



PARLIAMENT OF THE CAYMAN ISLANDS

OFFICIAL HANSARD REPORT

First Meeting of the 2020/2021 Session
Third Sitting

Wednesday
9 December, 2020
(Pages 1-52)

Hon. W. McKeeva Bush, OBE, JP, MP
Speaker

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PRESENT WERE:

SPEAKER

Hon W. McKeever Bush, OBE, JP, MP
Speaker of the Parliament

MINISTERS OF THE CABINET

Hon. Alden McLaughlin, MBE, JP, MP	<i>Premier</i> , Minister of Employment, Border Control, Community Affairs, International Trade, Investment, Aviation and Maritime Affairs
Hon. Moses I. Kirkconnell, JP, MP	<i>Deputy Premier</i> , Minister of District Administration, Tourism and Transport
Hon. Juliana Y. O'Connor-Connolly JP, MP	Minister of Education, Youth, Sports, Agriculture and Lands
Hon. Roy M. McTaggart, JP, MP (Via Zoom)	Minister of Finance and Economic Development
Hon. Joseph X. Hew, JP, MP	Minister of Commerce, Planning and Infrastructure
Hon. Tara A. Rivers, JP, MP	Minister of Financial Services and Home Affairs
Hon. Dwayne S. Seymour, JP, MP	Minister of Health, Environment, Culture and Housing

EX OFFICIO MEMBERS OF THE CABINET

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

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Capt. A. Eugene Ebanks, JP, MP	Elected Member for West Bay Central
Hon. Barbara E. Conolly, MP	<i>Deputy Speaker</i> , Elected Member for George Town South
Mr. Austin O. Harris, Jr., MP	Elected Member for Prospect
Mr. David C. Wight, MP	Elected Member for George Town West

OPPOSITION MEMBERS

INDEPENDENT MEMBERS

Hon. V. Arden McLean, JP, MP	<i>Leader of the Opposition</i> - Elected Member for East End
Mr. Alva. H. Suckoo, Jr., MP	<i>Deputy Leader of the Opposition</i> - Elected Member for Newlands
Mr. Anthony S. Eden, OBE, MP	Elected Member for Savannah
Mr. Christopher S. Saunders, MP	Elected Member for Bodden Town West
Mr. Kenneth V. Bryan, MP	Elected Member for George Town Central
Mr. Bernie A Bush, MP	Elected Member for West Bay North
Mr. D. Ezzard Miller, MP	Elected Member for North Side

**OFFICIAL HANSARD REPORT
FIRST MEETING 2020/2021 SESSION
WEDNESDAY
9 DECEMBER, 2020
11.08 AM
Third Sitting**

[Hon. W. McKeeva Bush, Speaker, presiding]

The Speaker: Good morning.

I will call on the Honourable Deputy Governor to say prayers.

PRAYERS

The Deputy Governor, Hon. Franz I. Manderson:
Thank you, Mr. Speaker.

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 Parliament 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 Parliament, the Leader of the Opposition, Ministers of the Cabinet, ex-officio Members, Members of the Parliament; the Chief Justice and Members of the Judiciary, 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 honourable Parliament has resumed its sitting.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

The Speaker: None.

**READING BY THE HONOURABLE
SPEAKER OF MESSAGES
AND ANNOUNCEMENTS**

The Speaker: Just to inform Members that the Honourable Minister of Finance is meeting with us on zoom.

Hon. Roy M. McTaggart, Minister of Finance and Economic Development, Elected Member for George Town East: Thank you, sir.

PRESENTATION OF PETITIONS

The Speaker: None.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**Cabinet Office Annual Report -
2019 Financial Year**

The Speaker: The Honourable Premier.

[Pause]

The Premier, Hon. Alden McLaughlin, Minister of Employment, Border Control, Community Affairs, International Trade, Investment, Aviation and Maritime Affairs, Elected Member for Red Bay: Thank you, Mr. Speaker.

Mr. Speaker, I beg to lay on the Table of this honourable House the Cabinet Office Annual Report for the 2019 Financial Year inclusive of the Financial Statement Report for the Financial Year ended 31st December, 2019.

The Speaker: So ordered. Is the Honourable Premier speaking to the report?

The Premier, Hon. Alden McLaughlin: Yes, thank you, Mr Speaker.

Mr. Speaker, I present this Annual Report in accordance with section 44 of the Public Management and Finance Act. The Auditor General in her report has given an unqualified audit opinion of the Cabinet Office's Financial Statements, the unqualified opinion is found on page 34 of the Annual Report and reads as follows: **"In my opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the [Cabinet] Office as at 31 December 2019, and its financial performance and its cash flows for the year then ended in accordance with International Public Sector Accounting Standards"**.

Mr Speaker, 2019 was a year in which our Islands continued to make substantial economic strides, we recorded our highest air arrivals as we welcomed over half a million visitors to our shores and marked 10 consecutive years of annual growth in stayover visits. What a difference a global pandemic can make.

Our economy continued to show expansion through sustained growth in our GDP, unemployment rates saw historic lows and inward investments continued to increase due to robust consumer confidence in our economy and the future of these Islands. It was a year also marked by historic and other undertakings highlighting and benefiting our people.

Mr. Speaker, I will like to take this opportunity to briefly reflect on how the resources with which the Cabinet Office was entrusted were deployed during the 2019 Financial Year. The Cabinet Office plays an important role welcoming Heads of Government and elected representatives to the Cayman Islands, and supporting the Premier's schedule of international visits; both are vitally important to promote Cayman's interest internationally, and to secure understanding and agreements toward ensuring a safe and prosperous Cayman Islands.

Mr. Speaker, in January 2019, I led a delegation to Europe to continue engagements centred around our financial services industry with the European Union on tax cooperation and economic substance.

In February that year, I had the honour to address both the Cayman Alternative Investments Summit and Cayman Economic Outlook on the strong economic performance of the country and how Government continues to support innovation and diversification, whilst maintaining our successful financial services and tourism businesses.

In March 2019, we were honoured to have Their Royal Highnesses Prince Charles and his wife Camila, Duchess of Cornwall, visit our Islands. Upon arrival, His Royal Highness opened our modernised and expanded Owen Roberts International Airport. What followed was a whirlwind trip including a visit to Little Cayman and Cayman Brac, where he opened the newly-completed 25 metre swimming pool. The Protocol Office played a key coordinating role ensuring that activities were well organised and well-received.

Mr. Speaker, in June 2019 we welcomed Lord Ahmad of Wimbledon, Secretary of State for the Overseas Territories, as well as Heads of Government from the Overseas Territories for the Pre-Joint Ministerial Council Meeting which I had the honour to Chair. Following the Pre-Joint Ministerial Council Meeting, the Cayman Islands and the United Kingdom Governments jointly hosted the inaugural United Kingdom Overseas Territories International Trade Summit.

Our Policy Coordination Unit assisted with logistical matters and the successful execution of both events. They also provided research and analytical support to me, as Premier, for the Constitutional Reform presentation to the Legislative Assembly; following consideration and debate, the reform changes were anonymously passed by this House. I truly thank all honourable Members for supporting the changes, which will give our citizens greater control over what happens in these Islands.

Mr. Speaker, much was done in 2019 to advance government communications toward not only ensuring that the public is well informed of policies, legislation, plans, programmes and activities but more importantly, if I may say, to obtain feedback informing such initiatives. In this regard, the following occurred:

- The first Cayman Islands Government Communications Plan was approved by Cabinet in May 2019;
- A strategic communications unit was established within the Communications Directorate to deliver cross-Government campaigns. The unit delivered campaigns for strong public finances and for safer, cleaner, greener communities. Community public relations campaigns included the NiCE (National Community Enhancement) work programme and Older Persons' Month;
- All communications channels experienced growth in terms of followers or viewers during the year, which is a testament to the communication team's attention to providing desirable content via the most suitable means to a variety of stakeholders.

Mr. Speaker, as our National Radio Station, Radio Cayman continued to expand its broadcast platform by streaming content and events using social media platforms. The *Sports Extra* talk show was added during the year, expanding the variety of talk shows produced by the station.

Information rights both in terms of what individuals are entitled to and what should be considered confidential, is vital to our democratic system of government. In this regard, the Cabinet Office's Information Rights Unit had an active year delivering 18 proactive training and awareness sessions for public servants, including the provision of an intensive 4-day training in

data protection and privacy programme management for 74 public officers.

Mr. Speaker, 2019 was the second year of the Celebrate Cayman Programme, with the commemoration of the 60th Anniversary of our first written constitution, following much-lauded events in 2018 celebrating the 60th Anniversary of our Coat of Arms. Among others, activities supporting the celebration of our first written constitution included a special weekend of celebrations from 29th June to 1st July, including:

- A formal breakfast with keynote addresses by the Prime Minister of Jamaica, the Right Honourable Andrew Holness; and Lord Ahmad of Wimbledon, then Minister of the Overseas Territories, in recognition of the close familial and historical bonds between the Cayman Islands, Jamaica and the United Kingdom;
- A friendly football match with retired stars from the United Kingdom, Jamaica, and the Cayman Islands; and
- A special church service.

To wrap up the weekend on 1st July, 2019, the George Town Town Hall, where our first written constitution was enacted, was renamed Constitution Hall, ensuring that the building's historical significance and the events that took place there, are always remembered.

Mr. Speaker, I wish to note a point that I believe is important for recalling our own parliamentary journey: Present at the renaming ceremony of Constitution Hall was Mr. Arley James Miller, fondly known as AJ, the last living Vestryman who served in 1959—the year Cayman adopted its first Constitution. Bringing to life an important historical fact, such as this, and highlighting the integral role our people have played in shaping this country, are two main reasons why Celebrate Cayman was established.

Radio roundtable discussions were held to give listeners the opportunity to explore the evolution of our journey to the modern Constitution, [and] we were honoured indeed, to have as a panellist one of the first four women to stand in a General Election after earning the right to vote and stand.

Celebrate Cayman partnered with the Cayman Islands' National Museum to curate an exhibit which takes a closer look at our Constitution and its history.

I must once again thank all Members of this honourable House for their support and for getting behind this national celebration. Celebrate Cayman has truly been remarkable and a worthwhile investment in our people. I, again, invite Members to read the Annual Report for the Cabinet Office to gain a better understanding of the many important accomplishments that have been made, too numerous to include here.

Of course Mr. Speaker, none of this good work could have been done without the professional, diligent, and outstanding group of people who make up the Cabinet Office Portfolio, ably led by the Cabinet

Secretary and Chief Officer, Mr. Samuel Rose. I am grateful for their tireless effort and dedication in delivering the very best for the people we serve.

Mr. Speaker and Members of Parliament, with these brief remarks, I, again, encourage all Members to peruse the Cabinet Office's Annual Report for the 2019 Financial Year.

[Pause]

Report of the Standing Business Committee – First Meeting of the 2020 Session of the Cayman Islands Legislative Assembly

The Speaker: Honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I beg to lay on the Table of this honourable House the Report of the Standing Business Committee for the First Meeting of the 2020 Session of the Cayman Islands Legislative Assembly.

The Speaker: So ordered. Is the Premier speaking thereto?

The Premier, Hon. Alden McLaughlin: No, thank you, Mr Speaker.

[Pause]

Cayman National Cultural Foundation Annual Report 2016 - 2017 – Creativity: Heritage: Education

The Speaker: The Honourable Minister of Health.

Hon. Dwayne S. Seymour, Minister of Health, Environment, Culture and Housing, Elected Member for Bodden Town East: Thank you, Mr Speaker.

Mr. Speaker, it appears that I have many of these today.

The Speaker: Are you laying them separately or laying them all together?

Hon. Dwayne S. Seymour: I am speaking on about five of them, and the rest I will just [table.]

The Speaker: Okay, continue.

Hon. Dwayne S. Seymour: Mr. Speaker, I beg to lay on the [Table] of this honourable House the Cayman National Cultural Foundation (CNCF) Annual Report 2016-2017 – Creativity: Heritage: Education.

The Speaker: So ordered. Is the Honourable Minister speaking thereto?

Hon. Dwayne S. Seymour: Yes, Mr. Speaker.

[Pause]

**Government of the Cayman Islands -
Cayman National Cultural Foundation
Annual Financial Statements for the
18 -Month Period Ended 31 December 2017**

The Speaker: Honourable Minister.

Hon. Dwayne S. Seymour: Mr. Speaker, can I have them all mentioned at one time?

The Speaker: If that is your choice, certainly.

Hon. Dwayne S. Seymour: Thank you.

**Cayman National Cultural Foundation
Annual Report 2018 –
Creativity: Heritage: Education**

**Cayman National Cultural Foundation Annual
Financial Statements for the Year Ended
31 December 2018**

[Pause]

The Speaker: Honourable Minister, you are inquiring in regard to the Cultural Foundation reports?

Hon. Dwayne S. Seymour: Yes.

Mr. Speaker, I beg leave to lay on the [Table] of this honourable House the following reports: Cayman National Cultural Foundation Annual Financial Statements for the 18-Month period ended the 31 December 2017; Cayman National Cultural Foundation Annual Report 2018; and Cayman National Cultural Foundation Annual Financial Statements for the year ended 31 December 2018.

The Speaker: So ordered. Is the Honourable Minister speaking to those reports?

Hon. Dwayne S. Seymour: Yes, Mr Speaker.

Mr. Speaker, in accordance with section 17(2) of the Cayman National Cultural Foundation Act, 2013 and section 52 (2), (3) and (8) of the Public Management and Finance Act (2018 Revision), I would like to place before this honourable House the Annual Reports for the 18-Month period of 1st July, 2016 to 31st December, 2017. My Ministry has been making efforts to table outstanding reports prior to the end of this term. This report, along with the CNCF 2019 report, which is also expected to be tabled shortly, will bring this entity into compliance with law.

Mr. Speaker, this honourable House is reminded that CNCF is a non-profit organisation regulated by the Government and funded primarily by annual grant through my Ministry of Health, Environment,

Culture and Housing. The scope of the CNCF activities include:

- The stimulation and facilitation of culture generally;
- The development, maintenance and management of theatres and other cultural facilities, in particular the F.J. Harquail Cultural Centre;
- Organising cultural festivals;
- The stimulation of local talent development by means of training workshops, competitions, pageants, parades, displays and other activities; and
- Assisting persons in developing cultural and artistic expression including the preservation and exploration of Cayman's cultural heritage.

Mr. Speaker, the work of the CNCF is related to Cabinet's Broad Outcomes 3 and 6 as noted in the Strategic Policy Statement—the best education outcomes for all children; and stronger communities and support for the most vulnerable. As one of these three main cultural entities, Mr. Speaker, the CNCF is an outstanding resource, and its focus on Caymanian identity helps us build pride and strength.

Mr. Speaker, the Financial Statements have been prepared in accordance with the standards issued by the International Federation of Accountants and its International Public Sector Accounting Standards Board. In coming to an opinion on the CNCF Financial Statements, the Auditor General relied on an audit carried out by a public accounting firm.

The Auditor General issued a qualified opinion, the basis of which is noted as, **“The Foundation has been named as a defendant, among others, in a personal injury claim, where a judgement was awarded during the year ended 30 June 2016. The judgement awarded the Plaintiff damages of \$5,946,889 with a further sum and liability of legal costs still to be determined. We understand that the awarded amount has been partially paid by the Cayman Islands Government and no determination has been made with respect to whether reimbursement of the claim costs will be sought from the Foundation, or if the payment will be considered an additional [equity] contribution to the Foundation, as the Foundation is financially dependent on the Cayman Islands Government. We are unable to obtain sufficient, appropriate audit evidence relating to the amount of the damages to the Foundation. Consequently, we were unable to determine whether any adjustments, if any, were necessary to make the financial statements.”**

The Auditor General further states, **“Except for the possible effects of the matter described in the Basis for Qualified Opinion section of my report, the accompanying financial statements present fairly, in all material respects, the financial position of the Foundation as at 31 December 2017,**

and its financial performance and cash flows for the 18-month period from 1 July 2016 to 31 December 2017 in accordance with the International Public Sector Accounting Standards (IPSAS)."

Mr. Speaker, the Annual Report for the period outlined CNCF's performance in comparison to budgeted targets. It covers the summary of the organisation; highlights of achievement, and risk management; outlines the various programmes, projects and activities; provides commentary on CNCF guiding principles, as well as details on governance and accountability. Highlights of achievements—a summary of CNCF's areas of focus, actions and intended outcomes; and risk management—a list of CNCF's key strategic compliances and operational risks, their impact, and actions to mitigate, along with financial values of each.

Mr. Speaker, in compliance with the Public Management and Finance Act, CNCF changed its year end from 30th June to the 31st December; accordingly, the Financial Statements are prepared for the 18-months. As a result, the statements and the related notes are not comparable to the previous period.

The Statement of Financial Position shows that during the period, the total assets were \$4,665,045, a variance of \$36,380 against the budget target of \$4,628,665. The total liability stood at \$315,786—\$78,338 above budget estimates of \$237,448. The total equity was \$4,349,259 compared to the budgeted figure of \$4,391,217. The Statement of Financial Performance shows that total revenue was \$1,300,899—a variance of \$169,908 against the budget target of \$1,470,807.

The non-commercial value of CNCF's cultural development work necessitates that additional contributed income is raised through fundraising. It was projected that some contributed income would derive from international funding agencies, however, the majority required proof of non-profit charity status. CNCF application for recognition of non-profit status was still awaiting approval up until the end of the budgeted period. The result was a limit on CNCF's eligibility for international funding, and the main reason for unfavourable variants of \$168,972 against the budgeted target of \$437,457 in other revenue. The government-grant for the 18-month period was \$943,350.

Mr. Speaker, total expenses were \$172,822 less than the budgeted target of \$1,704,092 with an ended balance of \$1,531,270. Under operating and administrative expenses, \$22,299 was paid for a one-off special project involving the fabrication and installation of headstones on the graves of two cultural icons which was funded by a \$24,000 grant from the Ministry and was included in the cultural development expense.

Mr. Speaker, CNCF also budgeted that costs associated with the Caribbean Festival of Arts (CARIFESTA), which is an event held within the Caribbean region every three years and occurred during August 2017, would have been \$155,000, however, actual spend was reduced to \$75,000 to be more in line with

the actual funds received towards the event. In addition, the budget included general maintenance, painting, and other F. J. Harquail Theatre repairs for a total of \$20,000. The level of funding budgeted to undertake these repairs were not obtained and this spend was delayed to future periods.

Mr. Speaker, in the Statement of Cash Flows, the total of cash and cash equivalents at the end of the period was \$148,542; cash and cash equivalents include cash on hand, as well as cash in transit and in bank accounts. In meeting its liquidity requirements, CNCF closely monitors its forecast cash requirements with expected cash drawdowns from Cabinet and receipts from third parties. CNCF maintains a target level of available cash to meet the liquidity requirements.

All staff received a 2.2 per cent one-time gratuity approved by Cabinet in July 2016, for the period ended 31st December, 2017; long-standing employees were advanced three points along their salary scales in January 2017; and an amount of \$5,000 was paid to a key member of management in compensation for services rendered—namely, writing the script for one of the theatrical productions completed. Non-executive board members received no fees or remuneration.

I should take the opportunity to thank the management of CNCF along with members of the board for their valuable service to this entity.

[Pause]

Hon. Dwayne S. Seymour: Mr. Speaker, that concludes the CNCF statements to this honourable Parliament. We can continue.

[Pause]

**National Drug Council Cayman Islands
Annual Report 2013-2014 – The National Drug
Council in Review 1st July 2013 to 30th June 2014**

**National Drug Council Financial Statements
Year Ended 30 June 2014**

**National Drug Council Annual Report 2014-2015
– Three Islands, ONE Goal**

**National Drug Council Financial Statements
Year Ended 30 June 2015**

**National Drug Council Annual Report 2015-2016 –
The National Drug Council in Review
1st July 2015 to 30th June 2016**

**National Drug Council Financial Statements
Year Ended 30 June 2016**

**National Drug Council Annual Report 2016-2017 –
The National Drug Council in Review
1st July 2016 to 31st December 2017**

**National Drug Council Financial Statements
for the 18 Months Ended 31 December 2017**

The Speaker: The Honourable Minister of Health and Culture.

Hon. Dwayne S. Seymour: Thank you, Mr. Speaker.
I beg leave to lay on the Table of this honourable House the [following reports]:

- National Drug Council Cayman Islands Annual Report 2013-2014 – The National Drug Council in Review 1st July 2013 to 30th June 2014;
- National Drug Council Financial Statements Year Ended 30 June 2014;
- National Drug Council Annual Report 2014-2015 – Three Islands, ONE Goal;
- National Drug Council Financial Statements Year Ended 30 June 2015;
- National Drug Council Annual Report 2015-2016 – The National Drug Council in review 1st July 2015 to 30th June 2016
- National Drug Council Financial Statements Year Ended 30 June 2016;
- National Drug Council Annual Report 2016-2017 – The National Drug Council in Review 1st July 2016 to 31st December 2017;
- National Drug Council Financial Statements for the 18 Months Ended 31 December 2017.

The Speaker: So ordered. Is the Minister speaking to these reports?

Hon. Dwayne S. Seymour: Yes, Mr. Speaker.

Mr. Speaker, in accordance with section 24 of the National Drug Council Act (2010 Revision), I am pleased to place before this honourable House, the Annual Reports of the National Drug Council for the fiscal years 2013 to 2014; 2014 to 2015; 2015 to 2016, and 2016 to 2017.

Mr. Speaker, the National Drug Council, commonly referred to as the NDC, became a statutory body in 1997 under the National Drug Council Act, 1997 and began operations on January 1st, 1998. The NDC's purpose is to coordinate anti-drug measures in the Cayman Islands.

Funded primarily through the purchase of outputs by [the] Cabinet of the Cayman Islands Government, the NDC focuses on three main areas:

1. Policy and prevention: The NDC formulates policies intended to prevent or reduce drug abuse and to promote and encourage the implementation of such policies and programmes and to advise the Minister on matters of law reform relating to the misuse of drugs;
2. Surveillance, research and information dissemination: The NDC conducts and supports surveys, research and published report or other documentation on drug abuse, and maintains a database of information on issues related to the use, misuse and abuse of substances in the Cayman Islands;
3. Monitoring and evaluation: The NDC coordinates the efforts of the drug abuse prevention, treatment and rehabilitation, through monitoring and evaluation of the implementation of anti-drug programmes within the Cayman Islands.

As Members may be aware, the responsibility of the NDC was transferred to the Ministry of Health, Environment, Culture and Housing when there was a change in the composition of the Government in 2017.

During the period of 2013 to 2017, the NDC was under the auspices of the Ministry of Home Affairs and only recently did the Ministry become aware that the previous Minister responsible for NDC had not submitted the Annual Reports for this period to Cabinet for approval to be tabled in this honourable House. Nonetheless, the National Drug Council has had many achievements during these periods, Mr. Speaker, so I will summarise the highlights of these Annual Reports and Financial Statements by year.

For the fiscal year 2013 to 2014, there was a reintroduction of the Substance Misuse and Abuse Education Programme at Her Majesty's Cayman Islands Prison Services and the Youth-to-Youth Programme at the high schools, which provided the opportunity for nine Grand Cayman and Cayman Brac youth to attend the International Conference. Highlights in the 2014 Annual Report include:

- Collection of data on the importation and use of narcotics for quarterly reporting to the International Narcotics Control Board (INCB);
- Reviewed the 2013 to 2019 National Anti-drug Strategy for the Cayman Islands and submitted a revised National Plan for 2014 to 2019 to the Ministry of Home Affairs;
- Provided support and feedback on the implementation of drug and alcohol policies for workplaces;
- Advocated for changes to the Liquor Licensing Act; and
- Participated in the review and update on the Mental Health Act, 2013.

In reviewing the Audited Financial Statements for the period, the NDC recorded total revenues through outputs to Government and other outcome of

\$544,787. The total expenses reported were \$574,764. The reported net loss for the period was \$29,977, which may have been attributed to the reintroduction of youth development projects such as Peer Mentor and Youth-to-Youth Programme which were dormant for about ten years. The total current assets at the 30th June, 2014 were \$376,849 and the fixed assets were \$13,515, with total assets of \$390,364. Total current liabilities were recorded at \$47,655.

Mr. Speaker, during the fiscal year 2014 to 2015, approximately 420 presentations on the harmful effects of alcohol, tobacco, and other drugs were delivered in the schools, prisons and the community. These were almost twice as many presentations that were delivered during 2013 to 2014. Other highlights of the 2014-2015 Annual Report included:

- Design and delivery of the workplace drug education training;
- Curriculum packages to Heads of Department;
- Carrying out several initiatives for Alcohol Awareness Month including radio appearances and distribution of information leaflets in the hospital and clinic waiting areas

Mr. Speaker, it is important to note the NDC reported that challenges encountered included:

- a. Staff burn out and an inability to meet all the needs within the community on the three Islands;
- b. Policy initiatives have not been implemented or taken on board;
- c. The importance of data collection is not fully recognised and subsequently, obtaining data from the stake holders continues to be difficult.

Mr. Speaker, total current assets at 30th June, 2015 were \$397,949, fixed assets were \$10,242, and total assets were \$408,191. The total current liabilities was recorded at \$62,362. During the fiscal year of 2015 to 2016, the NDC conducted Cycle 8 of the Cayman Islands Student Drug Use Survey, which we have gotten to know so well. Her Majesty's Cayman Islands Prison Service's Survey - Cycle 4 was also conducted.

