



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2013/14 SESSION

23 October 2013

*Sixth Sitting of the Third Meeting
(pages 233–312)*

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

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PRESENT WERE:

SPEAKER

Hon. Juliana Y O'Connor-Connolly, JP

MINISTERS OF THE CABINET

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

EX OFFICIO MEMBERS OF THE CABINET

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

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Mr Roy McTaggart, MLA	Second Elected Member for George Town
Mr Winston C Connolly, Jr, MLA	Fifth Elected Member for George Town
Mr Joseph X Hew, MLA	Sixth Elected Member for George Town
Mr Alva H Suckoo, MLA	Fourth Elected Member for Bodden Town

OPPOSITION MEMBERS

Hon. W. McKeever Bush, OBE, JP, MLA	<i>Leader of the Opposition</i> , First Elected Member for West Bay
Mr Bernie A Bush, MLA	Third Elected Member for West Bay
Capt A Eugene Ebanks, JP, MLA	Fourth Elected Member for West Bay

INDEPENDENT MEMBERS

Mr D Ezzard Miller, JP, MLA	Elected Member for North Side
Mr V Arden McLean, JP, MLA	Elected Member for East End

APOLOGIES

Hon Tara A Rivers, MLA	Minister of Education, Employment and Gender Affairs
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**OFFICIAL HANSARD REPORT
THIRD MEETING 2013/14 SESSION
WEDNESDAY
23 OCTOBER 2013
11:58 AM
Sixth Sitting**

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

The Speaker: I will ask the Third Elected Member for West Bay to grace us with Prayers.

PRAYERS

Mr. Bernie A. Bush: Let us pray.

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

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

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

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

The Speaker: Please be seated.
Proceedings are resumed.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

APOLOGY

The Speaker: I have apology from the Minister of Education who is unable to be here this morning with us. She has intimated to the Chair that for medical rea-

sons she cannot be in the Chamber, so an apology has been graciously received on her behalf.

PRESENTATION OF PETITIONS

[Speaker's Ruling]

The Speaker: Before I recognise the honourable Member for North Side, I should wish to draw Members' attention to Standing Order 15(1) and (2), Standing Order 16 and Standing Order 17, which require five clear days to intimate to the House that that has been waived. I have received notation from the Clerk that it is in compliance with Standing Order 16.

With that background, I now invite the Member for North Side.

[pause]

The Speaker: I recognise the Honourable Premier.

The Premier, Hon. Alden McLaughlin: Madam Speaker, I would be grateful if you would translate that for us.

Neither the Business Committee nor the Government has had any notice whatsoever of any petition. The Standing Orders, as I am aware, require five clear days' notice being given to the Clerk of the presentation of petitions, and one would expect that the Business Committee would be made aware of such petition.

We held Business Committee this morning and that was the first point at which we were aware of the existence of a petition. None of us have seen it. And, as I said, as far as I am aware no notice has been given to the Clerk in accordance with the Standing Orders.

The Speaker: Thank you, Premier.

The Chair, in consultation with the relevant Members of the Legislative Assembly, read Standing Orders 15, 16 and 17, and Standing Order 14. And we came to the conclusion that the Petition and Papers would be dealt with in the same manner as Statements that require the approval of the Speaker. Oral intimation, I am reliably informed from my staff, was given last week.

The Petition was submitted this morning. As is the case with motions, under Standing Order 24 (if memory serves me right), the Speaker has a right to waive it in light of the importance of the issue before the House. The Speaker waived the five days' Notice

for the honourable Member, because to not do that would mean that the only time it could be raised would be on the adjournment, which would be after the Bill before the House, and it would be of no significance.

I referred to the Standing Orders so that Members who had the Standing Orders could look at them. But if it is the request of Members for me to read them, I would be more than happy to do that.

The Premier, Hon. Alden McLaughlin: Madam Chair, I had not appreciated that you said you had waived the notice. That was my concern.

The Speaker: Okay. I apologise [Honourable] Premier. I did say that, but thank you for raising it. Are there any other interventions? If not, I will call on the Member for North Side.

PETITION

OBJECTION TO PASSAGE OF THE IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013

Mr. D. Ezzard Miller, Elected Member for North Side: Thank you, Madam Speaker.

In accordance with Standing Order 15, I, Dennison Ezzard Miller, duly elected and sworn Member for the electoral district of North Side, wish to lay the attached Petition addressed to the Honourable Premier and Members of this Legislative Assembly, on the Table of this honourable House.

Madam Speaker, this Petition is signed by more than 800 persons and is requesting that the Premier and Members of this House do not bring forward the Immigration Reform Bill.

