

CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY

OFFICIAL HANSARD REPORT
ELECTRONIC VERSION

2016/17 SESSION

14 March 2017
Seventh Sitting of the Third Meeting

Hon Juliana Y O'Connor-Connolly, JP, MLA, Speaker

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PRESENT WERE:

SPEAKER

Hon Juliana Y O'Connor- Connolly, JP, MLA
Speaker of the Legislative Assembly

MINISTERS OF THE CABINET

Hon Alden McLaughlin, MBE, JP, MLA	*The Premier*, Minister of Home Affairs, Health and Culture
Hon Moses I Kirkconnell, JP, MLA	*Deputy Premier,* Minister of District Administration, Tourism and Transport
Hon D Kurt Tibbetts, OBE, JP, MLA	Minister of Planning, Lands, Agriculture, Housing and Infrastructure
Hon Marco S Archer, MLA	Minister of Finance and Economic Development
Hon Osbourne V Bodden, MLA	Minister of Community Affairs, Youth and Sports
Hon G Wayne Panton, MLA	Financial Services, Commerce and Environment
Hon Tara A Rivers, MLA	Minister of Education, Employment and Gender Affairs

EX OFFICIO MEMBERS OF THE CABINET

Hon Franz I Manderson Cert Hon, JP	Deputy Governor, ex officio Member responsible for the Portfolio of the Civil Service
Hon. Samuel W. Bulgin, QC, JP	Attorney General, ex officio Member responsible for the Portfolio of Legal Affairs

ELECTED MEMBERS
GOVERNMENT BACKBENCHERS

Mr Roy M McTaggart, MLA	Second Elected Member for George Town
Mr Joseph X Hew, MLA	Sixth Elected Member for George Town

OPPOSITION MEMBERS

Hon. W. McKeeva Bush, OBE, JP, MLA	*Leader of the Opposition,* First Elected Member for West Bay
Mr Bernie A Bush, MLA	Third Elected Member for West Bay
Capt A Eugene Ebanks, JP, MLA	Fourth Elected Member for West Bay

INDEPENDENT MEMBERS

Mr Alva H Suckoo, Jr., MLA	Fourth Elected Member for Bodden Town
Mr Winston C Connolly, Jr., MLA	Fifth Elected Member for George Town
Mr D Ezzard Miller, MLA	Elected Member for North Side
Mr V Arden McLean, JP, MLA	Elected Member for East End

ABSENT

Hon Anthony S Eden, OBE, JP, MLA	*Deputy Speaker,* First Elected Member for Bodden Town

OFFICIAL HANSARD REPORT
THIRD MEETING OF THE 2016/17 SESSION
TUESDAY
14 MARCH 2017
11:30 AM

Seventh Sitting

[Hon. Juliana Y. O'Connor-Connolly, Speaker, presiding]

The Speaker: Good morning.

I will call on the Honourable Minister of Planning, Agriculture, Lands, Housing and Infrastructure to say prayers this morning.

PRAYERS

Hon. D. Kurt Tibbetts, Minister of Planning, Agriculture, Lands, Housing and Infrastructure: Good morning. As we pray this morning I think it is fitting for us to remember in our prayers those who have lost loved ones.

Let us pray.

Almighty God, from whom all wisdom and power are derived: We beseech Thee so to direct and prosper the deliberations of the Legislative Assembly now assembled, that all things may be ordered upon the best and surest foundations for the glory of Thy Name and for the safety, honour and welfare of the people of these Islands.

Bless our Sovereign Lady, Queen Elizabeth II; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal Family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Premier, the Speaker of the Legislative Assembly, the Leader of the Opposition, Ministers of the Cabinet, ex-officio Members and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office. All this we ask for Thy great Name's sake.

Let us say The Lord's Prayer together: *Our Father, who art in Heaven, Hallowed be Thy Name. Thy Kingdom come, Thy will be done on earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us. Lead us not into temptation, but deliver us from evil. For Thine is the Kingdom, the power and the glory, forever and ever. Amen.*

The Lord bless us and keep us. The Lord make His face shine upon us and be gracious unto us. The Lord lift up the light of His countenance upon us and give us peace, now and always. Amen.

The Speaker: Please be seated.

The House is now resumed.

ADMINISTRATION OF OATHS OR AFFIRMATIONS

The Speaker: There are none.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

CONDOLENCES

The Speaker: The Chair on behalf of all Honourable Members, would like to extend and express our most sincere condolences to the Deputy Speaker's family with the sad loss of his brother-in-law.

PRESENTATION OF PETITIONS

The Speaker: None.

PRESENTATION OF PAPERS AND OF REPORTS

The Speaker: None.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: I recognise the Honourable Member for the District of North Side.

Mr. D. Ezzard Miller, Elected Member for North Side: Madam Speaker, can I have some explanation from either the leader of the Business Committee or the Deputy Governor as to why questions are not being answered? I have a number of questions outstanding and we were given assurances a week and a half ago that the answers would be forthcoming.

The Speaker: The invitation has gone out to the Honourable Premier or the Deputy Governor. The Chair has no preference.

[Inaudible interjection]

The Speaker: He wants an explanation as to why the commitment which was given by the Acting Deputy Governor a week and a half ago that answers would be forthcoming and why answers are not here today.

The Premier, Hon. Alden McLaughlin: Madam Speaker, good morning.

I am afraid I can't answer that question. The questions are submitted to the individual Ministries to be dealt with and they should and I am not trying to make any excuse, the answers should be here if the questions were submitted in time. But I just don't have an answer.

The Speaker: I recognise the Honourable Deputy Governor. Welcome back to the Chamber.

Hon. Franz I. Manderson, Deputy Governor: Thank you, Madam Speaker. It is good to be back.

Madam Speaker, the Acting Deputy Governor did give that undertaking and I followed up with all of the Chief Officers as late as yesterday and I have been assured that the answers or the majority of the answers have now been provided to the Ministers. They needed some time to review them but that process, I am told, has been just about finalised.

The Speaker: There is a follow up. Fifth Elected Member for George Town, will you give way to the Member?

Honourable Member for North Side.

Mr. D. Ezzard Miller: Madam Speaker, I hear the rationale but my questions were submitted January 26th, 31 working days ago. None of these questions require any elaborate answers. Most of them are one line questions and I find it a lot difficult that the answers have not been prepared to date.

The Speaker: Fifth Elected Member for George Town.

Mr. Winston C. Connolly, Jr, Fifth Elected Member for George Town: Madam Speaker, I rise to echo that I have had questions in since July of last year and I have only 5 of about 20 questions answered.

The Speaker: I think both the . . . Member for East End, were you getting up?

Mr. V. Arden McLean, Member for East End: Madam Speaker, I was not but I too have questions outstanding for quite some time, especially one that is totally relevant to the debate that is currently ongoing on the Legal Practitioners Bill which was submitted to the Attorney General a long time ago and nothing has been forthcoming for the Members on this side.

The Speaker: Honourable Members, both the Premier and the Deputy Governor has given, yet, once again a commitment and we will take them at their word and trust that tomorrow morning we will see some answers on the Order Paper.

[Inaudible interjection]

The Speaker: Can only verify when tomorrow morning comes, Member.

Madam Clerk, please continue.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: None.

PERSONAL EXPLANATIONS

The Speaker: There are none.

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Speaker: There are none.

RAISING OF MATTERS OF PRIVILEGES

The Speaker: There are none.

GOVERNMENT BUSINESS

BILL

SECOND READING

LEGAL PRACTITIONERS BILL, 2016

[Continuation of debate thereon]

The Speaker: Does any other Member wish to speak?

I recognise the Honourable Minister responsible for Finance and Economic Development.

Hon. Marco S. Archer, Minister of Finance and Economic Development: Thank you, Madam Speaker.

Madam Speaker, I will speak to the Legal Practitioners Bill, 2016, and my comments on the Bill are intended mainly to ensure that there is understanding of a bill that should seek to ensure the promotion and development of Caymanians within the industry and also the protection of our financial ser-

vices industry. We should be careful that nothing is done to one that damages the bigger picture.

Madam Speaker, I think much of the problem that we face today as a country with respect to the Bill itself stems from the situation that some people or some lawyers, some Caymanian attorneys have experienced. And that is not to say that all experiences are negative because there are those who obviously have had good experiences in the industry and not to give the impression that all lawyers in the industry are not nice people because there are many who do try to help Caymanians develop.

Madam Speaker, I just want to touch on some of the things that we need to ensure are covered so as to give greater comfort to Caymanians that there is the hope of studying for three years, completing professional exams, spending 18 months of sitting as an article clerk and then the elation, the satisfaction of being called to the Bar and then the hopes and aspirations fulfilling the dream of becoming a competent lawyer. Madam Speaker, to be honest with you, not everyone wants to become a partner because it is not an easy road, it requires great sacrifice, great commitment and sometimes even to the detriment of your family. It is not uncommon for people to spend too much time at their desks and not enough time in their home and, as a result the social and family life becomes a problem. So, Madam Speaker, my comments today should not be perceived or construed by anyone as being overly . . . or should not even be considered as being negative, but just to highlight some of the reasons why we need to ensure that the Bill that we bring today gives comfort to the Caymanians who perceive that they have been wronged by the industry.

I will begin, Madam Speaker, with the business staffing plans that are filed with the Immigration Department. It is not uncommon for the Business Staffing Plan to include the names of Caymanians working in the office, be it a law firm or any other business in the Cayman Islands. So, the names are there and the plan requires that you include the way in which you intend to develop that Caymanian talent within the organisation. But, Madam Speaker, often times what happens, whether inadvertently or whatever reason, because the Caymanian is not aware as to what is said about them in the business staffing plan, then they themselves are unable to hold anyone to account as to the things that were said on their behalf. Therefore, when the time comes for the progress report and evaluation of the Caymanians, they are not prepared and not aware of what should have been done and when you get to the time which is expected that there should be in that position to have those skills and abilities and knowledge, unfortunately they may not have it.

Madam Speaker, I am not proposing that the Caymanian mentioned in the Business Staffing Plan be given a copy of the Business Staffing Plan. But what I would think is that wherever the name of the Caymanian is mentioned in the Business Staffing Plan, they should receive a certified copy of that page so that they can know what is said about them and can then be able to track their own training progress and development; not the entire plan but a copy of the page that speaks about that individual.

Madam Speaker, another aspect that would help to give comfort to the Caymanian attorneys, the Caymanian public, is the fact that the Bill makes provision for the Cayman Islands Legal Practice Association [CILPA] and the body that would administer the affairs of that Association is called the Council. Madam Speaker, the country has approximately 240 Caymanian lawyers, inclusive of indigenous and Caymanian by grant of status. For a council of 8 I think that 240 Caymanian lawyers of varying years of experience, cultural identities backgrounds, perspectives, and so on and so forth, should be sufficient to ensure that the views and perspectives and the needs and concerns of all members of the Association are covered. And, of course, the Council will also have the duty to solicit the views of its membership. So, Madam Speaker, a council that is comprised of all Caymanians, and, Madam Speaker, if the Caymanians are . . . we're actually putting the regulation of the industry in the hands of the Caymanians. And, as I have said before, some of those Caymanians are Caymanians by grant of status and therefore, would have the perspectives and the views (and some of them are very senior as well) that should be adequate to ensure that the views of the Council and the undertakings of the Council are not one-sided but generally what is fair and best for the growth and development of the Caymanians within the industry.

Madam Speaker, it is perceived that those who come from overseas have had the benefit of greater exposure and development, and are able to take care of themselves (so to speak). So, the concern is for the development of the Caymanians and the Caymanian attorneys within the industry.

Madam Speaker, how those numbers are divided up amongst the firms, I know my other colleagues will speak to that, Madam Speaker.

Another contentious issue, Madam Speaker, is the number of lawyers in the overseas offices versus the lawyers and article clerks who are working in the offices locally. I spoke with several lawyers and others within the financial industry and there are differing views on this issue. There are those who believe it is not necessary or even wise for us to allow others to practise Cayman Islands law overseas because Cayman Islands law should not be treated like a commodity for others to earn a living from overseas. On the other hand, there are those who argue that because we have been doing so for over two decades and clients in other jurisdictions have come to accept and depend on being able to deal face to face with attorneys from Cayman Islands law firms in their juris-

dictions during business hours. Furthermore, the fact that our competitors have followed suit and are now doing the same thing, the results would be adverse to the health and strength of the financial services industry, in particular our economy generally, if we stop now.

Whilst the other side has a valid point, Madam Speaker, I am inclined to agree with those who believe that to prohibit the practise of the Cayman Islands law in overseas jurisdictions, after doing so for over 20 years, would be detrimental to the health and strength of the financial services industry generally. It is important to recognise, Madam Speaker, that, other service providers within the financial services industry, such as auditors, fund directors and fund administrators all work very closely with the Cayman law firms. The work is often referred to the law firms by the promoters of the fund; that being the person who is establishing the alternative investment fund before engaging the other service providers, many of which are operating locally. Therefore, the question is: How do we ensure that the number of lawyers practising Cayman law overseas does not exceed the number which is necessary to support the overseas practices but does not prevent real substantive and technical work being done locally from which our people, our Caymanian attorneys should be able to hone their skills.

Madam Speaker, clause 68 of the Bill provides for a formula to achieve a balance between the number of attorneys overseas and the numbers locally, but at the same time it also creates the potential for abuse. The formula includes Caymanian attorneys, non-Caymanian attorneys and article clerks. The potential for abuse lies in the number of article clerks since a firm will be allowed to employ one attorney overseas for every article clerk they employ in Cayman. This possibly gives rise to a situation where article clerks are hired, not out of a sense of responsibility to develop local attorneys but merely to facilitate an increase number of attorneys overseas translating to more work being done overseas by non-Caymanian attorneys. The obvious outcome would be more article clerks twiddling their thumbs for 18 months and not gaining the necessary experience before being admitted to the Bar. Occasionally, Caymanian article clerks are employed with no real intentions of developing that individual into a competent attorney, but just to tick a box for immigration purposes. And, Madam Speaker, there are numerous examples that I could speak to but I think that case has been well made with the numerous letters that we have received and the conversations that I myself have had with Caymanian attorneys. And even some of the things that I have observed myself and in some cases perhaps, even experienced. Madam Speaker, it is my hope that we will find a reasonable solution to avoid the potential for abuse that exist in clause 68.

Madam Speaker, there are also times when even our own Caymanian attorneys of several years PQE are left to twiddle their thumbs and watch others who are said to be more experienced by years of PQE and therefore more capable, be given work to do that they sometimes have no clue how to do and will then depend on the Caymanian to guide them as to how it should be done.

Madam Speaker, I know of a time when a corporate lawyer with 10 years PQE was hired but did not know that a company is operated by the directors and that nothing can or should be done with respect to the operations of the company without the directors first resolving to do so. That individual fortunately has developed, progressed and is now a partner in a Cayman firm but practising law in another jurisdiction.

