be sent to the Honourable House of Assembly:

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

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

**The President:** Are there any objections to that Motion?

A suitable message will be sent.  
Thank you, Senator Jardine.

## CONGRATULATORY AND/OR OBITUARY SPEECHES

**The President:** Would any Senator care to speak?

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

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

I would like to take this opportunity to acknowledge our community partners on behalf of the Department of Child and Family Services, and with your permission I would like to refer to my list and my notes on that.

**The President:** You certainly may.

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

I would like to acknowledge the following community partners, organisations, companies and individuals wishing to remain anonymous for their generous Christmas gift giving and donations to our families. Their commitment to helping others is admirable and sincerely appreciated, especially during this holiday season.

The department continues to advance its mission of promoting and protecting the best interests of children and families in order to enhance their social functioning and their quality of life. And these partnerships and donations go a very, very long way in help-

ing to make the Christmas season bright for our children and families.

In particular, Madam President, the Department of Child and Family Services' Family Preservation Team has received donations from the following groups: The Continental Society of Bermuda; the Salvation Army, they have an annual hamper program; the Coalition for the Protection of Children; the Bermuda Monetary Authority; FIL Limited; Hanover Re; Beecher & Carlson Re; the Spirit of Bermuda, and I think that may be the Sloop Foundation which is behind the Spirit of Bermuda—

**The President:** Mm-hmm.

**Sen. the Hon. Kathy Lynn Simmons:** —AIG; Vernon Temple AME Church; [and] the Ladies of the Professional Liability reinsurance industry. And Madam President, the Foster Parents Association which is a registered charity has as its main purpose to support foster parents and foster children in areas where there are no government funds available. And they have been provided, the association has provided laptops for senior school students, medical equipment and wheelchairs, sponsorship for high-end extracurricular activities, musical instruments, furniture, sponsorship for educational trips and a scholarship fund for post-high school endeavours. So that is really commendable.

And, Madam President, with regard to the upcoming Foster Children's Christmas Party, the president of the Foster Parents Association, Ms. Lindsay Simmons, has organised a concept of the “The Angel Tree” at Rosa's Cantina, a restaurant, of course. And anyone dining there can select an “angel” from the tree, and each angel represents a foster child and their wish list items. And persons donate gifts for the foster children.

So, the Association also received gifts from RenRe staff who support the Foster Parents Association each year with donations. As previously mentioned, this year the Foster Parents [Association] had a surprise donation, and I think we mentioned that in the previous session from Akil Darrell of \$9,000, who is a waiter at Rosa's. Instead of receiving gifts for his 37<sup>th</sup> birthday (which he celebrated on October 29<sup>th</sup>) he asked his family and friends locally and overseas to make a donation to the Foster Parents Association. And in addition to a bank account that he set up, he has donation boxes in front of Heron Bay Market-Place, as well. So over 100 people contributed to his very selfless endeavour. So, he is to be thanked for the difference that his donation has made to the lives of Bermuda's foster children.

So, many thanks on behalf of the Department of Child and Family Services to all of our very generous donors. Thank you, Madam President.

**The President:** Thank you. I am sure we would all agree with your sentiments for the charities and the various individuals who have donated.

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

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

Madam President, I would like to extend condolences to the family of Doctor the Honourable "Tessi" Terceira. I knew Tessi more through his children with whom I was friendly for a number of years, and certainly many of us remember Tessi's Highway, which was the road that was built leading out of Hamilton some years ago, and certainly, he was a person who contributed a lot to the Island.

In fact, he resigned from his work, which was as a dentist, in order to become extremely active in Parliament, which he did for many, many years. And he was a beloved father of his children, a very active man in the community. I attended his funeral the other day and heard some very interesting and glowing comments about his life. So, I would like to extend condolences to his family. Thank you, Madam President.

**The President:** Thank you, Senator Jardine.

I am sure we would all join with your sentiments for Dr. Terceira.

## ANNOUNCEMENT BY THE PRESIDENT

### SENATE VISTOR

**The President:** Senator, before I open it up, just let me acknowledge the presence of MP Kim Swan in the Gallery. Welcome, sir.

Senator Michelle Simmons, you have the floor.