The staff at NDC also embarked on several training opportunities, and participated in policy and prevention initiatives, including providing feedback to the Labour Relations Bill in 2015; the development of the Mental Health Policy; providing draft regulations for the Liquor Licensing Act; feedback on the discussions regarding legalising marijuana for medical use; feedback on the impacts of bullying and substance abuse, amongst many more.

Mr. Speaker, challenges were identified that year in addition to those mentioned the previous year, including:

- There is no guiding strategy at the national level to direct the efforts for drug control; and
- The NDC continues to advocate for updating the governing legislation for the implementation of a national anti-drug strategy 2009 to 2013, that is now outdated.

The total current assets as of 30th June, 2016 were \$402,704, the fixed assets were \$7,479 with total assets of \$410,183, and total liabilities were recorded at \$51,559.

Lastly, fiscal year 2016 to 2017: The Annual Report and the Financial Statements for the 18-month period ending the 31st December, 2017. For the benefit of this honourable House, the NDC came under this Ministry in June, 2017.

Mr. Speaker, over 600 presentations were conducted by the NDC within schools, prisons and community. Other highlights in the report included:

- The development of a prevention framework and curriculum for the school-based drug education program;
- Facilitating the evaluation of the Cayman Islands drug-treatment court;
- Youth-to-Youth program was further developed in the Islands;
- NDC sponsored a group—ten teens and two adults—to attend the Youth-to-Youth Eastern States Conference held in Rhode Island;
- Hosting of the Second Annual National Observance of International Day against Drug Abuse and Illicit Trafficking, which was recognised on June 26th, 2017, and over 1,300 students participated;
- Hosting of the 17th Annual Purple Ribbon Bus Service for 31st December, and Designated Driver Programme from 1st through 31st December, 2017.

The total current assets at 31st December, 2017 were \$461,081; security deposit was \$5,500 and the fixed assets were \$3,071, with total assets of \$469,652. The total current liabilities were recorded at \$71,524. Mr. Speaker, the Auditor General has given an unqualified opinion on all the Financial Statements of the National Drug Council for the period of 1st June, 2013 to 31st December, 2017.

Mr. Speaker, at this point, I would like to thank the board, the management and staff of the National Drug Council for their hard work in producing these Annual Reports. I invite Members of this honourable House and the public to review these reports in detail.

I thank you.

**Cayman Islands Government Unaudited
Quarterly Financial Report – Nine-Month Period
Ended 30 September 2020**

The Speaker: The Honourable Minister of Finance.

Parliament of the Cayman Islands

Hon. Roy M. McTaggart: Thank you, Mr. Speaker.

On behalf of the Government, I beg to lay on the Table of this honourable House the Unaudited Quarterly Financial Report of the core government of the Cayman Islands for the nine-month period ended 30th September, 2020.

The Speaker: So ordered. Is the Minister speaking thereto?

Hon. Roy M. McTaggart: Thank you, Mr. Speaker, yes.

Mr. Speaker, on the 6th November, 2020, the Ministry of Finance and Economic Development arranged for the gazettal of the Unaudited Quarterly Financial Report for the core government of the Cayman Islands for the period, four days ahead of the 10th November deadline or within six weeks of the third-quarter ending, as stipulated by the Public Management and Finance Act. Honourable Members of the Parliament were also sent this report by email on the 8th November, 2020.

Mr. Speaker, the information referred to in this report is based on records obtained from the General Ledger of the government's financial management system on 12th October, 2020; it is also based on the representations and judgments provided by the Chief Financial Officers of Ministries, Portfolios, Offices and Statutory Authorities and Government Companies (SAGCs). All of the amounts that I will provide from this point onward are stated in Cayman Islands dollars (KYD).

The Statement of Financial Position at the 30th September, 2020, on page 7 of the document, shows that the core government ended the period with \$2.5 billion in assets and \$0.9 billion in total liabilities; therefore, \$1.6 billion in net assets or net worth. Cash and cash equivalents including fixed deposits with maturity durations not exceeding 90 days, were \$112.1 million; and marketable securities, comprising fixed deposits with maturity durations exceeding 90 days were \$386.7 million, for a total of \$498.8 million with respect to bank account balances.

Due to the significant cash balances on hand, Government continues to place funds on longer-term fixed deposits. These longer-term deposits are reflected as marketable securities in the Statement of Financial Position and are not included in the definition of cash and cash equivalents, which only represent deposits that are 90 days or less to maturity.

Mr. Speaker, public debt for the core government stood at \$261.4 million at 30th September, 2020. This was \$143.2 million lower than the debt balance at the 30th September, 2019, therefore government's debt has been reduced by that amount over the one-year period, and will continue to be reduced with regularly scheduled principal repayments.

Honourable Members will recall that in November 2019 the Government repaid its US\$312 million or

KYD261.3 million Bond using a significant portion of our cash and deposit balances and incurred borrowings of \$153 million as a means of refinancing a portion of the Bond balance. The Statement of Financial Performance for the period, shown on page 11 of the document, shows that core government earned total operating revenues of \$64.5 million and incurred total operating expenditures of \$574.1 million in the period.

Resulting operating surplus for core government was \$30.4 million. SAGCs contributed an additional \$1.7 million to the operating surplus as a result of their favourable performance. The entire public sector has produced an operating surplus of \$32.1 million for the quarter, or 62 per cent below budget.

Mr. Speaker, revenue recorded for the first nine months of 2020 was \$68.1 million below budget expectations. This negative variance was mainly concentrated in the category of coercive revenue, which are revenues received by government by virtue of the coercive powers of certain laws. Coercive revenue recorded for the period was \$74.6 million less than the budgeted expectations, and \$66 million less than the prior year-to-date actual results.

The significant decline in revenues is directly attributed to the effect of COVID-19 on the economy, with one such area being the closure of the borders to international travel and tourism. For the first nine months of 2020, both air arrivals and cruise arrivals have declined by 69 per cent and 59.8 per cent respectively. Coercive revenue items performing below budget expectations include:

- Work permit fees of \$28.9 million;
- Tourist accommodation charges \$17.8 million or 64 per cent less than expected for the period;
- Other import duties, \$16.6 million less than budgeted;
- Cruise ship departure charges of \$5.3 million, 62 per cent below budget; and
- Gasoline and diesel duty \$4.5 million less than expected revenue for the period.

These negative variances from the budget expectations are partially offset by positive variances in other revenue items such as stamp duty on land transfers—a \$12.2 million positive variance; and mutual fund administration fees, a \$4.3 million positive variance. Despite lower coercive revenues, investment revenues for the period were \$3.5 million above year-to-date budget of \$4.1 million.

Donations received during the period were \$2.4 million, which was \$2.2 million above budget. These included donations of \$1.8 million towards the cost related to COVID-19 mitigations. Other revenues also outperformed budget for the nine-month period ended 30th September 2020, by \$4.1 million. Sales of supplies and other items to other jurisdictions and facilities to combat COVID-19 amounted to \$1.7 million, and revenues from the air bridges from London, United Kingdom were \$2.5 million.

Mr. Speaker, expenses incurred for the period of \$574.1 million were right in line with a year-to-date budget of \$574.4 million. The areas that achieved the largest underspend were personnel costs and supplies and consumables, offset by high significant overspends in outputs from Statutory Authorities and Government-owned Companies and transfer payments.

Costs relating to personnel for the period amounted to \$265.7 million which reflects an underspend in personnel cost of \$9.7 million or 3 per cent, compared to a budget of \$275.4 million; this favourable variance is a result of several Ministries and Portfolios having vacant posts, which to the 30th September, 2020 remained unfilled. Supplies and consumables were also lower than projected, with an underspend of \$28.5 million or 32 per cent. Within the supplies and consumables classification, the most significant underspend related to the category of purchases of services, which accounts for 58 per cent or \$16.5 million of the overall positive variance in supplies and consumables.

Ministries, Portfolios, and Offices have indicated that spending is anticipated to increase in the final quarter of the year, and costs will more closely realign to the budgeted projections by the end of the year.

Outputs from Statutory Authorities and Government-owned Companies of \$119.4 million were \$20.6 million or 12 per cent more than the year-to-date budget of \$98.8 million. This variance relates mainly to increased support for Cayman Airways Limited and the Health Services Authority. Transfer payments of \$43.5 million were \$8.3 million or 24 per cent more than budgeted for the period; the variance is mainly due to the overages in financial assistance programmes offset by savings in other expenditure areas. These programs include:

- Sports and cultural tourism programs assistance—\$6.4 million more than budgeted;
- Support for business initiatives—\$3.4 million in excess of budget;
- Temporary financial assistance—\$2.6 million more than budget; and
- Education agriculture and land services COVID response and recovery—\$2.2 million more than budget.

Mr. Speaker the Statement of Cash Flows, on page 16 of the document, shows that the net cash inflows from operating activities totalled \$50.1 million. The net cash outflows used by investing and financing activities totalled \$27.7 million and \$17.9 million, respectively.

Investing activities include a \$5 million draw-down on an approved interest-free temporary loan of \$20.9 million to the Cayman Islands Airports Authority (CIAA). The purpose of the temporary loan is to enable the CIAA to meet its ongoing operational and capital obligations, while the Government seeks the approval of the Foreign Commonwealth and Development Office (FCD) for a third-party loan to the CIAA. The temporary

loan will be repaid to the Government by the end of 2020, once CIAA is able to draw down on the approved third-party loan funds.

Mr. Speaker, the overall fiscal performance reported for the period shows an operating surplus of \$32.1 million, which is \$53.2 million or 62 per cent lower than the budgeted expectations. This result, I reiterate, arises due to the effect of COVID-19 on the economy. The Government's cash position ended at \$498.8 million for the period—\$177.1 million of which was held as reserves and restricted deposits; and \$321.7 million as operating bank account balances.

Mr. Speaker, clearly, the 2020 third-quarter's performance indicates that the Government will not achieve its initial 2020 budgeted performance of a \$64.7 million surplus in core government; equally important I wish to assure all Members, and the wider public, that the forecast deficit of \$168 million that was projected in the early months of the pandemic, will not be realised. Indeed, it is likely that the deficit for this financial year will be somewhere in the region of \$50 to \$75 million.

Mr. Speaker, if this holds true, it will be a remarkable achievement for the Government. For me, it will be the most significant, tangible evidence of the Government's fiscal prudence and stewardship of the country's finances; but I need to be clear, Mr. Speaker, we are not yet out of the woods. Our finances continue to be severely impacted by the effects of the ongoing COVID-19 expenditures, and the fall-off of revenue, due to the closure of our borders to tourism and reduced local economic activity.

This is why, as a contingency, the Government took the prudent step, with the support of this honourable Parliament, to arrange a KYD330 million line of credit to assist us with meeting our financial obligations over the next two years. This will ensure, Mr. Speaker, that whoever occupies the seat of Minister of Finance in the next term, will have the tools and resources needed to navigate the good ship Cayman out of the turbulent waters of this pandemic.

In closing, Mr. Speaker, I thank my colleagues for their unwavering commitment and support for the fiscal policies and ideals that we pledged to the country to uphold. They have certainly withstood the test of time, and the wisdom of those policies have really come home to rest for us. I also thank the Deputy Governor, his leadership team, and the staff of the Ministry of Finance, for all their support; it has truly been a collaborative effort that has yielded very tangible results, and I am truly grateful to everyone.

Mr. Speaker, the Unaudited Quarterly Financial Report for the nine-month period is available on the Government's and the Ministry of Finance's websites www.gov.ky and www.mof.gov.ky, respectively.

I thank you, Mr. Speaker.

The Speaker: Honourable Members, you would recognise that the Honourable Minister of Finance, though

quarantined at home, is meeting with us via Zoom. We thank him for his participation, as I said, albeit being at home quarantined after a sickness—we thank him that he is still working.

Health Services Authority Cayman Islands Annual Report 2018 – Building Excellence in Every Patient Experience

The Speaker: The Honourable Minister of Health.

Hon. Dwayne S. Seymour: Thank you, Mr. Speaker.

I beg leave to lay on the Table of this honourable House the Health Services Authority Cayman Islands Annual Report 2018 – Building Excellence in Every Patient Experience.

The Speaker: So ordered. Is the Honourable Minister speaking?

Hon. Dwayne S. Seymour: Yes, Mr. Speaker.

Mr. Speaker, in accordance with section 52 (8) of the Public Management and Finance Act (2018 Revision), I am pleased to place before this honourable House the Audited Financial Statements of the Cayman Islands' Health Services Authority for the 12-month period [ended] the 31st December, 2018.

The Cayman Islands Health Services Authority is a statutory body that was established as an authority on the 1st July, 2002 under the Health Services Authority Act.

The Authority provides care through the 124-bed Cayman Islands' Hospital and the 18-bed Faith Hospital on Cayman Brac. The Authority provides primary and secondary levels of health care services for [all] three Islands in its facilities.

The main facilities of the Cayman Islands hospital are in George Town, Grand Cayman, and Faith Hospital in Cayman Brac. The community-based service facilities include:

- Little Cayman Health Centre,
- George Town General Practice Clinic,
- West Bay Health Centre;
- Bodden Town Health Centre;
- East End Health Centre;
- North Side Health Centre;
- The Public Health Department
- Lions' Eye Clinic;
- George Town Dental Clinic;
- Merren's Dental Clinic; and
- The Cayman Brac Dental Clinic.

Mr. Speaker, I will now outline some of the highlights of the 2018 Annual Report, however, I invite Members of this honourable House to read the full report.

- In 2018, the Authority implemented designated parking spaces for older persons and

acquired a golf cart to improve accessibility and convenience for the elderly;

- A Patient and Family Advisory Committee was established to provide an avenue for the community to engage directly with the Authority;
- The Authority also embarked on a programme to receive Joint Commission International (JCI) accreditation to measure and benchmark clinical quality and outcomes against international standards;
- A Protocol Policy and Business Plan for bariatric services was developed, and the necessary equipment acquired;
- The successful recruitment of an interventional radiologist to assist with the introduction of an expansion of innovative and non-invasive procedures at the HSA was accomplished;
- The Authority implemented a diabetic education clinic to deal with patients' increased demand for service in managing their diabetes;
- The communications team was expanded to include a Communications and Marketing Manager to support new communication initiatives such as the use of greeters in the main atrium of the hospital;
- The expansion of social media footprint through Facebook and other platforms, and a monthly radio interview initiative to create awareness of the HSA's services;
- The Authority strongly invested in staffing, both clinical and non-clinical, during 2018;
- Additionally, nurses were recruited to improve the patient-to-caregiver ratio and the overall patient experience;
- A dedicated employee car park was also built for staff's convenience, while allowing the spaces at the front of our Cayman Islands hospital campus to be used by our customers seeking care;
- A comprehensive master facility plan was commissioned to guide facilities and clinical services developed over the next 30 years—the plan outlines the renovations and expansion needs over the period.

Mr. Speaker, I will now briefly mention the Authority's seven primary strategic priorities of the Authority which provide the framework for 2018, to help in achieving the organisation's milestones in our commitment to excellence to our patients and the community. The priorities are as follows:

1. We will develop and implement a coordinated organisation-wide approach to effectively manage our financial resources to ensure sustainability;

2. We will improve patient experience across the continuum of care by respecting and responding to the patient's value and preference;
3. We will maintain [and] expand the facilities to meet the existing need and projected growth, whilst being environmentally responsible;
4. We will become the provider of choice for bariatric services, maternal and child health and interventional radiology;
5. We will strengthen the HSA brand using all available media to ensure that the public is aware of the advantage of using the HSA as their provider of choice;
6. We will attract, develop, motivate, and retain productive and engaged employees to meet current and future organisational needs;
7. We will strengthen primary health care at the HSA by enhancing patient services, health promotion, and disease prevention activities.

Mr. Speaker, in reviewing the Audited Financial Statements for the 12-month period [ended] 31st December, 2018, the Authority recorded total revenue of \$119,775,736 million from government programme patient services fee, and other sources. The total operation expenses reported were \$119,284,265 million; the reported net income for the year was \$491,472 compared to the 18-month period [ended] 31st December 2017, where the net loss was \$8,900,974.

The total current assets at 31st December, 2018 were reported at \$72,432,571 million and the fixed assets were at \$70,908,086 million. The Authority reported total assets of \$143,340,657 million, and total liabilities of \$150,678,199 million; the HSA net assets were reported at a negative \$7,337,542 for the same period, and the fiscal period ended with a cash balance of \$22.6 million, compared to the 31st December, 2017 balance of \$31.9 million.

Mr. Speaker, the Auditor General completed the audit and issued an unqualified opinion of the Financial Statements of the Health Services Authority for the period [ended] 31st December, 2018. This is the first time since becoming an Authority, that the HSA has received an unqualified audit opinion. For the benefit of this honourable House, an unqualified opinion means the Financial Statements present fairly, in all material aspects, the financial position of the Authority as at 31st December, 2018, and its financial performance and its cash flow for that year were in accordance with International Financial Reporting Standards.

Mr. Speaker, the Authority should be applauded on the achievement of the clean audit opinion on the 2018 Financial Statements and we hope that this trend will continue, as we all know how difficult and challenging the field of healthcare can be. It is important

to note the other matters outlined in the Auditor General's Report, specifically Note 22 of Financial Statements, which states that the recognition of the post-retirement health care liability resulted in a net deficit of \$7.3 million. This event raised substantial doubt about the Authority's ability to continue as a going concern; Note 22 also outlined a series of action plans taken by the Authority's Management to alleviate this concern. The Auditor General stated that her opinion was not modified in respect of this matter.

Mr. Speaker, I would like to recognise the Authority on their achievements in 2018; and publicly thank the board and management for their hard work and perseverance in producing this report for the audit to be completed, and for receiving an unqualified opinion. I commend those Audited Financial Statements to this honourable House, and as I mentioned before, I invite Members and the public to review them in detail.

I thank you, Mr. Speaker.

Anti-Corruption Commission Annual Report 2019-2020

Executive Summary of the Anti-Corruption Commission's 2019-2020 Annual Report

The Speaker: The Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Thank you, Mr. Speaker.

Mr. Speaker, I seek the leave of the House to lay the 2019-2020 Annual Report of the Anti-Corruption Commission. Mr. Speaker, I seek permission to lay items 17 and 18 at the same time; they were meant to be one.

Thank you.

The Speaker: So ordered. Is the Honourable Attorney General speaking to the reports?

The Attorney General, Hon. Samuel W. Bulgin: Mr. Speaker, just to note that the report itself was signed by the Chair, Mr. Richard Coles—the former Attorney General—who is no longer the Chairman having served his time. The new Chair has been appointed, Mrs. Sophia Harris.

Of course, Mr. Speaker, we would like to record our thanks to Mr. Richard Coles for his tenure on the Commission, including being the Chair, but otherwise, the report speaks for itself.

Thank you.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: None.

STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: The Honourable Minister of Finance.

Hon. Roy M. McTaggart: Thank you, Mr. Speaker.

Mr. Speaker, on 14th October, 2020 the then Legislative Assembly approved Government Motion 4-2020/2021 which allowed for a Government Guarantee to be issued in respect of a loan scheme to assist medium and large-sized businesses in dealing with the financial hardships of the COVID-19 pandemic. Since the 14th October 2020, the documentation to bring into effect such a loan scheme has been reviewed extensively by the five Class A participating local banks, Ministry of Finance officials, Government's Legal Department, and a private sector law firm.

As a reminder to Honourable Members of Parliament, the key features of the loan scheme are:

1. The purpose of the loan scheme is to assist qualifying medium and large-sized businesses to meet their operating and capital expenditure needs as well as any needed refinancing of existing debt;
2. The definitions of a medium and a large size business are:
 - A medium-sized business is defined as a business employing between 30 and 50 staff or it has annual gross revenues of \$750,001 dollars up to CI \$5 million
 - A large-sized business is defined as a business employing over 50 staff or has gross revenues of over \$5 million.
3. To be eligible for a loan under the scheme, businesses must be at least 60 per cent Caymanian owned; be a Cayman-registered company; a Caymanian Sole Partnership or a Partnership on the 22nd March 2020; have 13 or more employees at 22nd March, 2020; be in good credit standing with their bank and satisfy the credit approval; and other requirements of the participating banks.

The participating banks in the loan scheme are Butterfield Bank (Cayman) Limited; Cayman National Bank Ltd.; First Caribbean International Bank; RBC Royal Bank (Cayman) Limited, and Scotiabank and Trust (Cayman) Limited.

Other aspects of the loan scheme are that the maximum amount each medium and large-sized business can borrow is up to \$750,000 dollars and \$3 million, respectively. The maximum interest rate on the loan will be the prevailing CI or US Dollar Prime Rate plus a margin of 1.5 per cent. The current CI dollar and US Prime Rate is 3.25 per cent.

The participating banks will charge their usual application commitment and legal fees, and may require other security from borrowers in addition to the Government Guarantee. The Government will provide a guarantee equal to 50 per cent of any loan approved by a participating bank under the loan scheme for medium or large-sized businesses inclusive of a one-year moratorium period on interest payments for the first year of any loan, the maximum repayment period is seven years and businesses will have up to one year to apply for the loan from the announced start date of the loan scheme—being today.

The Government will waive the 1 to 1.5 per cent Stamp Duty that may be applicable to any change charges placed over assets to provide security for the loans. The participating banks will make available a total of \$200 million under the loan scheme, and Government's 50 per cent 7-year guarantee thereof, is a maximum of \$100 million.

On behalf of the Government, I wish to thank the participating banks for their willingness to partner with Government in assisting medium and large-sized entities in any financial difficulties they may be experiencing. Mr. Speaker, this program reinforces and underscores our commitment to help as many people, and as many businesses as we can, with issues that they are facing with regard to the COVID-19 pandemic.

Mr. Speaker, I am pleased to announce today that with effect from today's date, December 9th, four of the participating banks namely, Butterfield Bank, Cayman National, First Caribbean and Scotiabank will begin accepting applications under the loan scheme. The fifth bank, Royal Bank, will be accepting applications from Monday, December 14th. Medium and large-sized entities that meet the eligibility criteria and the size definitions are now able to approach their bankers to make an application for a loan under the scheme.

In making this announcement today, I thank my colleagues and all Members of this honourable Parliament for their support of the programme. A huge thank you to the Financial Secretary, and those in the Ministry of Finance and the Attorney General's Chambers who work steadfastly, and with purpose, to put the programme together.

Mr. Speaker, thank you for allowing me to make this important statement today.

The Speaker: The Member for George Town Central.

Mr. Kenneth V. Bryan, Elected Member for George Town Central: Thank you, Mr. Speaker.

I rise under Standing Order 30(2).

The Speaker: Continue.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker.

Can the Honourable Minister say whether or not a Caymanian business owner who has multiple businesses would be able to apply on [each] separate

company, for example, you own four or five companies, you can do a loan programme for all of those together once you meet the criteria?

The Speaker: The Minister of Finance.

Hon. Roy M. McTaggart: Mr. Speaker, the answer is yes. Each individual business is entitled to make application to their bankers for a loan, so a person owning more than one business can. Each business in its own right can make application.

The Speaker: The member for George Town Central.

Mr. Kenneth V. Bryan: Thank you, Mr. Minister, and I hope all is well on your side.

Hon. Roy M. McTaggart: Thank you, sir.

PERSONAL EXPLANATIONS

The Speaker: None

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Speaker: None.

RAISING OF MATTERS OF PRIVILEGES

The Speaker: None.

GOVERNMENT BUSINESS

BILLS

SECOND READINGS

LEGAL SERVICES BILL, 2020

The Speaker: The Honourable Premier.

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

Mr. Speaker, I beg to move the Second Reading of a Bill entitled the Legal Services Bill, 2020.

The Speaker: The Bill has been duly moved. Is the Honourable Premier speaking thereto?

The Premier, Hon. Alden McLaughlin: Yes, thank you, Mr. Speaker.

Mr. Speaker, the Bill has a long title which I will read for the record: A Bill for a law to repeal and replace the Legal Practitioners Law (2015 Revision); to regulate the practice of Cayman Islands law; to provide for

a system of legal education; to provide for a mechanism to deal with professional misconduct and for incidental and connected purposes.

Mr. Speaker, this Bill seeks to repeal and replace the Legal Practitioners Law; to establish a legal services' Council; to regulate the practice of Cayman Islands law; to provide for a system of legal education; to provide for a mechanism to deal with professional misconduct, and to provide for incidental and connected purposes.

Among other things, the Bill is aimed at modernising the regulation of the legal profession in these Islands. The practice of law is currently regulated by the Legal Practitioners Act (2015 Revision) that was enacted in 1969—more than 50 years ago, and before many Members in this honourable House were even a gleam in their father's eye.

Mr. Speaker, the number of attorneys and the nature of law practice in and from these Cayman Islands have changed significantly over the decades to the point of rendering the current Legal Practitioners Act almost obsolete, hence the need for a new Act. Although there have been numerous amendments over the years to reflect the evolution of the practice of law in and from these Islands, the current framework is clearly inadequate to regulate the contemporary nature of a 21st Century legal profession operating in the Cayman Islands with a significant international dimension and so, Mr. Speaker, it is my view, and that of many, that the law as it now stands is not only obsolete, but is actually harming rather than helping the practice of Cayman Islands law.

Mr. Speaker, there has been—and there will no doubt continue to be—those who seek to stymie this effort as they have done with previous efforts, and seek to question whether what the Government is attempting to do by virtue of this Bill is enough. Well, Mr. Speaker the obvious response to that is, what we have all agreed for decades now: the status quo is simply not an option.

Mr. Speaker, whilst most people, I believe, will agree that change is needed, the legal fraternity has been unable for more than 20 years to come together and agree and to make a start. This Bill represents the closest that I have ever seen us come to a point where the majority—the large majority of lawyers in these Islands—have been prepared to get behind the Bill to improve what needs improving.