There is also the example of the one who changed the name of a fund company three times without informing the regulator once, when the law requires that it is done at the very first time. Madam Speaker, the same individual also liquidated the wrong company but fortunately for the company they can only commit that mistake once because it is usually fatal. That individual is employed today with one of the top law firms practising law in Cayman. So, Madam Speaker, no one should be offended, no one should be alarmed when Caymanians say—*This is what we know, this is what we see, this is what we believe and we want to make sure that the Bill and the law to come will help to correct and address some of these occurrences whilst preserving the health and strength of the financial services industry.*

Madam Speaker, even when Caymanians exercise initiative and do things to prove their competence, and desire to learn and develop, those efforts are sometimes minimised or discouraged. I am aware of a time when, in an effort to prove competence and abilities, a junior lawyer drafted precedence for mergers and consolidations. The provisions had just been enacted into legislation. Madam Speaker, the partner said to the junior lawyer that he could not draft precedence for mergers and consolidations because they are bespoke. In conversation with other lawyers they said there is no such thing. Of course, you can draft precedence. They exist in other firms. The junior lawyer then went on vacation and when they returned they were told by another Caymanian lawyer that the precedence that they had drafted had been used and when inquiring into what extent they were amended, the answer was *very little.* So, there are times when it is possible to discourage otherwise capable Caymanian attorneys.

I am also aware, Madam Speaker, of another recent occasion where a very competent Caymanian attorney who is internationally recognised, was encouraged to leave their place of employment. This occurred because another attorney from another jurisdiction where he could not become a partner was coming to Cayman to become a partner and despite the Cay-

manian having built up that line of service and had done a good job to the point of being internationally recognised for it, he was then required to share the portfolio of clients and the work with the one coming to be the partner. Consequently, there was not enough work for two. Their billings plummeted and, as a result, they were encouraged to leave. Madam Speaker, fortunately for that Caymanian attorney, his range of expertise is broad enough that he was able to perform a wide range of legal work and therefore able to support his family.

Madam Speaker, as to the matter of allowing non-Caymanians to practise Cayman law overseas, I also consulted with senior Caymanian attorneys on a number of years PQE that would be appropriate for non-Caymanian lawyers to be allowed to practise Cayman law, whether overseas or locally. I spoke with senior Cayman attorneys who had spent sufficient time in the industry, some of whom have their own firms or were outside the employ of the large firms and could speak without fear of victimisation or threats to career advancement. It is fairly well known that if you are not a strong person and true to your principles, through intimidation and being ostracised, junior attorneys can be pressured into saying and doing things and taking positions they would otherwise not say or do. Older senior attorneys have had time to observe and reflect on what worked and what did not work and how things can be done differently to improve opportunities for Caymanian attorneys.

It is believed by many that in the early days, zero to three years PQE was sufficient to help build the industry but now that the industry is close to being 50 years old and it is obvious that a number of Caymanians have been developed and become equity partners, it is time that the requirements are raised in an effort to ensure that Caymanian talent is not continuously overlooked in favour of overseas talent that may not always be superior. And, Madam Speaker, I want no one to get the impression that you can force partnership on anyone. Partnership is based on a personal relationship that has to do with having faith and trust in the people with whom you are partners. There is competence, Madam Speaker, and there is character. Whilst you may be competent at what you do, your character may be less than desirable. So, despite the desire to see Caymanians progress to becoming partners, it is more than just competence. There has to be a meeting of the mind (so to speak), and a willingness on the part of both, a willingness on the part of the partners to invite that individual to be one of their partners, or even a willingness on the part of the attorney hoping to progress to want to become a partner in that particular partnership. Madam Speaker, for some people no amount of money in the world would attract them to become partners with a particular group of people. So, it has a lot to do with the individual.

So, Madam Speaker, after discussion with several senior Caymanian attorneys, I was comfortable with the thought that 5 years PQE for non-Caymanian attorneys would be reasonable. But, Madam Speaker, because I am a reasonable person, I agreed that a compromise of 4 years PQE, in an effort to progress the modern legislation that is needed, it is in this same vein that I also supported the suggestion by others, that non-Caymanian attorneys should have to sit and pass exams on Cayman Islands law before being allowed to practise and advise clients on matters concerning Cayman law. There is nothing unreasonable about that. That is precisely how it works elsewhere and Cayman should be no different if we have any hope of preserving the good reputation of this jurisdiction and our beloved Cayman Islands as being a leader in the offshore financial services industry.

Currently, Madam Speaker, Caymanians in contrast, have one of the longest periods of articles or training contracts that I know of for nationals of any jurisdiction but I am not focusing on that, for the reason that if properly trained, 18 months should enable them to have more time to develop their skills before being called to the Bar. Also, I believe that it is proper that the exam should be sat at the Cayman Islands Law School, not elsewhere overseas, for the approximate 200 attorneys currently employed and practising Cayman law overseas, and that also applies to everyone that is hired after this Bill should become law. Further, the additional tourist spending from approximately 200 attorneys travelling to the Cayman Islands for a few days over a period of several months is good for our local economy and a small price to pay for the privilege of being allowed to practise Cayman law overseas. Madam Speaker, the additional revenue in exam fees will also benefit our local law school.

While I am on the subject of the Cayman Islands Law School or CILS . . . sorry, Madam Speaker, The Truman Bodden Law School; my apologies. Let me state clearly that the Truman Bodden Law School is a very good institution but unfortunately it is sometimes ridiculed by some, not all, but just some, as not being a good institution. Madam Speaker, nothing could be further from the truth since the curriculum and exams for the English Law degree offered by The Truman Bodden Law School are set and graded by the University of Liverpool in England. The law degree is awarded by the University of Liverpool in England and the lecturers for the most part are UK lawyers or have attended UK law schools, even if they did not practise law. So, if everything about the school is “English” then, why is it that the school, by some, is perceived as less than good or reputable? Furthermore, the quality and number of exam passes continue to improve each year and students from The Truman Bodden Law School are able to attend universities in England and pass their practical courses as barristers or solicitors. So, the question is: Why then do some people perceive The Truman Bodden Law School generally as being inferior because as I’ve just proven, it is as good as any of the others?

Madam Speaker, if it is that the progression and advancement to partnership in Cayman law firms;

that being equity partnership, Madam Speaker, is really based on a meritocracy, then, let it be a true meritocracy, not a system designed to prevent Caymanians from climbing up the ladder within the firms. The effect of that is not just financial based on remuneration but also social and economic. If Caymanian attorneys and non-Caymanian attorneys are not held to the same standard and measured by the same metric as Caymanians are, then anything else, in my opinion, is not sincere. Whilst we may be passive and generous and will give you the shirts off of our backs, that should not be mistaken for people who are without intellect and ability. Nothing could be further from the truth, Madam Speaker. The meritocracy seems to exist but for all of this time when we look at the industry, there is a disproportionate number of Caymanians who have advanced to the levels of partnership, let alone equity partnership. For all of the reasons mentioned above, I believe that it is necessary that the Bill address these issues. And, Madam Speaker, I do believe that with amendments the Bill will address some of these issues, or most, if not all.

So, I want to be clear that my desire for this Bill is twofold. First, to protect our financial services industry but also to protect our Caymanian attorneys, even those who do not realise that they ought to be protected. Protection of the financial services industry and protection of Caymanian attorneys within the financial services industry are not mutually exclusive outcomes and we should not allow anyone to tell us that it is so. Like everything else, finding a happy balance is not impossible and may not even be easy to do but find it, we must. Neither should we be ashamed of the words protection of Caymanians. Every other country practises some form of protection of its people and industries. Some may go to extremes such as Brexit while others may lament electing rich, rude and aggressive candidates, but the desire is to protect their people, their industries and the employment of their people. In Cayman we do not need to go to either extreme, we just need to insist on finding a reasonable balance between the two.

Madam Speaker, with those few words I thank you very much for the opportunity to speak on the Legal Practitioners Bill, 2016.

The Speaker: Does any other Member wish to speak?

Hon. Marco S. Archer: Madam Speaker, for the record . . . sorry, my apologies.

The Speaker: You can . . . I think I anticipate what you are going to say. Go ahead.

Hon. Marco S. Archer: Madam Speaker, I will support the Bill when it comes.

The Speaker: Does any other Member wish to speak? *[pause]* Does any other Member wish to speak? Final call—does any other Member wish to speak?

I recognise the Sixth Elected Member for the District of George Town.

[Inaudible interjection]

Mr. Joseph X. Hew, Sixth Elected Member for George Town: Thank you, Madam Speaker.

Madam Speaker: I rise to provide a brief contribution to the Legal Practitioners Bill, 2016. I am certainly not an attorney and so, other than cleaning a few of the offices, I have not had the experiences of some of the Members here in this hallowed Hall. I do not know . . . sorry, Madam Speaker, I do know that the conflicts, the trials, the allegations and disparities and the struggles of some of our Caymanians within this industry did not begin today. In fact, Madam Speaker, it has been a topic of debate for, I would venture to say, decades. Madam Speaker, this Bill that we are debating today is not the cause of these struggles. It is not the cause of the issues that our people are facing in the legal industry today. In fact, with a clear mind and with no conflicts, this Bill is meant to take a huge step forward in regulating, strengthening and providing a level playing field within the industry for our people.

This Government, Madam Speaker, did not create the issue but again we have fallen victim to taking on the difficult issues that have been ignored, put aside for political reasons, for whatever reasons they have just sat there. We have heard they have come to the House two or three times and four times in some instances, and yet the status quo remains. But we, as a government, campaigned and committed to tackling these difficult issues and that is what we are doing here today. Much is at risk not to modernise this industry.

The Speaker: I recognise the honourable Member for the District of East End.

POINT OF ELUCIDATION

Mr. V. Arden McLean: Thank you, Madam Speaker.

Madam Speaker, I wonder if the Member would enlighten this House on when a new Legal Practitioners Bill has ever been brought here, especially over the last 16 years, because—

The Speaker: Member for East End, you are asking on a point of elucidation or are you going to change it into a point of order?

Mr. V. Arden McLean: He can elucidate or I can call it a point of order that he is misleading the House.

Mr. Joseph X. Hew: Madam Speaker, I thank the Member for East End.

I said, this Bill, like many other difficult issues that this country has faced (and he is completely and in fact correct), that despite a couple of attempts, this Bill

has never made it to the House until now, Madam Speaker.

[Inaudible interjections]

Mr. Joseph X. Hew: I said "difficult issues".

Mr. V. Arden McLean: Madam Speaker.

The Speaker: Member for East End.

Mr. V. Arden McLean: I respect my colleague but my understanding and the understanding of others is that he said the Bill had come here four times and, Madam Speaker, that is not so.

The Speaker: Sixth Elected Member for George Town.

Mr. Joseph X. Hew: Thank you, Madam Speaker.

I apologise if I gave the Member or anyone else that impression. I certainly intended to go on to talk about many difficult issues and bills that we have brought over the last four years, Madam Speaker.

The Speaker: Please continue.

Mr. Joseph X. Hew: Madam Speaker, as I was saying, much is at risk not to modernise this industry by way of this important Bill. The world is changing quickly, Madam Speaker. Globalisation is upon us. Terms like international integration, the moving world. Madam Speaker, trade and transactions are no longer personal things, no longer stationery, no longer sitting in a warehouse or no longer have to be in a particular jurisdiction. Local businesses, even locally, Madam Speaker, outside of this industry are adapting. Merchants are creating facilities overseas to be able to compete with global competition right here in Cayman. We know of other industries where services are being outsourced as far away as India, even medical services. Many, many, other services are being outsourced throughout the world; business being done right here in Cayman by persons across the world, 24 hours a day, 7 days a week.

Madam Speaker, we as a country and certainly as a leading financial centre, must remain modern. In particular, with this industry, we have to be innovative and yes we have to be a model for others to follow. Each Member who spoke thus far, have had one common view and that is that this Bill is about the future. It should not be about the past experiences or should not be an opportunity to grind our axes or let's get pass meetings that were held years ago, what was said years ago, let us look to the future, Madam Speaker. Let us look to the future for all Caymanians in the industry, in the entire financial industry. Our Caymanian receptionists, our messengers, our secretaries, our janitors; all of those friends and cousins who work in human resources and the IT departments, let us speak for all of them as well, Let us represent all of them as well.

[Inaudible interjection]

Mr. Joseph X. Hew: The Bill is about the lawyers. The Bill is about the lawyers and the biggest argument here has been about the lawyers, and I am just simply saying, that when we make decisions in this hallowed House we have to make decisions that affect everyone; every single Caymanian, Madam Speaker. These are the Caymanians who are most vulnerable. They can't just pick up and go and get another front desk job across the world or a receptionist job or even as a janitor. Madam Speaker, when the buildings go empty, those jobs are gone. And they can't do it from a home office. Those jobs are gone. We will affect the most vulnerable in our society if we do not get this right. This is why we have to put the past behind us. We have to work together over the next couple of days to pass this most important Bill. Let us put our egos and differences aside and pass a Bill that represents all in the industry, from the very top to the very bottom. And, as I said in the beginning, I have cleaned those offices, Madam Speaker. Let us pass a bill that will be there for generations to come.

Madam Speaker, the evidence exposed in this House over the last few days and weeks, tells us that the status quo is completely unacceptable. It has not worked and it requires change and that is what we are trying to do and we can do it together. So, Madam Speaker, like the Honourable First Elected Member for Bodden Town said a couple of weeks ago, let us do like we have done in the past; let us come together, work through the issues in this Bill and let's get it done.

In closing, Madam Speaker, let us not cut off our noses to spite our faces. Let us apply some common sense, let us apply some perspective and let us join together in doing the right thing. Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? *[pause]* Does any other Member wish to speak?

If not, we will take the luncheon break at this time.

Proceedings suspended at 12:37 pm

Proceedings resumed at 3:04 pm

LEGAL PRACTITIONERS BILL, 2016

[Continuation of debate thereon]

The Speaker: Proceedings are resumed.

Does any other Member wish to speak?

I recognise the Honourable Minister responsible for Education, Employment and Gender Affairs.

Hon. Tara A. Rivers, Minister of Education, Employment and Gender Affairs: Thank you, Madam Speaker.

Madam Speaker, I rise to make my contribution to this Bill. The purpose of this Bill, in my estimation, should primarily be about the regulation of the legal profession. It should be about determining who are fit and proper to carry out the practise of Cayman Islands law. It should be concerned about proper education, proper training and development, ensuring competence, and it should be about regulating and ensuring the professional conduct of the lawyers practising Cayman Islands law. From a reputational perspective, from a risk perspective and from an excellence in service delivery perspective, Madam Speaker, to ensure that Cayman and the Cayman Islands as a jurisdiction of law is seen as having a competitive advantage because of the quality and calibre of legal practitioners practising Cayman Islands law. But, Madam Speaker, given the systemic issues that have plagued the legal profession for decades, some of those issues have been aired on the Floor of this House during the various debates that were made preceding me. Some have been aired in other forums, Madam Speaker. In addition to all that I have just stated about the purpose of this Bill being primarily to promote the proper education competence and regulate professional conduct of lawyers practising Cayman Islands law, this Bill has to be much more.