The prayer of the Petition reads thus, and I quote: **“To: the Premier and Members of the Legislative Assembly of the Cayman Islands.**

“Whereas the Cayman Islands is a very small country of a total of 100 square miles with limited infrastructure;

“Whereas thousands of Caymanians of varying qualifications are currently unemployed;

“Whereas hundreds of school leavers per annum need to be given the opportunity to find employment in their native country;

“Whereas nine thousand (9,000) Caymanians/ residents are on welfare;

“Whereas Caymanians are outnumbered or soon to be, in their native country, producing feelings of insecurity and tension between themselves and expatriates;

“Whereas Caymanians do NOT wish for a repeat of the 2003 Caymanian status fiasco in which over three thousand (3,000) persons were recklessly and indiscriminately granted Caymanian status. With the addition of the dependents of the status grant holders, the total actual figure

could have been in the vicinity of twelve (12) thousand status grants.

“We the undersigned, petition the Premier and Members of the Legislative Assembly of the Cayman Islands TO REFRAIN from bringing a bill before the Legislative Assembly for the extension of Gainful Occupational Licenses (work permits) from seven (7) years to ten (10) years, allowing applications for Permanent Residency at year eight (8) of their Gainful Occupational License. Maintain the original intent of the Rollover seven (7) year period.”

Madam Speaker, as required by Standing Orders on the Schedule, there is a handwritten copy that reads:

“To the Honourable President and Members of the Legislative Assembly of the Cayman Islands.

“The Petition of the undersigned persons residing in the Cayman Islands respectfully showeth that there are eight hundred (800) plus persons concerned with the provisions of the Immigration Bill.

“Whereof your petitioners pray that your honourable Assembly will refrain from bringing a Bill before the Legislative Assembly for the extension of Gainful Occupational Licenses (work permits) from seven (7) years to ten (10) years, allowing applications for permanent residency at year eight (8) of their Gainful Occupational License. Maintain the original intent of the Rollover seven (7) year period.

“And your petitioners, as in duty bound, will ever pray for Almighty God’s continued blessings on these Beloved Islands.”

Thank you, Madam Speaker.

The Speaker: Did you intend to lay it, honourable Member?

Mr. D. Ezzard Miller: Yes, I am just waiting on the Serjeant to come for it.

The Speaker: So ordered.

Hon. W. McKeever Bush, Leader of the Opposition: Madam Speaker.

The Speaker: I recognise the Honourable Leader of the Opposition.

Hon. W. McKeever Bush, Leader of the Opposition: Madam Speaker, is there more to the Petition than what I have in my hand? I don’t know what you have, but there seems to be something missing from it, from what I have been given.

The Speaker: As I have observed, Honourable Leader of the Opposition, the entire copy of the Petition was just laid on the Table of the House, which now becomes a public document. I believe what has been circulated is the first pages and the letter. If Members wish to have a copy of the eight hundred (800) plus signatures, a request can be done with the staff to make the 18 copies of the entire petition if that is the desire of the House.

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, it is very interesting, but what I am talking about is the Petition itself. From what I have as . . . and all I am trying to do is to make sure that what is laid is what we have been given.

The Speaker: Madam Clerk, can we ask the Serjeant to make complete copies of the entire Petition and circulate them for avoidance of any doubt?

[Inaudible interjection]

The Speaker: Thank you.
Madam Clerk.

PRESENTATION OF PAPERS AND OF REPORTS

REPORT OF THE STANDING FINANCE COMMITTEE ON THE APPROPRIATION (JULY 2013 TO JUNE 2014) BILL, 2013

The Speaker: I recognise the Honourable Minister of Finance.

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

Madam Speaker, I beg to lay on the Table of this honourable House the Report of the Chairman of the Standing Finance Committee on the Appropriation (July 2013 to June 2014) Bill, 2013.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. Marco S. Archer: Thank you, Madam Speaker.

In accordance with Standing Order 64(7), the Standing Finance Committee agreed that I submit to this honourable House the Report of the Committee on the Appropriation Bill.

The Committee first met on Wednesday, 16th October and met again on Thursday, 17th October, Friday, 18th October, and Monday, 21st October, 2013. Additionally, the Committee also met earlier today to review and approve the report that has just been tables.

The Committee met to consider the items shown on the Schedule to the Appropriation Bill. The Committee considered the Schedule to the Bill and agreed to the appropriations requested thereon. Some amendments were made to the operating expenditure items on the Schedule, but the net effect was zero, and, therefore, there was no overall change in the operating expenditures.

Changes were also made to the capital expenditure and equity investments, but, again, the net effect of the change was zero, resulting in no overall change to the total capital expenditure and equity investments. The amendments are detailed in the report that was just laid on the Table.

As the proceedings of the Committee have been broadcasted publicly, there is no need for me to detail further the deliberations of Finance Committee in respect of the Appropriation (July 2013 to June 2014) Bill, 2013.

Madam Speaker, I am pleased to report that a Bill entitled, The Appropriation (July 2013 to June 2014) Bill, 2013, was considered by the Standing Finance Committee and passed with amendments.

Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Minister. The Bill has been duly reported and is set down for its Third Reading.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: I have not received any notice of statements for this sitting.

GOVERNMENT BUSINESS

BILLS

THIRD READING

APPROPRIATION (JULY 2013 TO JUNE 2014) BILL, 2013

The Clerk: The Appropriation July 2013 to June 2014 Bill (2013).

The Speaker: I recognise the Honourable Minister of Finance.