Mr. Speaker, is a testament to a number of things: the herculean efforts that have been made by the Honourable Attorney General and his staff, and the Government generally, to put together a piece of legislation which represents, as far as it is possible, the diverse views of those involved in the legal practice in these Islands, but also a Bill which is capable of addressing the myriad of concerns that exist with the current legislation and the huge deficits which it contains with respect to a whole range of matters, not least of

which is the inadequate regulation of the legal profession and the lack of provisions relating to discipline.

Mr. Speaker, I do not profess that this Bill is perfect, or that it meets *all* of the concerns that have been turned up and that everyone is satisfied; but I say Mr. Speaker, that it is more than a good start, and a journey of a thousand miles begins with a single step. Our thinking is, Mr. Speaker, that with this initial effort, succeeding Governments will be able to get a better appreciation of the scope and breadth of the legal activities that are conducted here, and be able to work with the legal profession to put in place what all of us would like: An optimal framework for the operation of law firms and the practice of law in this jurisdiction.

Mr. Speaker, when I became President of the Caymanian Bar Association in 1998, major discussions had gone on for some years already about the inadequacy of the Legal Practitioners Act 1969—that is now 22 years ago, sir.

Mr. Speaker, numerous attempts have been made over the years to get a modern piece of legislation. In the last administration, a Bill actually arrived in this House [which] was debated and withdrawn; so we are now at a point where, without question, in the absence of modern legislation governing and regulating the activities of the legal profession, the Cayman Islands is going to wind up on another blacklist. It is the only area of the financial services industry that is not adequately regulated.

Mr. Speaker, one of the issues that has continually bedevilled this effort to modernise the Legal Practitioners Act over the decades, is the issue of overseas practice of Cayman law. There are all sorts of suggestions being posited, and they have been over the years, as to how to address this issue of overseas practice of Cayman Islands law.

The various permutations are perhaps understandable, given that as a country we have been grappling with this issue for decades, and up to now have not been able to formulate an agreed approach. Mr. Speaker, this cannot be allowed to continue, as the overseas practice of Cayman law is badly in need of reform, and a start must be made to resolving this. Mr. Speaker, one of the most unhelpful and ill-considered suggestions I have heard thus far, is the one that says that because there is a global pandemic, we should proceed with the Bill minus the provisions dealing with the affiliate offices involved in providing services on Cayman law.

Mr. Speaker, I have struggled and turned this issue every which way I can in my mind, to understand the connection between a global pandemic and not regulating overseas offices. It is a necessary leap of logic that I cannot make in my mind, but perhaps when the Honourable Leader of the Opposition, who I have heard posit this particular view rises to speak, he will explain to us all why there is that connection.

Mr. Speaker, I have listened and continue to listen for a sensible rationale for this last-ditch attempt

to torpedo the Government's efforts to finally bring some order to this matter, but as I said, I am yet to hear any cogent or persuasive arguments for kicking this particular can further down the road. Mr. Speaker, I ask one simple question: If we do not address this now, when should we address it?

Mr. Speaker, the other unbelievable complaint I have heard, is that the Government is now rushing this matter through the Parliament. Really, Mr. Speaker? I do not want to spend too much time on this point.

Mr. Speaker, I would only say that this complaint could only come from one who has been completely unaware of what has transpired and been transpiring in Cayman's financial services industry for the last 30 years. The issue of trying to put in place a modern piece of legislation to regulate the practice of law in and from the Cayman Islands has been ongoing for well over three decades. Therefore, Mr. Speaker, my plea to those who are still seeking to resist what we are trying to do with this Bill is to view this initiative as the half-full glass, and join us to see how we can put this framework in place; see how well it works and where it needs improving, and thereafter find ways to improve upon it going forward.

The existence of these affiliate firms in other countries that facilitate the provision of legal services in respect of Cayman related legal matters is an undoubted added value for the Cayman Islands. Mr. Speaker that is a fact that has been lost, it appears, on the opponents to these particular provisions in previous iterations of this Bill over the decades. They seem to believe, Mr. Speaker, that firms overseas which practise Cayman Islands law are somehow a massive detriment to the jurisdiction.

Over the years, I have heard them claim that it results in the outsourcing of Cayman work and it therefore creates a drain on the Government's coffers and that it takes away employment opportunities for Caymanian lawyers. Mr. Speaker, anyone who seriously posits those propositions must have absolutely no idea what actually makes the financial services industry in this country tick; and Mr. Speaker, if they believe that insularity is what is going to provide employment opportunities, investment opportunities, business opportunities, better incomes for local people—then they need to go back to school, Mr. Speaker.

Mr. Speaker, the majority of the legal matters or Books of Business handled by the larger law firms in Cayman and their affiliate offices are not generated from within the Cayman Islands but outside these Islands. Without the presence of overseas lawyers practising Cayman law, the bulk of the business that comes to us would undoubtedly go elsewhere, hence the obvious importance of the affiliate offices.

Fact two, Mr. Speaker: The practice of law in Cayman today is not what it was when the Legal Practitioners Act was enacted in 1969. It is no longer confined to conveyances, divorces, boundary or land dis-

putes, occasional personal injuries, assaults, or prosecution for drug offences. The practice of law is not even what it was when I retired from the law firm of which I was a Partner in 2005. I have a son who is now three years post-qualification, who works in [what is] probably the largest law firm, [and] Mr. Speaker, I do not know what he is talking about, because fund work—which is what he does—had just started to come into vogue when I retired 15 years ago. It is a completely different game, Mr. Speaker, completely different game.

Mr. Speaker, the point I am making here is that the practice of law has evolved into things far more economically and legally substantial, complex, sophisticated and—I might add—more lucrative, than anyone could have contemplated in 1969. I could not even contemplate those things in 2005 when I retired from my firm, for the few shekels they gave me.

[Laughter]

The Premier, Hon. Alden McLaughlin: Mr. Speaker, the practice of law in these Islands has taken on an international dimension of immense proportion, mostly to the benefit of these Islands. Of course, it benefits attorneys handsomely, but—as is very obvious given the impact of the pandemic and our increased reliance on financial services revenue—it is also not only very beneficial, but absolutely critical to these Islands. Without doubt, the practice of Cayman Islands law in dealing with overseas clients has greatly enhanced the economic success of these Islands and the opportunities for our people.

We are talking Mr. Speaker, about matters dealing with mergers and acquisitions, private equity and hedge funds, funds—other funds; aircraft mortgages; leasing and financing; and other major cross-border sophisticated global transactions among others. Mr. Speaker, it does not take much imagination to realise that those are matters that do not originate here in Cayman. What this range of business demonstrates, is that the practice of Cayman Islands law is vastly different from what we knew it to be back in 1969, or as I said, even back in 2005.

As I said before, Mr. Speaker, in addition to what it started out as, it has taken on an international dimension well beyond the wildest imagination of any of the earlier generation of Cayman Islands lawyers—myself included. I say again, Mr. Speaker, that the work being processed by these overseas affiliate firms is of immense economic importance to these Islands.

Legal services like the accounting services, corporate services, business, et cetera, all with a significant international component, continue to provide enormous economic benefits to these Islands and these benefits go beyond what revenue is earned by Government. The legal services also provide enormous opportunities for young Caymanian professionals in

ways that I and those of my generation and those before me, never had.

These younger attorneys are now exposed to areas of legal practice that some of us never heard of in 1969, and therefore even today, some of us have very little knowledge of those areas of legal practice. Additionally, with the existence of affiliate offices, a number of our young Caymanian attorneys have had and continue to have the opportunity to be posted and to practice in other jurisdictions, in places like Hong Kong, Singapore, London, Dubai and elsewhere. These opportunities, Mr. Speaker, will be formalised when the Legal Services Bill and the accompanying Legal Services Professional Development Regulations take effect.

Mr. Speaker, the Bill establishes the Cayman Islands Legal Services Council—so that Members may follow, it was initially called the Legal Services Board in the published draft of the Bill—as the regulatory authority for the legal profession and the practice of Cayman Islands law.

The Council is a statutory creature comprising the Chief Justice, the Attorney General, a non-practising attorney-at-law appointed by the Premier, and a non-practising attorney-at-law appointed by the Leader of the Opposition. We are proposing to bring a committee stage amendment, Mr. Speaker, which will increase the number of members of the Council to also include two practising attorneys-at-law appointed by the Premier, and one practising attorney-at-law appointed by the Leader of the Opposition.

This is, in particular, to address the Honourable Chief Justice's concerns that the way the board is currently constituted in the draft does not provide any opportunity for practising attorneys to have a say in the management of the profession. However, Mr. Speaker, I should pause to say, that that is not because the Government did not wish that to be the case, but because try as we might, we could not get agreement between the two legal associations, Cayman Islands Legal Practitioners Association (CILPA) and Association of Legal Professionals and Advocates (ALPA), as to how those attorneys should be appointed and thus, it has taken our collective thought processes to come up with a formula which will allow that representation to be part of the management council.

Ideally, Mr. Speaker, the view of the Government and certainly the view of the Honourable Attorney General, is that the profession should be self-regulated. Had we been able to reach agreement among the Associations, as was the case with accountants, we would have been able to do so and there would have been no need for the Chief Justice or the Honourable Attorney General to be on the Council; nor a need for appointments by the Premier or the Leader of the Opposition. However, as I said Mr. Speaker, it is a matter of common knowledge that—I shall put it as gracefully as I can—there is still an absence of harmony among members of the profession.

[Crosstalk]

The Premier, Hon. Alden McLaughlin: Thus, Mr. Speaker, the construct I have just outlined is intended to ensure that there is a functioning Legal Services Council, because the system we are trying to set up cannot work unless there is a management council.

Mr. Speaker, we have heard the argument about potential conflicts on the part of the Chief Justice or the Attorney General, but Mr. Speaker these are professional people—senior, very senior lawyers, Mr. Speaker—and I have no doubt that they would understandably be able to discern any potential conflicts that may arise in a particular issue, and be able to take steps to avoid it, although, try as I might, I find it difficult to discern what potential conflicts there could possibly be for them in this role. What it will be is an additional burden of work and responsibility which I am certain both of them would rather not have.

The situation that presents itself is this, Mr. Speaker: Either we go with a construct [such as] I have outlined, or we have no Council or, Mr. Speaker, the members of the profession can find a way to decide amongst themselves how to put together a working and credible Council.

As I said before, the accountants have done it, and as I also just said, I am sure that the Chief Justice and the Attorney General would prefer to avoid having these extra responsibilities. In any event, the Council will need help and so the hope is that members of the profession will be co-opted to assist on some of the sub-committees to be appointed by the Council. The Council will also be supported by a full-time secretariat which will be funded by the Government.

Mr. Speaker, the Bill ensures that the regulation of the legal profession including for anti-money laundering supervision, conduct and discipline, all sit under the Council. The Bill provides for a disciplinary regime and the issuance by the Council of a Code of Professional Conduct, and requires that every law firm in these Islands has at least one Caymanian attorney who is a Partner—or member, depending on the legal construct of the practice. The Bill seeks to establish a framework that supports access to the legal profession and the training, development and progression of Caymanian attorneys through the proposed Legal Services (Professional Development) Regulations, 2020 and proposed new continuing professional development regime.

Mr. Speaker as I said, the Bill also seeks to provide a framework which would for the first time, allow for some control over those engaged in the provision of Cayman-related legal services in other jurisdictions; the Bill therefore regulates the practice of Cayman Islands law in other jurisdictions and provides for a ratio of attorneys that ensures that the footprint for the practice of Cayman law in the Cayman Islands will not be smaller than that for the practice of Cayman Islands law outside of the Islands.

It provides a ratio of 1:1, that is, the number of attorneys collectively practising on behalf of a Cayman law firm abroad cannot collectively exceed the number here in Cayman. This is an important enhancement and one that hopefully everyone agrees is useful and necessary to help ensure that the control of Cayman law firms remains within these Islands.

Another feature of the Bill, Mr. Speaker, is that through the Legal Services (Professional Development) Regulations, Caymanian attorneys would be considered first for roles that require the practice of Cayman law in overseas offices. Mr. Speaker, the Bill ensures that every attorney practising Cayman law overseas will now:

- Have to be admitted in Cayman;
- Fall within the supervisory remit of the Cayman Islands Legal Services Council; and
- Be required to pay an admission fee and practising certificate fee.

Mr. Speaker, like all other attorneys seeking to practice here, they will have to satisfy the qualification requirements including the fit and proper person standards—and this, Mr. Speaker, is dealt with extensively in clauses 29 to 37 of the Bill.

Mr. Speaker, perhaps this might be a convenient point to take the luncheon break.

The Speaker: Proceedings will be suspended until 2:30pm.

Proceedings suspended at 1.06pm

Proceedings resumed at 2.52pm

The Speaker: Please be seated.

Proceedings are resumed.

The Honourable Premier, continuing.

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

Mr. Speaker, when I took the suspension I had just dealt with the issue of overseas practices. Now, I want to move on to talk about the section of the Bill that addresses another long-standing, controversial issue, and that is the number of years of post-qualification experience necessary before a foreign lawyer would be allowed to practice in the jurisdiction.

Again, Mr. Speaker, many who discuss these matters appear to proceed on the basis that some of the practices that are observed in the jurisdiction are matters of law or regulation. The reality is that under the present legislation, anyone who is legally qualified and who meets the requirements under the law in terms of the jurisdiction in which they qualify, which is essentially all commonwealth jurisdictions, and have been admitted, are entitled to be admitted to the Cayman Islands Bar and, it must follow, entitled before that, to obtain a work permit. There is no requirement that they have to be Caymanian; there is no requirement that

they need a Cayman partner, and over the course of recent years we have had a significant number of these new law firms spring up which have no Caymanian involvement.

Often, the blame is placed on the immigration board or WORC as it is now—one of the boards there—or on the Attorney General, or on the Government, but the reality is [that] under the current legislation, which some are still objecting to us changing, there are no regulations, there are no prohibitions, there are no provisions requiring the involvement of a Caymanian lawyer, or that there is a minimum period of Post-Qualification Experience (PQE).

In practice, Mr. Speaker, the policy for many years has been that the applicant had to have a minimum of three years' PQE for the work permit and that the board ought not to grant the work permit if the applicant has less than that, but it is nothing more than a policy, Mr. Speaker. This Bill, if passed, will ensure that lawyers with less than five years post-qualification experience will no longer be permitted to be hired in the Cayman Islands. Only a Caymanian or the holder of a Residency and Employment Rights Certificate will be allowed to be admitted as an attorney-at-law if they have less than five years post qualification experience.

Mr. Speaker, for years there were those of us who advocated that given that we have a local law school it was unnecessary and, indeed undesirable, to be recruiting overseas lawyers with less than five years PQE to fill what were essentially entry-level positions in law firms. Mr. Speaker, we are of the opinion that these entry-level positions must be reserved for young Caymanian entrants into the profession, who should be properly trained up to ensure their upward progression, hence the five years PQE requirement. Mr. Speaker, the Bill ensures that the legal services market will therefore remain open to our young Caymanian professionals, and the training and development regulations will ensure that they are provided with the necessary opportunities to develop and advance within the law firms.

Mr. Speaker, allow me now to say a few words about consultation on this Bill and the process thus far. I believe we are all aware this effort spans more than two decades; we have had numerous attempts at getting a piece of legislation that will be largely acceptable to all stakeholders, but we have come to the realisation that it is simply not possible to do so. This Bill represents the best effort thus far that is acceptable to a significant majority—the vast majority—of the stakeholders.

As I said before Mr. Speaker, my own engagement with this effort goes back to 1998, and I can therefore say without fear of credible contradiction that this Bill represents the best effort I have seen so far. It is not perfect, Mr. Speaker, as it understandably cannot address all the issues by all stakeholders, but it goes a long way to attempting to do so and those matters that might not be fully spelled out in the Bill are to be more

fully articulated in a number of supporting regulations that will help to undergird the primary act.

I will have more to say about those later, Mr. Speaker but to continue on the issue of consultation, the Honourable Minister of Finance, the Honourable Minister of Financial Services, the Honourable Minister of Commerce, the Honourable Minister of Education, the Attorney General and I have at one point or another had meetings with various legal practitioners over the last many months to discuss the various iterations of this Bill. We met with the Council of CILPA, as well as one meeting with the Council of ALPA. We [also] met with other industry stakeholders, Mr. Speaker.

My Caucus also received presentations from members of the legal profession. I wish to emphasise that at these meetings with attorneys there has always been what I would describe as a balanced representation of the profession meaning, Mr. Speaker, it was not just representatives from the larger firms, but instead all sizes—some with as few as only two attorneys. During these meetings as is to be expected, there were some who were not in support of some of what the Bill attempts to do, some who also made suggestions on how to improve the Bill, but I am happy to say, Mr. Speaker, that the vast majority do support the effort by the Government as reflected in this Bill today.

Mr. Speaker, the Honourable Attorney General and I also had a meeting with the Honourable Leader of the Opposition and all except one Member of the Official Opposition were there. Unfortunately, Mr. Speaker, we were unable to meet with the two independent Opposition Members although I am advised that they might have met with members of CILPA on the Bill. Notwithstanding this, Mr. Speaker, the Government will listen to everyone's contributions and will happily take on board any reasonable suggestions on how to improve the Bill; we will do so in respect of any suggestions from Honourable Members on the other side.

Mr. Speaker, as you are aware, the Bill along with a detailed explanatory summary was published on the 27th October, 2020 and because of the obvious public importance was afforded 28 instead of 21 days' consultation period. During the 28 days' consultation period, we received a number of comments, including from the Chief Justice, a few Sole Practitioners and in-house counsel, and others. All of those comments were carefully transcribed onto a spreadsheet alongside the relevant matching clauses of the Bill, carefully evaluated and discussed, and decisions made on which were acceptable and those that, unfortunately, could not be accepted.

Mr. Speaker, as a result of that exercise which I personally led, we have produced a number of Committee Stage amendments that have been or will be submitted for your approval for circulation to Members of Parliament. Committee stage amendments will deal with issues such as:

- The structure of the disciplinary tribunal;
- The Code of Conduct;

- The structure of the Council;
- The issue of in-house counsel;
- Attorneys who work for statutory authorities;
- The appointment of subcommittees;
- Publication of Annual Reports of the Council;
- The issue of non-lawyers drafting legally prescribed documents such as pleadings;
- Revocation of operational licences, among others.

Mr. Speaker, suffice it to say that on behalf of the Government, I would like to thank all those who took the time to read and provided comments on the Bill. Over the weekend we also saw a document which has been produced by ALPA setting out their position on the Bill. Might I say, Mr. Speaker, that although, for whatever reasons, they submitted their response long after the closing date for comments, we nevertheless took careful note of their comments. We note that they have set out in a more detailed way the repeated views about what the Government is attempting to do via the Bill.

The new suggestion that Government should jettison or defer the provisions in the Bill dealing with the practice of Cayman law overseas until after the pandemic or some other indefinite time is, Mr. Speaker, one that Government is unable to accede to. It is simply impractical to do so, and it serves no purpose whatsoever when in fact one of the central issues of this exercise is the matter of regulation of overseas practices that has been talked about for decades.

Most of their other suggestions, Mr. Speaker, have been dealt with in the Bill to the extent possible. As I said earlier, some will be more fully prescribed by the supporting regulations to the Bill, but Mr. Speaker, I wish to also thank them for their comments on the Bill and I am confident that at the end of the day their members will find that the Bill seeks to otherwise strike a fair balance in the regulation of the profession.

Mr. Speaker, if I may now speak to the individual clauses in the Bill. The Bill is arranged into 12 Parts and contains 101 clauses.

Part 1 contains clauses 1 and 2 which deal with preliminary matters.

Clause 1 contains the short title and commencement provisions.

Clause 2 provides definitions for words used throughout the legislation.

Part 2 contains clauses 3 to 23 which provide for the establishment, functions, and powers of the Cayman Islands Legal Services Council.

Clause 3 establishes the Council.

Clause 4 provides for the constitution of the Council so that the Council consists of four members as follows:

- (a) the Chief Justice;
- (b) the Attorney General;
- (c) a non-practising attorney-at-law appointed by the Premier; and
- (d) a non-practising attorney-at-law

appointed by the Leader of the Opposition.

Mr. Speaker, I spoke earlier about the composition of the Council. A committee stage amendment will be laid to amend clause 4 to provide for the appointments by the Premier and Leader of the Opposition to be made after consultation with the bodies representing the legal profession and, as I explained then, Mr. Speaker, to provide for the appointment of three practicing Attorneys-at-Law to the Council: two by the Premier, and one by the Leader of the Opposition. So, the membership of the Council will be increased to seven; and, as I indicated earlier, to address the very important concern expressed by the Chief Justice that we will appoint as well as non-practising attorneys, three who are actually in active practice and therefore are able to bring a perspective and knowledge of the issues and concerns which the profession is experiencing at any given point.

Mr. Speaker, clause 5 provides for the Council's functions which include the following:

- (a) to encourage and promote the upholding of the rule of law;
- (b) to promote high standards of professional conduct by Attorneys-at-Law;
- (c) to regulate the practice of law in the Islands;
- (d) to encourage and promote the study of law;
- (e) to supervise legal education and practical legal training leading to local qualification for admission as an attorney-at-law;
- (f) to establish or supervise a system of law reporting;
- (g) to carry out the functions of the Council under the Proceeds of Crime Law (2020 Revision) in relation to attorneys-at-law, in accordance with the assignment of the Council as the Supervisory Authority under section 4(9) of that Law.

Mr. Speaker, the importance of that particular point is that one of the most serious issues that continue to trouble us when we are dealing with international agencies such as the EU [European Union], OECD [Organisation for Economic Co-operation and Development], FATF [Financial Action Task Force] and others, is that in their view there is still no truly effective means of regulating the legal profession in Cayman for the purposes of anti-money laundering and counter-terrorism financing (AML/CTF) concerns, consequently the Council will have this as one of its key functions.

- (h) To carry out such other functions as are imposed on the Council by this Law or any other Law.

Mr. Speaker, clause 5 also gives the Council the power to establish committees or subcommittees

for the purposes of advising on or performing any of the Council's functions under this legislation or any other Law. The committees may comprise members of the Council only or members of the Council and persons who are not members of the Council. A committee stage amendment to clause 5 will also be brought, to remove requirement for the Council to seek the approval of Cabinet to establish the committees. [This] again, [was] a concern pointed out by the Honourable Chief Justice—that once appointed, the Council should have the ability to operate independently, without the need for Cabinet's approval to execute its functions.

Mr. Speaker, this clause will also give the Council the power to delegate any number of its functions to sub-committees because it is expected that the management of a profession the size of the one in Cayman now, and as complex and sophisticated as it is, will require the efforts and the expertise of many more than just the now seven, proposed members of the Council.

Mr. Speaker, clause 6 gives the Council ancillary powers in relation to the carrying out of its functions.

Clause 7 provides for the appointment and employment of a Secretary to the Council and such other public officers as the Deputy Governor, after consultation with the Attorney General, thinks are necessary for assisting the Council in the proper performance of its functions under the Law.

Mr. Speaker, I mentioned earlier that the plan is for the Council to be supported by a full-time secretariat funded out of the public purse; this clause speaks to that, so too does clause 19. A committee stage amendment will be laid to amend clause 7 to clarify that the Secretary to the Council, would be a public officer.

Mr. Speaker, clause 8 provides for an appointed member to hold office for five years on terms and conditions determined by the Premier or the Leader of the Opposition, as the case may be. An appointed member is eligible for reappointment for one additional period of three years.

Clause 9 allows for acting appointments to be made where a member is absent or unable to act.

Clause 10 permits an appointed member to resign from office by letter addressed to the Chief Justice.

Clause 11 gives the Premier or the Leader of the Opposition, as the case may be, the power to revoke the appointment of an appointed member after consulting the other members of the Council.

Mr. Speaker, I will interpose here. Concern has been raised by some with whom we consulted, about what they perceived as political involvement in the affairs of the Council. Our response to them in this particular case, which is how the Council is appointed, is simply this: anyone who has a look at the Cayman Islands Constitution Order 2009 (as amended by the 2020 amendment), will see that the whole structure of the part that deals with what I call the institutions supporting democracy, all of the various commissions that

are established under that part of the Constitution involve appointments done on the advice of the Premier and the Leader of the Opposition—including Mr. Speaker, the Constitution Commission and the Judicial and Legal Services Commission.

Thus, the political role is limited merely to appointing members; that is the end of the political involvement. Someone has to make the appointments, Mr. Speaker, and I can think of none better—not because I hold the office temporarily, my term is coming to an end—[than] those who have been elected to the highest offices in the land, who are and remain always, accountable to the people who elected them in the first place.

Mr. Speaker, clause 12 provides for the filling of a vacancy in the office of an appointed member.

Clause 13 requires the Clerk of the Court to publish, both in the *Gazette* and such other media as the Clerk determines, details of each appointment of a member, the resignation of an appointed member, and the revocation of the appointment of an appointed member.

Clause 14 gives the Council the power to regulate its practice and procedures.

Clause 15 provides for meetings of the Council. The Council has the power to co-opt any person whom it considers able to assist in its deliberations.

Clause 16 protects members of the Council and members of committees of the Council from liability against claims, damages, costs, charges or expenses resulting from the discharge or purported discharge of a function of the member, as a member of the Council, where the claims, damages, costs, charges or expenses are not caused by the bad faith of the member.

Clause 17 requires a member of the Council to disclose the fact that the member has a conflict of interest in a matter before the Council.

Clause 18 provides for an appointed member to be paid an allowance.