*[Congratulatory and/or Obituary Speeches, continuing]*

**Sen. Michelle Simmons:** Thank you, Madam President.

I would like to be associated with the comments Senator Jardine has made about the Honourable Clarence R. "Tessi" Terceira. Part of his career which has not been highlighted very much is the fact that he was Minister of Education for a period.

**The President:** Mm-hmm.

**Sen. Michelle Simmons:** And he was actually the second Minister of Education under whom I served. I can still see him sitting comfortably in my office, just having a conversation as though, you know, we were exchanging ideas about what should be happening in education. He always seemed comfortable around

people from various walks of life, and I am sure he will be missed throughout this community for various reasons and because of the various roles he played throughout Bermuda. But I just wanted to highlight that part of his contribution to our community and also associate myself with the condolences to his family. Thank you.

**The President:** Thank you, Senator Simmons.

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

**Sen. Dwayne Robinson:** Thank you.

I would like to extend congratulations to Charles Doyle and Dockside Bar and Pub for having a successful fundraiser for the Bermuda Heart Foundation.

My business colleague was able to help them out with the setup, so I was really, really excited. It was a comedy show. It went well, and I just wanted to give them congratulations for putting that together on their spare time. Thank you, Madam President.

**The President:** Thank you, Senator Robinson.

Senator Hayward, you have the floor.

**Sen. Jason Hayward:** Madam President, at this time I want to extend condolences to the family and friends of Brother Louis Somner.

Brother Lewis Somner was a member of the BIU and he was a devoted fellow trade unionist. I have worked along with Mr. Somner, or "Brother" Somner, in my entire journey as a trade unionist. He was definitely a man who cared about events and the rights of workers within this country and worldwide. I have had the opportunity to travel overseas with Mr. Somner, or Brother Somner, and see his advocacy, not just in Bermuda but also overseas.

Locally, I have marched with Brother Somner. I have been to many meetings with Brother Somner, and he will be greatly missed. There are not a lot of persons who stand up boldly and say that they are trade unionists, because of the way in which sometimes we are chastised in this society. But nevertheless, Brother Somner was bold in his advocacy for the rights of workers. I have learned a lot from Brother Somner during our time spent together, and he will be greatly missed.

**The President:** Thank you Senator Hayward.

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

**Sen. Nicholas Kempe:** Thank you, Madam President.

I would like to extend congratulations to John Burville and the team of volunteers at the Bermuda Youth Bridge Initiative. They have managed to get bridge classes into Berkeley, BHS [Bermuda High

School], CedarBridge, T. N. Tatem, Warwick, and Sal-tus. So, they are doing a commendable job there.

They have developed a system by which the younger and the slightly older children can play in the same type of tournament where they are blending minibridge and regular bridge. And I know especially when you look at some of our kind of results with mathematics—and we understand that this is a key area for success in many fields in today's society—learning or developing better numeracy skills through play is an essential activity. Bridge helps translate slow thinking into fast thinking—a lot of strategic and numerical development on the fly. So, I certainly commend the efforts he is doing, both from a development of the game of bridge, but also from the ongoing effects, or the secondary effects, with improving numeracy and mental mathematics.

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

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

**Sen. Anthony Richardson:** Madam President, I just want to extend condolences to the family of Mr. Marvin Washington, [Jr.]. He was another St. Georgian. And I am very mindful; it seems like every week now there is someone in the St. George's community who is dying. And it was interesting to note that he was an avid book reader in part. There was a posting on Facebook, actually, from the Bookmart, that talked about how he was a faithful member of their book club, and they were going to have a service for him today, and they are going to dedicate, rather, their January luncheon in his memory. So, condolences to his family.

And I know that last week I spoke briefly of Mr. Phillip Anderson. I just wanted to comment again that I actually attended, and for me, it was the first time I had attended a funeral service in the actual square, in the town square. And the square was completely full—like completely full—with chairs and people standing around, and so I just wanted to make sure I mentioned that.

And in terms of congratulations, again, sometimes I guess it seems like I am repeating myself, but I had the opportunity to attend the Berkeley Institute yesterday for the awards ceremony for their S1 students. And those are the students who have just come into Berkeley since September. And when I walked into the hall I was immediately . . . first of all, when I drove there I could not find a parking spot. Well, when I walked into the hall, it was completely full. And I spoke to Ms. Douglas, the Principal, at the end to just commend her again, because you see . . . and she commended the parents for their continued support. And she spoke briefly about the idea that parental support goes a long way to encouraging children to achieve even beyond what they expect to achieve. And ultimately, she spoke about the expectation. And

that strikes me because we have to set strong expectations for our children, because then they will measure up to that. And so, she did that.