Hon. Marco S. Archer: Thank you, Madam Speaker.

Madam Speaker, I beg to move that the Bill entitled, The Appropriation (July 2013 to June 2014) Bill, 2013, as amended, be given a third reading and passed.

The Speaker: The question is that a Bill shortly entitled, The Appropriation (July 2013 to June 2014) Bill, 2013, be given a third reading and passed. All those in favour, please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: The Appropriation (July 2013 to June 2014) Bill, 2013, was given a third reading and passed.

BILL

FIRST READING

IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013

The Clerk: The Immigration (Amendment) (No. 2) Bill, 2013.

The Speaker: The Bill has been read the first time and is set down for the Second Reading.

SECOND READING

IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013

The Clerk: The Immigration (Amendment) (No. 2) Bill, 2013.

The Speaker: I recognise the Honourable Premier.

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

Madam Speaker, I beg to move the Second Reading of a Bill entitled, A Bill for a law to amend the Immigration Law (2013 Revision) to revise immigration policy as it relates to the term limit permanent residence, key employees, holders of a term limit exemption permit, and specialist caregivers; to improve the appeals process; to extend the powers of the Chief Immigration Officer; and to provide for incidental and connected purposes.

The Speaker: The Bill has been duly moved. Does the Honourable Premier wish to speak thereto?

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

Madam Speaker, as part of the platform of the Progressive team in the run up to the elections in May, we undertook to carry out a study and revision of the Immigration legislation and, specifically, we undertook to address the question of the term limit policy, and to address the issue of key employee status, as

well as to look at the question of permanent residence.

Indeed, Madam Speaker, we concluded well in advance of that campaign that the term limit policy, as it currently operates, needed a new look and needed some revision. I believe that the view we came to, and which was articulated by myself on behalf of the party, as Leader of the Opposition, more than two years ago, was that in its present form the Immigration regime around these issues was creating dissatisfaction, adversely impacting the economic situation in the Island from a business standpoint; and, particularly as it relates to permanent residence, it was not working at all satisfactorily (for reasons which I will go into in some detail).

Madam Speaker, what we did not realise at the time was that the issue of term limit exemption permits was such a difficult situation, and that, in fact, we were facing the expiration of significant numbers of these permits on the 28th of this month (October). And so, very early in the time that we have been in office, we realised that some policy decisions had to be taken and steps would have to be begun immediately if we were going to be able to address that particular issue by legislation, which was what was required.

So, Madam Speaker, on the 16th of July the Government decided that we should appoint a committee to look at the range of issues I have already outlined, with a view to being able to present to this House amending legislation that would deal with this range of issues but in particular would be able to address the issue of the Term Limit Exemption Permits (TLEP) in advance of their expiration on the 28th of October this year. And so, Madam Speaker, that is the reason why we are at this point today and why there has been some urgency about getting this Immigration (Amendment) Bill before the House.

Madam Speaker, I am conscious that section 77(2) of the Constitution requires that, save in a case of emergency, bills presented to this House should be submitted at least 21 days before the start of the Meeting at which they are to be considered. So, that would have meant that this Bill would have had to have been presented to this House 21 days before the start of this Meeting. Madam Speaker, Members have actually had this Bill for 33 days now, but I acknowledge that those 33 days are not 33 days before the start of the Meeting.

Madam Speaker, I have written to you in terms, and have copied that letter to the Clerk. And, because of the seriousness of the matter, I wish to read the text of that letter into the Hansards of this House.

The Speaker: Please proceed Honourable Premier. I will ask the Serjeant to take a copy of mine for circulation to the other honourable Members of the House.

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

Madam Speaker, the letter is dated today, 23rd October. It is addressed to you, as Speaker of the Legislative Assembly, and reads as follows:

“Dear Madam Speaker,

“I write to request that the Immigration (Amendment)(No. 2) Bill, 2013 be considered during this current meeting of the Legislative Assembly as a matter of urgency.

“In July of this year, Cabinet appointed a Committee to review the Immigration Law and made recommendations with respect to a number of key areas: The Term Limit, Key Employee Status, Permanent Residence and Term Limit Exemption Permits. The Committee made its report to Cabinet in August and drafting instructions were issued. Despite best efforts it was not possible to complete the drafting process and the Bill approved by Cabinet and published by 21 days before the start of the current meeting of the house.

“This bill seeks to address a number of converging issues which need to be dealt with by Friday, 25th October. I wish to specifically note that there are over 1,500 persons whose tenure in the Cayman Islands is coming to an end for whom the amendments proposed in this bill provide certainty and clarity for them and their employers.

“There are real impacts on the economy if the status quo is to remain as the country would be facing the unprecedented situation of more than 1,500 persons leaving the jurisdiction virtually at the same time. Given the grave implications both economically and socially of not dealing with this Bill urgently, I am of the view that in accordance with section 77 (2) of the Constitution, these circumstances constitute an emergency and therefore warrant the introduction of the Bill. Although it was not published more than 21 days before the start of this current meeting of the House, nevertheless, members will actually have had sight of the Bill for 33 days when it comes on for debate on Wednesday, 23rd October 2013.