Clause 19 provides for allowances and other administrative expenses paid or incurred by the Council, or any committee or other person referred to in section 5(3), in carrying out the functions of the Council, to be paid out of the general revenue of the Islands.

Clause 20 requires the Council to keep proper accounts.

Clause 21 requires the Council, within three months of the start of each financial year, to prepare and submit to the Cabinet an Annual Report on the manner in which the Council performed its functions during the preceding financial year.

Mr. Speaker, a committee stage amendment will be brought to amend clause 21 to provide for the Annual Report to be published in the *Gazette* within the same three months; that is, three months of the end of a financial year.

Clause 22 gives the Chief Justice the power to assign to the Clerk of the Court such functions as the

Chief Justice thinks necessary for the proper carrying out by the Council of its functions.

Clause 23 provides for the seal of the Council to be authenticated by the Chief Justice, and for a document of the Council not under seal to be executed by an officer of the Council appointed to do so.

Mr. Speaker, Part 3 contains clauses 24 to 28 which make provision for the practice of Cayman Islands law.

Clause 24 prohibits a person from practising Cayman Islands law in the Islands or in another jurisdiction except as provided in the legislation.

A person practises Cayman Islands law if, for or in expectation of gain or reward, the person provides or holds himself or herself out as providing legal services in respect of Cayman Islands law or in the Islands. A committee stage amendment will be brought to amend clause 24 to clarify the types of services that are not considered legal services.

Clause 24 also provides that a person practises Cayman Islands law if, for or in expectation of gain or reward. The person provides legal services in respect of Cayman Islands law or in the Cayman Islands. A person also practises Cayman Islands law if the person holds himself or herself out as qualified to provide legal services for gain or reward. The circumstances in which a person is not to be taken as practising Cayman Islands law are also set out in clause 24.

Clause 25 permits an attorney-at-law who holds a practising certificate to practise Cayman Islands law subject to compliance with the legislation. The practice of Cayman Islands law by an attorney-at-law in another jurisdiction with an affiliate, is also subject to compliance with the law of that jurisdiction.

Clause 26 permits a recognised law entity to practise Cayman Islands law in the Islands subject to compliance with the legislation. The practice of Cayman Islands law by a recognised law entity in another jurisdiction with an affiliate is also subject to compliance with the law of that jurisdiction.

Clause 27 provides exemptions from the Law in respect of the rights in connection with the duties of the offices of the Attorney General or the Director of Public Prosecutions to act as an advocate, or the privileges of the Attorney General or Director of Public Prosecutions.

Clause 28 provides an exemption from Part 3 for a person, whether or not an attorney-at-law, who has statutory authority to practise Cayman Islands law. Clause 28 also provides that nothing in Part 3 prohibits an attorney-at-law from establishing that attorney-at-law as a law firm or as a member or partner of a law firm, except that—

- (a) In the case of a law firm that is an attorney-at-law practising Cayman Islands law in the Cayman Islands as a sole practitioner, the attorney-at-law must be a Caymanian.

Again, Mr. Speaker, that is fixing an issue which currently exists, where anyone who meets the requirements of being qualified to practise in the Cayman Islands is able to come here and get a work permit and set up an operation without any Caymanian involvement in the firm.

- (b) In the case of a law firm that is a partnership practising Cayman Islands law at least one partner of the partnership must be an attorney-at-law who is Caymanian.

Again, Mr. Speaker, there is no requirement currently that there needs to be any Caymanian partner in any law firm.

- (c) In the case of a law firm that is a recognised law entity, at least one member or partner of the recognised law entity must be an attorney-at-law who is Caymanian—the same point, Mr. Speaker.

Mr. Speaker, again, there are those who have mused aloud about why at least one member or partner of a law firm must be a Caymanian. As I said, Mr. Speaker, there is no such requirement at the moment so this has to be seen as important. In addition, I am verily advised Mr. Speaker, that the majority of law firms in these Islands already meet that requirement so again, we do need some perspective here. The practice of law is a business, where people invest their capital and would understandably wish to have some latitude about who should manage their business.

Mr. Speaker, Part 4 contains clauses 29 to 36 which make provision for admission of an attorney-at-law.

Clause 29 gives a judge the power to admit a person as an attorney-at-law. A judge must not admit a person as an attorney-at-law unless he or she is satisfied that the person meets the eligibility criteria set out in that provision including specific personal and professional qualifications.

Clause 30 sets out the personal qualifications required for admission as an attorney-at-law so that to be admitted, a person must—

- (a) be a Caymanian;
- (b) hold a work permit or a Residency and Employment Rights Certificate or otherwise be entitled under the Immigration (Transition) Law, 2018 to reside and work in the Islands as an attorney-at-law in the capacity in which the person is or is to be employed;
- (c) be employed by the Government; or
- (d) be ordinarily resident in another jurisdiction and be a partner, director, member, employee, associate or consultant of a law firm or an affiliate of a law firm.

Mr. Speaker, a committee stage amendment will be laid to amend clause 30 to permit a person who

is employed by a Statutory Authority to qualify for admission as an attorney-at-law as well.

Clause 31 requires that to be admitted as an attorney-at-law a person must satisfy a judge that the person is not an undischarged bankrupt, has not engaged in conduct which would constitute an act of professional misconduct under the Law, and is not disbarred for professional misconduct from practising law in another jurisdiction.

Clause 32 sets out the professional qualifications required for admission as an attorney-at-law including local and foreign qualifications.

Clause 33 requires a person to have had at least five years post-qualification experience in the practice of law in another jurisdiction in order to be admitted as an attorney-at-law by virtue of a foreign qualification. The person must also be in good standing on a register or its equivalent maintained by a court or other relevant body of the relevant jurisdiction that contains the name of each person entitled to practise law in that jurisdiction. The post-qualification experience requirements do not apply if the person is a Caymanian or the holder of a Residency and Employment Rights Certificate.

Clause 34 provides for an application for admission to be made by motion to the Court and provides for a prescribed admission fee and documentary evidence to be submitted in support of the application.

Clause 35 provides for an application to be made to a judge to permit a person to come to the Islands to carry out the functions of an attorney-at-law in a particular suit or matter. The application must be made by a law firm.

Mr. Speaker, this arrangement currently exists in the Legal Practitioners Law, where attorneys can come here and be admitted to deal with a particular case; under the old law it was referred to as "limited admission".

Mr. Speaker, Part 5 contains clauses 36 to 47 which provide for matters relating to attorneys-at-law.

Clause 36 provides that an attorney-at-law is an officer of the Court. Clause 36 also prohibits an attorney-at-law from appearing on behalf of another person in a court, tribunal, or inquiry in the Islands if the attorney-at-law holds a practising certificate that only authorises the attorney-at-law to practise Cayman Islands law in another jurisdiction.

I pause here again, Mr. Speaker, to say this is an important point. If you are employed on the basis of practising Cayman Islands law in another jurisdiction, in one of the affiliate firms, unless you are Caymanian, you simply cannot come here to appear before our Court. However, the prohibition does not apply to an attorney-at-law who is a Caymanian. This again, Mr. Speaker, speaks to control over those who are only eligible to practise Cayman Islands law overseas.

Clause 37 requires an attorney-at-law or recognised law entity to comply with an obligation imposed on the attorney-at-law or recognised law entity under

the Law, and a failure to comply with an obligation amounts to professional misconduct and accordingly may be the subject of disciplinary proceedings.

Clause 37 also requires that a Code of Professional Conduct is issued for attorneys-at-law and recognised law entities.

A committee stage amendment will be laid to amend clause 37(3) to require the Council to issue the Code after consultation with the legal profession rather than the Cabinet, as the current Bill provides. An attorney-at-law or recognised law entity is required to observe the Code.

Clause 37(5) makes provision in respect of a failure to comply with that requirement. A committee stage amendment will be laid to amend clause 37(5) to provide that such a failure may amount to professional misconduct, and that any such failure may, in disciplinary proceedings in relation to the attorney-at-law or recognised law entity, be relied upon as evidence to establish professional misconduct by the attorney-at-law or recognised law entity.

Clause 38 requires the Clerk of the Court to keep a register to be known as the Court Roll in respect of each person admitted for the time being to practise as an attorney-at-law.

A committee stage amendment will be laid to amend clause 38 to provide for the jurisdiction in which the person practises Cayman Islands law to be added to the list of information that will be entered on the Roll.

Clause 39 requires the Clerk of the Court to keep the Roll and documents relating to it at the Court, and to permit a person to inspect the Roll free of charge if the office of the Court is open.

Clause 40 provides for the grant of a certificate of enrolment upon the name of a person being entered in the Roll. The certificate of enrolment is granted under the seal of the Court and must be signed by the Clerk of the Court.

Clause 41 provides for the alteration in enrolment details of an attorney-at-law.

Clause 42 permits the voluntary removal from the Roll of an Attorney-at-law upon application to the Clerk of the Court.

Clause 43 provides for the removal of the name of an attorney-at-law from the Roll for non-practice.

A committee stage amendment will be laid to amend clause 43, so that the name of a Caymanian would not be removed from the Roll for non-practice and to allow 12 months rather than three months for non-Caymanian attorneys to object to the removal of their names for non-practice. The committee stage amendment would extend clause 43 to apply to in-house counsel. It will also provide for the definition of in-house counsel to also mean an attorney-at-law who solely provides legal services to the attorney-at-law's employer, including a Statutory Authority that is an employer, or to other entities that are part of the same group of entities as the employer.

Clause 44 provides for the keeping on the Roll of the name of attorneys-at-law who do not wish to practise Cayman Islands law but wish to keep their name on the Roll.

A committee stage amendment will be laid to amend clause 44 as a consequence of the amendments made to clause 43 and also to require an attorney-at-law applying to keep the attorney-at-law's name on the Roll to state whether or not the attorney-at-law is, or has been, the subject of a disciplinary complaint or any other action that could cause or did cause the attorney-at-law's name to be struck off the Roll of a jurisdiction in which the attorney-at-law is or was admitted. The attorney-at-law would therefore also be required to include criminal convictions in the statement.

Clause 45 imposes an obligation on a law firm to inform the Clerk of the Court if a law firm or an affiliate of a law firm ceases to employ in another jurisdiction an attorney-at-law who is not a Caymanian. The managers of the law firm must ensure that the law firm complies with the obligation. If a law firm fails to comply with the obligation each manager of the firm commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Clause 46 gives an attorney-at-law the power to administer oaths.

Clause 47 gives an attorney-at-law and a recognised law entity the power to sue for fees and costs.

Mr. Speaker, Part 6 contains clauses 48 to 52 which provide for practising certificates.

Clause 48 prohibits an attorney-at-law from practising Cayman Islands law in the Islands unless the attorney-at-law holds a practising certificate that authorises the attorney-at-law to practise Cayman Islands law principally in the Islands. Clause 48 also prohibits an attorney-at-law from practising Cayman Islands law in another jurisdiction, unless the attorney-at-law holds a practising certificate that authorises the attorney-at-law to practise Cayman Islands law principally, in another jurisdiction.

Clause 49 provides for an attorney-at-law to obtain a practising certificate on application to the Council and payment of the prescribed practising certificate fee.

A committee stage amendment will be laid to amend clause 49 to allow an in-house counsel to make an application for a practising certificate. The committee stage amendment will also require that a statement be made in the application for a practising certificate regarding actions taken against an attorney-at-law.

Clause 50 provides for the Council to issue a practising certificate. The Council is required to issue and publish guidance on matters that the Council must have regard to in issuing a practising certificate, including:

- (a) The number of practising certificates that are in issue to attorneys-at-law

practising Cayman Islands law in another jurisdiction with affiliates of the law firm;

- (b) The compliance by the attorney-at-law with any applicable program of legal education and practical legal training that will be undertaken in the attorney-at-law's principal place of practice during the currency of the practising certificate;
- (c) The jurisdiction that would be the attorney-at-law's principal place of practice during the currency of the practising certificate; and
- (d) Compliance by the law firm, its affiliates and the attorney-at-law with this Law and regulations made under this Law.

Clause 50 provides that the Council shall not issue a practising certificate that authorises an attorney-at-law to practise Cayman Islands law in another jurisdiction if the total number of attorneys-at-law practising in all other jurisdictions with affiliates of the law firm would exceed the number of attorneys-at-law practising in the Islands with the law firm.

Mr. Speaker, this is the 1:1 ratio principle which has been embedded in the legislation—that the number of lawyers practicing in all other jurisdictions in affiliate offices of a Cayman Islands law firm must not exceed the number that practice in the Cayman Islands.

Clause 50 also provides that the Council must not issue a practising certificate that authorises an attorney-at-law to practise Cayman Islands law in another jurisdiction unless the attorney-at-law swears the prescribed oath or makes the prescribed affirmation. Further, a practising certificate must be in a form approved by the Council and is valid from the date of its issue and expires on 31st January of the ensuing year unless before that date the practising certificate becomes void.

Clause 51 provides for a practising certificate issued to an attorney-at-law to become void in certain circumstances.

A committee stage amendment will be laid to amend clause 51 to extend it to include practising certificates issued to in-house counsel.

Clause 52 requires the Council to publish details of practising certificates.

Mr. Speaker, Part 7 contains clauses 53 to 62 which provide for the recognition of a company or limited liability partnership as a recognised law entity.

A committee stage amendment will be laid to amend the provisions in Part 7 to include a partnership as an entity that may be recognised as a recognised law entity.

Clause 53 provides for applications for recognition as a recognised law entity.

Clause 54 gives the Council the power to recognise a company or limited liability partnership as a

recognised law entity if the Council is satisfied that the company or limited liability partnership complies with clause 28(2)(c) and is otherwise satisfied that the company or limited liability partnership is a suitable body to practise Cayman Islands law.

A committee stage amendment to clause 54 will be laid, to extend the Council's power of recognition to a partnership.

Clause 55 provides for the issue of a certificate of recognition upon recognition as a recognised law entity.

Clause 56 provides for appeals against refusal of recognition.

Clause 57 requires a recognised law entity, within sixty days after a change in its directors, managers, members or partners, to notify the Council of the change.

Clause 58 restricts a recognised law entity from carrying on any business other than the practice of Cayman Islands law in the Cayman Islands. However, a recognised law entity may, with the approval of the Council, carry on a business associated with its practice of Cayman Islands law. A recognised law entity that fails to comply with the restriction ceases to be a recognised law entity.

Clause 59 permits a recognised law entity to carry on business under a name that does not include the word "Limited", or the abbreviation "Ltd.", if it holds itself out to be a recognised law entity.

Clause 60 provides that a recognised law entity ceases to be a recognised law entity if a winding up order under the Companies Law (2020 Revision) or the Limited Liability Partnership Law, 2017 is made in respect of it.

Clause 61 makes each director, manager or member of a company or limited liability partnership who is an attorney-at-law guilty of professional misconduct if the company or limited liability partnership ceases to be a recognised law entity but continues to practise Cayman Islands law. As soon as practicable after the Council becomes aware that a company or a limited liability partnership has ceased to be a recognised law entity, the Council must publish the name of the company or limited liability partnership and the fact that it has ceased to be a recognised law entity.

The committee stage amendment will amend clause 61 to extend the provision to partners of partnerships.

Clause 62 makes it an offence for a person to falsely claim to be a recognised law entity.

Part 8 contains clauses 63 to 66 which provide for matters in respect of law firms.

Clause 63 makes it a criminal offence for an attorney-at-law to practise Cayman Islands law in another jurisdiction otherwise than with a law firm or with an affiliate of a law firm. The punishment for the offence is a fine of fifty thousand dollars or imprisonment for a term of two years, or both.

Clause 64 requires a law firm to have an annual operational licence to practise Cayman Islands law.

A committee stage amendment to clause 64 will be laid, to provide for the application for the annual operational licence to be made to the Council and to give the Council the power to suspend or revoke an annual operational licence where a law firm breaches a provision of this Law or regulations made under this Law.

Clause 65 gives the Cabinet the power, after consultation with the Council, to make regulations requiring law firms to secure insurance for a prescribed minimum amount of cover against losses arising from claims in respect of civil liabilities incurred by such law firms in the practice of Cayman Islands law and any business associated with the practice of Cayman Islands law permitted under the Law.

A committee stage amendment will be laid to amend clause 65 to impose a requirement for the Cabinet to make the regulations.

Clause 66 requires a law firm, on or before 31st January in each year, to deliver to the Council a certificate indicating whether or not the law firm has, during the previous year complied with each obligation imposed on the law firm by the Law and where the law firm is a recognised law entity, complied with the criteria to maintain its status as a recognised law entity. The annual compliance certificate must be signed by a manager of the law firm. If a law firm fails to comply with the requirement of this provision each manager of the firm commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Part 9 contains clauses 67 to 70 which deal with legal education and practical legal training for local qualification for enrolment of an attorney-at-law.

Clause 67 gives the Council the power to designate a legal educator as a recognised legal educator if the Council is satisfied that it has the facilities required to provide legal education or practical legal training to a standard required by Part 9.

Clause 68 gives the Council the power to make arrangements for the provision of a system of legal education and practical legal training leading to local qualification for enrolment as an attorney-at-law. The Cabinet is given the power, after consultation with the Council, to make regulations relating to matters connected with the Council's functions under section 68(1).

Clause 68 also gives the Council the power to make arrangements requiring a person admitted as an attorney-at-law to participate in a program of legal education or practical legal training. The Cabinet is given the power, after consultation with the Council, to make regulations relating to matters connected to the Council's functions under clause 68(1) and (2).

Clause 69 provides for regulations in respect of qualifying as an attorney-at-law.

Clause 70 provides for regulations to be made in respect of a programme of legal education or practical legal training.

Mr. Speaker, Part 10 contains clauses 71 to 80 which provide for matters in respect of articles of clerkship.

Clause 71 gives the Cabinet the power, after consultation with Council, to make regulations in respect of service under articles of clerkship.

Clause 72 specifies the qualifications required for an attorney-at-law to take an articulated clerk into the attorney-at-law's service.

Clause 73 gives a recognised law entity permission to take an articulated clerk into the service of the recognised law entity.

Clause 74 gives the Attorney General, Director of Public Prosecutions and Clerk of the Court permission to take an articulated clerk into their respective service.

Clause 75 gives the Council the power to certify that time spent by a person in a legal or judicial department of the public service performing duties is equivalent to a similar time spent in the service of an attorney-at-law under articles of clerkship.

Clause 76 gives the Council the power to discharge articles of clerkship in certain circumstances.

Clause 77 provides for the transfer of articles of clerkship.

Clause 78 sets out the obligations of an attorney-at-law or a recognised law entity in relation to an articulated clerk.

Mr. Speaker, Part 11 contains clauses 79 to 95, which provide for the investigation of alleged misconduct by an attorney-at-law.

A committee stage amendment will be laid to amend the provisions in Part 11, to introduce an independent disciplinary tribunal to hear complaints of alleged professional misconduct by an attorney-at-law.

Clause 79 exempts from the application of Part 11 any conduct of a person while holding or acting in an office to which section 106 of the Constitution applies.

Clause 80 permits a person to file with the Council a complaint that any specified conduct of an attorney-at-law constitutes professional misconduct by the attorney-at-law.

Clause 81 imposes a duty on the Council to investigate a complaint.

Clause 82 requires the Council to make and publish rules in respect of the process for its investigation of the conduct of attorneys-at-law.

Clause 83 gives the Council the power to do everything reasonably necessary to investigate any conduct of an attorney-at-law that is alleged to constitute professional misconduct.

Committee stage amendments will be laid to delete and substitute clauses 81, 82, and 83, so that while the Council would remain responsible for investigating complaints alleging misconduct, an independent

legal services disciplinary tribunal would be established and would be charged with the responsibility for hearing and determining the complaints of alleged professional misconduct by attorneys-at-law and imposing disciplinary sanctions.

Mr. Speaker, the purpose of these particular committee stage amendments is to ensure that we do not wind up with a situation where the same body that is receiving the complaints, carrying out the investigations and prosecuting the case, also winds up deciding whether or not the individual concerned is guilty of whatever they have been charged with. This will set up an independent Legal Services Disciplinary Tribunal which it is proposed—and these will come in the regulations—will be chaired by a retired judge.

Clause 84 provides disciplinary sanctions for professional misconduct by an attorney-at-law.

A committee stage amendment will be laid to amend clause 84 to provide for the Disciplinary Tribunal to impose disciplinary sanctions.

Clause 85 requires the publication of a striking off and suspension from practice of an attorney-at-law to be published.

Clause 86 gives the Council the power to make an interim order to suspend from practice an attorney-at-law being investigated by the Council until the investigation has been completed, and any subsequent order made by the Council under clause 86 has come into effect.

In light of the changes being proposed to give the Disciplinary Tribunal, rather than the Council, the responsibility for hearing complaints, a committee stage amendment will be laid to give the Court, rather than the Council, the power to make an interim order.

Clause 87 provides for the restoration of the name of an attorney-at-law to the Roll.

Clause 88 provides for the termination of suspension of an attorney-at-law.

Clause 89 provides for the form and proof of an order of the Council.

Clause 90 requires certain orders of the Council to be filed with the Clerk of the Court.

Clause 91 provides for a fine or payment of costs imposed to have effect, as if it were a debt due to the general revenue of the Islands.

Clause 92 entitles an attorney-at-law to appeal to the Court of Appeal against a disciplinary sanction.

Clause 93 provides for the notification of the suspension or striking off of an attorney-at-law to parties related to a trusteeship held by the attorney-at-law.

Clause 94 makes an attorney-at-law guilty of professional misconduct if the attorney-at-law practises law in contravention of a condition or restriction specified in the attorney-at-law's practising certificate.

Clause 95 requires that if, when investigating the conduct of an attorney-at-law, it appears to the Council that the attorney-at-law or any other person may have committed an offence, the Council must refer the matter to the police.

Mr. Speaker, Part 12 contains clauses 96 to 101 which are miscellaneous provisions.

Clause 96 provides for practice in the Islands of the law of another jurisdiction.

Clause 97 makes it an offence to knowingly or wilfully provide false or misleading information in an application, notification, notice or filing under the legislation. The punishment for such an offence is a fine of ten thousand dollars or imprisonment for a term of five years, or both.

Clause 98 provides for the liability of partners of officers of a limited liability partnership or officers of a body corporate where an offence is committed by the limited liability partnership or the body corporate.

Clause 99 gives Cabinet the power, after consultation with the Council, to make regulations prescribing anything that may be prescribed under the Law, providing for access to the legal profession and training and development of attorneys-at-law; or providing for such matters as may be necessary or convenient for carrying out or giving effect to the legislation and its administration.

Clause 100 repeals the Legal Practitioners Law (2015 Revision) and saves the Legal Practitioners (Students) Regulations (2018 Revision).

Clause 101 gives the Cabinet the power to make regulations to provide for such savings, transitional and consequential provisions to have effect in connection with the coming into force of any provision of this Law as are necessary or expedient. The regulations may be given retrospective operation to a day not earlier than the day that the Law comes into force.

Mr. Speaker, that concludes my explanation of the 101 clauses contained in this Bill; I hope that the House has found it helpful.

We have heard discussions about outsourcing of the practise of Cayman law overseas, but we have no empirical evidence that remotely supports the suggestions that the practice of Cayman law overseas has resulted in a decline in the growth of the practice of law here at home.

Indeed, Mr. Speaker, the evidence points in the opposite direction. We do not need data to confirm that since the establishment of the first overseas office in Hong Kong in 1995, Cayman has seen exponential growth in the number of law firms that have opened here in Cayman. It is obvious to the naked eye; as you would say Mr. Speaker, blind Bartimaeus would notice it.

By way of illustration Mr. Speaker, in 1995, when the first office of a Cayman law firm opened in Hong Kong, Cayman had only two international law firms. There were only 163 attorneys on the Roll in Cayman—163, Mr. Speaker. I think I was 65 or 67.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: Yeah.

Today, Mr. Speaker, there are at least 15 international law firms in Cayman and the number of attorneys on the Roll has increased from 163 in 1995, to somewhere around 900. Not to mention, Mr. Speaker, that this has resulted in the employment of hundreds more persons in these firms and their support services within the legal sector.

Thus, Mr. Speaker, with all of the rhetoric and all of the rubbish that you hear on the talk shows about how this legislation is going to undermine the future of the profession, of the industry; it is going to trammel on the opportunities of Caymanians in the legal profession; the clear evidence is that the legal services business in Cayman has flourished and continues to do so notwithstanding the provision of services involving Cayman law overseas.

In fact, Mr. Speaker, I will put it the other way: It is precisely because of the establishment of the overseas offices that Cayman's legal profession, but not just the legal profession—the entire financial services industry—has flourished beyond the wildest imagination, belief, hopes, dreams, aspirations of anyone.

Mr. Speaker, the Member for Bodden Town West is absolutely right in his analogy of the lawyers being the hunters and the rest being the gatherers. It is the law firms that seek out the business and funnel it to Cayman, and anyone who does not grasp that and appreciate that, is supremely unqualified to criticise what transpires here and what this Bill is seeking to undergird and to ensure continues—the continued prosperity of the financial services industry, and the continued creation of lucrative opportunities for our people. Mr. Speaker, they cannot live in their insular little bubble, because they practice only a certain type of law and criticise the success of other firms and other attorneys who choose to do another type of law.

Mr. Speaker, the stage is big enough for everyone. The pie is big enough for everyone. Do not try to hold back the continued development of the profession and the industry. Do not try to slam doors on the opportunities for your own people, because you envy where other people have gotten to.