And my other comment in terms of congratulations is similar to Madam Attorney General, in terms of there is a food program that is operated whereby persons bring to the Island on a non-profit basis, on a monthly basis, frozen items, basically staple goods. And I participated with that on Monday evening. And there were probably about 250 families that were positively impacted by that. And again, I am encouraged, because we hear all these negatives about Bermuda, but to be there . . . and like, it was at the church. In the foyer, you had maybe like 100 people waiting to be served, and it was intense. But at the end of it, everyone was pleased, and they are now going to be positively impacted for this Christmas experience in terms of turkeys and hams and all that goes with that. And so, again, I want to commend those persons.

But also, as Madam Attorney General said there are significant helping agencies in Bermuda that do their best to assist those families in need. And so, those are my comments. Thank you, Madam President.

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

Would any other Senator care to speak?

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

## ADJOURNMENT

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

I move that the Senate do now adjourn to Wednesday, February 13<sup>th</sup>.

**The President:** Thank you. Would any Senator care to speak on the motion to adjourn?

Senator Jones, you have the floor.

## PUBLIC EDUCATION

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

It was only a short week ago when this entire country was up in arms, very much in a state of . . . panic and paranoia would be too strong a word. But definitely, deep concern about what was going on within our schools. It was the talk of the country. The airwaves were burning up. Social media was at an all-time high as far as activity about this particular subject when it came to education.

Last week when I had the opportunity to speak to the subject, being a very emotive topic, I was raring to say something as the spokesman for the Opposition Party in regard to education. But I am glad that I restrained myself, and I took out the time to say nothing and listen to my Senator to the left, Senator Simmons, who brings instant credibility when she ad-

dresses the subject of education, having been an educator not only in this country, but in countries far afield from Bermuda. And I thought it was pertinent that her comments were actually broadcast even on the radio and the news. But I would be remiss if I let this year come to an end without actually addressing that particular subject.

Now it would be politically tempting to pile on the Minister of Education who has been embattled with this very difficult Ministry. I will not do that, because it is a tough job for anyone. One could possibly say that the role of Minister of Education in this country is where political careers go to die, because it is a difficult Ministry.

So, in thinking about this whole scenario, the challenges which face public education in Bermuda, one could quickly rush to judgment and make the statement, *Who deserves to be fired in this scenario? Who is ultimately accountable for things not going as well as they could be in public education?* I would submit to you that if we are looking to fire anyone, it should be all of us. All of us should be fired: Politicians (on both sides of the aisle); Ministry of Education officials; teachers; unions; parents; guardians; the public at large. *Everybody* should be fired. And you may be saying to yourself, *Senator, that is a bit harsh*. I will say to you that we need to have a sense of urgency, and almost have something similar to shock treatment to get this community as a whole to put a focus and a spotlight on education in this country.

Referring back to the Reply to the Throne Speech, the Opposition Leader, in his list of recommendations for ways to improve things in Bermuda, one of his suggestions was to consider an independent education authority. Now, some within our community may see that particular idea as heresy, as totally . . . someone that has lost all understanding or hope in the system. I would say, no. I would say it is worth consideration, because I think what is clearly obvious is that we need to take the politics out of education. So, it is at least worthy of considering and getting buy-in from all stakeholders, of considering an independent education authority which will be responsible for the strategic planning, oversight, day-to-day operations of public education.

And I will say this as well, having had two children that I have had in both the public education system, as well as in the private education system. I was able to see first-hand how both systems functioned and how both systems worked. And if there is anyone out there who may not have their child in public education, and feels that, *My kid is in private education and they are doing well. I do not have to worry about public education*, I would say think again. Every country in this world has to have a strong, vibrant public education system.

I am very pleased with the experience that my kids had at the public school level. And I will say this as a little bunny trail: One thing I am very, very

pleased about is that the public education system still educates the students on Bermuda's history, on current affairs, on subjects that would be under the category of civics. [This is] where my kids (before they matriculated to private school) [learned and] had a full grasp of the political system in Bermuda—of special historical places, museums, forts, Bermuda's history, [and] how we were formed as a colony of Britain.