“Your assistance in addressing this matter is greatly appreciated.”

The Letter is signed by myself, Madam Speaker, as the Minister with responsibility for Immigration.

So, Madam Speaker, as I said, I wish to have full disclosure and transparency with respect to the process and to acknowledge the difficulties the Government has faced in getting this Bill to the House today.

Madam Speaker, as I indicated in my opening, the Government is committed to making a number of changes to immigration policy. Whilst some of its broader objectives can only be accomplished in the longer term, the Cabinet agreed to a number of priorities on the 16th of July that are to be given effect by virtue of this amending Bill. These include extending the term limit, abolishing the key employee aspect of

the rollover policy, and addressing issues relating to the impending expiration of the term limit exemption permits.

As a first step towards the longer term goal of abolishing the immigration boards, the Cabinet also agreed to remove limitations contained in the Law presently with respect to the types of work permit application that can be processed administratively by civil servants in the Department of Immigration. Going forward, permanent residence applications will also be processed administratively as well as by the Caymanian Status and Permanent Residency Board.

Madam Speaker, Cabinet also initiated an urgent review of how permanent residence is granted (that is, the point system) with a view to reformulating the criteria so that future permanent residents are selected in line with government's current and future economic cultural and social objectives. The opportunity was also taken to review and address a number of issues relating to the permanent residence provisions in immigration legislation. Again with a view to improving efficiencies, changes are also being made to the way in which appeals are processed.

Madam Speaker, work on this first phase of immigration reform has been completed and there are in the amending Bill a significant number of proposed changes. And that is the Bill which is before the House and which we are considering.

I interject at this point, Madam Speaker, some comments about the Petition which has just been sprung upon us by the Member for North Side. What we have is incomplete in that it purports to contain signatures of some 815 people but the copy that we have only has 7. I gather that there is a fuller document—

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: I gather that there is a copy that has been laid on the Table of the House but Members have not had the opportunity to see that and to determine whether, in fact, there are 815 signatures, whether those signatures are real, or, indeed, to have done any kind of analysis in relation to it.

But acting on the basis that what is said on the front of the Petition is actually the case, the petition prays that the Government refrains from doing two things, and, Madam Speaker, I quote: **“We the undersigned, petition the Premier and Members of the Legislative Assembly of the Cayman Islands TO REFRAIN from bringing a bill before the Legislative Assembly for the extension of Gainful Occupational Licenses (work permits) from seven (7) years to ten (10) years, allowing applications for Permanent Residency at year eight (8) of their Gainful Occupational License. Maintain the original intent of the Rollover seven (7) year period.”**

Madam Speaker, I can say that even though we have just seen that, we are happy to accede to at least part of that prayer, in that we are not proposing to increase the term limit from 7 years to 10 years, but, indeed, to increase it from 7 years to 9 years. The break in stay required of the expiration of the term limit before further work permits may be granted will remain the same as it currently is, which is one year.

Madam Speaker, I should note that in relation to the other aspect of the prayer in the Petition the present Law permits all persons who reach year eight to apply for permanent residence and we are not proposing to change that. What we are proposing to change is to remove the key employee provision by which employers were able to determine who should be allowed to apply for key employee status. And, assuming the board agreed with them, the employer was then in the position of deciding who would qualify to apply for permanent residence, who would be able to stay on here long enough to reach year eight to be able to qualify.

The proposal in the Bill, Madam Speaker, would remove the key employee provision and create a level playing field for all persons who are here on a work permit—whether they are domestic, gardener, chief executive officer, lawyer, accountant, doctor. All will have the opportunity to apply at year eight for permanent residence. And thus, Madam Speaker, it will be the board or the Department of Immigration, in accordance with established and published criteria, that will determine who remains here as permanent residents and not employers dictating who is able to apply, as is presently the case.

Madam Speaker, dealing with permanent residence: Any person who has resided in these Islands for eight years will be allowed to apply for permanent residence providing they do so within one year of becoming eligible after eight years. So, in other words, Madam Speaker, the window of opportunity to apply will be between the end of year eight and the end of year nine. Any person who has already been in the Islands for 9 years when the law comes into effect will have 90 days in which to apply for permanent residence. And they will be allowed to continue working until that application is decided, including any subsequent appeal.

In order to approve processing times the Chief Immigration Officer and persons designated by her will be authorised to process applications for permanent residence.

Current holders of a term limit exemption permit, a certificate of specialist caregivers, and holders of a work permit granted on the basis of being married to a person whose term limit has not yet expired, or whose spouse is a government employee, will also be able to apply for permanent residence. This will reverse the current position where time spent on the Islands under one of those categories does not count toward the eight-year eligibility requirement.

Madam Speaker, there has been much talk around about the non-payment of permanent residency fees. As has been said more than once, at one point government was owed as much as \$4 million. That number has been reduced to some \$2.8 million at this point. Because the present legislation, while it requires the payment of fees, the legal advice we have is that it contains no provision which allows for the enforcement of that provision, and that outstanding fees would have to be recovered as a civil debt rather than by any enforcement process under the Immigration Law.