Mr. Speaker, I am not asking about this. I know the people of whom I speak, the lawyers of whom I speak—and Mr. Speaker, I was not one of those who practised any of this overseas type of work. I was an “in-the-trenches” litigation lawyer; but if I had hung around there for the last 20 years instead of going into public life, I am sure I would have done what my good friend David Ritch has done—because a better Caymanian litigation lawyer has yet to be found than David Ritch was. You think he does any of it? He has not done it in 25 years.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: Mr. Speaker, the clear evidence is that the legal services business in

Cayman has flourished and continues to do so, precisely because of the range and quality of services that we provide, including involving the practice of Cayman law overseas.

It follows, Mr. Speaker, that there is a concomitant benefit to the financial services sector in these Islands. Mr. Speaker, this is because there is, among other things, a resultant increase in the number of companies incorporated here because of overseas practitioners. I am advised that the percentage ranges from 30 to 40 per cent more companies on the register.

Mr. Speaker, all of these companies have to pay an annual fee as well as other fees. By way of example, I am advised that a typical Cayman Islands Monetary Authority (CIMA)-regulated fund established by a practitioner overseas will generate local annual fees, local director licensing fees, annual CIMA registration fees, registered office service fees, audit fees, and fiduciary service fees for local directors.

There are also fees that are paid annually to persons, to entities, and the Government directly; and Mr. Speaker, at the end of 2019, last year, approximately 56 per cent of all companies issued on the Hong Kong Stock Exchange main board were Cayman companies. In the same vein, Cayman companies accounted for more than 70 per cent of all companies listed on the Hong Kong Stock Exchange Growth Enterprise Market board or GEM board.

Mr. Speaker, I want that to sink in for a moment. Do we really believe that any of that would have occurred, had Cayman law firms simply limited their operations and their practices to the work that existed in the early days?

Mr. Speaker, the benefit to the Cayman economy is obvious; something I know the Member for Bodden Town West would readily agree with. It is all made possible primarily because of the dominance of the Cayman Islands presence in the overseas space, which is enhanced by the positioning of the affiliated offices—Cayman law! We should be proud of this instead of talking it down on the talk shows, beating down our own image and jurisdiction, while claiming to fly the Cayman flag like some kind of patriots.

Cayman law and legal services is now a global product that is eagerly sought after. We should be proud of it! We should be having parades about it! But what do some of us do? Go hammer it, hammer it, hammer it; shut down all of the law firms overseas because they are taking away work from Caymanians. Really?

Mr. Speaker, I am alive to the obvious questions that will flow from what I have just articulated so for completeness, let me explain how this Bill and the supporting regulations will ensure that this overseas practice continues to be of optimum benefit to Cayman.

- It does so by stipulating that the Cayman law footprint within Cayman is always larger than the overseas practice collectively, hence the ratio;

- It requires that attorneys overseas must be subject to the same admission requirement as attorneys locally, and must be subject to the same regulatory oversight;
- It ensures that the office in Cayman is legally responsible and accountable for the overseas practitioners;
- It requires that Cayman legal services can only be provided overseas by firms that have a presence and have invested here in Cayman.

That is not currently the case, Mr. Speaker. I do not know how many, but there are still reports being received of persons who have no connection to these Islands who purport to practise Cayman law overseas. There is nothing we can do about it because there is no legislation that prohibits it.

Finally, Mr. Speaker, the Bill and supporting regulations guarantee that overseas offices will benefit young Caymanian (they do not have to be so young), but Caymanian attorneys by requiring law firms to first advertise overseas job opportunities within the Cayman office and give Cayman attorneys the first opportunity to apply for those posts.

None of that exists now, Mr. Speaker, none of it; but those who have this blind obsession with ensuring that Cayman stays where it was in 1969, would urge Members of this House to speak against this Bill, to speak against provisions which will give Cayman attorneys the first opportunity to apply for posts in affiliate law offices overseas.

[Inaudible interjections]

The Premier, Hon. Alden McLaughlin: Mr. Speaker, that is but one of the many protections provided in this Bill to ensure that Caymanians get greater opportunities of sharing in the huge and most lucrative law practices that exist.

[Inaudible interjections]

The Premier, Hon. Alden McLaughlin: However, as I said, Mr. Speaker, they will get on the radio and they will urge Members of this House to say that this is not a good thing. That we should not proceed with this legislation because this is hurting Caymanians. Seriously?

Mr. Speaker, for the benefit of the Leader of the Opposition in particular, I want to read that provision again: Finally, the Bill and supporting regulations guarantee that overseas offices will benefit Caymanian attorneys by requiring law firms to first advertise overseas job opportunities within the Cayman office and give Cayman attorneys the first opportunity to apply for those posts. This ensures that the overseas practice is working for the benefit and guarantees the continuing professional development of our Caymanian attorneys.

Mr. Speaker, this list that I just went through is not exhaustive but what it does is speak to the undeniable fact that it is a massive improvement on what we have now, which is the sum total of nothing, in terms of regulatory frameworks for these offices. Absolutely nothing, by way of guarantees for the professional development of Caymanian attorneys.

Additionally, Mr. Speaker, this Bill is a solid platform on which to strengthen our initiative to ensure that not only do we have a modern piece of legislation that regulates and governs the operation of legal practices in these Islands, but it also provides, for the first-time-ever, a legal basis to ensure, in a detailed way that the Immigration Law has not even come close to, that Caymanian attorneys have every opportunity at professional development, and every opportunity of upward mobility within the law firms not just in Cayman, but the affiliate offices overseas.

Mr. Speaker, this concludes my presentation of the proposed Bill and I commend it to this Parliament. As I have indicated, there are committee stage amendments to be made to the Bill arising from the public consultations and indeed from our own reflection on this side.

In closing, I want to record the Government's most grateful thanks to the learned Attorney General and his team, including Ms. Karen Stephen-Dalton; members of the legal profession; other members of the business sector; my Cabinet, my Caucus; the Honourable Chief Justice and the other members of the Judiciary; my own staff in the Office of the Premier, and all those who took time to meet and respond to us, including the Honourable Leader of the Opposition and other Members of the Opposition.

Mr. Speaker—

[Inaudible interjections]

The Premier, Hon. Alden McLaughlin: This is a joined-up effort, all for love and for the good of this country that we all love so much. All of us, Mr. Speaker. Whatever our views are about these matters, I know that all Members of this House love this country dearly and love our people just as much. Thus, Mr. Speaker, I do hope that when all the speeches are made and the vote is taken, we do what we all know will be in the best interest of this country, and of our people; and in particular, Mr. Speaker, of our young people.

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

The Honourable Leader of the Opposition.

Hon. V. Arden McLean, Leader of the Opposition, Elected Member for East End: Mr. Speaker, I thank you for your recognition of me.

Mr. Speaker, I want to start with my contribution to this 20-year-old piece of legislation that has gone through at least 15 iterations—at least. I want to start

with the end of the Premier's contribution and presentation of this Bill.

Mr. Speaker, I do not know what he was rowing about, because he and I are on the same page.

[Laughter and inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: Despite his and the Attorney General's inability to meet with me for any length of time, the Opposition is...

[Inaudible interjections]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, the Premier says that that's not true.

I am not trying to row here, Mr. Speaker. The Attorney General (AG) called me months and months ago and asked if I was amenable to having a Select Committee to do this through, and Mr. Speaker you know me, I love Select Committees to do these things. Subsequently, I called him and asked him what happened to it, and he said, "*Well, we are not going to do it in that manner.*" That is what I am talking about. Subsequent to that, the Attorney General said that he had a Bill, so I said "*Well, what about the committee?*" He said, "*Well, we did a Bill inside*", which was somewhat of a surprise to me but...

Then we were supposed to meet, could not meet; then the AG made arrangements for me and him to meet and I responded and agreed to meet, because they wanted to meet with me first and then, if necessary, meet with all of the Opposition and there were communication problems with that. They did not tell me where it was, and then we met after that, but the Premier had other engagements as well, so he had to leave. That is what I am talking about, I am not blaming them, I am just saying despite them not being able to meet with me, we are in agreement that this needs to be done.

Of course, Mr. Speaker, we are on a different page on how it should be done; that is, the contents of the Bill, as to how we arrive at what is needed, in the words of the Premier, to promote and protect Caymanians. Mr. Speaker, I recall in 2010 after engaging myself fully in this for like, almost 10 years then, your good self called a meeting at Associated Industries, I think it was, with legislators and the stakeholders and what not, and therein I said to everyone: "*We know how many of your partners we have made Caymanians. The question is, how many Caymanians have become partners?*" That question is yet to be answered.

Now, Mr. Speaker, that is my objective here today and has always been, for the greater benefit of the people of this country and I want the Premier and all and sundry to know, that I do not envy anyone, especially Caymanians, who get more than I do; that is not part of my life, so he can take that out of his vocabulary. I do not need to be a part of that, and I am not a part of that, Mr. Speaker.

Mr. Speaker, he spoke quite passionately about his good friend David Ritch—about his successes. Mr. Speaker, despite David Ritch's successes I said, why, if he was such a litigation attorney that we all know he was, born and bred in Cayman Brac, raised in the streets of East End, why could he not be made a Queen's Counsel (QC)? [It's] because everyone ties it up for them as opposed to us, and Mr. Speaker, to that end may I say, that there are young Caymanians coming up now, who are as good a litigation attorney as David Ritch and may I say, might be even better.

Mr. Speaker, as I speak, as I speak, I stare one in the face who sits in this gallery now. What is he to do? Stand on his head in Heroes Square and beg to be made a QC? Is that what this is about? Mr. Speaker, I speak of Barton, okay? In the interest of transparency let me call his name: Richard Barton. That is all I have ever wanted with a legal services law. I want Caymanians to benefit; I want us, the law firms in this country to be home-grown. I want them to understand that I may not break bread with them, nor may I drink tea with them, but I understand their value. I want them and the Premier and all and sundry to understand, that my objective here is to ensure, since you are operating here, that more Caymanians benefit as a result. That is all I want; I do not want anything else. I know the opportunity for me to be a lawyer has come and gone, that is, if it was ever there. If I were ever capable of doing it.

There are many dogs in this fight that I have, Mr. Speaker. In the interest of transparency let me say that my youngest son is now in law school and not this one. He has had to do it overseas by distance learning, because he was not good enough to go to this law school or so it appears. I leave that there, for everyone to know that my advocacy on behalf of the legal fraternity did not start because my son started this a year ago. I just want that to be known.

Mr. Speaker, I agree with the Premier: Let us not slam the door on others because we are envious of those who did better than us; but my argument and my advocacy here today is, let us open the door wider for more Caymanians' participation. That is all, I do not want anything more. Mr. Speaker, I agree with the Premier that the pie is big enough, but when he says the pie is big enough for all to participate, he will also agree with me that all have not been participating.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Yeah, that is why we need the law. He also talked about outsourcing, Mr. Speaker. I know he was sending a bullet across my bow because I was one of the first—not the first—who termed it “outsourcing”, and I was told by many that there was no such thing; yet here we are today using it—outsource.

Mr. Speaker, whilst I will agree with the Premier that this outsourcing has been a contention from day one, there are those who say it has been illegal and we

have turned a blind eye to that and we are now legitimising an illegal activity. I hope the Premier and this country understand, that I may have had a come to Jesus moment, in that, there was a time when I said I would not support outsourcing of the Cayman Islands law; I believe I said that on this Floor many times, or at least a few times. I have had to come to terms with the fact that this is necessary.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Conversion on the way to Damascus, you say? Maybe some of you need to walk on that road to Damascus in other matters.

[Crosstalk and laughter]

Hon. V. Arden McLean, Leader of the Opposition: That is true. Mr. Speaker, the Premier said conversion is not unique to the Apostle Paul; well, I hope he follows in my footsteps now too, and make sure it is not unique to me.

Anyway, Mr. Speaker, I understand, but if we look back at the last 20 years, we have been lied to so often about this matter. At first, they said it was window dressing so that they could direct people and business here—you just need them there to be there; and many of my colleagues will not know about this, but there are some of us who do Mr. Speaker, that is how it started. Then they said it was not within our territory, therefore we had no control over it. If there had been [the] Mandela thing, truth and reconciliation, many years ago, Mr. Speaker, it would have been okay today.

Mr. Speaker, the Legal Practitioners Bill Amendments, or new Bill, came to this honourable House in 2016. The reason it failed then was because there was no budging on it; the then Minister Panton refused to give. If there is anything I have, it is paperwork. Let me talk about the eight (*sic*) things that we agreed to at that time. You were in that committee room, sir.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition:

- (1) All firms must meet the requirements of 60/40 Caymanian ownership. Those who do not meet now, can have a Local Companies Control Licensing (LCCL)-type of interim accommodation; remove the concept of qualified firms; any changes in ownership must be reported to the Council. At that time the Council was made up of the lawyers, not the Chief Justice—and I will come to that later on, Mr. Speaker.
- (2) Council must be truly independent and 100 per cent Caymanian; could be appointed by Cabinet; no more member[s] per firm,

and must include one sole practitioner to match all current regulatory bodies which are appointed by Cabinet.

The Speaker: Honourable Member, we have reached the hour of 4:30pm and I call on the Premier for suspension of Standing Orders.

Suspension of Standing Order 10(2)

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

Mr. Speaker, I move the suspension of Standing Order 10(2) in order that the Honourable Leader of the Opposition may continue his good speech beyond the hour of interruption.

The Speaker: The question is that Standing Order 10(2) be suspended in order to conduct business after the hour of 4:30pm.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: The Honourable Leader of the Opposition continuing.

Hon. V. Arden McLean, Leader of the Opposition: Thank you, Mr. Speaker. I do not know what he will say when I have concluded.

[Inaudible interjection and laughs]

Hon. V. Arden McLean, Leader of the Opposition: He will row.

Mr. Speaker, number three on the list of things we agreed to that night, which went way into the morning was:

- (3) Full and frank disclosure of overseas practitioners. To get a practising certificate the firms and attorneys must provide evidence to the regulatory body that they have legal authority to practice within the foreign jurisdiction, both from the firm and the attorney. The LCCL exemptions are subject to a written undertaking by each firm that full disclosure of overseas practices will be provided.
- (4) No grandfathering of previous unqualified overseas practitioners.
- (5) Training and advancement of Caymanians. Overseas practitioners are to pay, in attention (*sic*) to practising certificates, a fee equivalent to the relevant work permit

fee which would be applicable in the jurisdiction—that is ours—and such fees must be directed towards further education and training of Cayman attorneys.

- (6) In order to buffer against discrimination, Government should provide incentives to set up small firms under ten in order to support the sustainability and development of Caymanian law firms that have 100 per cent Cayman ownership.
- (7) Immediate requirement for five years PQE to be eligible to obtain a Cayman Islands' practising certificate.
- (8) Commitments must be placed into the primary legislation and if commitments are not met, then no operational licence will be granted to the firm in breach.
- (9) Provisions for anti-discriminatory and anti-competitive practices with penal sanctions.

Mr. Speaker, I am still on that page. That was 2016, I believe. The problem is that we made those agreements within these hallowed Halls in camera, but by the next morning the then Government Minister reneged on them. Thus, the then Premier...

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Same one.

[Inaudible interjection and laughter]

Hon. V. Arden McLean, Leader of the Opposition: Got up and withdrew the Bill because I had filed 132 amendments.

[Laughter and crosstalk]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, I should say to you, sir—

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: It was the eve of the House being dissolved, yes.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, I should tell the Premier and the House that I have been a little more conservative this time and have only filed 76.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, for the benefit of the Premier, I shall repeat what I just said: I should tell the Premier, the country and Members, that I have been very conservative

this time [and] I have only filed 76 not 132 [amendments], [and] many of those are consequential amendments, so they are not even worthy of discussion as material amendments.

Mr. Speaker, I see the Premier has filed—well, I have not seen them—but based on the number that he elucidated upon, I guess he has got a few too but is that not the nature of this Government's tenure? [To] bring legislation and you have more amendments than you have clauses?

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: That is the nature of the consultation process, I agree, but the consultation should have been—

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, many of those I heard the Premier talk about are some that we are proposing albeit in a different manner, but I am proposing to the Premier that maybe now, albeit not at the eleventh hour but the fifty-ninth-minute and fifty-ninth-second hour, that we have some kind of heads together and try to eliminate those that were unnecessary. I had a long speech too, I trust that will not be used against me now because, Mr. Speaker, he said that Part 11 was to be deleted by his account. I was not proposing the deletion thereof, but I was proposing the amendment thereof.

Mr. Speaker, we would like to state very clearly that, given the multitude of serious issues that have been facing this profession, and the jurisdiction over the past two decades, many of which have been ventilated in this honourable House in the past, we believe that it is imperative, in fact, Mr. Speaker, it is long overdue, for this Parliament to now pass modern legislation that properly regulates the legal profession in a fair, transparent and proportionate manner.

Mr. Speaker, it cannot be understated and should not be misrepresented, that we are desirous of ensuring the passage of balanced and meaningful legislation that is crafted in such a way that is in the best interest, absolute best interest, of these Islands—that is first and foremost. As well, Mr. Speaker, it must secure the integrity and reputation of our legal profession both here and abroad.

Mr. Speaker, we are very aware that the profession has never been at a lower point due to the actions of the Government and the privately created and special-interests-controlled company named the Cayman Islands Legal Practitioners Association, or should I call them CILPA, in creating an unprecedented, non-statutory, anti-money laundering regulator called the Cayman Islands Regulatory Authority (*sic*).

It is no secret, Mr. Speaker, and dare I say it is irrefutable, that since August of last year CILPA and CARA [Cayman Attorneys Regulation Authority] have

caused one calamity after the next, which has culminated in a number of Caymanian attorneys who have challenged this entity and its legal authority, because they have been hit with huge fines by CARA for doing nothing more than refusing to recognise CARA's legitimacy. Mr. Speaker, that has resulted in a number of lawsuits against CARA, CILPA, and dare I say the Government, being filed earlier this year by those same Caymanian attorneys. Mr. Speaker, I believe that is the background against which this Bill must be seen.

Mr. Speaker, this Opposition has also taken note that Government now intends, while those lawsuits are pending, to bring a motion to obtain indemnity for the actions of CARA which is and of itself, very telling and very troubling to all of us. We have to come to terms in this House with the many issues that have been heatedly debated in the past in relation to previous legislative initiatives of this kind; and like I said, maybe there needs to be truth and reconciliation.

Mr. Speaker, in that vein, I repeat [that] we wish to work with the Government to achieve this important legislative milestone, provided that the Government is willing to permit us to amend the Bill or assist with amending the Bill, as to give effect to changes that will address many of these valid concerns.

Mr. Speaker we have not been resting on our laurels, you know, but have been working hard on reviewing and considering this Bill and meeting with and consulting a number of Caymanian lawyers and others who have experience in the legal profession. Mr. Speaker, after much consideration, [we] have put forward these amendments which we believe are justifiable and prudent, but are absolutely necessary in order to ensure that we do not try to fix the problems of the profession by making a bad situation worse.

Now, Mr. Speaker, I should say that CILPA also asked me for a meeting. I believe in their words they wanted to “explain the Bill”; I took that to mean their position on the Bill.

The Right Honourable Attorney General had already said to me that the Premier wanted to meet with me. Despite him telling me that, and saying that the Bill would be gazetted in a few days, less than 24 hours later it was gazetted, so I responded to CILPA and told them that I could meet with them, but out of respect for the Premier and his position—the Premier's position—I had to meet with him first. [That] it was fair and reasonable and it was expected of me, since this is a Government Bill that I met with the Premier first.

After meeting with the Premier that day, I wrote them and said that I could meet the following Monday, but it was my understanding that they were wrestling with getting someone to present it to me because their primary salesman was not on Island and they were not ready to—well, you know, their primary presenter was not on Island and they just could not find anyone to [meet] with us because of time constraints so I never did get to have an audience with CILPA. I have had audience with ALPA [Association of Legal Professionals]

and Advocates] and certainly, Mr. Speaker, we have had to ask for their support and had to go out and seek other professionals.

Despite my having asked the Premier and the Attorney General many times, to provide us with some financial resources to get help, we have had to do this on our own. The Premier has on his side a battery of lawyers and drafts people who make it extremely easy for him to present these things; I, nevertheless, have to work with people who volunteer their services or I pay for it out of my own pocket and, in many cases Mr. Speaker, I would have to sell all of my assets plus all of my family's assets to meet some of the costs that I am presented with.

Mr. Speaker, then I have to get all that coordinated and put in the form that is accepted on this Floor, so between the Members of the Opposition and I, we struggle. We do struggle, but I guess my 20 years of experience has taught me that while it is tedious, I only need to stay up all night and get no sleep and then debate it the next day, as I am doing now; but that is par for the course, since there is no assistance—and trust me I am not complaining, nor will the Premier have the benefit of seeing me on my knees begging. He nor anyone else is going to get that opportunity. I will do it because it is my responsibility as a representative to do it.

I wonder who else does it in the absence of the law degree and their experiences; and the reason I do all of this despite not having the experience or the resources nor the trained ability to do it, is because I know it is more crucial now than it has ever been to get this legislation right.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition:

So that, hopefully, we do not see a repeat of the past where the Government of the day or someone of that day could not satisfy those in whose special interests they may have been acting.

Mr. Speaker, indeed, sir, as the old adage goes, *“the very definition of insanity is doing the same thing over and over with the intent of achieving a different result.”* We say this because, despite the fact that the Bill has been relabelled with a new name, it still has a number of shortcomings which caused the failures of its predecessors.

Even the Premier admitted to that—that it is not perfect. We understand that, but we would ask the Government to carefully consider our proposals. We believe in doing so, they will see that our amendments only serve the interests of all of the people of this country and they are genuinely designed to address the myriad of complaints that we have heard in this very Hall in the past about all that ails the legal profession.

Mr. Speaker, we want that 60/40 too. It is time and I will get to that. I will get to that in a minute, Mr. Speaker. We have done the necessary work to make a number of essential amendments to this Bill. We have

taken a minimalistic approach, to avoid too much injury in the form of the draft legislation, we have. We have done that in hopes that the Government will work with us in good faith, and I say that very cautiously. Perhaps I should say in the spirit of the season that is upon us, so that we can achieve the objectives here, Mr. Speaker. We believe that anything less would be a failure to perform our sworn duty as parliamentarians to the people who placed us here.

Mr. Speaker, it has been expressed to us by a number of Caymanian lawyers, and in particular one of our Queen's Counsel, that given the challenges this jurisdiction now faces and will continue to face in the foreseeable future, that we do not know what is going to happen from the global fallout. We are also of the view that it is of utmost importance that any new legislation must ensure that the economy, and the general interest of the welfare of the people of these Islands are protected and that the future practice of law by Caymanians will be guaranteed.

Mr. Speaker, over the past years there has been much controversy regarding some of the prevalent practices of the large firms. Practices which appear to have been both contrary to the public interest and further caused almost incurable economic harm to our country, while generating significant gain of a number of the owners of the large firms that operate from Cayman. The firms enjoy all of the benefits that the Cayman jurisdiction has to offer. This is nothing new, I have had the discussion with the Attorney General, and it is because they engage in these practices.

Mr. Speaker, our concern therefore, is that any failure to rein in such practices in order to ensure compliance with the spirit and intent of local legislation such as the immigration law, as well as the failure to prevent further economic loss to our country will not only deprive current local practitioners of opportunities to have a living in the legal profession, but will cause irreparable damage to the future of Caymanians. Simply put, given the challenges ahead it is absolutely imperative that we get this legislation right or as far as humanly possible and that we do not squander the future of Cayman and Caymanians both within and outside the legal profession.

Mr. Speaker, not only the Premier has those concerns. Not only he is doing this for love of the people and the country; so too are we. So too are we. Mr. Speaker, like the Premier, I believe that we all love this country, I believe that not one of the Members in here can claim they love it more than any other Member, but we must make sure that we work together and get this right.

Mr. Speaker, the last time we brought this here—and I think the country needs to know this because it is about my good friend from Savannah, and for anyone who thinks that he has not been a guiding light keeping many of us on the straight and narrow, and keeping the ship on an even keel, let me pause briefly to tell them this story. When this Bill came here

as The Legal Practitioners Bill in 2016, we debated it and there was the usual very, very, acrimonious debate; so much so, that I threatened to use Standing Order 82 or 83 I think it was, to bring a motion of conflict against the sponsor of the Bill, Minister Panton at that time.

The Speaker at the time was the Minister of Education and we suspended, and everyone was angry and spewing fire, spitting fire like the dragons that we were. After taking a few minutes' break outside, I came back and the Premier wanted to hold a meeting and I said we would not be going into any meeting with them. I was very adamant that we were not going into any meeting because they had not properly consulted or properly informed us, and the time for meetings had passed.

Mr. Speaker, I came back to these Chambers during the suspension and the Member for Savannah said, "I need to see you". I said, "Well, right now or later?" He said, "Now." I said, "Okay." I went over to him, and the only thing he said to me was: "You have to have that meeting." I said, "Really? Really, me?" He said, "Yes, you."

That was the end of that conversation [and] I read out the eight (*sic*) points that came out of that meeting. That meeting was caused by the Member for Savannah, the Hon. Anthony Eden, so if you think the value that he has is not important in here, try it again; and I dare say, Mr. Speaker, that there is not one Member within these hallowed Chambers, man or woman, who does not respect it. That was the reason that meeting was held. Of course, the Premier was shocked that I approached him and told him that the meeting would be on. To this day he did not know what caused that meeting to happen. It was the Member for Savannah, Mr. Anthony Eden.

Mr. Speaker, we are again opposing the provisions of mass wholesale licensure of hundreds of persons currently holding themselves out as Cayman attorneys, all of whom we believe as the Premier has said, have been hitherto operating outside the jurisdiction without any form of oversight, that is not to say that we are not proposing a way that we can do this.