Madam Speaker, it is evident that the issues surrounding, not so much the Bill itself but to the industry in general, experience of people who have participated as practitioners in the industry, that there are some deep seated and emotional concerns. And, as we have seen in this Chamber, Madam Speaker, there have been some high emotions brought out in the debate thus far, through the Members themselves, as well as through some of the letters tabled in relation to this debate. We have heard repeated claims of discrimination made by Members in this Legislative Assembly, as well as I said, by letters, some anonymous but some written by several brave women who dare to put their names to their letters as submitted. We have also heard of some Members having clandestine cloak-and-dagger type meetings with persons who were afraid to identify themselves.

Madam Speaker, we have heard in this Chamber lots of talk about being champions of the cause to highlight the discrimination against Caymanians in the industry while paradoxically we have also heard others who seem to be—*shall we say*—questioning others of us in the Chamber who may have stood up to be champions of similarly related causes, such as promoting gender parity and gender equality, not just in the legal profession, Madam Speaker, but in all professions. And it is my firm belief that no one in this Chamber can talk about discrimination against Caymanians in the legal profession in particular, as this is the Bill before us, without recognising the fact that as can be seen, at least from the claims made, by the majority of the signatories to the letters received, Caymanian women, where such discrimination exist, they are likely to be the most disadvantage group of all.

Madam Speaker, I want to point out that I believe it is no coincidence that Ian Paget-Brown, QC, refers in his address to the Grand Court opening on January 2013 when he talked about the discrimination that he is speaking to. This section has already been read into the Hansard so I will not repeat that, but I will bring out the fact that he refers very plainly and very clearly to references of “she” and “her” when making statements about discrimination in his view. And so, Madam Speaker, I believe that underscores the point that I have just made and that it is no coincidence or him being what some may want to argue as being politically correct by using and referring to “she” and “her”.

So, Madam Speaker, I will continue to beat my chest or in my case, my breast, in advocating for gender parity, in advocating for equal pay for equal work done, and in advocating for employment practices that do not in substance or practise, discriminate against or disadvantage women who may choose to have a child or may choose to have children and still desire to maintain a legal or other career. I therefore think that it is important that we continue as a parliament to put measures in place to achieve such parity and equality of opportunity without hesitation, without reservation and without apology.

Madam Speaker, because of recognising and respecting your position as being the Speaker and your limitation as it relates to participating directly and actively in these debates, I will continue to be the voice in this honourable House for the voiceless women who work every day here in the Cayman Islands, who give as much if not more, than their male counterparts, who perform as well if not better than their male counterparts, and who, on average, only make 72 cents to the dollar earned by their male colleagues of equal education and skill level. Right here in the Cayman Islands, Madam Speaker, those statistics are relevant to us here in the Cayman Islands. And most disturbingly, Madam Speaker, this gender gap increases with increasing education of women and men. So, Madam Speaker, I know some of you may be wondering how this is relevant to the Bill. Well, this is very relevant to the Bill because we cannot talk about what we claim to be discrimination against Caymanians without recognising a subset of that group that, as I said, statistically would be considered to be most disadvantaged.

I also recall, Madam Speaker, that the Member for East End in particular, made a point to single me out in his contribution about the experiences of the attorneys in this Chamber. And so, Madam Speaker, I too, to some degree will tell a story where relevant, and in discussing the purpose of this Bill, where relevant, I will intertwine into the discussion with my somewhat unique perspective to underscore certain points relevant to the Bill and why we believe it is im-

portant to have in this primary legislation. As I said, the main purpose of this Bill is and should be the regulation of practise of Cayman Islands law. In that regulation we must address and must ensure that we set standards and we ensure that people who are called to be admitted to be allowed to practise, to hold themselves out to be Cayman Islands law attorneys, are able to demonstrate that knowledge and understanding of the laws of these Islands to a sufficient degree prior to be given that title, that privilege, but also that responsibility once you are called and you enter private practice. So, Madam Speaker, the Bill includes a requirement for a Bar examination, especially or in particular, as it relates to attorneys who have not gone through the local law school, local PPC [Professional Practice Course], local training provisions that would not have been exposed on a day to day basis to the laws of this land. This examination requirement would be applicable to anyone who chooses to undertake their legal education and training and experience overseas as well as those persons who are recruited as foreign lawyers who are being recruited to work and practise locally.

Again, Madam Speaker, tying it back to the need to demonstrate knowledge and to ensure that we have capable and competent people who are holding themselves out to be Cayman Islands lawyers, when you sign an opinion as a Cayman Islands lawyer, your client on the other side of that opinion, in most cases, they don't care if you are from the Cayman Islands. They don't care if you are from the United Kingdom; if you are from Canada, Australia, or South Africa. They don't care about the nature of your origin. They want to know that what they are getting is sound, solid advice on the laws of the jurisdiction of the Cayman Islands. And so, Madam Speaker, I know some persons or persons may be questioning why the need to have this requirement to demonstrate this level of knowledge and understanding of our laws prior to being admitted to the Bar as an overseas qualified attorney. And they have expressed concerns about increasing cost and how this would increase the cost potentially to law firms in having to now ensure that all of those individuals who are recruited from overseas, come to the Cayman Islands, sit the exam in the Cayman Islands and pass the exams before they are actually able to be called to the Bar.

Madam Speaker, I would like to borrow an expression that we heard yesterday by one of the Youth Parliamentarians when they made the point – "if you think the price of education is high, try ignorance." Serious potential risk is not only to the jurisdiction but to the firms themselves by holding people out. We have heard some examples from the Minister of Finance when he gave some of his examples of indications such as what I am saying that needs to be prevented going forward and we need to ensure that there is some reasonable measuring stick to indicate that people have the basic understanding of the fundamental precepts and concepts of Cayman Islands law, because, Madam Speaker, this is not new. We are not introducing a regime that is bespoke or that is contrary to industry standard in this regards.

Again, Madam Speaker, having had the benefit of going through the process of qualifying in several jurisdictions, I can tell you, the only jurisdiction where I was called to the Bar that I didn't actually have to demonstrate that I had an understanding of law of the land was here in the Cayman Islands. In order to get called in New York you have to sit the Bar and to pass the Bar. In order to get called in Ontario you have to sit the Bar, you have to do the period of articles and then you have to demonstrate that you are ready to be called and admitted as a barrister and a solicitor. In order to be called in the United Kingdom to be admitted to the role of solicitor you have to pass whatever qualifying examinations that are appropriate and then you would apply thereafter to be admitted to the roles. The only place where I could just come with obviously having the previous qualifications I have just indicated and asked to be admitted to the Bar without showing that I had an understanding of the laws of the land, was here in the Cayman Islands.

Madam Speaker, this is a serious concern. It is a serious concern that we have looked to address specifically in this Bill by the introduction of having this provision that henceforth it is still possible to be called in another jurisdiction and then be admitted here based on that training and those experiences, but you must also show that you have the bare minimum established by the relevant authority in your ability to practise and understand the laws of the Cayman Islands. Again, Madam Speaker, this requirement goes to demonstrating proficiency in the law of the land prior to giving or be given the right and the responsibility to advise or opine on Cayman Islands law. And, Madam Speaker, I submit that this strengthens. This will strengthen the competitive advantage and it will reduce the reputational risk concerns that currently exist in the system of admission of foreign trained and qualified lawyers. It would to some degree also address the concerns which are often articulated outside of these Chambers but also demonstrated by some of the speakers prior to me about Cayman trained attorneys having to teach the foreign lawyers who are often recruited from overseas at a higher level than those Caymanians or Caymanian trained attorneys.

Madam Speaker, another important aspect of this Bill is to regulate the practise of Cayman Islands law in the Cayman Islands and elsewhere. It is a fact that a large part of the Cayman Islands legal services business practised locally, is, by and large, driven an integral to the global financial services business. We cannot get away from the fact that this is, I would say, the quintessential industry of globalisation. Madam Speaker, if we are to stay competitive, if we are to be able to continue to compete with other jurisdictions that are looking to attract this level of international fi-

nancial services work, we must be able as a jurisdiction to practise our law in those multiple jurisdictions.
Again, Madam Speaker, putting this in a bigger context, a bigger picture so that people understand that by licensing and regulating the practise of Cayman Islands law overseas, this is not a new phenomenon, it is not a new concept; it is what is done as it relates to New York law; it is what is done as it relates to UK law; it is what is done as it relates to Canadian law. We as a country cannot take a myopic view in saying that we can only practise the law of the Cayman Islands in the Cayman Islands. We will lose business and losing business translates to loss of jobs. So, Madam Speaker, one of the areas that this Bill seeks to address is to ensure that there is a regime that actually not just allows for and licenses the practise of Cayman Islands law from outside the jurisdiction, it seeks to regulate this practise as well. And, as I said, this approach is certainly consistent to the other jurisdictions and I dare say more so than I have just named but these are the ones I am familiar with.

Madam Speaker, another purpose of this Bill is to introduce an appropriate regulatory body, the Cayman Islands Legal Practitioners Association [CILPA]. And, Madam Speaker, it is designed to be a self-regulating body. And I know this issue has also been a cause for concern for some people, the fact that we have the industry regulating itself. But again, Madam Speaker, I will leave the minutia of the discussion about how what is being proposed does in fact meet the obligations as put forward by the CFATF (Financial Action Task Force) and other compliance requirements as it relates to the code of conduct and otherwise in the Bill. But again, I just want to give some perspective as to the nature of having a self-regulating body and how this does not act as a unique situation that has not been put forward, that is not in operation in other jurisdictions.

In particular, I would like to apprise Members of this honourable House as well as those who are listening keenly to this debate, about the fact that in Ontario Canada the Law Society of Upper Canada [LSUC] has been self-regulating since 1797, hundreds of years. The Law Society was created by an Act of the Legislative Assembly in 1797 and it governs Ontario lawyers and now more recently, paralegals in the public interest by ensuring that the people of Ontario are served by lawyers and paralegals who meet high standards of learning competence and professional conduct. And as it speaks specifically to the nature of the entity itself, and the information I've taken is from the website of the Law Society of Upper Canada. It refers to, like many professionals in Ontario, lawyers and paralegals in Ontario are self-governing. This means that lawyers and paralegals oversee their own regulation through the Law Society in accordance with the Law Society Act and its regulations passed by the Ontario Government. And, Madam Speaker, the Law Society of Upper Canada is estimated to be responsible for regulating, licensing and disciplining 49,000 lawyers and now, more recently, about 7,900 paralegals as it relates to the practise of Ontario law.

Madam Speaker, I am not here to say that the two associations are the same but I am here to draw the similarities of the structure and to help people understand why, what is being proposed is not something that is new and anomalous to the regulation of the legal profession. And similar to the Law Society of Upper Canada which is governed primarily by a board of directors known as Benchers, which meet on a monthly basis in what is known as convocation, and in their case they make policy decisions and deal with other governance matters, the Cayman Islands Legal Practitioners Association here, also has the Council which would be in similar role and responsibility of the Benchers.

Madam Speaker, given that the role of the CILPA Council is going to be so critical in the effective regulation oversight and determination as it relates to professional practise of law in the Cayman Islands, it is critical that the Council is reflective of the diversity of the Cayman Islands law firms and the various practices that practise Cayman Islands law. And it is my firm belief that (which I think has been echoed by others, either in this Chamber or outside this Chamber) there should be only a maximum of one member on the Council from any given law firm or a company, and there should be to the best extent possible, at least one sole practitioner represented on the Council. And acknowledging the competence and the ability of Caymanians to manage our own affairs and carry out the purposes as mandated by this Law, I believe that the composition of the Council should be 100 per cent Caymanian. And this, Madam Speaker, is what the Government has agreed and this is what will be put forward as it relates to this Bill.

[Inaudible interjection]

Hon. Tara A. Rivers: Madam Speaker, another key purpose of this Bill is to facilitate the entry as it says on the front, but I would also go as far as to say facilitate the progression of Caymanians in the legal profession. In order to do that we need to look at the various stages of how we do that. And so from the very beginning the standard and quality of the legal education is the key.

Madam Speaker, we have heard from a number of speakers in this House as it relates to training and educational experience received at our local institution and not having the benefit of studying at the Truman Bodden Law School, I would certainly defer to my colleagues who have spoken about their views on the quality and calibre of education received, and their views questioning why such education is not given the equal value of other institutions. But certainly, Madam Speaker, it is absolutely critical that in order to be a successful attorney in this profession, that we have

high standard quality education in legal preparation and training and that students are given those opportunities to access that education, but also, are very discerning about what they do when given those opportunities. Because, Madam Speaker, let's make no mistake about calling a spade a spade, the legal profession is a very competitive profession. The legal profession in many, if not most instances, is not a 9 to 5 job. The legal profession requires commitment to excellence in order for us to stay competitive in this global market, and that must start from the time you start law school or law school equivalent. It is not good enough to go to law school and say that you have a law degree and you have done the bare minimum or you have achieved the bare minimum and expect to progress in the profession.

[Inaudible interjection]

Hon. Tara A. Rivers: No, what I am saying is that it does not matter where you study, you must study and you must achieve.

[Inaudible interjection]

Hon. Tara A. Rivers: Madam Speaker, another key aspect of making sure that we train and promote Caymanians who can reach the highest echelons in the legal profession, is to make sure that we get and put in place and that the firms put in place proper training during the articleship period. We have heard many complaints about the lack of training opportunities as being one of the reasons why people felt that their career prospects were stymied later on. And it is absolutely fundamental that in your period of articles as well as your period as a junior associate (that is that 0 to 3 years PQE) that you are given the critical tools or that you get the critical tools for success. And that, Madam Speaker, I would like to draw an analogy at this point. I'm kind of wearing my Ministry of Education hat. I draw the analogy between becoming a lawyer and a student going through the education system. Law school is like your home for those children. That is the first place that you get your instruction. That is where the foundation in many respects is laid. Preschool, Madam Speaker, is like doing articles, you are not quite ready for compulsory age school but you are getting those critical tools necessary to help you be successful when you get to the big school.

Madam Speaker, being a junior associate, that 0 to 3 year PQE is like being in primary school. We know and studies have shown that primary school education in getting those fundamental literacy and numeracy skills necessary to be successful in life, whatever you do must be gained during that critical age and period of primary school. Similarly, Madam Speaker, that critical time of continued education and training and tutelage and experience and exposure that you should get as a junior associate in order to be able to then soar to whatever heights you aspire to, those opportunities must be made available during that critical period, otherwise, just like those people in secondary school that may not have learned to read or write or do arithmetic to the sufficient level while they were in primary school, those same mid-to-senior level as in PQE associates would struggle. And those are some of the complaints that we are hearing about why people feel that their career progression has not been encouraged, has been, in some instances, allegations of specifically being stymied by giving work that does not provide those critical tools during that critical period of early practice. And so, Madam Speaker, it is absolutely essential that this legislation deals with addressing those concerns.

Madam Speaker, I would also go one step further and specifically state that if you are interested as an attorney to practise in a firm that does primarily multinational or cross-border multijurisdictional work, there is also a great benefit to have the international experience and exposure. Madam Speaker, it provides you with an opportunity to understand the big picture of the deal that you as a Cayman law attorney may only be doing one discreet aspect of a much larger very complex and often taxed-driven structure. And so, that is certainly something I believe, is why we hear some locally trained attorneys who may not have either been given the opportunity to get that exposure or who may not have taken advantage of any opportunities that have come their way in order to get that exposure. Either way, it is often times that inability to understand or to be aware of, or to know the big picture in the deal in which you are working that is often used against those attorneys. And so, Madam Speaker, in some respects it may be of no fault to the locally trained attorney because they have either, as I said, not been given those opportunities or have not sought out to create those opportunities to get that kind of experience and exposure.