So, when they went to private school, they were shocked and surprised that the knowledge base of their fellow private students in regard to Bermudian history was very low. And when they were in history, and the teacher would be talking about Bermuda—historical aspects of the subject—they would always ask my kids, because they would know. And so, I have always said to myself . . . I said to my wife, *We need to find a way to ensure that even our private schools spend ample time on a regular basis teaching our kids about our Bermudian history*. They know about the War of Independence in America. They know about distant lands, but they do not know enough about their Bermudian history. And that is one thing I was very happy about when it came to public education.

So, I raise the subject today because I know in the minds of a lot of people in our community, the crisis is over. Teachers are back in school. Things have gone back to normal. But I do believe we need to keep it in the centre of our radar. An independent education authority, I believe, will be very effective in depoliticising the education system that we have today.

We need a strategic long-term vision. That will be number two in my threefold solution for our education system. A strategic long-term vision which will transform our education system, [by producing] an environment for children to learn standard academics, social consciousness and global awareness to an optimum level, that produces well-rounded, value-driven citizens who can contribute to this community.

So, one, take politics out of the equation. Two, have a national vision for education. And number three is also very important, because one and two will not work unless we have three—transformative leadership. I believe the decision makers should look far and wide around the globe to find a person, or persons, who have a proven track record within education that can prove that they have successfully transformed underachieving education systems into high-performing, well-organised education systems that can catapult our kids into the 21<sup>st</sup> century.

It is something that I do not want us to lose sight of. It is a subject that I am very passionate about, having been in the public system as a president of a PTA where on a day-to-day basis I was afforded the opportunity to slip into the school during the day, which my kids hated. It would not be a strange thing for me to slide into their classroom and sit right behind them and they not know that I am there, and

listen and look and see what was happening within the public system.

I believe that we can do more in promoting the successes of our students within the public system. I think the country does not get enough of the success stories, and there are lots of them. And so, on that note, Madam President, I thank you for those brief words.

**The President:** Thank you, Senator Jones.

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

Senator Hayward, you have the floor.

## PUBLIC EDUCATION

**Sen. Jason Hayward:** Madam President, I believe we are about a week too late.

We had a robust dialogue regarding education last week. For the Senator to bring up education again this week in the motion to adjourn is not because he has a deep passion and care for the education system. It is the politically correct thing to do for the Opposition—to continue to highlight the flaws and deficiencies within the education system. He did not report that there are ongoing meetings with the teachers and the Ministry. There are ongoing meetings with the principals and the Ministry. They have agreed to meet at least once a month so that they can all be on the same page where there is continued communication and dialogue until the problems are addressed.

Conflict is natural in any organisation. It is a natural part of any organisation. But it is how that conflict is managed. It is important in how we move forward. We united on an economic substance Bill. Well, let us unite regarding the education of our kids, which is even more important to us having a successful and prosperous Bermuda.

*We should fire all.* That is what the Senator said. Madam President, when someone says, *We should fire all*, and he is including himself, then that Senator has an opportunity to resign . . . because I signed up to make a difference. And I will continue to put my best foot forward, to improve the conditions of people's lives in this country.

*We should go overseas and find the greatest minds.* Again, we are promoting the narrative that Bermudians are not good enough to fix our own problems. There has been a lot said in the media over the last week regarding education. And, like I said, education is one of those topics which the electorate finds important. But we also saw informal communications being leaked through social media regarding strategy and how to address and continue the attack on education.

Madam President, if I may, in quotes, "What also can be reinforced is that the Opposition has a battle plan by pushing for an independent education

authority. Parents and teachers will more than likely start to repeat our messaging."

**Sen. Nicholas Kempe:** Point of information, Madam President.

**The President:** Do you accept the point of information, Senator Hayward?

**Sen. Jason Hayward:** No, I do not.

**Sen. Nicholas Kempe:** Okay.

*[Inaudible interjections]*

**The President:** Point of order. Do you want to—

**Sen. Jason Hayward:** Madam President.

**The President:** Carry on, Senator Hayward.

**Sen. Jason Hayward:** That is the messaging that is going out—*let us have a concerted effort to say that our current structure is not good enough, that somehow this independent education authority would be better.*

But I ask, What will be the roles and functions of an independent education authority? How come we do not hear persons talking about, *Let's make the Board of Education as effective as it could be?* Because when I look underneath the Education Act 1996, Madam President, and I look into the functions and responsibilities for the Board . . . may I read those functions?