Madam Speaker, to address this problem of permanent residence fees not being paid on time or at all, it will now be required that all fees must be paid at the time of making the application for permanent residence. This includes the application fee, the issue fee, fees in respect of dependents and the annual fee with respect to the first year. So, essentially the application process for permanent residence is being put on the same basis as it is for work permits at this stage.

For those who may not quite appreciate the fees that are required for permanent residence, in addition to the application fee—which we are increasing from its current number (which I think is \$250 or \$300 to a \$1,000)—what is required is a fee equivalent to what would be paid if the person were being granted a work permit for that particular occupation.

Madam Speaker, permanent residence allows the holder to work in a specified occupation. So they just can't decide that they are going to change occupations having been granted permanent residence; not without the permission of the board. But it does not limit the holder to a specific employer. What is going to be required now is that they will have to pay the application fee of \$1,000. If the work permit fee for that job would have been \$6,000 they would have to pay that \$6,000 as well. And they would have to pay an issue fee and fees with respect to dependents if they have them.

We have had no end of issues with the whole permanent residence regime. And what has happened and continues to happen is that people apply for and are granted permanent residence and they pay the application fee. In some instances we never see or hear from them again until they reach year 15 when they are able to apply for Caymanian status. So, they ignore with impunity the requirement to pay these fees.

What is being proposed in the Bill is that permanent residents will be required to submit an annual declaration with respect to their investments, employment and other factors. And failure to comply with this requirement will be an offence.

Madam Speaker, if a permanent resident is selling property that was listed in his or her permanent residence application for the purpose of buying an alternative property, he or she will be required to complete that purchase within 180 days and he or she

must notify the board or the Chief Immigration Officer of the details of that new property. While that may seem a bit stringent, if the basis for the application . . . as we will see as I go through a bit more, part of the basis of a successful application for permanent residence is that you have had to make a substantial investment in these Islands by purchasing real property or purchasing shares in a local company.

We have become aware (or I should say that the Department has become aware) of many instances where property is purchased—ostensibly for the purpose of supporting an application for permanent residence—and then once the permanent residence is granted it is swiftly sold. And so the conditions which are attached to the permanent residence remain and by insisting, through legislation now, that each permanent resident has to file an annual return, the Department will be better able to monitor how well permanent residents are continuing to comply with the requirements or the conditions on which the permanent residence has actually been granted, or the considerations which were taken into account when the permanent residence was actually granted.

Madam Speaker, we know of instances where permanent residence has been granted and, in some extreme cases, an application has been made to the Department of Children and Family Services for financial assistance to pay for the permanent residence grant.

We have to address the situation, Madam Speaker, in that any person who is going to become a part of a permanent population must have the means to look after themselves and their dependents. Our social service system cannot bear any more strain as it relates to looking after those who do not have the wherewithal to look after themselves. And if we are going to grant somebody the ability to stay here and become part of the permanent population, move on to ultimately to obtain Caymanian status down the road, they must be able to demonstrate to the board or the Immigration Officer that they have the means to look after themselves.

Another change being proposed, Madam Speaker, is that a permanent resident must also inform the board or the Chief Immigration Officer if there is any change to his employment circumstances; for example, that he has been employed by a new employer or has been terminated, promoted, demoted or re-designated. And failure to comply with this requirement is an offence.

Madam Speaker, the right of a dependent child of a permanent resident to reside in the Islands will now cease at the age of 18 years, unless the parent applies to have the residency and employment right certificate varied to reflect the fact that the child is in fulltime tertiary education. It will also be an offence if a residence and employment right certificate has been varied but the dependent child is not in fact pursuing fulltime tertiary education.

The point of this, Madam Speaker, is to ensure that anyone who is here over the age of majority is either in fulltime tertiary education or is working. And so if the dependent child is to remain in the Cayman Islands, he or she must either be going to school or obtain a work permit to work in these Islands. We want to avoid, as far as possible, creating the environment for our young people, in particular, to remain idle in the Cayman Islands.

New grounds for the revocation of permanent residence is being introduced where the holder is delinquent in respect to payment of its annual fee, is working in an occupation that is not authorised in his certificate or fails to make the required annual declaration. The point of this, Madam Speaker, is not just with respect to applications to come under the new legislation, but with respect to those amounts that remain outstanding.

This Bill will give to the board the ability to consider whether or not the circumstances surrounding the non-payment of the required fees are a proper basis on which to revoke the permanent residence. So, it is not an automatic thing. But it does give the board the ability to take into account the fact that someone has not paid their annual fee or is working in an occupation not authorised (in other words, in breach of the conditions), or fails to make the annual declaration, whether the circumstances that have given rise to those breaches are such that the board should proceed to revoke the permanent residence.

Madam Speaker, persons who have applied for permanent residence will no longer be able to work by operation of law in the period between making the application and its determination, or the outcome of the subsequent appeal to the Immigration Appeals Tribunal. Instead, the person will have to apply to the Chief Immigration Officer for permission to continue working. This change of process will allow for the permission to be varied during this period if necessary to reflect a change in circumstance with respect to the applicant (for example, the need to add or remove a dependent).