Madam Speaker, this legislation must see to it that real opportunities for onshore experience is gained by junior Caymanian attorneys, either through organised secondments to onshore law firms that principally structure and manage the deal in its totality, by offering training and development of junior attorneys. And it is critical for people to understand and appreciate that the training and development of junior attorneys does not end with the completion of law school, of the PPC or even articles. Firms must invest in ensuring quality meaningful training continues in those crucial 0 to 3 years PQE, those primary school years of the practise of law. And so, Madam Speaker, this Bill must incentivise firms to ensure that these opportunities are provided to young, bright, aspiring Caymanian attorneys.

Madam Speaker, as I said, sometimes it is the lack of opportunities being provided but similarly sometimes it is the lack of opportunities being seized. And I have witnessed myself, that during my time

practising, a situation where one of the junior locally qualified attorneys being offered an overseas placement, did not necessarily see the need or the value for such. Now, I understand, Madam Speaker, everybody can't pick up and go overseas and get the experience and the expose and the knowledge and the understanding that having that perspective would bring, and that should not be a hindrance to career progression, but it is a fact that having a broader understanding of the bigger picture of the deal in which you are working, will only help you get there a little bit sooner. And so, Madam Speaker, in advocating for ensuring that we provide an environment where those opportunities are created or are offered or provided to the young, bright, aspiring and competent Caymanian attorneys, we must also be cognisant of what the Russian writer, Ayn Rand said—**"The ladder of success is best climbed by stepping on the rungs of opportunity."** And so, Madam Speaker, locally trained qualified experienced attorneys must not be afraid to pursue and even, if necessary, create those opportunities to gain that international experience in that international exposure.

[Inaudible interjection]

Hon. Tara A. Rivers: They can do so in a number of ways.

[Inaudible interjection]

Hon. Tara A. Rivers: Sorry?

[Inaudible interjection]

Hon. Tara A. Rivers: I am being asked to tell you how. Well, Madam Speaker, I can only speak from my own personal experience on this and I did not necessarily want to go into to those details, but I am being asked: How can you create those opportunities? Well, you can create those opportunities by, if you feel that you are not getting the experience and exposure that you need at the firm—however, Madam Speaker, I want to stick a pin because this Bill is intended to address some of these issues going forward. But I am speaking from hindsight now. Right?—you work around it. You seek those opportunities yourself. And as a Caymanian attorney who went to a top law school in Canada, trained in top law firms in Canada and the UK, a little girl from Mount Pleasant having all of my primary education right here in Cayman.

[Inaudible interjection]

Hon. Tara A. Rivers: With strong Bosun Bay connections yes, of course.

The point is that we can do it if we put our minds to it and we create those opportunities for ourselves. And the fact is, Madam Speaker, even when you do that, you may have some people say *Wow! Who set that up for you?* Because we get back to what some people have called the white elephant in the room. So, Madam Speaker, that is just a diversion because I was asked a specific question on that point. But going forward, Madam Speaker, this Bill will seek to address what I feel and believe to be a fundamental disservice to our young, bright, aspiring Caymanian attorneys as it relates to providing opportunities, or creating the environment to incentivise those opportunities to be provided by the local firms. But, as I said, Madam Speaker, it is a fine balance that we have to walk here because those opportunities can be made available but you as the individual, you need to show determination, hunger, and you need to be dedicated to your success, because this is not a profession that will be handed to you. However, all things being equal, we can and should be given those opportunities to rise to the highest echelons in this profession. There is absolutely no reason why we can't and we should not, and this Bill looks to seek to address some of those long systemic issues that have been very challenging for Caymanian progression in the legal services industry.

Madam Speaker, one of the ways in which we seek to do that is to ensure that all jobs, all attorney jobs, in particular, as we are talking about this Bill, must be advertised locally before, if not at the same time as any job advertised overseas. We must know about what positions are available to our newly qualified, mid-level senior and up, of attorneys practising in the Cayman Islands about what jobs are available in the Cayman Islands before anybody else finds out about it overseas. Because, Madam Speaker, that is one of the biggest barriers to career progression for our local attorneys if they are competing for jobs where they have already identified, recruited and short of giving a contract to persons overseas, and that those two ads consecutively in the paper, show up just for a work permit application. These are one of the ways in which we must address this issue of providing equal opportunity for our people to compete.

Madam Speaker, this Bill must also address and enshrine in real tangible and measurable ways, the need to actively recruit, to actively retain and to actively promote capable, competent and qualified Caymanian attorneys. And, Madam Speaker, provisions must be included on how to identify, mentor and groom persons to take on those roles from the time they are students, straight on up to ownership opportunities in the various firms or companies. And they must include appropriate accountability mechanisms and penalties to ensure compliance with this aspiration. Again, some would argue this is not necessary to be included in this Bill. And in an ideal world, all of this should not have to be in this Bill but, Madam Speaker, we are in the reality of today.

Mr. Alva H. Suckoo, Jr., Fourth Elected Member for Bodden Town: Madam Speaker.

The Speaker: I recognise the honourable Fourth Elected Member for Bodden Town.

POINT OF ELUCIDATION

Mr. Alva H. Suckoo, Jr.: I don't want to interrupt the Minister but just on a point of elucidation if she would give way. Is she speaking to the Bill or the amendments that are to come because I am getting a little bit lost here?

The Speaker: Honourable Minister of Education, can you clarify?

Hon. Tara A. Rivers: I am speaking to my aspirational goals of what this Bill should say. And, Madam Speaker—

[Inaudible interjections]

Hon. Tara A. Rivers: Madam Speaker, as I said before in terms of the details, the devil in the details, the minutia, what is actually in the Bill, I will leave that for the Minister to discuss and bring forward.

[Inaudible interjections]

Hon. Tara A. Rivers: But, Madam Speaker, it is imperative that we look to address these concerns that have not only been expressed in this Chamber, but expressed to us on many and numerous occasions. We also must do so with the clear understanding that the primary purpose of this Bill should be the regulation and the promotion of competent qualified legal practitioners.

The Speaker: Honourable Minister, reverting back to the point of the honourable Fourth Elected Member for Bodden Town, I think he was rising on elucidation but also as far as relates to the anticipated committee stage amendments, the Chair does not mind, in accordance to the rules, you speaking to the aspirational goals in so far as they are not verbatim of the anticipated amendments. So, if you could traverse that very fine line very carefully, the Chair would be most grateful.

Hon. Tara A. Rivers: Thank you, Madam Speaker. I can assure that there is no verbatim quoting of any of the anticipated committee stage amendments at this stage.

The Speaker: Much obliged, as Members seem to be indicating that they have not seen the proposed amendments being circulated yet.

Hon. Tara A. Rivers: Madam Speaker, in—

The Speaker: I recognise the Fourth Elected Member for Bodden Town. Do you have a point of order?

Mr. Alva H. Suckoo, Jr.: Sorry, Madam Speaker, just to clarify why I asked that, because we have not seen the amendments. So, that is why I was asking the question. Thank you.

The Speaker: Madam Clerk, do you have the amendments to circulate?

[Inaudible reply]

The Speaker: Honourable Minister, are there amendments that are going to be forthcoming? Minister of Financial Services, I beg your pardon.

Hon. G. Wayne Panton, Minister of Financial Services, Commerce and Environment: Yes, Madam Speaker, thank you. The proposal is to file proposed committee stage amendments in accordance with the Standing Orders.

The Speaker: Okay.

Honourable Minister of Education, please continue and in light of what has been said, please refrain from any reference to those because the Chair have not seen and/or approved those as yet.

Hon. Tara A. Rivers: Thank you, Madam Speaker.

Madam Speaker, again, and this is my view; this is certainly not in any committee stage amendments in the Bill or otherwise, but I believe that this Bill, in regulating the legal services profession is and has to be cognisant of the impact on employment more broadly and generally in this industry.

Madam Speaker, as I said, the reality is that the legal services industry is a major employer of not just the obvious, such as attorneys, but it is also an employer of Caymanians in support staff roles, such as legal secretaries, administrators, corporate administrators, marketing and PR professionals, to name a few. And so, Madam Speaker, when we are discussing this Bill and the need to modernise this Bill in order to promote the industry, we cannot forget the broader consideration as to employment generally, of having a vibrant legal services industry. And, Madam Speaker, with your permission I would read a letter that was delivered to me at the Legislative Assembly today actually. It was just delivered today and I am happy to give the Chair a copy and distribute thereafter to the other Members.

The Speaker: So ordered.

Hon. Tara A. Rivers: Madam Speaker, I believe this letter speaks to a voice that has not been heard in this

debate thus far, as it relates generally to this other significant employment category that is so deeply entrenched with having a vibrant and successful legal services industry in the Cayman Islands. And so, Madam Speaker, with your indulgence the letter begins and I quote:

"I am not a lawyer and yet I work in a law firm. There are many like me and I think it is imperative that I give voice to the intensifying concerns that are being raised about the industry in which I work, as it appears that my interest is not being considered.

"There is much debate and public conversation regarding the legal industry—the industry that pays my bills; the industry that has been incredibly generous and accommodating to me and my needs. I have listened to and read, with much interest, the many views on the Legal Practitioners Bill, what it means to be lawyers and to the Cayman Islands. I can see both sides and, as an objective individual, I have tried to understand the issues that have hindered the advancement of a bill through which there is hope to improve the industry and bring a level of equality and balance that some feel seems to be lacking.

"The many amendments suggest that change is coming and that the industry is cognisant of what needs to be done to move this forward and improve such a thriving profession. But I am concerned that the ones opposing the Bill have lost focus and are taking an extreme and radical approach which may very well send our country into a downward spiral, from which we have little hope of returning. Out international presence is and will always be tenuous at best and the slightest shift in political, economic or social stability will send investors fleeing from our shores, affecting everyone who relies on the trickledown economics that it brings.

"I listened intently to the recent discussions within the Legislative Assembly and was shocked to hear one MLA's comments which expressed apparent delight at the idea that a certain building would soon be vacated if its tenants, once the foreign offices of a particular law firm were shut down and said firm was forced to downsize. I wondered if anyone gave serious thought to what he was actually proposing! He was suggesting that there would be no need for such a large building, as the number of staff would be reduced so considerably as to cause that law firm to find smaller accommodations for its shrunken headcount. Please let that sink in for a minute because no one has begun a conversation about whom those people are who will be made redundant in such a controversial move.

"In my law firm there are well over 500 members of staff in the Cayman Islands of which more than 400 are support staff; that is people in HR, Marketing, IT, Accounts, Office Services and the professional staff who make up the funds and fiduciary services teams. There are only approximately 100 lawyers in total here in the Cayman Islands. This means that EIGHTY PER CENT of the workforce in my law firm alone is support staff. Of that number of support staff members, over 300 are Caymanian, so 69 per cent of the workforce in my law firm, excluding the lawyers for the moment, is Caymanian—myself included.

"To clarify my position as a Caymanian, I have lived here since I was four years old and was put forward for Caymanian status as a young child by a current sitting MLA who recognised my right to receive it. I consider myself a Caymanian in every sense of the word, although I was not afforded the privilege by birth or lineage. Lest we digress from the topic to debate who is truly a Caymanian.

"Has anyone given thought to how the closure of foreign offices will impact the local workforce? How will it affect Caymanian workers like me? People in supporting functions like mine? It would appear not. While the LPB is not about me, some of the points raised in the Private Member's Motion have the potential to negatively impact me."

The Speaker: Honourable Minister, I am just, obviously, having sight of this letter. I would ask you to use your discretion as far as it relates to future motions that are coming, or as far as it relates to improper motives of any Member of this House.

Hon. Tara A. Rivers: Thank you, Madam Speaker. Thank you for that.

Madam Speaker, I was delivered the letter and asked to read it in its totality but I will certainly take your views and your guided counsel on board.

So, the author goes on to say: **"My rise to success within my field is a relatively dull story. I work my backside off. I devoted myself to my career, often at the expense of my personal life. I fought and clawed and paid in blood, sweat and tears to become a senior manager with a global remit within the marketing team of top tier, international law firm, Maples and Calder. I am a success because my employer recognised my drive and ambition and rewarded my efforts throughout my employment. I am Caymanian and I am a senior member of staff, not an anomaly. There are many more like me.**

"I fully appreciate that there are significant and historic issues that have plagued the industry. However, I find it disconcerting that the debate is being waged so publicly, drawing opinions and commentary from . . . critics who are only hearing one side or one perspective and fanning flames that would be cringed by compromise, were the

relevant parties willing . . ." (and I am paraphrasing here - to do so) "**with a goal of finding a reasonable resolution that puts us all somewhere in the middle."**

Madam Speaker, with your guidance, I am at a bit of a quandary in terms of what I should continue to read because these are the views of the writer as it relates to how they feel, not just in the House but the current debate more generally is impacting their ability to potentially continue their livelihood. So, Madam Speaker, I will continue and ask for your guidance if you feel that there is anything.

The Speaker: I think, Member, you are quite on the right track when you paused to reflect because certainly the first four words of the next paragraph are not parliamentary language that I would entertain.

Hon. Tara A. Rivers: Thank you, Madam Speaker.

So, I will go on to say —**"My position is so unique to this industry. I fulfil a function that gives me a perspective and access to understand a bit more than the average person. I am not a lawyer but I have taken the time to ask questions; to engage in conversations; to give my opinion and suggestions and ideas, because, at the end of the day my goal is not to destroy my country or my source of income, but to enhance it and develop it and protect and preserve it. I would implore those who share in that desire to resist adding fuel to the fire and engage with both sides for a more balanced view."**

The letter goes on to say: **"I have gorged on the varying views of the merits and shortcomings of the Bill trying to grasp true sense of what the underlying failures are. I have spoken at length to some of the main proponents who are eager to see it pass and have queried the points that seem to be the deal breakers by those opposing the Bill. I get it. . . . From what I can discern in my 'unlawyerly' level of intelligence, one side is beating the drums of dissatisfaction, while the other is scurrying to appease and please and compromise within reason and with a view to protect the industry as a whole on a local and international level.**

So, again, another thrust of, I believe what the letter is getting at. It says: **"Consider a moment other industries with similar organizational structures—Cayman Airways for instance. Is the suggestion that we also demand that it close its offices in Miami and other hubs where our National Airline must hold a local presence? Is anyone looking at the 'loss of income' associated with the jobs held in their offices located outside of the Cayman Islands? What of the CIG's own Department of Tourism? How we can justify our very own government's use of foreign offices when those jobs should be easily filled and held by Caymanians right here on our own shores? How effective would that be for tourism? Double standard? Do we require work permit fees for those travel agents all around the world who book magical vacations selling the Cayman Islands to sun starved tourists, even though we have our own travel agents right here at home with far more experience in the Cayman product than someone sitting in an office in New York who can only describe the unmatched beauty of our beaches from a poster on a wall? Shall we look to regulate every industry that requires an external presence to promote the jurisdiction?**

"We must approach these situations with common sense and reason and not cut off our nose to spite our fact. If there is concern about the presence of offices in other countries, whether it be a law firm or an airline or a distributor of imported products which benefits from an office in the US to facilitate the movements of goods to the Cayman Islands, then we should endeavour to understand and support the need and strive to protect what that does for our local economy *vis-á-vis* the creation of local jobs to sustain operations all around."