Mr. Speaker, the Premier talked about the economic fallout and not registering these people now and the explanation therefor. Mr. Speaker, I believe it is simple, because we are of that same view, to some extent, that if we license everyone and there is an economic downturn now, we could very well be with the lawyers overseas albeit that provision in their one-to-one means they would have to contract if ours lose their jobs as a result of an economic downturn because of this pandemic, because Mr. Speaker, all over the world law firms are downsizing.

I get articles from England, they are downsizing law firms. Hopefully it is only those overseas but certainly, if those overseas are downsizing because of the lack of work, then ours are going to [be] punished as a result thereof. I think that is a simple answer that I

can provide for the Premier [as to] why people are saying that; and I think it is a reasonable position to be taking. How do we address that? We need to decide on how we address it, but certainly, Mr. Speaker, we cannot leave it alone because overseas practice without any oversight or regulation flies, I believe, in the face of the legislative intent of our immigration legislation.

Mr. Speaker we believe, and our amendments will reflect that, that these people should have work permits. Mr. Speaker, it is a requirement in British Virgin Islands (BVI), but yet we are told that it would put us out of reach, out of contention with our competitors. BVI requires them to have a work permit, but we do not hear that unless we do the research.

Mr. Speaker, the other one that we are concerned about is—and the Premier spoke of it—the prevalence of foreign-owned and controlled law firms and/or legal practice corporations in Cayman, especially in recent years, many of whom have arrived here in the last decade. It is either they are here to buy out existing, established law firms, or to set up Cayman office of a much larger foreign-owned and controlled "global firm" where, upon establishing themselves in the Cayman jurisdiction they can use their global presence, and sheer size Mr. Speaker, to engage in unfair competition with established local firms of all sizes, despite the Premier saying that there is sufficient room for everyone to operate.

We cannot have people coming here [practising] that kind of predatory behaviour within the legal profession, and Mr. Speaker, I have heard—and this is one of the things the law must address, and I believe if we can sit down with these amendments it will further address it—you have people coming here working with a law firm on work permit, get their practising certificate, fall out of sorts with their employer, and go out and start a partnership and create a law firm without Caymanians.

Now, I understand the legislation will address some of that because that law firm as an employer would have to notify, [per] the latest utterances from the Premier, what is going to be turned into a council. We are proposing an authority, which may not be much difference if we get the same objective, but we certainly are not going to support the Chief Justice being on it. No, I am not going to do that; no, no.

Mr. Speaker, we must ensure that all legislation that is promulgated by this Parliament serves the interests of the people of these Islands, and anything less than that would be a reckless disregard for the economic interest of all persons living here save and except for those few who will continue to reap the massive profits of such enterprise.

Mr. Speaker, we may have created this thing ourselves, that is, the prevalence of foreign-owned and controlled law firms in our country. We may have created that ourselves, by us practising overseas in their jurisdiction. I think we like to call that reciprocity? I guess they feel like they have a right to come too.

Maybe we have provoked that form of law practice in this country, by virtue of us having Cayman law practice in their country; and Mr. Speaker, the Premier says that is what it attracts and it makes us more attractive and it has increased the law firms and it has increased the number of lawyers from 165 I believe, in '95, I think he said if I am [not] wrong I think that is what he said, 163 in '95 to around 900 now. That is what he said, I wrote it down.

Mr. Speaker that is all well and good, but when we have no control over them, wherein in every business in this country if either Caymanian wants to do a little landscaping company, he has to prove that it is 60/40. Now, I would like to know Mr. Speaker, what glorified position do lawyers have, that they do not need to be under 60/40 too. Or controlling shares being owned by Caymanians. Now, Mr. Speaker we know the purpose of any lawyer is to find loopholes in what we do here, but certainly Mr. Speaker, we can at least require them to operate in accordance with the Trade and Business Licensing Law.

How can we tell our people, tell others who commented... but I mean, the LCCL has become an aberration of sorts too, because everybody and his brother and sister has that now. I remember when they were only six, now we got hundreds of them. Even if you want to buy an apartment you can come here and get an LCCL, so it is no longer a special privilege. It appears like it is an open opportunity.

Mr. Speaker, we cannot, we cannot tell our people that whether it is fronting or otherwise, they must provide proof that they have 60 per cent ownership or the majority ownership in any little company they want to form but you only need one person to form a law firm.

You know, the irony of all of this Mr. Speaker, is that there are very few law firms in this country that cannot meet that threshold; and if we give them time to do it, what does that do? That brings Caymanians up if we give them time with Cabinet or the Authority or the Council, whichever one we are going to name that to be, having the authority to manage that—and watch it, Mr. Speaker, here is what is going to happen: In the cycle of human nature we all must die, so those who are there now must, at some stage retire and fade into the sunset. It gives Caymanians the opportunity to come up and fill those slots.

I am not convinced, Mr. Speaker, that the only cadre of Caymanians becoming lawyers that could make partnership are people like the Premier, Wayne Panton, Reid, Banks, Wanda. No one is going to convince me that that ability just dropped off the edge of the earth—that we were all running fast to a precipice to get lawyers in this country. We created the law school in the early 80s, and all of a sudden we just went off the precipice. No one is going to convince me of that.

This must be in perpetuity, Mr. Speaker, and we as legislators *must* ensure that we make the provisions now since we are doing it, and I believe making those provisions lies within a requirement of the LCCL or the Trade and Business Licensing Act. Are you going to tell me Caymanians are not capable? We speak so passionately about the accountants, and how they can cooperate and they can agree on self-regulation [but] our lawyers cannot do it. You know what caused that? Greed. Greed and mistrust.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: They do not trust each other; yet we speak passionately of the Minister of Finance.

Mr. Speaker, he too, is a Caymanian. Then we speak of Dan Scott, we speak of Jude Scott, we speak of Johan Small; we speak of the young lady Hislop. We speak of this one, we speak of that one—they are called Caymanians. You know why they can do it? They were given the opportunity to do it.

Mr. Speaker, you cannot tell me that those can do it, and it is a requirement in their field and in their industry, in their profession, to uphold Caymanians and we will not require it of the lawyers? Is there a special gene that you need to be a lawyer, and Caymanians do not have it in them? Mr. Speaker, I dare say that Caymanians come from good breeding stock and they can be anything they want to be, if given the opportunity to do so.

Mr. Speaker, I used to see one little fellow around George Town in this GQ suit all the time and wondered who in the world is this little fella; I saw him so pompous.

Mr. Speaker, my nephew had a little problem with the Liquor Licensing Board, I believe, so I went with him because I am going to defend him now, and he said, "*Uncle, my friend coming to help me with it.*" I said, "*Okay. Is he a lawyer?*" He said, "*Yes, sir.*" So I waited. Just before his matter came up, this little fella with his GQ suit walked in. I wondered where he was going. I said, "*Really? JJ, you know him?*" He said, "*Yeah, uncle. That is my friend.*" "*Your friend? You think he can defend you here? You gon' see he is too pompous to even do that.*" Of course that is what I said to my nephew.

Mr. Speaker, that little GQ man got up in front of that Board and my mouth dropped open, and stayed open for a long time, and it is still open—so much so, that I have referred everything I know to him and he is Caymanian. That is what we do. We all do that. We put these labels on people and I did, but I admit it—and I have since apologised to that GQ man.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Richard Barton. I have since apologised *profusely* to

that gentleman for putting a label on him. I did not know who he was, Mr. Speaker, but I knew he liked the GQ suits.

[Laughter and crosstalk]

Hon. V. Arden McLean, Leader of the Opposition: We do that throughout our life and I have a right to do that, but when I find out that is not the true identity of that individual, then I need to apologise and give that person the opportunity to prove themselves; but we are not getting that. While I should not have done what I did, others are using it as a mark of the beast to keep Caymanians down and they are not getting the opportunity.

Mr. Speaker, I can tell anyone that little GQ man Richard Barton is a good lawyer, I believe in litigation, but there are others.

The Speaker: That's a good place to stop right there.

Hon. V. Arden McLean, Leader of the Opposition: Thank you, sir.

The Speaker: We will take our evening break, so the House will suspend until 6.30.

Proceedings suspended at 5.30pm

Proceedings resumed at 6.29pm

The Speaker: Please be seated.

Proceedings are resumed.

The Honourable Leader of the Opposition continuing.

Hon. V. Arden McLean, Leader of the Opposition: Thank you, Mr. Speaker. I see that we are pretty much on time with the start back from the evening suspension.

Mr. Speaker, prior to the suspension I was talking about law firms not being required to have majority Caymanians as owners, or partners, as the case may be, and that we believe that they should be subject to being licensed under the Trade and Business Licensing Act or LCCL, whichever is appropriate for the structure; more so the Trade and Business Licensing Act.

Mr. Speaker, I also talked about why Caymanians are probably seen in a light that is not favourable to have them involved in these partnerships or ownership, and I mentioned young Mr. Richard Barton, who is extremely capable. It would be remiss of me if I did not speak briefly on another young Caymanian, Sammy Jackson; and I am not necessarily leaving out any of the Caymanian lawyers but these are the ones whom I can speak most competently on.

Mr. Speaker, Mr. Jackson and I row everyday about something. At least the days that we speak to each other which is quite frequently, but I have never

once, nor can anyone else in this country, I believe, successfully question his competency on planning and land use law. Yet, despite being the person to turn to on those matters, he will never, or it will be a long time before he becomes a QC in this country. Anywhere else, Mr. Speaker...

Not that I know, [but] so I have been told, that the one criteria for becoming a QC is that you must be proficient in a particular aspect of law, yet here we are. Mr. Speaker, there are Caymanians who have become Queen's Counsel, but there are so many others who appear to be eminently qualified to be.

I look at our neighbours, the Eastern Caribbean, Jamaica included, for that matter. I do not know what the ratio is for lawyers, but these people are competent and I will venture to say they have many more QCs than we have here on a percentage per profession basis; and I only say all this, Mr. Speaker, to say that it is a perpetual cycle. Every now and again we do one or two, and I am not saying it should be on a wholesale basis, but there are so many and we do not recognise our own. That is the problem. Yet we go around this country criticising the Eastern Caribbean and Jamaica, but at least they recognise their own. Is it a sin to be Caymanian?

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Is it a detriment? Everyone else can be given special dispensation, special treatment—I do not know the right word to use there, Mr. Speaker.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: I had to bring that in. Let us look at Bermuda. Companies have to be majority-owned Bermudian to operate there. Maybe I have gotten this wrong, but Mr. Speaker, I believe in who I am and in the abilities of our people. We continue to say that all glass ceilings have been shattered for women in this country. Shattered? Shattered? Is it the shards that are coming down and spiking them in the head, whether it is women or men?

As legislators we have a responsibility and Mr. Speaker, I do not subscribe to what is commonly referred to in America as affirmative action. I do not necessarily subscribe to that in its entirety, but sometimes we as legislators need to put provisions in place to ensure [that] whatever goes on in this country necessitates Caymanians being [in] and getting greater control.

I spoke the other day about those who came here and have become Caymanians and Mr. Speaker, I have a responsibility to them too, but you know Mr. Speaker, when people have expat status in this country—work permit holder or whatever—every one of them, or the vast majority, wants to become Caymanian, but once they become Caymanian, they find

out it is not as sexy as it looked because they experience much of the same treatment that generational Caymanians do. Be that as it may, I have a responsibility to them too, and within that responsibility Mr. Speaker, I also have a responsibility to ensure that Caymanians do not take advantage of other Caymanians. I have that responsibility not only as a legislator, but as a citizen as well.

I believe this legislature needs to put provisions in place to ensure that Cayman ownership is assured, Mr. Speaker. We must not only ensure that there is a requirement for Cayman ownership that the law firms must meet, but we must empower the authority [or] whatever that creature is going to be named—it was a board, now the Premier is saying a council, and I am proposing an authority in accordance with the authorities law. They must have insight and regulatory control Mr. Speaker, so that they can ensure whether they are misinformed as to the ownership structure of these firms. This is the only place [where] you do not know the structure/ownership of a firm but you see Mr. Speaker, all of a sudden we are backing up on it because an elephant has stepped into the room. Hitherto, it was only lawyers [who] could have law firms yet, there are law firms in this country that are owned by people who are non-lawyers. I cannot say they are controlling shares, but I can say there is ownership.

Yes, this Bill will allow others to be created, formed, established that do not include only lawyers, but Mr. Speaker, without the regulatory oversight of compliance, that tiger, whatever we call him, is going to be toothless you know, Mr. Speaker? And it will be of useless construct, like the Premier likes to call it, if it does not have control—no matter what we call it. It does not matter what we call it. It will be useless without teeth.

I do not understand what a council is, exactly? According to him, it is a legal entity. I thought we were moving away from all these old structures now, with the advent of the Public Authorities Act, such as I am proposing in these amendments. I thought that all statutory regulatory bodies would be updated so as to bring them into conformity with the structure that the [Public] Authorities Act provides, which, Mr. Speaker, as far as I know, it is a fully independent public authority. We should not be passing laws if we are not going to follow them. Mr. Speaker, we agreed that in 2016, which I read earlier. That is what we agreed then.

I know that when I read this I said that the Minister at the time reneged on it and the Premier withdrew the Bill. It appears like the Premier in this Government is reneging on these also. That is concerning. We cannot get past four years of memory. All the agreements that we made in 2016 are what are being reneged upon. Mr. Speaker, that is what attorneys are saying they want: 60/40 or LCCL, which allows room in the future for Caymanians to take over. You cannot create

that many Caymanian lawyers by virtue of grant, to continually fill up the law firms. There must be some generational Caymanians who can go there.

Mr. Speaker, we need to ensure that whatever council we make there are no conflicts. I know that the Premier said that the AG and the Chief Justice are professionals, and that there is no conflict. Mr. Speaker, again, I am not claiming to be a lawyer, but the Attorney General knows that I research and have a pretty good memory. I do not know what it means Mr. Speaker, but we have in this law that complaints can be appealed to the Court of Appeal and there is no conflict with the Attorney General being a member and the Chief Justice being the Chairperson.

Mr. Speaker, I do not speak here of who occupies those positions. I speak of those positions, regardless of who occupies those positions, they must be above reproach, and if there is no conflict, I wonder what section 26 of the Bill of Rights speaks of. I wonder how that will work. I am no lawyer, I just need the Attorney General or his people to explain this to me, because section 26 says:

“Enforcement of rights and freedoms

- (1) Any person may apply to the Grand Court to claim that government has breached or threatened his or her rights and freedoms under the Bill of Rights and the Grand Court shall determine such an application fairly and within a reasonable time.**
- (2) If, in any proceedings in any court established in the Cayman Islands other than the Grand Court or the Court of Appeal, any issue arises as to the interpretation of the Bill of Rights, the court in which the question has arisen shall refer the question to the Grand Court if it is in its opinion necessary for the issue to be determined.**
- (3) An appeal shall lie as of right to the Court of Appeal from any final determination of any issue by the Grand Court under the Bill of Rights, and an appeal shall lie as of right from the Court of Appeal to Her Majesty in Council; but no appeal shall lie from a determination by the Grand Court under this section dismissing an application on the ground that it is frivolous or vexatious.**
- (4) Proceedings under subsection (1) shall be commenced within one year of the decision or act that is claimed to breach the Bill of Rights, or from the date on which such decision or act could reasonably have been known to the complainant; but the Grand Court shall extend time on application by the complainant where such an extension**

would in the opinion of the Court be in the interests of justice.

- (5) **Nothing in this section adversely affects the ability of courts to manage their own procedure to ensure that cases are dealt with justly, fairly and expeditiously, including their ability to dismiss applications that are vexatious or unreasonable”.**

Mr. Speaker, the Attorney General seems to be smiling. Now, I do not know; [but] as far as I know the Grand Court is managed by the Chief Justice.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: That is true.

Mr. Speaker, my thing is that we know that there are some lawyers here who are prepared to challenge anything the Government does. We just changed the Court Rules, I believe it was. The law to allow the...

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Protective Costs Order, I believe, to allow for the courts to receive judicial reviews and constitutional challenges and how the cost is done.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Yeah, protective costs orders. That requires it to go to the Grand Court and this is my layman perspective should I say, Mr. Speaker, but I have been here long enough to know that I should ask questions in this realm. How can a lawyer be disciplined or regulated with regard to behaviour and otherwise, and not have the opportunity to respond in accordance with the real piece of legislation in this country? No one regulates the lawyers now.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, looking at section 7 of the [Legal] Practitioners Act does not justify not correcting it now.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Yeah.

The reason we are proposing it goes to the Appeals is because the Chief Justice is conflicted.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: No, but the Constitution is a new creature and the Constitution is the supreme law of this land and it appears to me—a non-lawyer—that if someone wants to have a constitutional challenge, they have to go through the Grand Court or another court, which would be Magistrate or whatever the case may be.

It does not say anything about appeal; it says they can appeal it to the Appeals Court but you cannot go direct. That is why I keep asking, Mr. Speaker: Are lawyers of a different set other than me, the ordinary man? Are they given special privileges? Are we prepared to treat them different from how they treat me?

This Constitution, Mr. Speaker, is riddled with provisions that there must be equality. Why are they being given special dispensation? Why can't I have that, where I can go straight to the Appeal [Court] and bypass the Chief Justice because I do not like him, per se, if that is the case? Yet my people and I, if the government allegedly did us something that was unfair or unreasonable, we have to go to the lower courts and then pay all that money appealing to the Grand Court then to the Appeals Court, yet the lawyers can go straight to the Appeals Court.

I do not know; am I wrong? Maybe I am. Someone needs to explain that to me because from a layman's common sense it just does not make sense. It makes no sense to me, but of course I am a layman, and I guess I am a human being and a citizen of this country, but I am different from that creature called lawyer, attorney, or whatever we want to call them. They must be special. What they say? Justice is blind or it should be blind? Yet I have to be treated differently? No.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Eh? Yeah, but we are [INAUDIBLE] straight to the appeal.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Well who is going to hear it at the Grand Court? Who is going to set the judges?

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Yeah, but he is not the regulator.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, maybe all these learned attorneys can explain that to me. I would be most grateful. I would be most grateful, because every time I hear something new I learn something more.

Mr. Speaker, this thing about operational licence as well. I do not think we should have wholesale operational licensing of all law firms simply on payment of a prescribed fee because that is all they do. I know that is how it is now; that is all they do. They must be held to a higher standard of compliance than that. They must undergo a fitness test...

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: By so doing, it will ensure that such firms must be Caymanian owned and controlled. We must put provisions in there to ensure that.

Mr. Speaker, we are proposing that overseas practitioners have to come here to get called and they pay a work permit fee and they are controlled by the work permit, the immigration law, wherein they are held accountable by the law firm that we have control over and controlled by them because, Mr. Speaker, we are losing much government revenue from it.

Mr. Speaker, it is my understanding that in BVI they have to go there to be called.

[Inaudible interjection]

Mr. Speaker, the Premier is asking me how much we get now—zip; but if we want to do something worthwhile, it is not \$4,000.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, I know nothing from nothing leaves none. We will still be with zero, but here we are trying to convince the Members that we should be doing something, but all we are doing is granting wholesale licences. Mr. Speaker, you tell me how we are going to control those people overseas, except through the law firms here that they are working for. How do we do it?

You think the council, authority or whatever that creature is to be, will be sending investigators over there? If they do something that damages the reputation of this country, then the law firm here will be punished because they must be under them.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: This thing about affiliates is what I am talking about. Do we have any control over those affiliates? No, the Bill does not say that—that we are going to be regulatory authority over them. Someone needs to show that to me in there where we are regulatory authority over the affiliates. They are in another jurisdiction. Having regulatory oversight over the attorneys does not have it over the affiliate. The only law firms that we would have regulatory authority over, are the ones here. That is what

we have. That is precisely what the Government is proposing.

The Government knows my position, therefore, we are proposing the same thing. Is it a carrot that we are throwing out of \$2,000 more over the Cayman lawyers? That is all we are going to get out of it? Yet, the Premier said the lawyers have “*benefited handsomely*”, I believe he said. Yes, “*Of course it benefits attorneys handsomely*”.

Mr. Speaker, I want that to happen, but I say this again, lest it be forgotten: I am not against there being overseas practice—I am not; but you cannot expect us to ensure from a legislative perspective that this country gets through the mine fields that the world Financial Action Task Force (FATF); Caribbean Financial Action Task Force (CFATF), The Organisation for Economic Cooperation and Development (OECD), Financial Crimes Enforcement Network (FinCEN), European Union (EU)—you name it—constantly plant in front of us from a regulatory perspective.

I hope *unna* saw the report that came out this week about them and Delaware. I hope everyone has seen that. Part of my sleepless night last night was reading that and they got us like...

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Yeah; they got us like fish in a bowl and [are] standing over the bowl with spear guns cocked and loaded, and we have to constantly look out for that spear coming at us—

The Speaker: Honourable Member.

Hon. V. Arden McLean, Leader of the Opposition: Yes, sir.

The Speaker: You have five minutes left of your two hours.

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, I do not have a problem with bowing to your ruling, but that time is wrong.

The Speaker: I think the Clerk has kept the time and from my timing as well. You might not have thought you have gone as long as you have, but if you so desire you can put it to the House that they allow you to finish your speech.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, I know I started long after quarter past—like 23 minutes past [four] and then you called on the Premier to move the Motion to extend—

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: —[beyond] 4.30, and that was just about two minutes [before] 4.30 and I said it was not 4.30 yet; but I will bow to your ruling, Mr. Speaker. I guess there is so much here to debate.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: I am not going to give the Premier the benefit of saying that I asked him to extend my time, because that will be another time for debate again. That will cause another debate so...

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: I do not wish to be in debt with him.

The Speaker: Just so that I know: how much time are you saying that you have left?

[Laughter]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, I do not know. I...

The Speaker: I do not want you to lose your time; it is a very important Bill and I think the House would cooperate to allow you to finish your speech within reason, of course. I think you are very close—if anything, you are very, very close to the two hours.

If you started at twenty-three [minutes] past four—let us look at it—and we stopped at 4.30 just to give you to move on—

Hon. V. Arden McLean, Leader of the Opposition: So you will not give me credit for that or what?

The Speaker: So twenty-three, that is roughly seven minutes and you roughly started back at twenty-five past, let us say. Whether that was five minutes, I doubt it; so until 5.30pm... 5.30pm we stopped, I think.

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, I am fine and what I do not get in, I have some very competent people here—

The Speaker: The Clerk has you down ten past four. I think you are very, very close to it, but I think you should take my suggestion. I think the House would be open to allow you...

[Inaudible interjection and laughter]

The Speaker: If someone moves the motion, then...

Hon. V. Arden McLean, Leader of the Opposition: That's okay, Mr. Speaker. I have a number of pages left

and I will pass it on to my guys so that they can deal with it.

The Speaker: Do you want some wrapping-up time then?

Hon. V. Arden McLean, Leader of the Opposition: Well, I thought I had a little time because you hold me up now five minutes.

[Laughter and cross talk]

Hon. V. Arden McLean, Leader of the Opposition: No, no, they are not leaving now, they want to go on.
Mr. Speaker, just let me try to—

The Speaker: You can continue until I stop you.

[Laughter]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, I will make sure I utilise the Committee Stage.

I believe that the Premier has somewhat indicated—I want to be very careful because he likes being careful with his words so that they do not come back to put him in a position that he is under an obligation—that we may want to meet to see where we can come to agreement on some of these matters; whether it is in a different format from how he and his side want it and how my side wants it. I am hopeful, because I want to see this done.

I am not going to turn blue around the gills by holding my breath, but I am hopeful that something could possibly happen because I want to see this done too; but I want to see it done in a manner that Caymanians benefit and those who... I had quite a bit left but I guess I am more long-winded than most people on this. Mr. Speaker it is natural, this is 20 years of my life that I have put into this, 20 years.

The Speaker: Therefore, that is why I asked to allow you to move a bit more into your speech if you needed to.

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, I realise that I am bordering on tempting the faith of my colleagues and they may get angry with me.

Mr. Speaker, before I leave here today I want to thank some people.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: No, you do not. If he wants to be thanked then sure, Mr. Speaker, in the spirit of the season I will thank the Member for Prospect for doing nothing for me.

[Laughter]

Hon. V. Arden McLean, Leader of the Opposition: You know you are not going to catch me out, right?

Seriously though, Mr. Speaker, I want to thank many of these Caymanian lawyers—as a matter of fact, I received a letter copied to me just today, from this young fellow Henry Orren Merren IV, I think he is called. I want to thank him. Unfortunately, I did not get the opportunity to read all of it—I was going to address it later on but ran out of my time—but he has been a stalwart in this fight.

Mr. Speaker, I want to thank my friend and confidant. The one with whom the Premier says I have now opened the law firm Jackson and McLean. I really want to thank Sammy Jackson. Despite what you may think of him, his heart is in the right place; he wants what is best for this country too, Mr. Speaker. I said I row with him every day, those are personal fights, but we can separate those when it comes to what this country is about. He has committed his time over and over and over again and again. He is a good attorney despite what whomever they may be, may say about him. I have much time for Sammy Jackson.

Likewise, I have much time for Mr. Orrie Merren too. I am not talking about the father now, I am talking about the fourth Orrie Merren, because most people think that Orrie is the father. It is the son I am talking about. I have time for Orren too, but I speak specifically about his son. I met this young man at the age of 16/17 and I carried him to BVI Mr. Speaker, shortly after coming to this Parliament and I have yet to be disappointed in him as a Caymanian and as a young attorney.