Madam Speaker, the permanent residence point system, as I alluded to before, is being significantly altered. The permanent residence point system has been reformulated to ensure that future permanent residents are selected in line with government's current and future economic social and cultural objectives. The new system is more comprehensive but will also be much more transparent to the extent, even, Madam Speaker, that perspective applicants will be able to self-assess a likelihood of success using an online platform.

The aim is to create a much more objective system. If you meet the criteria, you are able yourself to assess how many points you would get for each aspect or each requirement. This ought to discourage persons who have really no chance at all of succeeding on an application of going to the trouble and

spending the money to make the application. But it will also allow persons who wish to become permanent residents down the road to be able to work towards meeting the criteria in the point system because they will know in advance how many points are necessary.

There will be 110 points necessary to obtain permanent residence. They will know how much they have to do in terms of financial investment in Cayman in terms the kind of income they need, in terms of community involvement and social investment and the range of considerations which the point system establishes.

Madam Speaker, the spouse of a Caymanian will no longer receive 40 points in the point system, which is the current case. The rationale for that is this: A person married to a Caymanian automatically has the right to live and work here. There is no fee attached. They simply put in the application for a residence and employment rights certificate based on their marriage to a Caymanian. And so they do not need to go through a process of obtaining points on a point system to qualify for permanent residence.

But, Madam Speaker, if that person (as is the case sometimes) decides that they would like to have permanent residence in their own right, not dependent upon marriage to a Caymanian, then that is well and good. But what the legislation is saying is that if you want permanent residence on your own accord as your own right, then you cannot rely on your marriage to a Caymanian to assist in obtaining it.

The other significant change here, Madam Speaker, is that the current point system creates the presumption that Cuban Nationals will all be granted permanent residence automatically, because it confers on Cuban nationals 100 points just by virtue of their being Cuban.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: No!

Madam Speaker, that is being changed. The current additional points for a class of Cuban nationals who were given permission to live and work in the Islands in the 1990s on the basis of a close Caymanian family connection is being discontinued in 180 days from the date that the new permanent residence point system comes into effect. Such persons will now have to apply for permanent residency during this period if they wish to avail themselves of these additional points.

Another significant change is one with respect to the final non-renewable work permits. The ability to have a final non-renewable work permit for one year after the refusal of a permanent residence application or subsequent appeal is being abolished. Persons will instead be given a period of 90 days in which to wrap up their affairs prior to departure.

Madam Speaker, Term Limit Exemption Permits [TLEP]: No new term limit exemption permits will

be issued after the 28th October 2013. I think I should say something about how this whole situation with the notorious TLEPs came about. In October 2011 the former administration but one—not the administration of which you were Premier, Madam Speaker, I'm making that distinction—brought to the House an Immigration Amendment Bill which sought to exempt from the term limit certain categories of work permit holders who were coming up to their seven-year term limit and who were not key employees. It created a Term Limit Exemption Permit which extended until the 28th October 2013.

Now, Madam Speaker, we all knew that as it was very public. At the time the then Premier (who is now the Leader of the Opposition and who presented the Bill) explained that there were some 500 persons, I believe, who were coming up to their seven-year term limit and would be rolled out of the system. He said that the state of the economy was fragile (he was right about that) and the prospect of this number of people actually leaving the jurisdiction all at once would have adverse economic effects. Now I think we all understood that. I expressed concern then about the creation of this, what I call a legal fiction, that the additional time spent beyond seven years would not constitute legal and ordinary residence for the purposes of the immigration legislation, specifically as it related to the qualification for permanent residence.

What I did not appreciate then, Madam Speaker, was that this was an ongoing provision. And to my surprise, when we took office we learned that over the time between October 2011 and July, when we saw this, that that number had actually risen from 500-plus to 1,500-plus because Term Limit Exemption Permits continued to be granted as more and more people came up to their seven-year term limit. And so we are faced, Madam Speaker, with, I believe, the number being somewhere around 1,530 plus about 40 dependents, all of whose term limits expire on the 28th October 2013.

I have struggled to understand why we would set up a system where so many people would have their work permits expire on the same day. The explanation which I have gotten (the explanation of sorts) is that this was predicated on the basis that the whole issue of term limits was to be revisited by new legislation. There was a Time Limit Review Committee appointed and they sat and considered the matter for well over a year and have produced a very careful detailed report which runs to some 125 pages, and which, frankly, recommends pretty much what is proposed in this amending Bill, although there really was not any collaboration between us in the Opposition and Term Limit Review Committee. But we came, through separate processes, to the same conclusion in most instances. So that is why we are where we are with the TLEPs.

The proposal is now that there will be no more Term Limit Exemption Permits to be issued after the 28th of October.

The Speaker: Honourable Premier is this an appropriate time for lunch, or would you like to conclude your presentation?