She goes on to say: **"The foreign offices do not employ such a significant number as to truly impact the level of employment here and certainly no jobs have been lost as the Cayman Islands offices have a higher concentration of employees, lawyers and support staff than any of the foreign offices. How many Caymanians can speak Mandarin or Cantonese?"**

Madam Speaker, I believe we get the gist of what the letter is saying.

[Inaudible interjection]

Hon. Tara A. Rivers: Well, it helps in the sense that it is a perspective that has not been a part of this conversation when we are talking about the employment of Caymanians. And I think it is a perspective that we cannot forget because, lest we forget about the issues facing some of our unemployed Caymanians today, when firms either retrench, when they actually make people redundant because of lack of business that may be flowing to the country.

[Inaudible interjection]

Hon. Tara A. Rives: So, Madam Speaker, the only thing I think that this writer is attempting to bring out in the conversation is that if we are going to have a conversation that needs to be a wholesome and fulsome conversation and how it potentially impacts Caymanian people, Caymanian families, Caymanian employment opportunities and how whatever decisions are taken—

The Speaker: Minister, earlier you said that once you finished you wanted to lay it in order to circulate it to other Members. That is what the Serjeant is doing, once you finish with it—

Hon. Tara A. Rivers: I'm happy to give Members a copy. Whether or not it needs to be laid on the Table I defer to your . . . Yeah?

[No audible reply]

Hon. Tara A. Rivers: Okay.

The Speaker: Sorry, I thought I had ordered. Was that not what your intention was at the beginning when you started to read it that I said "so ordered"?

Hon. Tara A. Rivers: Sorry, Madam Speaker, I wanted the Members to have the benefit of a copy but just as we received copies of letters, I am not sure if all of those were tabled before.

[Inaudible interjection]

Hon Tara A. Rivers: Okay, then this will be tabled as well.

The Speaker: Okay. And this one did have a signature . . . well not a signature but it did have a name?

Hon. Tara A. Rivers: Absolutely, Madam Speaker.

The Speaker: Okay.

Hon. Tara A. Rivers: I will ensure that the Serjeant gets a copy of it for tabling but I will hold it until I am done with my contribution if that is . . .

The Speaker: You need to table it now and then it is recorded and it is circulated, unless you are not finished referring to it, Minister.

Hon. Tara A. Rivers: Well, I was not actually finished referring to it, Madam Speaker, so that was the only reason.

So, Madam Speaker, as I was saying before when questioning the relevance of this letter, I believe in this debate everybody has a right to have their voice heard. And everybody has a right to put their perspective forward, and I believe as legislators, we should not be selective in whose voice we listen to. And if that is the approach that is being taken in this House, then that is truly disheartening.

The Speaker: I recognise the Fifth Elected Member for George Town.

POINT OF ORDER

Mr. Winston C. Connolly, Jr., Fifth Elected Member for George Town: Madam Speaker, I rise on a point of order.

The Speaker: Please state your point of order.

Mr. Winston C. Connolly, Jr.: When we tabled our letters, we tabled both, for and against the Bill. So, let's please not impute improper motive.

The Speaker: Honourable Minister.

Hon. Tara A. Rivers: Madam Speaker, I am certainly not imputing improper motive. What I have heard from across the aisle, not on the mic, and maybe I should have responded off the mic, but I have heard comments of this not being relevant, this not being helpful. If that is your personal opinion, that is your personal opinion but the person writing this letter has the right to express their opinion, Madam Speaker. So, I am not imputing improper motives in any shape or form. I have just responded to some of the comments that I heard expressed while reading this letter. So, all I have said is that as a parliament, as a legislature, we have the responsibility to listen to all sides of the argument. And so, Madam Speaker, without making comment about my personal views as to what this letter says or does not say, I have been asked, as a representative, to bring this forward to the public for its consideration in this debate.

So, Madam Speaker, with that I will simply say that this is an extremely emotive issue. It is an extremely important issue which impacts many of us in this community; certainly, those of us that have the privilege, the right and responsibility to call ourselves attorneys-at-law, qualified to practise Cayman Islands law directly, but it also impacts the wider community as it relates to employment prospects and otherwise.

Madam Speaker, I will close this particular chapter of my debate by just reading the few closing lines of the letter because I believe it actually appreciates the challenges that we are facing in having not just this debate but finding a way forward for the benefit of our people.

She goes on to say: **"I fully appreciate the challenges that amended a new legislature"** ('a new legislation' it should read) **"brings and I think that a healthy debate is critical to the success of our beloved Isle Cayman. As is, the peeling back of mouldy issues that needs to be aired and cleansed in order to move forward."**

The Speaker: You have 45 minutes remaining.

Hon. Tara A. Rivers: Thank you, Madam Speaker.

"**Things have not been perfect; however, I am certain now that everyone's attention is sharply focused on a resolution and compromise and moving forward, we should begin to see move-**

ment in the right direction. I implore our honourable Members of the Legislative Assembly to consider all repercussions of action and inaction.

'I also appeal to my fellow Caymanians to trust, but verify; to dig and read and absorb before forming judgements and assuming a position based on a point of view. All key players involved in this debate feel that their position is right for this country, for our people. We as a people need to educate ourselves to the highest level on every topic on which we engage in a national conversation as these things always redirect into international channels which has the potential to weaken our position as a stable jurisdiction.

"Thank you for the opportunity to air my views, concerns and pleas. I trust that our lawmakers will do what is right for the people and the country as a whole, weighing this decision on a finally calibrated scale of justice to ensure that the outcome considers the impact on every individual and not just a select few."

Madam Speaker, that is a plea by someone who is pleading with us as legislators to find whatever solutions needed to be found and to put forward a piece of legislation which every single person in this House so far, have spoken and recognised that there is a need for change compared to what we have now. And, Madam Speaker, I stand to be corrected but if I am not mistaken, every single person have spoken bar one, and have accepted and acknowledged that we need to have a regime that sufficiently and adequately regulates and licences the practise of Cayman Islands law overseas.

Madam Speaker, I want to also say that we know and we recognise what time of the year it is. We recognise that we are about to prorogue this House.

[Inaudible interjection]

Hon. Tara A. Rivers: Dissolve this House (thank you) in very short order to move into the next phase. But, Madam Speaker, we are at a critical crossroad as it relates to this piece of legislation. We have heard from a number of people who have spoken, that there have been many attempts over many years to try to get us to this point. We are here now. Let us not waste the opportunity to actually come to a considered view that moves us forward in the direction that we need to go.

Madam Speaker, I also want to address some of the concerns that have been expressed about whether or not—especially the attorneys on this side—have sufficiently stood up or spoken up for the concerns as expressed by our people. Madam Speaker, the only thing that I can say to that is, never assume that loud is strong and quiet is weak, because there is also another principle that I think may be relevant or may be at play. I will leave the public to make up their minds on that.

The Pareto Principle or in other words, the 80/20 rule, I think . . . and the reason I bring it up is because somebody brought it up to me most recently, and this person was quite the astute observer when they said that most politicians spend 80 per cent of their time appearing to be doing something, appearing to be getting things done while only 20 per cent of their time is actually doing something or working to get things done, while others, she went on to say, spend 80 per cent doing and only 20 per cent worrying about appearing to be doing. And that the former, those that are 80 per cent concerned about appearances and only 20 per cent actually doing the work, those often are the ones who appear to be more politically popular because they are at depth at playing the game. And whereas, Madam Speaker, the latter 80 per cent who are concerned about getting the work done and only marginally concerned about the appearance of getting the work done, those are the ones that often suffer from the negative PR consequences of such an action, because they are more concerned about getting the job done than the appearance of doing so.

The whole point, Madam Speaker, is that we all have a role to play in this House; the Opposition has its role, the Independent-opposition has its role, Cabinet has its role and Backbench has its role, and certainly, just because some of us on the Government bench may not have been up and down on every talk show or on every television programme, publicly standing and speaking up for what is right for our people, that does not mean that we have not been very vocal and that we have not been fighting for what is right for our people. And fighting to ensure that this Bill in its amended form will have strong and be strong in 1) its protection of the Caymanian seeking to enter and succeed in the profession, as well as 2) ensuring the proper and sound regulatory framework to protect the reputation and service delivery mechanisms of the profession. And, Madam Speaker, I think in the words of George Carlin, the famous comedian, it's pretty apt here as well when he says, **"The caterpillar does all the work but the butterfly gets all of the publicity."**

Madam Speaker, some of us have been caterpillars in this process. Eighty per cent of our energy has been spent on doing what needs to be done to improve and strengthen this Bill. And that is on both sides of the isle. But the time to act is now. Knowing what we know, seeing these brave women who have put their names to the various letters expressing their concerns, publicly raising their concerns about their experiences and how they have been treated and what they have witnessed, as well as expressing their concerns about the sustainability of their livelihood should decisions be taken or not taken in this LA to adversely impact or otherwise, the global nature of the legal services industry, knowing all that we know with all the information that we have, if this Legislature, this Legislative Assembly, this current composition of Members in this House, which, Madam Speaker, leav-

ing you aside for now, given your role and not being able to actively participate in this debate, we have 7 of the 17 persons in this House who can vote on this Bill; that is 40 per cent attorney composition in the LA.

If we as a legislature of a large percentage of lawyers supported by non-lawyers who understand and appreciate the magnitude of what this Bill is trying to achieve on the macro level for our economy; if we can't come to a consensus; if we can't commit ourselves to move past whatever animosities that have arisen during the process; if we can't put our own egos and agendas aside to work for the greater good or our people and their ability to make a livelihood and thrive in this profession, to work for sustainability and the growth of the industry whereby growing the prospects for future as well as current employment at all levels, Madam Speaker, in the legal services industry; if we can't come together to work towards finding a way forward with a Bill that will help grow the economy as a whole, then, Madam Speaker, we have collectively failed our people, each and every one of us.

Madam Speaker, I want to go back to one of the first questions posed in this Legislative Assembly: If not us, then who? If not now, then when? It is not enough to talk about standing up for our people. It is not enough even to highlight or bring to the forefront, which we know some of the egregious experiences that may have been endured by people in this very Chamber. It is not enough to talk about it and to air it publicly in the hallowed Halls of this Legislative Assembly. We must act to do something about addressing it so it does not continue going forward. And if our consensus is to do nothing to move this Bill forward, we have failed our people and we are condemning them to the same type of behaviour which we are standing and saying is no longer acceptable.

[Inaudible interjections]

Hon. Tara A. Rivers: So, Madam—

[Inaudible interjections]

Hon. Tara A. Rivers: So, Madam Speaker,—

[Inaudible interjections]

Hon. Tara A. Rivers: —the question is—

The Speaker: Order.

[Inaudible interjection]

Hon. Tara A. Rivers: So, Madam Speaker, the question is: What do we do about it in the context of this Bill? And our collective understanding is something has to be done. And our collective understanding is something has to be done now. Each and every one as I said, that have spoken so far, barring one, have accepted the fact that we need a modern regulatory framework that is reflective of the modern practice of global financial services and the legal services in particular.

Madam Speaker, freedom of expression and freedom of speech are not really important unless they are heard. **"The freedom of hearing is as important as the freedom of speaking."** Again, I think that was another comedian by the name of Tom Smothers who said that.

The Speaker: Honourable Third Elected Member for West Bay, please desist.

Hon. Tara A. Rivers: Oh. Thank you. I'm the Second Elected Member so it's not me.

Madam Speaker, but again I believe what is unfortunate is the many public discourse that have taken place, gives the impression that the Opposition and the Government are at crosshairs, that we are at odds about the fact that we need to do something to address these concerns.

[Inaudible interjection]

Hon. Tara A. Rivers: Madam Speaker, I can speak for myself when I say we're not.

There is a common objective to address a known ill that has plagued this profession for years. And I want the public to know and hear that we hear them. I want the public to know that we have acted to strengthen this Bill, not only for better regulation of the legal profession but to also seek to address longstanding issues of lack of opportunities, of lack of proper and adequate recruitment, training, development and promotion of Caymanians in the profession, because, Madam Speaker, I am a firm believer and I agree with Voltaire when he said: **"No problem can withstand the assault of sustained thinking."**

As a Government we have to put our heads together, as a Legislative Assembly we have to come out and thrash out these issues amongst us and, as a Government we have done that and we will be putting forward committee stage amendments to address some of the perceived shortcomings in the Bill and to take into consideration some of the suggestions put forward by the Independent/Opposition in their committee stage amendments filed. Because, Madam Speaker, we have worked with the hopes of achieving an outcome that truly reflects the main purposes of this Bill which are: 1) to regulate the practise of Cayman Islands law, both here and abroad, and to establish a suitable governance mechanism in order to do so, and 2) to provide for a system of legal education; 3) to facilitate Caymanian participation in the legal profession at all levels.

The Speaker: Honourable Minister, I recognise the Honourable Premier. We have reached the hour of interruption.

Moment of interruption—4:30 pm

STANDING ORDER 10(2) SUSPENDED

The Premier, Hon. Alden McLaughlin: Thank you, Madam Speaker.

Madam Speaker, I move the suspension of Standing Order 10(2) in order that the business of the House may continue beyond the hour of interruption.

The Speaker: The question is that Standing Order 10(2) be suspended to allow the House to continue its business beyond the hour of interruption.

All those in favour, please say Aye. Those against, No.

AYES and one audible NO.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: I recognise the Honourable Minister responsible for Education continuing her debate.

Hon. Tara A. Rivers: Thank you, Madam Speaker.

As I said, we have worked with hopes of achieving a bill that facilitates Caymanian participation in the legal profession and to provide a mechanism to deal with professional misconduct if and when such misconduct occurs.

So, Madam Speaker, with those words, I make my submission on this most important Bill before this House today.

The Speaker: Does any other Member wish to speak? *[pause]* Does any other Member wish to speak?

I recognise the Second Elected Member for George Town.

Mr. Roy M. McTaggart, Second Elected Member for George Town: Thank you, Madam Speaker, for the opportunity to make my brief contribution to the debate with regard to what I perceive is very much a landmark piece of legislation that is before us. By any stretch of anyone's imagination, 15 years is a long time. And that roughly, Madam Speaker, is the time it has taken for various groups, various individuals, but collectively the legal profession and the Government to be able to get a bill like this before the Assembly for its debate. We have all recognised the need for the Legal Practitioners Bill to be updated, to reflect current state of affairs. The Bill was drafted in 1969 when much of the practices and procedures were never contemplated, and much of what we see today was never anticipated, never contemplated by the law and therefore the law did not address it. The Law was therefore outdated, outmoded and unfit for purpose.