**The President:** You may.

**Sen. Jason Hayward:** "To make recommendations to the Minister regarding the evaluation of the Commissioner of Education and Directors of the Department, make recommendations to the Public Service Commission regarding the appointment of the Commissioner of Education, Directors of the Department and Principals, make recommendations to the Minister regarding education policy, make recommendations to the Minister regarding a statement of vision, values, strategy for education, make recommendations to the Minister regarding its budget, the budget for schools, and the allocation within the budget for schools and funds for individual schools, evaluate in conjunction with the Commissioner of Education the performance of schools and the Boards of Governors, make recommendations to the Minister regarding the curriculum for schools, make recommendations to the Minister regarding the method for the assessment of the performance of the educational system and monitoring the implementation of plans for improving the system, make recommendations to the Minister for the design and—"

**Sen. Nicholas Kempe:** Point of order.

**Sen. Jason Hayward:** —"implementation of effective—"

**The President:** Senator, there is a point of order.

**Sen. Nicholas Kempe:** I am just sorry—

**The President:** Senator Kempe, you have the point of order.

#### POINT OF ORDER

**Sen. Nicholas Kempe:** My previous [point] should not have been a point of information, but a point of order. A source is being quoted. The Member must state who the source is.

**The President:** Senator Hayward? In your earlier comment, do you want to give the source?

**Sen. Jason Hayward:** That source is from "Doc." Who "Doc" is, I do not know. But "Doc" certainly knows a lot about the OBA's internal strategy. The "Doc" is an individual in our community who is trying to derail—

**Sen. Nicholas Kempe:** Point of order.

**Sen. Jason Hayward:** —the education system.

**Sen. Nicholas Kempe:** Point of order.

**The President:** Senator Hayward. You have a point of order.

#### POINT OF ORDER

**Sen. Nicholas Kempe:** If the Member wishes to spread conspiracy theories online, he is welcome to. But I do not believe they are appropriate for this Chamber.

**Sen. Jason Hayward:** Certainly—

**The President:** Senator Hayward, carry on.

**Sen. Jason Hayward:** —there is no conspiracy theory. That is the reality which I face. What I face and what we have seen is an organised campaign to distort the education system to the effect where it lends to the political motives of the Opposition. That is the reality.

#### POINT OF ORDER

*[Imputing improper motives]*

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

The Member continues to [impute] improper motives of the Members in this House.

**Sen. Jason Hayward:** Madam President—

**The President:** Senator Hayward.

**Sen. Jason Hayward:** The communication asks for the Opposition to push for an independent authority. Today the Senator came to the Senate and pushed for an independent authority.

#### POINT OF ORDER

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

The independent education authority was in our platform and in our Reply to the Throne Speech. He is continuing to quote an unknown source in the Senate.

**The President:** Senator Hayward.

**Sen. Jason Hayward:** The point remains, Madam President, that we have a Ministry of Education. Underneath that Ministry is the Board of Education. The Board of Education has a number of responsibilities—

**Sen. Nicholas Kempe:** Just—

**The President:** Senator?

**Sen. Nicholas Kempe:** Just a . . . on the point of order, Madam President.

The Member has noted and confirmed that he does *not* know who the source is, and he continues. He has not retracted his statements.

**The President:** Senator Hayward, would you move on? Please—

**Sen. Jason Hayward:** Madam President.

**The President:** —from quoting the unknown source.

**Sen. Jason Hayward:** I have ceased from quoting the source that is known to me as "Doc." I am not sure if you want his official government name, but maybe you can provide that to me, Senator Kempe. Nevertheless, Madam President—

**Sen. Nicholas Kempe:** The Member continues to [impute] improper motives, Madam President. This is starting to get tiresome.

**The President:** Senators, Senators. We will either end this session if . . .

Senator Hayward, if you are only going to quote "Doc," and no one else knows who "Doc" is,

then I am asking you not to quote it, but to move on with any other comments that you have.

**Sen. Jason Hayward:** Madam President, I have moved past the quotations of the person referenced as “Doc.” I do not know who “Doc” is. Maybe Senator Kempe may know who “Doc” is.