Mr. Speaker, I want to thank Mr. Ian Paget-Brown who provided me with invaluable advice and suggestions. Mr. Ian Paget-Brown has been here a long time and is very capable, understands the lay of the land, and despite what the Premier may say about those who have not been in the financial industry, Mr. Ian Paget-Brown's life has been in the industry—the financial industry; and if there is anyone here who knows any reason why he should be ridiculed or vilified...

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Speak now or forever hold your peace, because I can tell you Mr. Speaker, I believe he has been here nigh on 50 years. Whilst he does not necessarily spend all of his time here now, he is never far away and all one needs to do is pick up the phone or email and ask him. I also want to thank my good friend Cline Glidden for being the conduit between me and CILPA.

Mr. Speaker, there are many others who need to be thanked, but time does not permit now. They know who they are.

Mr. Speaker, I want to thank the Members of the Opposition for their patience with me, really, because of my passion about this. I have put much pressure on them to have meetings and the likes.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: With no food, yes.

I have put much pressure on one in particular, over the last couple of days, to get those amendments typed and put in the proper order, which is the Deputy Leader of the Opposition; I want to thank him.

I want to thank the Member for North Side who also supported my efforts in this—but they have all played a role. I have worked very hard on this, up to no sleep last night, but I am no worse for wear today, though. When I looked at my watch this morning from yesterday it said quarter to ten. I said, Oh, I need to go feed my dogs and get to Parliament.

Mr. Speaker, the Premier knows that I will stay up late at night. He and I came here as young people and we would stay up all night to prepare for the day, the following day too, I recall that. He was at his house in his office and I was at home and he was constantly on the phone with me trying to see if I have a piece of paper that he could use; but we were here at 10 o'clock with folders of information. That is what this takes.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: Well, who were we fighting against, I do not recall that part of it.

[Laughter]

Hon. V. Arden McLean, Leader of the Opposition: Since the Premier has conveniently gotten amnesia, so have I...

The Speaker: Honourable Member, since you cannot remember, you do not have much time left.

[Laughter]

Hon. V. Arden McLean, Leader of the Opposition: Mr. Speaker, you know, I remember who we were fighting against. It was none other than your good self.

Mr. Speaker, yes, I want to thank the Attorney General. Sometimes he has provided some good advice.

An Hon. Member: That is an endorsement.

Hon. V. Arden McLean, Leader of the Opposition: Well, I am not saying that his advice was always bad. It is that sometimes I accepted it, sometimes I did not, you know. He has always—

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition:

He does remind me that I call him at some anti-social times which is late at night or early in the morning, but that is the nature of this job, Mr. Speaker. It is a requirement for me to get my job done therefore, he must be awake then too. No one sleeps around me; that is the nature of this beast.

Mr. Speaker, I know the Member for Bodden Town West is somewhat fed up with me but so be it. He will get over that too in the fullness of time. Nonetheless, I am constantly on the phone with him as well, all hours of the night. Mr. Speaker, I look forward—

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition: I do not know why the Deputy Premier is making remarks about me, Mr. Speaker.

[Inaudible interjection]

Hon. V. Arden McLean, Leader of the Opposition:

Mr. Speaker, I certainly look forward to the debate in this honourable House. I look forward to seeing whether or not we can come to some agreement on some of these matters. Those new ones who are here now, will get a glimpse into what it means to advocate on behalf of their people—even though many of our people will never have any vested interest in this, their children, grandchildren, and generations to come, will.

Mr. Speaker, I thank you.

The Speaker: Does any other Member wish to speak?
[Pause] Does any other Member—

The Member for George Town Central

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker.

I rise to give my contribution to the Legal Services Bill, 2020. Mr. Speaker, I do not intend to be too long, as the Premier and the Leader of the Opposition have covered much ground in respect of the perceived pros and cons. I would like to start by saying that I am happy that there is a Bill before this House that seems to be well on its way to good passage and modernising the legal framework that regulates and governs the number one pillar in our economy.

Mr. Speaker, I would agree with the Honourable Premier to say it has been over 30 years since we have made the appropriate changes to get us in line with international practice; but more importantly, Mr. Speaker, I think that this Bill will offer us much forward progression, particularly when it comes to many of the outside forces that try to undermine the brand that we have called “CaymanFinance” and the legal industry that is associated with it. Thus, Mr. Speaker, I am proud that I will be associated with the passage of this Bill at the end of this session.

Mr. Speaker, I think that I would have to agree with the Premier that leaving the current framework that regulates the legal services alone, compared to what we are proposing here today, does more harm than good. I also recognise that this Bill may not please all parties that would be affected by it, but I think there is a common acceptance that something has to be done, particularly with regulating those who practise Cayman law outside of our borders, because it puts our number one industry at severe risk.

Mr. Speaker, we have heard the Cayman Islands’ name called so many times about our financial services and the rumours of persons giving advice on Cayman law without the appropriate qualifications from this jurisdiction because none were set before. Well, Mr. Speaker, this Bill will address that [as well as] a key area that has been a conflict for some time, which reflects on the progression and protection, if I dare use that word, of Caymanian opportunity within the industry of legal services.

Mr. Speaker, understanding and knowing that there is no 100-per-cent-perfect Bill, I think that this Bill serves as—I cannot say as good as it gets—a good enough Bill that hopefully will get the passage of this House to make sure that we give some protections to those up-and-coming Caymanians and give them a smoother pathway into the successes of the legal services industry.

Mr. Speaker, though I am supportive of this Legal Services Bill, and I hope to vote in favour of it passing in this honourable House, I share concern with other Members of this House over some areas of the Bill which may cause conflict, and my contribution Mr. Speaker, is only to give my viewpoint on them for the Government to consider, and for them to potentially take on board when in Committee Stage if we want to decide to make some amendments to this Bill. I already submitted two amendments which I will cover in my contribution, but the first one that I must say that I have difficulty with, is the makeup of the board now being referred to as a council or the Council, that was formerly referred to as the Board within the Bill.

Now, Mr. Speaker, just for simplicity, this board is the very top of the mountain in respect of the governance and the regulatory authority of this industry; an industry, Mr. Speaker, that has been in much controversy about Caymanian involvement in it, so it is important that whichever authority will be in charge of policing it and enforcing the legislation which is passed in this Parliament is examined “to the T” and make sure that it is appropriate.

Now Mr. Speaker, I want to make sure that my comments are not specific to any one individual but to the posts themselves because, Mr. Speaker, I share the view with the Honourable Leader of Opposition, that the makeup of the board seems problematic. Particularly that, though I think he said that he did not want to see the Chief Justice a part of the board (now being the Council), I am actually of the opposite [view]—and

again I want to reiterate [that] this has nothing to do with the individual but the position that the individual holds, and that is of the Attorney General.

Mr. Speaker, the Council has many powers and I was just recalling how many things it is faced with from recognising persons to be considered a legal entity; the regulations on who will be investigated... Without going over all of the responsibilities of the Board, I think the Premier and the Leader of the Opposition highlighted the importance of it.

From now on Mr. Speaker, I will be referring to the Council. I was not aware that there would be a committee stage amendment until today, hence the reason I am referring to the word "Board" as it is referred to in the Bill; but I understand that the Premier's intention is to have it as the Council with a committee stage amendment so I will refer to it as Council moving forward.

[Inaudible interjection]

Mr. Kenneth V. Bryan: I can still say board? Thank you. My colleague, the Deputy Opposition Leader is saying that I can still refer to it as board until the committee stage amendments are approved.

Now, Mr. Speaker, the post of the Attorney General is a very, very important constitutional post; the Attorney General is the legal advisor to any Government. He is also a part of the drafting team to create laws in the Cayman Islands.

Mr. Speaker, to have the person who is constitutionally appointed to help advise the Government to create laws, and have that same individual be a part of a board that would regulate individuals who are going to be policed by those laws, I believe creates a bit of a conflict.

Mr. Speaker, sadly, I also have to recognise that there are current outstanding matters as a result of the previous regulatory framework that was created. It created legal suits as well as challenges to the previous framework, and it begs the question as to when this Bill is passed, what happens to those outside suits and challenges?

Mr. Speaker, when the previous framework was created I was quite saddened to know that some firms and some young and senior attorneys were finding themselves within difficulty—whether legally or not, that is for the courts to decide—were finding themselves in challenges with the decisions made by CARA. I hope that this Bill can potentially resolve those disputes and they will legally disappear, if I dare say, because I think the ultimate goal of the administration, and all of us of this honourable House, is to just find a framework that can regulate this very important industry and, like the Premier highlighted, it is difficult to find that perfect balance.

However, getting back to my point about the board and the Attorney General being on it, as well as

outstanding challenges to decisions made, I think, regardless of whether it is considered to be legally biased, it is perceived to be biased. In my mind I find it conflicting, when the person who is charged with the interpretation of the law in this honourable House, can also be the person who determines whether a legal entity can be investigated or approved in respect to whether they should have a practising certificate. I do not think that bodes well, and it has nothing to do with the capabilities of the person who holds that post now, but it definitely is not perceived to be good.

Mr. Speaker, that being said, I want to recognise that the Premier highlighted the other point which was, how else do we fix this problem? In his contribution the Honourable Premier said that, ideally, they would have liked self-regulation (by the industry) but unfortunately, the framework that was created [led to] some of the problems that I referred to, in respect to challenges and suits.

Mr. Speaker, I am of the view that the Premier is right; ideally, the industry should be self-regulated and maybe, some tweaks to what was presented before and restructuring may be a better fit because, though I see the position of the Attorney General being more potentially conflicting than the Chief Justice, because the Chief Justice is not also a framer of the laws that will govern this industry, but he is also the head of the justice system that we have, that may have to make decisions based on an industry that he regulates.

From the outset, as an average man without legal experience, I find that could create some perceived biases if not straight up biases; we have to recognise that we are all still human and keeping the biases as far away from each other as we can, is the only way that the community, as well as those affected by the structures of policing and regulation, can feel comforted to know that there would be no conflicts.

Mr. Speaker, I would therefore suggest to the board that, though I do not have a direct solution because I am not a professional and unfortunately, as you heard, the Honourable Leader of the Opposition did not mention having any discussions with me, so I am a legal team of one if I dare say that; and unfortunately, because of the busy schedules of both the Attorney General and the Premier, we were unable to meet to discuss this point so, outside of suggesting that we find some other kind of framework, I think I would prefer this board—or Council, however it will be referred to—without the Attorney General or the Chief Justice on it because I think, in the long term, it will present concerns and potential problems.

Mr. Speaker, I want to move on now to another area of the Bill that created some issues for me which is clause 28, which is on page 29 of the Bill, for those who may be following. It refers to the minimum equity partnership obligation, and I want to congratulate the Government for putting this requirement in because it gives a level of security to make sure that Caymanians are owners in a very rich industry; but the problem that

I find with it is that there could potentially be misuse without a quantifying factor of what an equity partner means.

What I mean by that Mr. Speaker is: What is the value of an equity partner? Does that person own 0.00000[1] per cent of the partnership, which can amount to \$100,000, or does that one partner own 50 per cent of the company?

Now, I know that creates much difficulty to quantify and the formula that can be used to secure what the intention of this section of the Bill is, I hope that the Government can offer some other way or can explain how they intend to secure the intent of that, because I believe it can be misused by persons who genuinely do not want to give Caymanian lawyers ownership by saying, "Okay, you are a partner," but the value of your partnership could be minuscule because there is no way to quantify the value of that partnership—we have different levels of partnership, as far as I am aware, in respect to the industry.

Now, what I am highlighting may be very problematic to fix, but it is my obligation to highlight the potential misuse that can be done and close those gaps so the Government can be aware—not to necessarily fight the Bill itself down, but to highlight some of the things that I think could be problematic.

Mr. Speaker, I want to move on to the third area of concern that I had with the Bill and it is in respect to clause 33 of the Bill that covers the post-foreign qualification experience requirement and under clause 33(1) it says, **"To be admitted as an attorney-at-law, by virtue of a foreign qualification, a person shall have had at least five years post-qualification experience in the practice of law in another jurisdiction."**

Now, Mr. Speaker, I am going to put it as simply as I understand it, in order to give my concern. Mr. Speaker, in our jurisdiction, this law will mandate that, in order for you to come to the Cayman Islands to be called to the bar, you have to have had at least five years post-qualification experience elsewhere. Previously the requirement, I have been told, was three years—in legal terms it is considered to be 3PQE—and this law seeks to increase it to 5PQE.

I think the Premier—and I do not want to misquote him so I am just going to give my understanding of what he said. If he wants to clarify, I totally understand because I do not want to miss quote him in any way. Basically, this gives more security for new lawyers coming up the ranks to get the junior level jobs and I believe the intent of that section, Mr. Speaker, is a good intent, but I am worried about the flip side; the concern that could come up by not recognising what could happen in the other direction.

Mr. Speaker, right now you are basically saying make the firms focus on the Caymanian lawyers for the junior positions. It is good, I agree, but we have to recognise also Mr. Speaker, that we are not producing enough lawyers in the Cayman Islands, through our le-

gal educational training, to fill the current industry requirement. What that means is that if we were to hire every single Caymanian lawyer right now, you [would] still need more lawyers. You heard the Honourable Premier, I think he mentioned the number six hundred and something lawyers, correct?

[Inaudible interjection]

Mr. Kenneth V. Bryan: Nine hundred and something lawyers and we are just not producing them fast enough, so ultimately the firms have to hire outside lawyers. Now, the intention [is]—again, if I am getting this wrong, either the AG or the Premier in his closing arguments or in committee stage can clarify it for me. We were hoping that entry-level could be focused on Caymanians, but the industry has to hire foreign lawyers anyway.

By forcing the industry to hire five-year post qualification experience, what we are forcing the industry to do is get more qualified lawyers to come in and compete with the younger lawyers for partnerships, because one thing I do know about the industry Mr. Speaker, is [that] most lawyers are trying, particularly with corporate services law, trying their best to get to partnership and particularly with lawyers who may have spent five years, let us say for instance in the UK, they are trying to be recruited by a firm here in the Cayman Islands. *"We want you to come down to the Cayman Islands; it is tax-free, the weather is good, blah blah blah, come and work for our firm."*

Now, if a lawyer in the UK already has got five years' experience with a big firm over there, they are already well on their way close to partnership and, Mr. Speaker, if that lawyer then accepts an invitation to the Cayman Islands, chances are they will argue, in their negotiations or recruitment to say, *"Well, how close will I be to partnership?"*

What I think will ultimately happen, by mandating it to be 5PQE Mr. Speaker, is that we are going to invite only the top-notch lawyers and create a glass ceiling for the new lawyers coming in, because most of the lawyers that we bring in from overseas will be closest to partners, and all the partnership locations will probably be [occupied] way before a strong Caymanian lawyer has the chance to get up there and here is what could potentially adversely happen...

[Inaudible interjection]

Mr. Kenneth V. Bryan: It is okay; it is okay. I think the Premier was trying to explain to me some of the circumstances in this. Unfortunately, there is always another side to the story that if you do not examine all factors, you may not fully understand, so by all means I do not profess to be a specialist in this industry, but I do understand human behaviour well enough to know that there could be other factors that may happen as a result of one intent.

Mr. Speaker, what I see happening now is that if you get a 3PQE, in a fresh, new, young, promising lawyer coming up, they are closer in age and experience, not age necessarily, but in experience, to give each other some fair competition to fighting up to those potential opportunities to become partner. If you make the gap so far apart from Caymanian to expat lawyer, which we understand and recognise the industry must have, because we do not produce enough lawyers here in the Cayman Islands, we may create a big gap that will close off the door to partnership in our industry.

Ultimately, what we are trying to do right now, by some of these clauses is actually to secure that partnership; so Mr. Speaker, my assessment could be potentially wrong, but it could be potentially right as well. I just want us to consider that. I know the intention of that section was for good reason, and I know the Government's intention is to protect, but I want to ensure that in trying to protect, we do not do the adverse.

Mr. Speaker, I want to move to the fourth area of concern in respect to this Bill, which is section 66, the Annual compliance certificate, on page 43 and 44. The annual compliance certificate is a very important section of this law. It says in the Bill:

- (1) "A law firm shall, on or before 31st January in each year, deliver to the Board a certificate indicating whether or not the law firm has, during the previous year—**
 - (a) complied with each obligation imposed on the law firm and any affiliate by this Law; and**
 - (b) where the law firm is a recognised legal entity, complied with the criteria to maintain its status as a recognised law entity.**
- (2) If the law firm and any affiliate has not, during the previous year, complied with any of the obligations referred under [sub]section (1), the law firm shall concurrently with the delivery of the annual compliance certificate specify to the Board which obligation has not been met and the action (if any) the law firm and any affiliate has subsequently taken to ensure future compliance with the obligation".**

Mr. Speaker, this annual compliance is a policing mechanism to ensure that the industry stays up to standard, so this section is in there for a very important reason. Every year they get a check to say, "*Listen how you doing? Making sure that you keep the brand "Cayman" and our legal services and financial services industry up to top-notch.*" That is the purpose of some of the clauses in here.

Mr. Speaker, if law firms are obligated to have this compliance certificate every year, you put in mechanisms in place—and I am going to get to this now in clause 66(5)—that we put pressure systems in place to

make sure they comply, and the one force that we have put in place, if they do not comply with this is under clause 66(5), which says: **"If a law firm fails to comply with a requirement of this section each manager of the law firm commits an offence and is liable on summary conviction to a fine of five thousand dollars"**.

Now, Mr. Speaker, when we make laws in this honourable House, sometimes we put in fines that are called deterrent fines; not that we realistically would like to fine someone that large amount of money, but the thought of paying so much money in a fine, is enough to deter them not to do it; and because of the seriousness of the compliance certificate, I think a fine of five thousand dollars is really, really, small.

The reason I say that is, if you think about the legal services industry, you have some lawyers for whom that is a dinner for two out on a special Friday night. My point is, if we seriously want to make sure that the firms keep up that compliance which keeps up the standard of the financial services industry and the legal services industry that supports it, we have to put a more severe deterrent. Therefore, Mr. Speaker, I am putting forward an amendment that suggests that we increase that summary conviction from \$5,000 to \$25,000.

Mr. Speaker, I think that we have to tell the industry that we are serious about protecting the number one pillar of our economy, and the legal services is at the heart of that. As legislators, as parliamentarians, we are working hard to compromise amongst ourselves to find a legal Bill that we can all accept, that will help modernise and regulate; but we also want the industry to know that we are taking this very seriously because, not only do we want to modernise it, but we want to improve the industry. I think that \$5,000 is not sending an adequate enough message as to the seriousness of compliance certificates.

Mr. Speaker, I was going to highlight some of the areas of local education and training but I must admit the Premier's contribution in respect to those sections under Part 9, clauses 67 to 70, gave me some level of comfort, therefore I am not going to refer to that particular section.

Mr. Speaker, in my last concern, I want to bring up clause 99 on page 57. Under Part 12, clause 99 talks about the Regulations, and I would like to add another amendment to this Bill, in respect to adding another [sub]clause to clause 99(3), which would read—and I will explain why afterwards—

(d) No regulation shall be made pursuant to this Law, unless the draft thereof has been laid before Parliament and a resolution approving the draft has been passed by the Parliament.

Now, Mr. Speaker, I am certain that the Cabinet makes decisions on behalf of the country and the best interests of the good people of the Cayman Islands, but in my short term as a legislator and watching politics for a short period of time, I think any Bill of this significance and changes to the regulations, should

come to this honourable House to be approved by the Members of Parliament.

Mr. Speaker, because of the significance and the sensitivity of the topic of the Legal Services Bill, and the seriousness of what I understand to be in the proposed regulations, which cover most of the regulatory framework to ensure that Caymanians have a path in the industry of legal services, I would hate to know that it is merely subject to Cabinet meetings.

[Inaudible interjection]

Mr. Kenneth V. Bryan: Mr. Speaker, the Honourable Premier said that I thought that I wanted to be a Minister and he is correct, I do intend to hopefully, one day, become a Minister—it is a goal; but any government that I am a part of, within a Cabinet, what we do within the Cabinet, we should be confident enough to be able to come here to this honourable House, and convince our other colleagues and Members of Parliament (MPs) that the changes that we are suggesting are justified, and in the best interest of the people.

The reason for that is, Mr. Speaker, there is a level of transparency that is presented that people do not feel overly sensitive about—particularly, Mr. Speaker, I do not think the Premier is aware but I have been able to get access to the draft regulations, and I know they have not been circulated but I am surprised by them, and after reading them I see their significance in respect to this Bill.

Mr. Speaker, in those regulations, I recall that most of it is the stage where you have the regulations that monitor, and police, and force, law firms to make sure that the pathway for Caymanian lawyers is being done properly. Mr. Speaker, I don't think anyone would disagree that Cabinet is done in secret; we trust our Cabinet Members, but it is still done in secret. I believe the topic of Caymanian success in the legal services industry, considering the contentious topic—as we saw even today, the Premier spoke about how many persons were downgrading the Bill on the local airwaves.

That is because there is still much sensitivity to it and because of the nature of this one industry being the top pillar, and earner, and probably one of the most successful jobs in the Cayman Islands industry, in our economy, I think that anything that makes any changes to that, to ensure Caymanian success in that industry, must be done in the sunlight of the people.

For example Mr. Speaker, we recently had a Bill that came to this honourable House, where the regulations had to be approved to increase the height of buildings. Now, the reason those regulations have to be approved by this House is because the topic is that sensitive, that the legislators and the parliamentarians of that day, thought, *"You know what, you do not want that it to be in the hands of the Cabinet only, to make those regulations."*

Mr. Speaker, I find the seriousness of that to be just as serious in respect to the pathway of Caymanian

lawyers in the industry of legal services, so I am suggesting an amendment, and I hope that it may be considered or disputed with some strong arguments that I cannot disagree [with] at the very least, because I find it that important.

I personally think, Mr. Speaker, that this Bill should have had the regulations accompanying it when it came to the House because the truth is: only half of the vision and the goal of the Premier and his Cabinet is in here—I would not want to say half, I would say it is not completed.

The ultimate transformation of the industry and modernising it, the other part of it is within the regulations, and the people may not even truly understand what the Government's goal and vision is for the protection of Caymanians' pathway to becoming strong partners and owners of the legal services industry because most of that, those signs and speedways of that map, are in the regulations for them to identify it.

I am of the view that the Government may have disenfranchised themselves by not presenting the strong arguments that are in those draft regulations which I had the opportunity to read, because they would have been able to see the Government's intent of protecting young Caymanians and new attorneys who want to be in the legal services industry.

Mr. Speaker, in closing, I want to just say congratulations to the Government for bringing this Bill. The reason I say that is because we know that we are some five months away from the Election, and to make the decision to bring a Bill that I recall almost took down the last administration—so much so that the Bill had to be withdrawn and created so much conflict—that the Government was willing to take the important, yet risky move, of bringing a Bill to the House right before the Election, it shows a commitment—at least to this topic—in respect to an industry that is so important to the Cayman Islands. Thus, I want to congratulate them for that.

Also, if there are going to be discussions about many of the suggestions made by the other Members of Opposition when they give their contribution—and though I understand that the Leader of the Opposition has covered most of the concerns on behalf of the Opposition—that we can have a productive discussion and find compromise, because it is true, the Premier is right. This is a very, very, important Bill to our future, and if we do not get this done right, this could be the reason why we could end up on a blacklist. This one law, and it is time for us to figure this out for the industry that provides most of our income; the funds that we use to educate our children, the funds that we use to feed our seniors, the industry that creates professional career opportunities—it is our job to protect it, and it is vulnerable in its current state; so I want to say to us all: Let us find a solution.

I congratulate the Government for bringing this Bill, and I look forward to, with amendments, giving my full support so our industry stands strong as it always

has since the creation of this industry in our past—Caymanians who had the vision and the dream to create the industry that we now depend on as Caymanians.

Mr. Speaker, those are my contributions, and I thank you for the time.

The Speaker: Does any other Member wish to speak? *[Pause]* Does another Member wish to speak? *[Pause]* If not I will call on—

[Crosstalk]

The Speaker: The Deputy Leader of the Opposition, the Member for Newlands.

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition, Elected Member for Newlands: Thank you, Mr. Speaker. I, too, want to give a hopefully short contribution to the debate on the Legal Services Bill, 2020.

Mr. Speaker, both the Honourable Leader of the Opposition and the Honourable Premier gave some background and history not just on this Bill but the issue, and it is quite a lengthy background. I think it started long before most of us in here thought about going into politics, but this has been hanging over this country for quite some time and I have been around long enough to have witnessed some of the back and forth and the battles that have been waged around this legislation or earlier versions of it.

[Crosstalk]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: I became more heavily involved in it last term Mr. Speaker—my first term in this honourable Parliament—when the Government's former Minister for Financial Services, Minister Panton, actually managed to bring a Bill for debate.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Mr. Speaker, as we heard, that Bill was withdrawn after debate and there were quite a number of revelations that took place during that debate; I remember it being quite heated, quite emotional.

One of the things that shocked me was coming to learn that, unlike this one, the Bill had not been drafted by the Honourable Attorney General's legal drafting team, but had in fact been sent here by individuals outside of this honourable Parliament. Mr. Speaker, what I saw unfold when that information became known, was that even Members on the Government side became very concerned and, despite a moment of negotiation and reconciliation, the Bill still had to be withdrawn.

Mr. Speaker, that Bill was rejected not only by the Caymanian lawyers in the small and large firms, but

was also rejected by this Parliament—Legislative Assembly, back then.

I think the critical concern was that everyone started to realise that it would have devastated many of the young Caymanians who we are advocating for tonight in the legal industry. I think it would have severely hampered their ability to progress in their chosen careers, and it would have actually placed the control of our legal industry directly into the hands of a few large players, while not taking into consideration the concerns of the smaller players in the industry.