Madam Speaker, with the exception of potentially the National Conservation Law which this House debated back in 2013/2014, I have never seen a Bill that has been so emotive; one that has been so charged with emotions and for various reasons, but I think this one is probably the most difficult that we have had to encounter so far. But, Madam Speaker, I don't think that those difficulties and people's emotions should allow us not to stand up and to take and to do the right things in trying to do what is right for our people and what is right for the Cayman Islands as a whole. And so it is, Madam Speaker, I do know that we have been working on this Bill for . . . gee, the entire four years which I have been a part of this Assembly. Probably spent more time on it in terms of meetings in trying to iron out the provisions and what it is that we were really trying to accomplish.

Madam Speaker, a lot of things has been said about this Bill. A lot of things have been said in the last week or two with regard to the state of the profession and a lot has been said about the discrimination that has taken place against our Caymanian lawyers with regard to their ability to succeed and to ascend the ladder of the legal profession. Madam Speaker, not being a lawyer, not being involved to any great degree in the profession, I have to accept the representations that have been made. And I have done sufficient work to know that even those letters that were written who were from people who I would say are nameless and faceless, that they are real, that these things reflect the genuine beliefs of our Caymanian lawyers.

[Inaudible interjection]

Mr. Roy M. McTaggart: Pardon?

[Inaudible interjection]

Mr. Roy M. McTaggart: Yes, and they do reflect real concerns.

[Inaudible interjection]

Mr. Roy M. McTaggart: Madam Speaker, I think that in the charge atmosphere in which we are debating this Bill, and, you know, all of the allegations that have been made outside the House have been covered by the press, it is all well documented. What I think it unfortunate is that we have lost sight of many of the good aspects of this Bill, because I truly believe that it does deal with most if not everything that we have been talking about and arguing about for many years. And it is from that expanse and that vantage point that I wish to speak in terms of my contribution to this de-

bate because I don't know that I can particularly add very much to what else has been said. But there are very many positive aspects of this Bill that we need to acknowledge in terms of addressing the issues that we have been talking about for the past 10 to 15 years.

I would submit first of all, Madam Speaker, that this proposed Bill improves the training opportunities for Caymanian lawyers. It contains specific provisions that non-Caymanian lawyers cannot be admitted prior to being three years PQE and four years PQE from 2019; that is [clause] 34(1). Our current Law does not contain such restrictions. And there is simply an unwritten policy in place in regards to obtaining work permits that are currently set at three years, but we know as with any policy, it can be changed. Now, one of the things that I would really hope for is that we could remove and would like to see personally, and I believe would advocate for, is that I would like to see that 2019 removed so that we go straight from three years to four years PQE. I would advocate for that.

Secondly, Madam Speaker, the Bill makes it easier for article clerks to spend a period of time abroad during articles, as partners and senior lawyers in foreign offices, will now be able to hold practising certificates. So, in my mind it does create opportunities for article clerks that previously did not exist and could not be accommodated. It will also allow Caymanian attorneys the ability to qualify in England which I am told is currently not possible. Admission in England can open gateways to practise in numerous jurisdictions all over the world; therein, a great opportunity too for our Caymanians who aspire to be the best and to work with the best.

Specific requirements for the Business Staffing Plan to contain details on how the law firms will make reasonable provisions to give access to Caymanians to the professions are included in clause 76(1) and (2). So, I see very many positive aspects, Madam Speaker, with regard to the promotion and training opportunities for Caymanians that previously did not exist and were not available and would not be available for our Caymanian lawyers.

[Thirdly], Madam Speaker, the proposed Bill enhances progression opportunities for Caymanian attorneys to non-equity and equity partners' status and to management and leadership positions. It requires all qualified law firms to have at least one Caymanian attorney. It requires for law firms to state specifically what the promotion of a non-Caymanian to partner would have on non-Caymanians. That means that they have to document and publish the effects of the promotion of a non-Caymanian to Partner.

The Speaker: I recognise the Honourable Fifth Elected Member for George Town.

POINT OF ORDER

Mr. Winston C. Connolly, Jr.: Madam Speaker, on a point of order.

The Speaker: Please state your point of order.

Mr. Winston C. Connolly, Jr.: The Immigration Law already does that and has done so for the last 30 years.

The point of order is that it is sounding like this is the first time it is being introduced in the Cayman Islands. It is not.

[Inaudible interjection]

The Speaker: Honourable Second Elected Member for George Town, I think you have merely made reference to the fact that it is proposed to entrench in this Bill and that is as far as you could go. I don't think you actually entered the realm of taking credit that this is the first time it has been done because you did refer to the Immigration Law.

Mr. Roy M. McTaggart: Madam Speaker, you are correct. And my only point here is that this proposed Bill specifically includes not demurring anything from what was previously in the Immigration Law.

The Speaker: Please continue.

[Inaudible interjections]

Mr. Roy M. McTaggart: Madam Speaker, I am specifically debating the Bill that is before us.

There are specific requirements that a business staffing plan of a law firm shall make reasonable provisions for Caymanians to access to the legal profession, including training and development and subsequent equitable progression within the firm. My point, Madam Speaker, previous law did not include these provisions to require and give access directly as this now does.

Madam Speaker, the Best Practice Guidelines in Schedule 2 also set out the requirement for a law firm to follow guidelines for training and development as well as performance management and career development, encouraging best practice.

Madam Speaker, unlike any other professional regulatory law, the proposed Legal Practitioners Bill expressly incorporates compelling adherences to the Immigration Law as it relates to hiring, training and advancement of Caymanians. There is a requirement for all law firms that have a work permit to file a business staffing plan. There is a specific requirement that the business staffing plan of a law firm shall make reasonable provisions to give Caymanians access to the legal profession, including training, development and subsequent equitable progression within the firms. And finally, there is a requirement to comply with Best Practice Guidelines that have a specific re-

quirement to complying with all applicable Cayman Islands law and so, would include the Immigration Law alongside other requirements relating to hiring, training and advancement of attorneys.

Madam Speaker, I believe firmly too, that the Legal Practitioners Bill is very much Cayman centric and supporting Caymanian lawyers both here and around the world. It incorporates express protective provisions to keep control of the practise of Cayman Islands law in Cayman. That is important. This is, after all, our law and our laws and the practise of it, is important as a country that we retain control and keep the nexus here in Cayman.

Madam Speaker, the Council of the Professional Association goes into great details as to how it is to be composed—eight attorneys ordinarily resident in Cayman. They practise law in Cayman, at least five of whom must be Caymanians, the majority, and of whom at least three of whom must have qualified locally.

Madam Speaker, over the weekend I had a visit from a young Caymanian attorney who came to talk to me about this Bill and talked to me about the reasons why he thought that it needed to be amended but was adamant; absolutely adamant that this [Bill] must go forward and that we cannot allow the House to be dissolved and we don't get a Legal Practitioners Law in place; too much at stake. But one of the things he advocated for and we discussed it at length, was that we ought to make this Council all Caymanian and I thought about it and in discussing it with him I said, *Why not?* And there is absolutely no reason why it should not. If we are making it Cayman centric, why should we not control the profession and be in control of the profession?

[Inaudible interjections]

Mr. Roy M. McTaggart: Madam Speaker, the law also ensures that the non-Caymanian person seeking admission with a foreign qualification is suitably qualified to practise Cayman Islands law. That is an issue that we have been talking about that needed correction for decades. It specifically provides that all non-Caymanian lawyers have to undergo both a mini articles, an exam in Cayman Islands law prior to being admitted as is contained in section 34(3) and they have to take that here in Cayman. It also contains specific provisions for law firms to set out details to the Council on how it intends to comply with the Best Practice Guidelines. There is also a provision a for professional conduct committee of five members—three of whom must be Caymanian (there again giving that Caymanian control); two from CILPA [Cayman Islands Legal Practitioners Association]; two non-CILPA members and one non-attorney appointed by the Attorney General. Also provisions for a disciplinary tribunal of three members in total comprising of the Chief Justice and two attorneys or former attorneys nominated by the Council. Madam Speaker, there is a dynamic change taking place here by the Bill to put control of it and the regulation of this profession in the hands of people locally, our people who can argue against it. What is there to argue about with that?

Madam Speaker, the Legal Practitioners Bill, as I said at the very outset, it has been 15 years in the making. It is truly a monumental improvement on the status quo. I have heard it said in here and I have heard it repeatedly outside of this House, in talking with lawyers, both in favour and opposing—*the status quo is not acceptable.* We cannot continue as we have, dealing with a law that is outdated, outmoded in every way you can ever think. Look at what we have today, a draft Bill that is what, some 120 pages, something of that order? What is it replacing? A simple law of about 15 or 16 pages is what we are going from and coming to.

History has told us the arguments suggesting a wait-let's-continue-to-edit approach, only amounts to just simply kicking the can down the road and it will not allow the country to confront the issues squarely, and that is what we are trying to do here today with this Bill; confront it, deal with it and let's get it behind us and move on. And I recognise as I stand here, Madam Speaker, and as I speak, that there are those who are going to vilify me because of the standard I take on this issue and this Bill, and there are those who will praise me. I will have enemies and I will have friends who like me. But it is these kinds of tough choices, tough things that we are asked to do, and that is the reason we are here.

Amendments can and should take place following post commencement as with any law that needs adjustment from time to time, and, therein lies the opportunity. I know in the nature of this Bill when we start to implement we are going to find that some things just simply don't work and we are going to have to amend. But the truth of the matter is that when we set our mind to do it we can get it done and get it done quickly. I saw the same situation and experience previous, just shortly ago, a few short months ago with the auditors . . . not the auditors but with the Accountants Law. Amendments needed to be made and they needed to be made quickly to satisfy the needs of the profession. Not only could we get it done from a government standpoint but the profession also was able to liaise and to work with the Opposition to get them on board so that when the amendments came to this House they could pass without any opposition, no questions asked. We just make it go through. We can do it again. The risks of waiting, Madam Speaker, are of large overseas firms establishing offices in Cayman with no Caymanian participation. It is happening now. We need to deal with it. We can't wait any longer. The risks of waiting are that more and more persons practising Cayman law outside of Cayman with no connection or a positive economic impact for Cayman will continue to grow.

Finally, Madam Speaker, to adhere to the FATF [Financial Action Task Force] standards prior to their inspection in 2017 makes it imperative. It is one of the big risks we face in simply kicking the can down the road. Madam Speaker, when this inspection takes place we know they are looking at the implementation of all of these laws. They are not just looking at, *Do you have it?* They want to see the implementation. They want to see how complaints are dealt with. They want to see how we deal with discipline. They want to see actual results from having these laws in effect. That is what they are testing these days.

Madam Speaker, every day that goes by, Cayman falls behind comparable to jurisdictions, as it continues to have a 16 page law drafted in 1969 as opposed to the innovating and the leading comparable jurisdictions with modern more sophisticated laws regulating their profession. I believe that what we have before us, looking as well, in considering the committee stage amendments that have been filed and those we understand are to come, means that we have a great opportunity to get where we need to be. We are getting a law that can be looked upon as being a model for everyone else.

Madam Speaker, I believe firmly that this Bill will at last properly regulate overseas offices in such a way that they will benefit Cayman and Caymanians. One thing that I have not heard mentioned in all of the debate but I said it last week in discussion with some of my colleagues, Cayman and overseas offices and our law firms, they are the first point of contact for business coming to this country. We cannot lose sight of that, Madam Speaker. That is one of the main reasons why they exist. They have to be there in those jurisdictions to meet with clients and to deal with their requests as and when they are needed. No longer can we afford to wait overnight for something to be dealt with. It has to be dealt with immediately. Other service providers in this country, Madam Speaker, in the financial services industry depend to a large degree on the work of these law firms. They depend on them, whether it is an audit firm from where I came or whether it is a fiduciary services company, whether it is a bank; we all depend on that work and if we make it difficult or impossible for them to act effectively and efficiently, we are driving business away from this country. No one can deny it and no one can tell me differently.

We all boast and we all talk highly about how 50 per cent of government revenue and 50 per cent of our GDP is derived from the financial services industry. Madam Speaker, can you imagine if we take it away? Fifty cents of every dollar that the government takes in, comes from somebody else's pocket and they have never set foot on these shores. Can you imagine if I have to double the amount of money I had to pay to government to make sure they can just keep up with the status quo? That is an extreme case but it gives us a flavour for just how significant the industry is to this country and we need to protect it. We need to make sure that those who are engaged in it can do so in an effective manner free from constraints that would hinder their ability to compete effectively and efficiently. Offices in key financial centres service those clients on a real time therefore they promote the overall Cayman brand. And, Madam Speaker, all the other countries that we compete with are doing the same thing. BVI [British Virgin Islands] law firms have offices all over the world. They have them here in Cayman and the same for Bermuda, same for Turks and Caicos and the Channel Islands. And, Madam Speaker, these are the countries that we compete with on the world stage.

[Inaudible interjection]

Mr. Roy M. McTaggart: Well, they would to take it all from us. We know that.

Madam Speaker, we have to remember the UK as well. And Cayman law firms, some of them have offices in London. They are there to service their clients because there is a demand for it and when that demand goes unfilled I can promise you, Madam Speaker, somebody is just waiting on the side lines to step right in. Ireland, Bermuda, they only want to see us trip up, Madam Speaker. They only want to see us trip up. They are ready to step in. We are the envy of the world for anyone in this industry. We have to preserve it and make sure it is dealt with in a way that ensures that they can continue to function.

[Inaudible interjection]

Mr. Roy M. McTaggart: Madam Speaker, the Minister of Planning says that we have to enhance the lives of our Caymanian people and it is an aspect of it that I do want to speak to as well, because while we talk about it and what is being done, that has to be the end game. If it is not, then we do it for naught. If we are not benefitting, if our people are not benefitting, if they are not gaining value, if they are not gaining opportunity, it is not worth it. That is the whole reason for which we do these things. That is the reason why we have this industry, because of the great contributor and the great opportunities that it has provided for our people. As an industry it provides more employment for Caymanians than any other that we have, whether it is construction, tourism, you name it, of what we do here in Cayman. The financial services industry is the great provider, it is a great wealth creator for this country and we have been doing it right for a long time. There are many direct economic impacts for this country from the revenues that are brought in and will be brought in by the rest of the world using Cayman vehicles that provide revenues for government and further revenues to come from the regulation of this industry by the collection of revenues for practicing certificates. But let's not lose sight of the revenues

that are also created from other service providers through their presence here in employing Caymanians and giving growth and promotion opportunities for Caymanians.

Madam Speaker, I remember two decades ago when the first Cayman law firm opened. The first office to be open outside of this country practising Cayman law or providing services was opened in Hong Kong. At the time we did not see the opportunity personally. It was very wary and sceptical of what was happening. But over time we have come to see the wisdom. We have seen that most major firms on this Island have followed suit and doing what they had to do, because why? If they did not do it they would have been marginalised, they would never have achieved the opportunities that they have. The best retreating from overseas financial centres, what it really means is that we are surrendering to such government revenue to our competitors' jurisdictions; and not just the revenue but the business. They are going to go somewhere else.

Let me give you a very simple example. Let me see if I can bring it home to our shores. And this is a very simplistic case but I believe that it would serve to illustrate what I am talking about, Madam Speaker. Can you imagine if Pizza Hut was to close its door at the Countryside Plaza in Savannah?

[Laughter]

Mr. Roy M. McTaggart: You laugh. But it is very simplistic. What would be the effect of that?