**The President:** Senators.

**Sen. Nicholas Kempe:** He *continues* to suggest that I know who “Doc” is and [impute] improper motives.

**The President:** Senators.

**Sen. Nicholas Kempe:** Can someone on the Government side please speak to their Senator?

**Sen. Jason Hayward:** Madam President—

**The President:** I am in—

**Sen. Jason Hayward:** —but what

**The President:** Excuse me. I happen to be in charge of these Senate proceedings, and I am asking both of you to *move beyond* this issue!

So, Senator Hayward, I am asking you *not* to quote a source if it is simply “Doc.” I am asking you to move on and make your own comments without that source.

**Sen. Jason Hayward:** Madam President, what we need is a Board of Education that is effective, that lives up to its mandate as aligned in the legislation. And I believe that the Minister has an opportunity to make a number of appointments for this fiscal period regarding the Board of Education. I think he will do so, so that we have the most effective Board of Education.

Look, we can sit here and talk about education being at all-time lows, and those things. But then what we continuously hear is success stories coming out of our education system. Many of us are success stories coming out of public education. Public education is not broken. Public education needs a bit of reforming. We have a plan in place, the Education Plan. Strategy has been outlined and the Commissioner of Education will lead the charge to ensure that the outputs that were outlined in that strategy are effectively completed.

If we are able to complete those objectives within that strategy, I believe that the education system will be one that produces outcomes that we will all be proud of. But, certainly, we need no further partisan bickering regarding education at a level that does not aim to provide solutions to the current problems we face [but] adds additional fuel to the fire.

**The President:** Thank you, Senator Hayward.

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

Senator Robinson, you have the floor.

## PUBLIC EDUCATION

**Sen. Dwayne Robinson:** Thank you, Madam President.

My colleague, Senator Jones, decided to mention education again, because he feels as though—like many of us feel—that it is an issue that requires constant mention. What I just heard was a Senator then come forward and say, *No bipartisan bickering*, and then quote a source that is not . . . is not recognised by either side.

So, I constantly—constantly—want to drive this area home. We on this side have said repeatedly that we are looking to work together. That sort of thing requires each side to be genuine in what they are saying. You cannot ask for everyone to work together, Madam President, and then impugn someone who is only trying to bring this back to the forefront. So, I have to say I am extremely disappointed, Madam President, in that. And with that, I would like to close my comments. Thank you.

**The President:** Thank you, Senator Robinson.

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

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

## WORDS OF APPRECIATION TO SENATORS AND STAFF

**Sen. the Hon. Kathy Lynn Simmons:** Thank you, Madam President. It gives me great pleasure to close out this session this afternoon.

I would like to acknowledge the good work that Senators have done over this past year. I would encourage Senators to think long and hard before we reconvene in terms of what their objective in service is. I think we all have the opportunity to make a worthwhile contribution to those who are listening and expecting us to uphold the principles of the Senate.

Madam President, on behalf of the Government team and the Opposition and the Independent Senators, I would like to thank you for your wonderful efficiency and calm—

[*Desk thumping*]

**Sen. the Hon. Kathy Lynn Simmons:** —personality that you have brought to this Chamber for this session—this year, I should say. I would like to say we value, and we are most appreciative of, the staff of the Legislature and most notably, our Clerk, who has aided us immensely procedurally.

*[Desk thumping]*

**Sen. the Hon. Kathy Lynn Simmons:** We applaud you and we wish you all the best in the upcoming year.

And I will extend [the same wishes] to the staff of the Legislature *generally* who work behind the scenes to prepare us for our sessions as we meet.

And on behalf of all of us, I would like to extend holiday greetings and New Year's best wishes to the community and the constituents that we serve. We undertake and commit to moving the business of the country forward as an effective, considered, deliberate collective. And with that I wish you all and the listening members of the public a Merry Christmas. Thank you, Madam President.

**The President:** And I will certainly reiterate those comments and to also say to the general public that on behalf of the Senate, I am sure we also wish them a safe and Happy Christmas and New Year.

And thank you all for your support of me throughout this session.

Having said that, the Senate now stands adjourned until the 13<sup>th</sup> of February.

Thank you.

*[At 2:48 pm, the Senate stood adjourned until 10:00 am, Wednesday, 13 February 2019.]*

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