Therefore, Mr. Speaker, it was no surprise that attempt failed, but I am heartened tonight to understand that we do not have to deal with that sort of situation now. We have a Bill before us that, whilst the Honourable Premier said is not perfect, it is something we can work with and that is an excellent start considering the history of this Bill. I do not think any of us will be accused by anyone of being compromised or conflicted in whatever position we take on this Bill.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: I will just continue my debate, Mr. Speaker. I will not offer my opinion, although I have privilege here and I could but... I am a nice guy.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Mr. Speaker, none of us would want to be accused of that. We are honourable Members in this Parliament and that is a serious thing to accuse a Member of but as I said, I have never witnessed anything like what unfolded then before, and I hope to never witness it again.

Mr. Speaker, in my opinion, the root of the controversy over getting this legislation through is the result of years and years of mistrust between several factions: the Caymanian lawyers, the non-Caymanian lawyers, the large firms and the smaller firms and mixed into much of that debate have been concerns about labour issues, immigration issues, and social issues, and I am concerned that we have set an expectation that this legislation can solve all of those problems and it cannot. This legislation is focused on the regulating of the practice of Cayman Islands law.

I do not think it is designed specifically to fix those wider issues that have derailed the process for so long. I think what we have to do Mr. Speaker, is to try and remove some of those emotive issues from our thoughts right now, and focus more on what the intent of this legislation is if we are to be successful, because no one piece of legislation will fix those issues—and they are real issues and real concerns, Mr. Speaker. I work in the legal industry [and] I have many friends and family who work in the legal industry, so I know what those concerns are.

However, we cannot, to use the cliché Mr. Speaker, *throw out the baby with the bath water*; and we cannot paint everyone with the same brush either, and we cannot continue to punish the players in the industry today for the sins that were committed in the past. We cannot ignore those sins Mr. Speaker, and we have to learn from them, but the quandary that we found ourselves in last term: one side of the argument wanted truth and reconciliation, and the other side wanted to pass the legislation so that they could further their business interests and get on with their financial success. Both sides had something to prove.

This leads me to where we are today as a Parliament, where we are now faced and have to accept our responsibility in this issue, and I talked about this [during the] last Meeting of this Parliament when I talked about advancing our Constitution, and I addressed the newer Members of this honourable House, when I said that we have to now step up and raise the game and live up to the title “MP”.

That means putting aside all of those negative emotions and memories Mr. Speaker, and looking at this legislation with a fresh pair of eyes, a fresh vision, and a fresh understanding of what we are trying to do, because this Bill can go one of two ways, and I have seen it here before with the exact attempt to pass legislation. We can end up going to war over it, and likely abandon it, or Mr. Speaker, we can work together as a Parliament in the best interests of the, I think, almost 5,000 people who are employed in this industry, bearing in mind Mr. Speaker that this industry, the financial services, contributes 30 per cent of our gross domestic product (GDP).

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Yes, sorry. I am being reminded [that] it is more than that. Yeah, yeah.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Quite a bit more, Mr. Speaker.

Mr. Speaker, we can refuse to compromise and just leave this issue hanging here for another administration to come in and try to find a way to get it through, or we can be responsible Members of Parliament and work together now to get this done. My position is that we have to pass something; we have to get this legislation passed. The threat to our financial services, the threat to many, many, Caymanians' jobs, livelihood, the threat to our economy, is too great and I think for the first time, we are in a position where, while the legislation is not perfect, we can get it as close as possible to where it needs to be through compromise and working together.

Thus my suggestion Mr. Speaker, is that we take the same position we took the other day with the

Defence Bill. We find a way to get it through together, because there is too much at stake and too much to lose; especially now, when this country's economy is under threat from COVID. We are hopeful, but we do not know when the world will pull out of this pandemic and get back to normal, and until then, we are relying primarily on financial services to keep this economy going. Construction and other industries but primarily, financial services. Tourism right now has to wait and there is nothing much we can do about that. We can be creative with ways of getting tourism back, but it will not be where it was before for quite some time.

This is the gravity of the situation we are in now, Mr. Speaker, and I am sure there are going to be other threats. We were talking earlier about [how] some of us just cannot wait to see the back of 2020, but you have to remember 2021 is right around the corner and we do not know what is in store for us, so we cannot be complacent and assume anything. There are other threats looming that we are going to have to deal with as well, so let us not begin 2021 by making life harder for ourselves, because we still have our jobs to do as Members of Parliament.

Mr. Speaker, I could continue to talk about the issues that we encountered in the past, but there is no future in the past and I do not think it would be helpful for me to continue down that line, so I will say this though: I have heard some commentary that there are still little pockets of resistance out there to us getting something done, and I remind all honourable Members that Parliament is the supreme law-making body in this country so, as long as we understand what we are doing is in the best interest of the country, no one can interfere with us doing what we have to do.

I hate to take that approach but when you have a job to do you have to be direct and you have to get it done, you are not going to please everyone. We will be sensitive to the concerns that have been raised; clearly, many of those have been raised already tonight so I will not rehash them.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: However, I would like to see cooperation now across the board, Mr. Speaker. I really want to see cooperation between the foreign persons in this country and the Caymanians; the small firms and the large firms; CILPA, ALPA, whatever bodies are out there, because as I just referred to, we have to get this done now. More harm will come from delaying than from moving forward, and as I said, if we cannot get cooperation, we are going to have to do what we know is the best thing to do.

I think it is time for us to show the political maturity that comes with being Members of Parliament, Mr. Speaker. We will never fix the sins of the past. We will not forget about them, but we can ensure that those

sins are not visited on us again and that is the approach I am suggesting.

Mr. Speaker, there are issues that have come up in relation to the regulation of the practice of Cayman Islands law that are still hanging over us, the primary one was the oversight authority—what the composition of that would be, what its functions would be. Those have been highlighted again tonight and of course, the practice of Cayman Islands law overseas, which has always been a contentious, controversial issue.

Mr. Speaker, after having worked in the legal industry for over 10 years, I saw what the creation of overseas offices did for the firm that I worked for. When I started there, that firm had one office in the Cayman Islands. I was the IT Manager at the time and I was part of the senior management team—actually the Minister of Commerce's sister was part of that team with me—and our job was to open foreign offices. It was one of her main responsibilities, and we did that rapidly; when the Singapore office was to open I think it was a three-month deadline I was given, from the first conversation to opening the doors. That is how rapidly these things had to evolve.

During that time, that firm grew exponentially. The number of Caymanians who were employed there increased tremendously. I was the only employee in the IT department when I started, and when I left there were upwards of, I would say about 15 to 16 Caymanians. That is an example of how this industry has helped Caymanians; and these were IT individuals who got training, got education, got advanced. Many of them are still there.

The foreign offices, Mr. Speaker serve as a conduit for work coming into this country, into the law firms here. The impetus for opening a foreign office was not just to say that you have an office in Hong Kong or wherever, but things like the time difference and the demands of the legal clients, because they are very demanding. If you are not there to answer the phone when it is daytime for them, they are going to find a provider who will.

They also want face-to-face contact. In some cultures, like Hong Kong, you have to sit down, have dinner, meet and greet and wine and dine to win the business. You have to go and sell your business; you cannot do that over the phone, you cannot rely on a marketing company to do that for you. That is what lawyers have to do face-to-face when they go on those trips.

Now, one of the issues that surrounded that—the Member for Bodden Town West described lawyers as hunters, and they are—is that in the past Caymanians did not get opportunities to go and market, and build their business, which led to some of the contention and the animosity that built up, because the Caymanians in the industry felt like they were being overlooked for those opportunities, which in some cases it was true.

However, the work that starts to flow back here from those foreign offices Mr. Speaker, is what causes the rapid growth and the explosion in these firms and we have witnessed it in the past 20 years. We have seen them explode, so I have been sold on the idea of why you need foreign offices, but I do have concerns that we have not made attempts to regulate those lawyers working overseas and to be able to say who they are, what they are doing, and be able to hand in heart say we have control of this industry, so that is another threat that we need to address here tonight.

Another area of concern Mr. Speaker, has been the education and training of our local law students. In the past, many felt that they were overlooked for getting placements and getting articles [of clerkship]. That has improved; off the top of my head I cannot think of too many Caymanian law students who have the requisite qualifications and grades who do not get grabbed up, and quite often in the newspaper I see young Caymanians being called to the Bar, getting employment opportunities, being advanced. I even know quite a few who have now gone on secondment overseas to other firms, or the foreign offices of the Cayman firms.

There are opportunities now being given to our young people, and I think there has been a shift in attitude, generally. The industry is not perfect, there are still those who do not play by the rules and want to create their own, but you are going to find that in any industry, just about any industry. The legal industry is particularly aggressive, and not having a proper piece of legislation in place to control the behaviours in those firms is what has created that environment, in my opinion.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Mr. Speaker, one area that I hope that someone on the Government side will address is the legal aid concern where there are still not many firms willing to take on legal aid cases. I am not sure if the intent was to address that through regulations or how we are going to address that, but I am concerned about the administration of justice and the availability of justice for many people, and I know that there are smaller firms who take on legal aid cases, I think, as a show of good faith. I know one firm had a legal aid office; it was closed eventually, but it was quite busy. They were dealing with some high-profile cases and it was quite beneficial to this country to have that, so I do not want that issue to be forgotten.

Mr. Speaker, there have also been concerns about outsourcing but there is a difference between working in a foreign office of a law firm, an affiliate office, and outsourcing. What outsourcing involves is sort of giving your back office operations to another outfit, and I have seen examples where American law firms

are using firms in places like India who do not pay their lawyers very much.

These lawyers have been educated and trained and admitted in the United States, then they go back to India and they work for very little money and they turn things around quickly and they do that as an outsourcing model. What the foreign offices are doing with Cayman Islands law is not exactly outsourcing, because they are not doing it just to save some money, they are actually marketing and creating work and opportunities here.

There is a temptation I know. Some firms may say that they could relocate some of their resources elsewhere, to a cheaper jurisdiction, to operate and have the work done there, but I am looking at the ratio that has been introduced and I think at the very least it will, if not stop it, slow it down to the point where we are never going to see everyone up and leave because one-to-one on either side, you are bound to have people here so...

The advancement and promotion of Caymanians in the industry, Mr. Speaker, has always been a concern as well, and I still have concerns about that because as I said, I cannot think of too many Caymanian equity partners in the industry; but I do know quite a few salaried partners and I do know quite a few people who are on the brink of moving into that partnership.

Again, attitudes have changed, opportunities have come about, and I have spent time speaking to individuals in the industry—Caymanians born and bred—and their attitude has been they have agreed with the positions we have taken on this side, especially last term, and considering what that Bill would have done. However, having looked at this one, Mr. Speaker, people are much less concerned about the legislation and are tending to agree—*let's get something done*.

They have also taken the time to point out areas that we could address and improve, so I am encouraged by that. I am very encouraged because the representation we got before—and there were people who did not speak publicly but spoke to us quietly, who would shock you. That is why we decided to put up such a strong resistance last time, because of the representation we got and we were convinced that what we were doing was the right thing.

Mr. Speaker, I could continue to talk about issues but I want to be constructive tonight and not take too much time, but I do have a spreadsheet that I created that I actually went through as I read the Bill and I made some notes and suggestions and it raised some questions as well, and what I will do then is just step through each of these one by one.

As I said, the Honourable Leader of the Opposition covered many of the issues that I do not need to rehash, so I can actually go into these fairly quickly. Clause 4 on the constitution of the Board, I have similar concerns, as have been raised, with having the Chief Justice and the Honourable Attorney General on the

Board. The first thing that came to my mind was, what if someone takes legal action against the Board? How does that affect things, especially in this era of judicial review, because we have seen quite a few of those raised in the courts recently.

I am also a bit concerned Mr. Speaker, about the appointment of non-practising attorneys and not having practising attorneys—and I understand why that was done; because, as I understand it, neither of the legal associations would agree to the other being on the Board, and so the decision was made to not put any. However, the absence of practising attorneys means that the board is distanced from the day-to-day, ins and outs of the industry.

That is a concern because when you are a bit removed, you will not be on top of the issues and able to respond to them as quickly as a practising attorney would. It distances the board from the industry a little bit, which concerned me.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: When I did some research I noticed that in Gibraltar the Chief Justice is not on the Board but makes appointments, so there are different configurations that could be considered. The appeal court being what I would say [is] first instance for appeals against the Board's decisions may alleviate some of that concern, because it is going to the appeal court but, again, I do not think it is ideal.

The functions of the Board, Mr. Speaker: Clause 5(2) and (3) allow the Board to be advised by committees made up of members and non-members, and then Cabinet can approve for the board to delegate its functions to a committee. To me, this is the equivalent of giving the Board the ability to appoint new board members without Cabinet being involved in the selection of those individuals.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: I think this may undermine the balance that we are trying to achieve, Mr. Speaker.

[Pause]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: For example Mr. Speaker, where the Leader of the Opposition has a member appointed, allowing this delegation would kind of override that individual, if you have the board appointing a committee and delegating functions to it. I think it should be cleaner than that. I know this results from the dispute between the two legal associations, but I do not want to endorse a situation where the Board can actually create new board members without them going through the Cabinet process.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Well, Cabinet can agree that they can delegate to a committee, but the Board will then decide.

[Pause]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: What I would prefer to see is that the Cabinet is appointing membership, rather than just delegating to a committee that the board members select; but it is what it is now. Hopefully we can find a solution to it.

Again, Mr. Speaker—

[Crosstalk and laughter]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Clause 9 - Acting appointments. I think there needs to be a sub clause added which says that the acting appointment will terminate, because these appointments are made when a member of the board is conflicted and cannot be involved in a situation. Thus, I think there needs to be a clause added that such appointment will terminate immediately upon the conclusion of the matter for which the appointment was made, just to make it very clear that it is temporary and it ends as abruptly as it began.

Clause 10 - Resignation. I think there needs to be some additional wording to say that the resignation takes effect when the letter is received by the Chief Justice and is ratified by the Board, rather than just the Chief Justice receiving the letter and that is it.

Mr. Speaker, clause 12 - Vacancy. I think 12(2) needs some clarity as well. It says, “**The Chief Justice may make an appointment in anticipation of a vacancy arising.**” I think clarity is needed as to under what circumstances will the Chief Justice make an appointment in anticipation of a vacancy. My question is: Does this override the appointment that the Premier or the Leader of the Opposition would be making.

Mr. Speaker, clause 13 - Gazetting appointed members. I think it also needs to include acting appointments; it does not mention them.

Meetings - [clause] 15 and 15(2). I think there is a typo in that line. It says, “**The Chief Justice, in the absence of the Chief Justice, the Attorney General, shall preside at a meeting of the Board.**” I think there is something funny about the wording there.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: It says the Chief Justice, in the absence of the Chief Justice... I do not know, maybe you can explain it for me.

Clause 28 - Ability to practise Cayman Islands law or establish as a law firm. My question here is: Should we consider a ratio of Caymanian partners

based on the number of practising attorneys, and caveat that with the ability to be exempted if they can demonstrate why this ratio cannot be achieved.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Yeah. I still have an issue with the number of Caymanian partners versus non-Caymanian partners.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Well, yes, the number of shares they hold does matter as well. You could have one Caymanian partner with a sizable share in the firm and that would fix that, but I am uncomfortable with requiring just one because, as we have seen in practice, it is never that the one Caymanian will get the majority of the share. I am concerned [that] there is no mechanism to control that as well.

Clause 30 - Personal qualification required for admission says:

“To be admitted as an attorney-at-law, a person shall —

- (a) be a Caymanian;**
- (b) hold a work permit or a Residency and Employment Rights Certificate or otherwise be entitled under the Immigration (Transition) Law, 2018 to reside and work in the Islands as an attorney-at-law in the capacity in which the person is or is to be employed;**
- (c) be employed by the Government; or**
- (d) be ordinarily resident in another jurisdiction and be a partner, director, member, employee, associate or consultant of a law firm or an affiliate of a law firm.”**

The way I read it, 30(d) just seems to be kind of a catch-all, because it even says employee. I do not know—I am just not that comfortable with it being so wide. I do not think it is necessary for the requirements to go from partner, director, member, employee, associate—especially the word employee. Maybe that could be removed.

[Clause] 31 - Additional personal qualifications, says:

“To be admitted as an attorney-at-law, a person shall satisfy a judge that the person —

- (a) is not an undischarged bankrupt;**
- (b) has not engaged in conduct that would constitute an act of professional misconduct under this Law; and**
- (c) is not disbarred for professional misconduct from practising law in another jurisdiction.”**

In (c), I would suggest we add, “is not disbarred or involved in proceedings for professional misconduct” because, what happens if you accept someone who is in the middle of proceedings that you are not aware of and later on they are found to be guilty of professional misconduct in another jurisdiction? Then you have accepted someone and exposed yourself. I think that could be clarified.

[Clause] 33 - Post-foreign qualification experience requirement, is one of the areas there has been much concern about, Mr. Speaker. I think the five-year PQE is a massive achievement, as this was an area where there was significant pushback formerly, and I fully support this.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Sorry?

[Pause]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: I fully support this because it actually gives Caymanians time to enter the industry, establish themselves and grow. It is also forcing the firms to develop them over time because it will not be easy to entice a five-year PQE lawyer to come here from another jurisdiction, as they would already be established in the jurisdiction they are in, so I think taking that approach will make it better for Caymanians.

I [also] think the firms will spend more time investing in the Caymanian lawyers rather than waiting for a five-year PQE lawyer to come along; I do not think they come along that often. If they are worth their salt, they will be seriously established in their home jurisdiction and probably not that willing to move unless they're coming for a lot of money, but generally...

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Another concern I had was, in jurisdictions where the required period of articles [of clerkship] is shorter than ours, some sort of balancing mechanism [should] be put in place so that, for example, if your articles [of clerkship] were not—

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Yeah; so if it was less than 18 months in their jurisdiction, then maybe the PQE goes up for those individuals—just so it is fair [for] the Caymanian lawyers who have to do 18 months. If someone is coming here from a jurisdiction but they did not have to do 18 months...

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Yeah; but true, true. Yeah, I guess on the other side the Caymanians do not have to; but just to keep the standards at a level where we are comfortable.

Mr. Speaker, [clause] 37 - Requirements to comply with obligations and to observe the Code of [Professional] Conduct. I had some difficulty with this one because 37(4) requires an attorney or law entity to observe the Code of [Professional] Conduct, but 37(5) sort of eliminates necessity for not observing it. [Clause] 37(4) says, “**An attorney-at-law or a recognised law entity shall observe the Code of Professional Conduct issued under subsection (3)**” but (5) says, “**Notwithstanding subsection (1) and (4), a failure to comply with subsection (4) does not amount to professional misconduct—**”

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Sorry?

[Pause]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: I raised that one because it seemed to be—

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Okay; so some changes will come. Okay, thank you.

[Clause] 43 - Removal of name from Roll for non-practice. It does not specifically say that they have to be published in the Gazette. I do not know if that was overlooked or...

Application for practising certificate. This is obviously where the one-to-one ratio comes in, Mr. Speaker. I do have some points to make here. [Clause] 50(6) establishes that one-to-one ratio. What I was thinking, [while] looking at this is: I know that there is still some contention and disagreement over the one-to-one but, if we want to promote the advancement of Caymanians into [the local] legal industry, why could we not consider a sort of tiered ratio system where, for example:

- One expat lawyer equals one overseas lawyer;
- One local Caymanian lawyer would equal two overseas lawyers;
- One local Caymanian Articled Clerk [equals] one overseas lawyer;
- One Caymanian law student on scholarship equals two overseas lawyers;
- One Caymanian salary partner could equal three overseas lawyers;
- One Caymanian equity partner, four overseas...

These are just examples I am using to illustrate this. I understand the argument about the share as well, but maybe we have been going about this wrong and an incentive-based system would work better? These are discussions I have had with young lawyers in the industry, who think that maybe such an approach might work better than just giving a strict ratio. I do think the one-to-one will help so I am not condemning that, just trying to think out of the box a little.

There is some concern about back-officing, I know that, as I just went through; but I do not think many of the Cayman firms are operating in an environment where they are going to be looking to back office to cheaper jurisdictions, because of the risk involved. You get what you pay for, so...

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Yes, there could be issues with their insurance, so I do not think that is a main concern.

I know CILPA and others have suggested that to meet this ratio now they will have to look at reorganising and how they meet the ratio—relocating staff and so forth. What I do not want is that Caymanians get lost in that reshuffle to meet the ratio, and that is why I suggested maybe the weighted ratio would give the priority to the Caymanian lawyers.

I also think that 50(2) may need a sub-clause Mr. Speaker, making it clear that there is requirement for a commitment from the law firm. The commitment demonstrated by the law firm and its affiliates to the recruiting, training, promotion, [and] advancement of Caymanians in the firm. I think that is a good place to have that, so that everyone fully understands that this is tied to the issuing of practising certificates—your commitment to the advancement of Caymanian lawyers.

Again, back to the honourable AG's point of the insurance: I believe that the insurance factor is going to keep many firms honest and there has been talk about, *"Well, what if the firms are not forthcoming with who their overseas lawyers are, so they do not get them all to come and get the practising certificates."* Well, they are going to have issues with liability and insurance in the long run, so I do not think many firms want to take that risk at all. It could cost them their business.

Mr. Speaker, [clause] 73 where recognised law entities may take on articulated clerks. I am of the view that rather than saying "may", it should be a requirement based on number of attorneys and practice areas, and I would go a step further to say, even if we had to subsidise this in cases where the demand was high and we had to incentivise firms to take on articulated clerks. I do not want any excuses to come up in the future that, you know, we cannot take on articulated clerks.

[Clause] 75 - Service in legal and judicial department. I just have a question on whether that would account for the entire period of articles [of clerkship].

[Inaudible interjection]

[Pause]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: It just does not specify that [such a] period of articles [of clerkship] would meet the entire requirement.

[Clause] 76(f) - Power of the Board to discharge articles of clerkship. Mr. Speaker, instead of saying **"a fit and proper person"**, I would prefer to see some more specific reasons for being discharged based on character, criminality, et cetera, but I just do not like that term, "fit and proper" because it is so wide. I understand why it is used but, especially discharging of articles of clerkship, I would like to see some more specific language.

I think that there is a typo in 83(3). It reads, **"a person is commits an offence."** I think there is a typo there.

[Clause] 98 - Liability of officers, Mr. Speaker. I think that there needs to be some wording there, some provision for stipulating that the liability for actions that took place prior to this legislation coming into effect, falls squarely on the individual or the firm, no one else.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Prior to; because you never know what may be uncovered later. We do not want people to think that they have blanket protection now for sins of the past, if you get what I am saying.

[Clause] 99, Mr. Speaker, are the regulations.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: I would like to see the regulations being subject to affirmative resolution by this Parliament. That is my position on it.

Mr. Speaker, those are the technical points that I wanted to raise with regard to this Bill and I do not think I raised anything too controversial that we cannot sort out together when we discuss it. I am glad to see that there is a departure from the thinking of the previous iteration of this Bill that we had to deal with.

I think that generally there needs to be an expectation now that the firms, especially the larger firms, are going to make more of a commitment—it is a final one, to establishing training programs. You know, resources available, for training of Caymanian lawyers, and I know it is difficult to put things like that in legislation, but there needs to be some way it is worded that such is the expectation.

That is why I made the suggestion in one of the previous sections, because I want it made clear to the firms [that]: *"I am cooperating; we all are cooperating,*

working together, but we are doing this for the best interest and the advancement of Caymanians.” That is first and foremost, so I do not want anyone to lose sight of that and take anything for granted here. This is not a show of weakness; it is a show of cooperation.

I have not forgotten the arguments last time we dealt with this issue and I have not forgotten what was said to me, but I am saying, let us draw the line and step over it together and address these issues together. We have to wipe out some of that history. If we do not, we will never progress this legislation. I am willing to start afresh and take a fresh perspective and a fresh look at this, and see if we can get it done.

As I said, my colleagues have already gone through most of the other concerns, Mr. Speaker, and I know that the Leader of the Opposition mentioned a number of amendments that he would like to bring forward. Hopefully between those and the various contributions to this debate we can get to a point where we can all vote for this.

I want to thank you Mr. Speaker, for giving me time and I look forward to the rest of the debate.

The Speaker: Honourable Premier, it is 9pm. What are your plans?

[Inaudible interjection and laughter]

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

[Inaudible interjection and crosstalk]

The Speaker: It is 9pm, Honourable Premier.

ADJOURNMENT

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker. I thank all Members for their contributions and would like now to wind up on the Bill...

Not really, Mr. Speaker.

[Laughter]

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I thank all Members for the good spirit with which we have approached this very serious Bill today, and in light of the fact that some Members would like to make a contribution who are not currently here, in particular the Member for North Side, I believe that I should move the adjournment of this honourable House until 10am tomorrow.

Mr. Speaker, tomorrow is Private Members' Day. There is only one Private Member's Motion and I am hopeful that we will be able to get back onto the debate on this Bill at some point during the day tomorrow.

The Speaker: Thank you very much. Like I said earlier in a message to the House, I know Members—especially Ministers and Cabinet Ministers—have many meetings going on all the time. If we could try to get started as close to 10 o'clock as possible, then we could meet that time frame, Honourable Premier.

The question is that this honourable House do now adjourn until 10am tomorrow.

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

AYES.

The Speaker: The Ayes have it.

This honourable House stands adjourned until 10am tomorrow.

At 9.05pm the House stood adjourned until 10am Thursday, 10th December, 2020.