[Inaudible interjection]

Mr. Roy M. McTaggart: Dominos, 100 yards next door. The business is going to go to Dominos. Who is Dominos? A competitor to Pizza Hut.

[Inaudible interjection]

Mr. Roy M. McTaggart: You think the people to the East and even the people in Savannah are going to drive to West Bay Road to go to Pizza Hut to get Pizza? Some will. The diehards who want a Pizza Hut pizza but the vast majority of that business will go to Dominos, or secondly, they get a competitor moving in.

What about Papa Johns? Just as easy for them to move in to take over and to accept that business. That is anywhere of a simple explanation of what could or would happen if we sought to limit the ability of our law firms to practise overseas and to have these offices.

[Inaudible interjection]

Mr. Roy M. McTaggart: Pardon?

[Inaudible reply]

Mr. Roy M. McTaggart: I'm good. I'm finishing up.

Finally too, Madam Speaker, I would suggest that the Legal Practitioners Bill include provisions that are beneficial to sole practitioners and to small firms. Madam Speaker, as overseas practitioners, they must have a connection to Cayman. It presents opportunities for small firms to partner with or to engage in an affiliate office arrangement with overseas firms seeking to practise Cayman law. Again, opportunities being created for Caymanian lawyers and for smaller Cayman law firms which are predominately comprised of Caymanian lawyers to grow their practice, opportunities for them that they previously would not necessarily have had or recognise. And so, Madam Speaker, I see a lot of positives in this Law. I can't deal, as a legislator, find it difficult, not in a position where I think we can undo the injustices of what has been aired in this Assembly and in the public in the last few weeks with regard to the discrimination, but I do know, Madam Speaker, within my heart that there is one thing that could have avoided it all. And I would say to the big law firms that have engaged in these practices, it is your fault. No question; it is your fault. And I can't be afraid to say so. If only they had just approached this with the right attitude.

Madam Speaker, our country and our people have been welcoming. We recognise the need that we could not do this all or accomplish all for ourselves and on our own. But all we have asked for is a little piece of the pie; the same opportunities. Give our people the opportunities. And, with the evidence before us, it is clear to me that those opportunities have not necessarily been forthcoming and I think that is the reason why we are in the position that we are today. We can do better. We not only can do better, Madam Speaker; we have to do better.

[Inaudible interjection]

Mr. Roy M. McTaggart: Madam Speaker, it is unfortunate that we have had to include the provisions that we have in this Law to deal with it. It really is unfortunate. It is unprecedented in any other legislation that I know of; certainly in ones with regard to other professional services on the Island. And I am not going to talk about the Accountants Law. The models, everything else is just different. But I would just say it is truly unfortunate that this is where it comes to. But, as we are standing here this evening and talking about this and trying to get this dealt with, it is what it is. We have to take it forward, we have it bring it now to its conclusion and we have to get this Law passed. Not everyone is going to be happy. There are some who will be. There are some who will be dead set against it. There are some who are going to be in the middle of the road. We have a profession that is filled with over 700 lawyers. And, Madam Speaker, you are a

lawyer, I mean no disrespect to you or any of the other lawyers in this hallowed Hall, but if you ever get two lawyers together in one room, the two of them cannot agree on anything.

[Laughter]

Mr. Roy M. McTaggart: That is the truth.

Hon. D. Kurt Tibbetts: What do you say about the accountants?

Mr. Roy M. McTaggart: We're a little bit more amenable man. You know, we work together. We get things done. We always have. We take care of people too.

All joking aside, it is time for . . . we have an opportunity here to do something historic, Madam Speaker. I think that we need to put our heads together and the time for the jockeying and the posturing and everything is past us now and it is time to try and do something good and get us on the road to doing something right. I look at what we are doing here today in trying to get this Bill passed, it is just a start. I said from the beginning and will say it again; the Bill will probably need adjustment and amending as we move on, as with any. We are not going to get everything right or get everything that we all feel should be there but change will have to be made. But that should not stop us from doing what we know is right and good. Let's work together in the committee stage to get where we need to be and let's move forward and approve this Bill and do what is right for this country.

Madam Speaker, with those words, I conclude my debate in saying that I am prepared to support the Bill. Thank you.

The Speaker: Does any other Member wish to speak?

I recognise the Honourable Deputy Premier.

Hon. Moses I. Kirkconnell, Deputy Premier: Thank you, Madam Speaker.

Madam Speaker, I rise to make a brief contribution with respect to the Legal Practitioners Bill, 2016. While everybody in this honourable House knows that I am not a lawyer by any means, I am well aware that it is 2017, yet, the legal profession is still largely operating under the provisions of the 1969 Legal Practitioners Law. This illustrates to me, Madam Speaker, that the current Law which is almost 50 years old, cannot possibly speak to the intricacies of the modern global environment that exist in this country today. Consequently, in the 1969 Law it is being relied upon to affectively and appropriately govern the practise of Cayman Islands law in today's world; it is long overdue for reform. In the 60s where a significant period of our Islands' history credited as being the period when our financial service industry was in its infancy, it is no coincidence that around the same time, legal firms such as Maples and Calder and Walkers were also established and have mirrored the rapid growth international reach and success of Cayman's financial services.

Madam Speaker, the inseparable linkage that is clearly evident between the finance sector and the legal profession 50 years ago, is not surprisingly still in existence and I expect they have strengthened the range of financial instruments and complexities that evolve over time. But by virtue of its role and function in support of the financial services sector, the legal profession is both a vital contributor and facilitator. It would not be unreasonable to expect that it operates within a tightly regulated environment, yet the substantive content of the law which governs its operations has remained virtually unchanged for decades.

Madam Speaker, considering the dynamic nature of the financial services sector and the fact that the industry bears scant resemblance to how it was, even a decade ago, I concur with the Minister of Financial Services' view that improvements to the existing legislation are warranted, and I agree that more mechanisms should be in place to increase professional accountability.

Madam Speaker, I will also take some time in my short remarks today to show that Members on the other side, have the same feeling that I have, that this Bill is long overdue and that the changes should have been here 10,15 years ago. Judging by the level of highly charged debate that has taken place, both within these walls and throughout the community, it is evident that there are a number of complex issues related to the legal sector in this country. However, Madam Speaker, the two areas which appear to be causing the most discard, relate to the practise of Cayman Islands law by attorneys based overseas. And, most importantly, the future of Caymanian lawyers within the profession here at home.

Madam Speaker, in the bundle that was given to us a couple of days ago by the Opposition (and I want to compliment the Opposition as was said), they presented to us a lot of information and there was a lot of very valuable information and it did present a lot of different sides and thoughts. Madam Speaker, I don't know if you have this. I can get a copy available to you.

[Short pause]

Hon. Moses I. Kirkconnell, Deputy Premier: Thank you.

Madam Speaker, this is dated the 21st May, 2011 and it is to the Cayman Bar Association, the [then] Premier, the Honourable McKeeva Bush, the Attorney General, the Honoourable Samuel Bulgin, the [then[Minister of Education, the Honourable Rolston Anglin, Mr. Dan Scott, Chairman of the Business

Staffing Board, Ms. Sherri Ann Bodden, Samuel Jackson and Ms. Theresa Pitcairn. It says:

"Dear Colleagues,

"In recent months I have received a number of complaints from Caymanian lawyers about their conditions within the law firms. Difficulties trying to obtain employment within the firms, who fear that firms will ask them to retire or resign, sign contract which prevent them from discussing their experiences, having full knowledge that they were not adequately trained or provided with realistic opportunities to succeed.

"I also received complaints from Caymanians who are unable to obtain articles but when I was informed on more than one occasion that a partner made the comment that, *'Oh, I used to care but not anymore now that I have my PR'.* In response to someone trying to hold him accountable for inappropriate behaviour and unjustifiable commentary to a Caymanian member of staff, I thought that this correspondence to you was long overdue. The complaints by Caymanian staff and professionals are not new—tiresome! Sadly, successive administrations, including my own, have allowed this situation to develop into a cancer that is today where Caymanians, excluding those who cherry picked our team players, are having their professions destroyed."

Madam Speaker, it goes on: "I have been around for some time, have listened to Caymanian lawyers lament the problem of being set up to fail. The local firms are not provided with the same opportunities afforded to foreign lawyers, many of whom now have status. Yet, I am aware of many lawyers who came here with absolutely no training and these same lawyers today move from firm to firm. Our partners who head up the major offshore law firms are employed by major hedge fund companies. This is not the same story that we read about in respect of many Caymanians; Caymanians who have the same superior degrees from the United Kingdom and local Law School with no experience, fail, are never promoted and when they speak up they are rolled under the bus, yet, this has not been the case in the accounting profession and the situation that we have today developed in spite of what is required under our Immigration Law.

"The Caymanian Protection Law was passed in 1971. After 40 years of operation in these Islands the main firms have only ever made up a few Caymanians to equity after some political interference. One must ask the question: Why?" [UNVERIFIED QUOTES]

Madam Speaker, again, the important part of this is the relevance of the date itself, the 21st May, 2011. It goes on, and I just want to pick a few. It says: "I met with Ms. Theresa Pitcairn after speaking to these professionals, and told her what I heard. I was then made to understand that she was working along with Mr. Samuel Jackson and Ms. Sherri Ann Bodden to investigate the issues. I developed a balance LPB and submit recommendations for change. Ms. Pitcairn expressed concerns about the need to strike a balance between the need for the profession itself to be properly regulated on the one hand and the industry to also do well. She mentioned that the Premier was in conversation with her and Mrs. Bodden about this and that he was equally anxious to have the LPB progressed, provided that law firms are willing to seriously address the prevailing concerns expressed by the Caymanian lawyers." [UNVERIFIED QUOTE]

Madam Speaker, this is many, many years ago, not in the term of this Government. But we see the same issues were very, very much to the forefront.

It closes by saying: "Please therefore ask your Members not to reduce what is a legitimate effort to investigate and start to reverse what currently occurs in the profession into some unintended consequences. Thank you for your time.

"Kind regards, Mr. Arden McLean." [UNVERIFIED QUOTE]

Now, Madam Speaker, my good friend for East End made a passionate address and he even talked about brown soap and getting it in Jamaica and what it would be used for on his trip on Cayman Airways back home. I think the point that he has worked on this for years and years and years is a point that the Minister responsible in the Government has brought a Bill to this House that addresses the issues that are brought out in this. And it is incumbent upon all of us to work to get these issues resolved that the benefit goes to the Caymanian lawyers and it goes to the industry itself, because so ably put in this letter, it was balance that it talked about. It was balance mentioned and every person here had—

[Inaudible interjection]

Hon. Moses I. Kirkconnell, Deputy Premier: Oh, we know it does.

—every person here had the same feeling that they wanted to get this. So, the fact, Madam Speaker, that the Minister has brought it, hats off to his team for getting it here that we can finally deal with this, because, as has been said by previous contributors, the status quo cannot continue because we have heard and we have had the letters from male and female and so ably debated by the Opposition and the Government Bench of the need for this. And, Madam Speaker, again, I go back to what was in here about the balance itself.

The Legal Practitioners Bill which is presently before this House addresses those complex issues. And we are all aware that we go through a committee stage of amendment time. Within the proposed new regulations it provides a framework that aligns with the realities of the global environment that the legal and financial services sector operates. It is also to address the concerns raised about the impact that outsourcing the practise of Cayman law could have on Caymanian

lawyers, and seeks to offer protection from discriminatory treatment and practices. Dealing first with the realities of the global operating environment, just like the tourism industry, the financial services sector depends on business that originates outside of our shores, and our economy depends just as heavily that has been so ably portrayed earlier on its success to keep the machinery of government earning. With several jurisdictions seeking to attract and retain the same business, competition is fierce and rules and engagement are continuing to change. On this basis alone, the need for a modern robust and well-regulated legal environment should be self-evident and welcomed as being long overdue. Instead, the proposed new legislation has been turned into a contentious issue and has become the subject of negative media attention at local and international levels, Madam Speaker. Presenting the industry in a bad light cannot be beneficial for any level. There can be no question that damage has and is taking place. Madam Speaker, this cannot continue this way.

The Premier having recently returned from the United Kingdom after addressing leaders of law firms, financial institutions and government departments has confirmed that concern is already building in London over what is occurring here in Cayman with respect to the legal and financial services debate.

While I may not be as familiar with the legal regulatory environment as my colleagues or attorneys (some of them), my experience in tourism, I am well acquainted with the impact that negative publicity can have on the Cayman Islands reputation, brand and economy. In the same way that our record breaking tourism industry can be wiped out by a hurricane, the strength and viability of our financial services sector can be seriously harmed or irreparably damaged by scandal, infighting and negative publicity. Madam Speaker, this is especially true of industries that operate in integrated environments where crisis in one sector can easily affect the other with devastating speed and impact. We all know how quickly money transfers these days are just a push.

Over several decades tremendous efforts have been devoted to establishing and maintaining the Cayman Islands reputation for integrity and compliance which are factors that are integral to the financial industry's success. From time to time we have found it hard to defend our Islands' reputation against false and misleading information because negative publicity has the potential to cause a serious decline in our customer base. Madam Speaker, it is worth noting that our reputation in financial circles is not based on how we see ourselves but rather on how the public perceives us, which is why we continually suffer from Hollywood's betrayal of Cayman as a Haven for Tax Cheats and Money Launderers and the Grisham blockbuster effect from 'The Firm'. Drawing unwarranted and negative attention to ourselves particularly in an international crisis and circles is therefore foolhardy to say the least, considering the little we can do to reverse the consequences once the damage is done.

Madam Speaker, in the statement issued on the 5th March by Cayman Finance describes Cayman's financial services sector as being directly responsible for more than half of the Islands' economy, more than half of the Government's revenue and employs more Caymanians than any other industry. I think that is a good reason to do our best to make sure it is regulated properly and continues to be successful. In fact, I am saying, Madam Speaker, it is an obligation of every Member of this House.

They went on to say that local law firms with established foreign offices directly contribute over [$]32 million in revenue on an annual basis to government's coffers. On that basis alone, accusations and unfounded allegations have brought such adverse publicity to the legal profession and law firms operating in our Islands without any regard being given to the long term impact it could have on our financial services sector.

Madam Speaker, we would be better served by looking at the example set by other jurisdictions that we compete with, such as the Bahamas, in learning from their experiences. The history books tell us how easily and swiftly the banking and finance sectors fled the Bahamas once fears of instability and uncertainty took hold. Cayman substantially benefitted from that flight of capital from their shores in the 70s and we have continued to benefit from business that could have gone to the Bahamas but did not because the impact that many considered to be their well-intention but over protectionist policies.

Madam Speaker, I provided you with a copy of an article published in The Nassau *Guardian*, 13th June, 2014 entitled "Should the Legal Profession allow Foreign Lawyers in?

"The protectionist view of some in the Bahamas is one that has emanated from Bahamianization policy which was proffered by the Government in the independence era. While it is important that we protect jobs for the Bahamians, it is also important to create jobs for the Bahamians." And I think this is very important for this debate, Madam Speaker—'It is important that we protect jobs for the Bahamians. It is also important to create jobs.'