The Premier, Hon. Alden McLaughlin: I was just finding my stride, Madam Speaker, but yes, if Members are flagging I will concede.

The Speaker: We will now take the luncheon break and reconvene at 2:00 pm.

Proceedings suspended at 1:04 pm

Proceedings resumed at 2:25 pm

The Speaker: I recognise the Honourable Premier for the continuation of his debate.

BILL

SECOND READING

IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013

[Continuation of debate thereon]

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

Madam Speaker, when we took the luncheon [suspension] I had been speaking to the Term Limit Exemption Permits and had gone into some detail about the history of this matter. I do not intend to repeat that now, but I believe I should perhaps repeat what the new changes will actually mean.

No new Term Limit Exemption Permits [TLEP] will be issued after the 28th October, 2013. Current holders of a TLEP will be allowed to resume holding work permits in accordance with the nine-year term limit. So, in other words, Madam Speaker, what is planned is that all holders of work permits will be subjected to the same system, will fit within the same framework, which is based on what I have always called "a graduated system of rights," so that you come here on a work permit and if you meet the criteria you may get permanent residence by year eight.

If you do not get permanent residence then you get rolled out of the system at the end of year 9. If you have permanent residence you can move on and at year 15 apply for Caymanian status. So, as I said, everyone will be within the same immigration framework. And this move will bring the current TLEP holders back within the (if I may call it that) regular term limit provisions.

Since there will be a very short length of time between the changes of the law coming into effect

and the expiry of all TLEPs on the 28th of October this year (2013), employers are being given until the 9th December 2013 to make an application for the grant of work permit in respect of a worker who currently holds a TLEP. This is also to ensure that employers have adequate time to advertise the position and make every effort to identify a Caymanian who is capable and available to fill the position.

There has been some misinformation, perhaps even disinformation, about this issue, Madam Speaker. But essentially all of the jobs for TLEP holders, except those which are currently exempted from the requirement of advertising (such as farmers) will be required to be advertised following the 28th of October and between the 9th of December. And if there is a Caymanian who is willing and able to do that job, they ought to be given that job and no new permit will be granted for the current TLEP holder. It is not an automatic grant; it is not an automatic extension of the present TLEP, except for that 45 day period when the advertising process will occur.

Madam Speaker, as I said, the reason for this is to ensure that employers have adequate time to advertise the position and make every effort to identify a Caymanian who is capable and available to fill the position. During this 45 day period the TLEP holder will be allowed to continue to work for the employer.

Lastly, Madam Speaker, time spent on a TLEP will count towards qualification for eligibility to apply for permanent residence. As I indicated, the Government is not at all comfortable with the prospect of significant possible challenges to the provision in the present existing legislation, which, as I said at the start of my contribution, creates the legal fiction that time spent on a TLEP does not constitute legal and ordinary residence for the purposes of the qualifications necessary to apply for permanent residence. We do not wish to expose the Government to possible challenges to this legislation and to the consequent expense, aggravation, and bad publicity involved in that.

We believe that it is much fairer, it is much more simple to let the TLEP holders have the same privileges that all other work permit holders have who reach year eight, and that is the ability to apply for permanent residence. Whether they get permanent residence is quite another matter because they will have to meet the significantly more demanding requirements of the new points system since their applications will be considered under the new points system, not under the present regime.

Madam Speaker, I move on now to talk about the issue with respect to certificates for specialist caregivers. Members of the House will recall that this was another amendment to the Immigration Law that was brought in by the previous UDP Administration to address concerns about persons who were here as caregivers who themselves were reaching, or had reached, the seven-year term limit and would have

had to be rolled out of the system. What occurred was that the Government then proposed a separate regime which did not fall within the framework of the immigration regime, because specialist caregivers did not become subject to the term limit.

I should not say "did not become". [I should say] that specialist caregivers were exempted from the term limit regime given five-year certificates which were renewable indefinitely as long as the person for whom they cared remained alive and was willing to employ them.

At the moment, Madam Speaker, I am advised that there are some 121 persons in that category who hold these certificates as specialist caregivers. The challenge with that is that we fully recognise and understand how important caregivers are to families when people become familiar and come to trust an individual who looks after them or their loved ones. It is really heart-rending in many instances for them to be required to leave.

The challenges that that poses for us as a Government and as a country, is that the vast majority, if not all of these specialist caregivers do not earn the kind of salary which would enable them to look after themselves long term, and certainly would not meet the requirements to obtain significant points in this category under the point system. The reality is that virtually none of them would qualify for permanent residence, either under the existing regime or under the proposed regime. And the challenge will continue to arise as to what happens to these people long term. Some of them have now been here well in excess of 10 years.

For those who care for infants or younger persons there is the distinct possibility that they could be here for upwards of 20 years if they remain in the employment. They would have no real security of tenure, no rights here whatsoever, other than the right to remain and to work. And we continue to have concerns about what will transpire with respect to these people because it is without doubt the case that a point will come when the country will be required to do something to address what will be a Human Rights concern with respect to their right to family and their expectation of some form of security of tenure in a country in which they have lived for (by then) decades.