"In a stagnant legal profession which has developed primarily in the absence of foreign specialist lawyers, our financial services have diminished to a bare minimum. How many lawyers in the Bahamas do substantial offshore financial work with hedge fund managers in New York, Singapore, or Hong Kong? Do the majority of our lawyers really have the experience in managing major offshore financial transactions, the likes of which takes place on a daily basis in the Cayman Islands? The contrast between the lucrative legal profession in the Cayman Islands and the Bahamas is clear. Lawyers in the Bahamas struggle to attract in-

ternational business which is what contributes substantially to an international financial centre."

"The international financial centre today requires a legal profession that moves and is able to facilitate the work that will come. Foreign specialist lawyers are not interested in moving to the Bahamas for the measly work that exist at a local level. When a hedge fund lawyer coming from the United Kingdom, South Africa, Canada, New Zealand or Australia relocates to the Cayman Islands, it is likely that he or she is bringing a client based that otherwise would not have been in that jurisdiction. Moreover, their ability to attract international clients will be predicated on their track record and experience in these specialist areas of law which currently have a limited number of practitioners in the Bahamas, because they do not have the connections to attract the client, or the legislation in the Bahamas is antiquated and does not promote efficiency and business growth as does Cayman and Bermuda." [UNVERIFIED QUOTES]

Now, this is written by an ex-legislator in Nassau and it is in the *Guardian.*

"In tandem with looking at immigration reform, Sean McWeeney, QC, recently spoke in regard of allowing foreign specialist lawyers to practise in our jurisdiction. There has to be a review of the monetary policy which explores the free flow of funds within the context of internationally accepted rules.

"Having worked in the Cayman Islands, I have seen the substantial difference between the Bahamas approach to financial services and that of the number 5 ranked international financial services centre in the world. It is night and day. And the progressive and open approach to embracing foreign specialists within the context of ensuring that Cayman attorneys have an opportunity to excel professionally while enjoying lucrative financial remuneration is evident. How many Bahamian lawyers have considered looking to gain experience in other jurisdictions where their skillset can be honed to the changing demands of international clients?" [UNVERIFIED QUOTES]

I think that is a huge compliment for Cayman, Madam Speaker.

"It appears to me that the lawyers in the Bahamas are fighting for scraps when the bulk of the opportunity passes them by on international market because of the protectionist position that has kept foreign lawyers out. This position, no matter how enticing to the few naysayers who have no experience outside of the jurisdiction, is not sustainable for the growth and development of the Bahamas as a financial services centre." [UNVERIFIED QUOTE]

Madam Speaker, I believe that I have made the point of what the author wanted to get across in this article that he wrote for the *Guardian* in Nassau on the 13th June, 2014. And, Madam Speaker, I think that the point that he makes early in it, is attracting business to the Bahamas, which is something that was made earlier in debate here of how this grows our business.

Madam Speaker, it describes in detail the unintended consequences suffered by Bahamian lawyers left struggling to attract international business. It compares its well intention local policies with what it prescribes as a more progressive approach practiced in the Cayman Islands.

In its conclusion, the article states: "Whether we like it or not, every day these business opportunities are happening and clients are choosing on the advice of their attorneys to go elsewhere. No amount of chest beating, fist pumping or nationalism will get that business. All who wish to bury their heads in the sand run the risk of one day looking around to see that we will have a country with the highest per capita lawyers who are looking for other careers because there is no business to sustain them." [UNVERIFIED QUOTE]

That is one part of the equation, Madam Speaker. The other part as is coming forward in this Bill is that Government has an obligation to develop legislation to safeguard the future and we must act in the best interest of the Caymanian people, Madam Speaker, we serve. The new legislation seeks to regulate multinational firms (remember, Madam Speaker, they are now unregulated), as well as the lawyers practising Cayman law outside of this jurisdiction. By requiring local certification, payment of fees, the provisions in this Bill will help to level the playing field between lawyers practising here versus overseas, and will effectively resolve issues stemming from noncompliance. Robust procedures have been included to support and, if necessary, safeguard the professional advancement of qualified Caymanian lawyers rather than impeding their career development prospects as suggested by a poser bill, the new regulations should in fact provide more opportunities for Caymanian lawyers to participate more meaningfully in all areas within the profession, including financial services. I also expect that it will improve the chances for Caymanian lawyers to be provided with opportunities to gain international experience through secondment to overseas offices of locally based law firms.

Madam Speaker, it has taken well over a decade for this Bill to go through the necessary stages of development and stakeholder consultation prior to being brought to this House, and still more discussion committee stage. While it may not be perfect it is significantly better than what currently exists and the young lawyers, the young people in the financial industry deserve better than they have now, and that is the intent that the Minister has brought this with. And that is the intent that each of us here has to commit to, to get this done and give opportunity to the young Caymanians in this industry. It addresses the majority of the concerns that have continued unchecked for years and it removes the presence of attorneys with

no connection to Cayman but who sell their services as practitioners of Cayman law.

It should be noted that Cayman's dominance as a leading financial services centre has historically been enhanced by the ability and willingness of the local law firms to set up overseas offices, drive business to Cayman and we must make sure that opportunities are available for the Caymanian people who want to enter that field.

Madam Speaker, a lot has been said and I do not think I need to repeat it, but I would like to close by just summarising that there is a lot of business available globally to Cayman. I think that the way it was explained in the article from the Bahamian *Guardian,* helped to show how we are looked at by other jurisdictions that we compete with. And we must ensure that we continue to be looked at in that way; that we ensure we continue to be the leader in this field, Madam Speaker. And the growth and the opportunity as we look at graduates from the high schools, the graduates from the Law School, and as we look at developing and growing our industry, and we look at the protection that is being put in this legislation that has been said before, this is not the perfect Bill but it gives protection where protection is needed for the Caymanians who are involved in the industry and must be given opportunity to continue to succeed and continue to excel, all through the industries, not only the law firms, but the financial services itself.

So, Madam Speaker, I will be supporting the Bill. I thank you for the time you have allowed me this afternoon.

The Speaker: I recognise the Honourable Deputy Governor.

Hon. Franz I. Manderson, Deputy Governor: Madam Speaker, thank you. I have a very short contribution.

Madam Speaker, this morning the Third Elected Member for West Bay and I went over to the Courts and had a very great pleasure of seeing three of our young Caymanians getting called to the Bar. It was really inspiring to hear one of our former Members of this Parliament, Mr. Cline Glidden, introduce one of the young men who happened to be my cousin, and to talk about all of his accomplishments during his period of article-ship, including the fact that he was assigned to an office overseas (I think he spent time in London). Also, hearing about the other two Caymanian ladies where one of them had gotten a first class pass in the Law School, which shows the calibre of Caymanians that we have who are entering the legal profession. And, Madam Speaker, it really brought home to me that it was because of the three people whom I was listening to this morning and admiring so much, it is them why we are here today, because we all want the same thing. We would like for those three young Caymanians to realise their dreams, whether it is a dream of being a partner in the firm one day, being a senior associate, being the managing partner of one of the major law firms here, or maybe coming into this Parliament. We want to make sure that they have those opportunities and that is exactly what this Bill is all about.

Madam Speaker, I crave your indulgence to allow me to reminisce a bit. I remember graduating from high school in the class of 1981 which I share with my colleagues here, the Third Elected Member for West Bay and the Minister of Financial Services. We were all graduates of that class. We lost one of our classmates just a few weeks ago, Mr. Broderick, and we send condolences to his family. It was a really great class and we have all done well. And many of us have made it to the top of our professions, but not all, because not all of us will get to the top. But everyone should have a right to realise and attain their full potential. All of us in the Cayman Islands have that right.

Madam Speaker, I reminisce going to the Law School and the hard work it was to get through law school and I remember studying with the Fifth Elected Member for George Town of the many, many hours that we spent studying together; the weekends, the Easter holidays; all the times that we spent studying together along with some other outstanding Caymanians, two of which have actually passed on, but others have done exceptionally well. One of those persons whom we studied with is a partner at Maples, Ms. Christina Bodden. She worked with us but it showed again that if you apply yourself and you work hard you can actually attain greatness. The Fifth Elected Member for George Town and I are a testament as well that we can leave law and come to do something else. So, doing law has opened doors for many persons, Madam Speaker.

I remember, Madam Speaker, applying to go and do my articles. I remember applying to three firms and got two offers. I record my thanks to the Minister of Financial Services who ensured that I got an interview at Walkers, and, Madam Speaker, that is really all that we ask for as Caymanians—opportunity. He did not guarantee me a job, he guaranteed me an opportunity. Again, that is what we should do for other Caymanians, to give them opportunities and then let them work hard and get the job or let them get their promotion. I remember getting two offers very quickly after my interviews and I record my thanks to Mr. Bergstrom at Ogier who also gave me an opportunity to come and work for that firm. And, Madam Speaker, I remember working in the law firm and people said to me, *Oh, Franz, you're going back to be Chief Immigration Officer. Nobody is going to mess with you while you are over at this firm and you got a smooth ride.* And, Madam Speaker, I must tell you I enjoyed my time doing the training. I got fabulous training, excellent training. I had excellent trainers.

[Inaudible interjection]

Hon. Franz I. Manderson, Deputy Governor: But, Madam Speaker, I think I would know the difference between when someone was just going through the motions or whether they were looking after the next chief immigration officer. So, I have no doubt that people were being genuine with me. I think I could tell the difference. But that was said and that is not a secret. But I got some great training, Madam Speaker, and it really opened up my eyes to customer service, attention to detail, exceeding expectations, being proactive, dealing with your customers, and, of course, I then learnt about the law working in many different areas. But I made great acquaintances and persons who trained me, we are still friends until today and that is a very, very long time ago. But persons who trained with me, Madam Speaker, one of those persons are now an equity partner at Walkers. So, it shows that Caymanians again, can rise to the top of their profession. This particular person made some great sacrifices and has worked all over the world in various offices, but did what was necessary to get to the top. And, Madam Speaker, I have always said, qualifications will get you in the door and attitude will get you to the top, because you have to have the right attitude to get to the top and you have to be prepared to make the sacrifices and the commitments that are needed.

I remember my first day, Madam Speaker, of walking into the office and I said to my trainer, *My wife and I are sharing a car right now, can you tell me what time I will finish tonight so that I can tell her to come and pick me up?* And she said, F*ranz, great news, I am not that busy right now so we are not going to work late. You can tell her to come and pick you up at 7:30.* I smiled and she said- *Why are you smiling?* I said- *Well, you know, in Government, 7:30 is late.* She said, *No Franz, 11:30 is late.* And, Madam Speaker, I worked a lot until 11:30 many, many nights. Now I come from a shift working organisation so working many, many hours was not a strange thing to me but I realised what it took to be able to get to the top. But I remember also leaving the Fifth Elected Member for George Town at that same law firm many nights. When I was leaving at 11:30 he was still there. So, we both have done some really long hours.

Madam Speaker, I think that is what this Bill is all about. Every government has an obligation to give its people opportunities. Trying to legislate where we are mandating that people get certain things is not a great idea and never really works. We want to create opportunities for our people so that they can realise their dreams; people who are in the law firms today, people who started today like those three lawyers that I talked about, and people who are going in next week and next year and many years down the road. And again, Madam Speaker, that is what this Bill talks about. But, Madam Speaker, when I was leaving the law firm the managing partner told me something which has remained true and stayed with me until today. It was Mr. Grant Stein and he said, "Franz, remember this: Cayman is not a successful jurisdiction just because we have great laws or we have great systems or we have great policies, it is because of the people who are administering those laws and policies and systems", and that is correct. And that, Madam Speaker, is what we have to be aware of. It is the people. It is a person that gave me an opportunity to article. It is the person who gave those three Caymanians there, an opportunity to do their articles. It is a person who gave my colleagues partnership. Now, we must create a system which motivates people to do that though, to make those decisions and that is what this Law does.

Madam Speaker, I agree with the Minister of Financial Services, in that we have to be careful we do not overregulate and we do not take away from our people that desire to exceed expectations and that desire to get to the top on their own. That is something that we all want. I don't want to hear about anybody giving me anything. I do want an opportunity though to show what I can do, what those three Caymanians this morning could do. They were fabulous, Madam Speaker. Listening to them talk, listening about their achievements, very young people, very inspiring. But they want to know that we have put in place, as a government, legislation that will allow for their transition up the ladder to wherever they want to go. And again, Madam Speaker, I believe this Law does that.

Madam Speaker, it is hard to legislate for opportunity. I don't know how we do that, but we must drive the right behaviours, because, Madam Speaker, I have listened to all of the concerns expressed and there are powerful things. And the people in the law firms, not the system, but the people need to be listening and asking—*how can I do better? How can I address the concerns of the Caymanian people so that they get to realise their dreams?* It is on them but it is also on us in here to provide great opportunity for our people. And, Madam Speaker, the easy thing to do is to just put this Bill one side and say- *You know what? Let's deal with it in the next six months.* That is the easy thing, Madam Speaker. But the hard thing to do in what we are doing here now, is tackling the problem. We are not putting it one side, we are not burying our heads in the sand and hope that it goes away. We are tackling it and that is what the people have always asked us to do; to tackle the hard problem.

So, Madam Speaker, I commend the Minister and the Government for expending a lot of time and effort and everyone in this House for working hard for the betterment of our people, because I know that everyone here wants the same thing. We want to give our people the best opportunities that they deserve. And again, Madam Speaker, we have to start with this Bill and then as the Deputy Premier said, if we need to tweak it later, we do it, but let us start now. We have that obligation to our people. But what is also im-

portant is what happens after this Bill. There has to be significant engagement with the firms. Education which will be on the Civil Service, to make sure that everyone understands their obligations under this Law. This is a significant piece of legislation and yes, the Ministry has done a great job of consultation, but now every law firm in the Cayman Islands needs to understand what their obligations are. We do not want to hear people saying later, *Oh, I didn't know that I was supposed to do this.* So, that is something that we in the Civil Service will have to take on to ensure that there is proper education once this Bill is passed.

Madam Speaker, in summary, like I said, the obligation of the Government, is to provide our people with opportunities and hope; that is exactly what this piece of legislation does. I thank the Government for bringing it forward. I think it strikes the right balance. We do not want to go too far either way, Madam Speaker. We want to be down the middle, but to drive the right behaviours by the people who are in authority, that they know that giving Caymanians the opportunities that they deserve is paramount. That is not up for negotiation and that is what I think everyone here wants. So, Madam Speaker, with those few words, I thank the Government for bringing this piece of legislation and I do hope that it will pass. Thank you very much.

The Speaker: At this time I will take the afternoon break.

Proceedings suspended at 6:04 pm

Proceedings resumed at 7:02 pm

The Speaker: Please be seated.

I recognise the Honourable Premier.

ADJOURNMENT

The Premier, Hon. Alden McLaughlin: Thank you, Madam Speaker.

Madam Speaker, I move the adjournment of this honourable House until 10 am tomorrow.

The Speaker: The question is that this honourable House be adjourned until 10 am tomorrow.

All those in favour, please say Aye. Those against, No.

AYES.

The Speaker: The Ayes have it.

At 7:02 pm the House stood adjourned until 10 am, Wednesday, 15 March 2017.