Madam Speaker, notwithstanding those concerns, we have taken the view that what is done is done and that those who currently hold specialist caregiver certificates will continue to be permitted to have those certificates renewed in accordance with the present provisions. We have taken the view, after much consideration, though, that to extend this provision would be to create real and serious long-term problems for Cayman, as those numbers continue to increase. And so, Madam Speaker, the present legislation places specialist caregivers back within the present immigration framework; that is, specialist caregivers would be subject to the nine-year term limit,

would have the privilege as any other work permit holder to apply for permanent residence at year eight, but no further caregiver certificates will be issued.

Those who currently hold certificates as specialist caregivers will have the privilege now, if they wish, to apply for permanent residence if they have reached year eight in the time they have spent here. But whether or not that permanent residence is granted it would not impact the ability for them to get their certificate renewed going forward.

Madam Speaker, the appeals process has also been one of the really challenging areas. And many will know that at one point we had as many as 4,000 permanent residency appeals pending. That number has now been reduced to about 600, and the work continues. And I have to extend my gratitude and that of the Government and the people of the Cayman Islands, to the hardworking Appeals Tribunal that has slaved away at this for years, literally, to get these numbers brought down.

We have determined that we have to change the appeals process. We cannot continue with a system where appeals take three to four years to be considered and determined. And working with the tribunal and the significant experience that they have, we have decided to propose a new process with respect to the appeals. The committee which considered these issues and proposed these changes, which are part of the amendment Bill, has benefitted from having as part of its number the Chairman of the Appeals Tribunal, Mrs. Sophia Harris, as well as a significant number of other persons whose names I will read into the record and thank them when I conclude this debate.

But having her and others who have significant experience with the appeals process has meant that the proposals which are made are very practical and are based on years of handling these matters.

Madam Speaker, appeals will now become a two-stage process. As part of the prescribed application process the appellant must first file grounds of appeal and there will be a hearing on those grounds. If the tribunal accepts that grounds are made out then there will be a rehearing of the appellant's original application taking into account any change or circumstance.

Appeals will now be entirely based on paper submissions and the appellant or his representative will not be allowed to be present at either the hearing on grounds, or the rehearing of the application, unless they are invited to by the tribunal.

Madam Speaker, a big part of the reason for the delay in applications being heard is being able to arrange for the attendance of all parties concerned on a particular day. And often the tribunal is faced with circumstances where a hearing of an appeal is six months out, and two or three weeks before the hearing they are advised that the appellant is unavailable or the lawyer is unavailable and the matter is put over again.

By and large most permanent residence appeals applicants are happy with this because, under the present arrangements, as long as the appeal is pending the appellant can continue to work by operation of law. And so, whether the answer is yes or it is no, they will have had the ability to continue to work in Cayman by operation of law for that intervening period, which, as I said, in some instances is as much as four years.

So, a big part of this change is to create a more efficient system which will allow the tribunal to consider matters quickly and efficiently, and that the delay which is acted upon, exploited by many appellants, will cease to become a factor, because that has resulted in many appeals being filed which, quite frankly, have no basis in law, have no chance of success on the facts. But the appeal is stuck in because it buys them another two, three, perhaps even four years while it is being considered.

Further to that, an appeal may be struck out now under the proposed amendments by the tribunal where an appellant has failed to comply with any aspect of the application process, or he or she has failed to make out grounds prior to the hearing of the matter. The Immigration Appeals Tribunal will also have the ability to make an order for costs against an appellant in respect of frivolous or vexatious appeals.

The fee to lodge an appeal is being significantly increased to \$1,000.

The point of all of this, Madam Speaker, is, as I said, to make sure that matters which are appealed are serious and the appellants have thought long and hard about the chances of success before they actually file the appeal. We expect that this will significantly reduce the number of actual appeals which will also mean that the appeals that are filed will get dealt with much more expeditiously.

Madam Speaker, the last aspect of the system that I want to speak to is in relation to some proposed changes to the work permit regime. The work permit application process was intended to be dealt with in Phase 2 of the immigration reform process, which I would expect we would get before the House by the middle of next year.

Phase 2, work is already underway in relation to that, with a preliminary report expected shortly with the final report expected to go to Cabinet in April. But going through this process and understanding and acknowledging the economic difficulties and the employment challenges that Cayman and Caymanians face, the committee has looked at ways of seeking to ensure that employers are giving Caymanians every chance and opportunity that they can, seeking to discourage fraudulent applications and seeking, generally, to improve the chances of Caymanians getting work.

So a number of proposed changes to the work permit process are contained in this Bill, although the wider, broader ranging changes will have to await the

completion of the report and the adoption of the report by Cabinet by the middle of next year.

To this end, Madam Speaker, to discourage abuse of the work permit system it will no longer be possible to work **“by operation of law beyond the date of refusal of an application for a work permit where the worker had previously been working by operation of law on the basis of having held a temporary work permit.”** [Clause 37]

To translate that into English, Madam Speaker, presently we have in place a temporary work permit system which is designed to give quick and easy access by an employer to temporary labour. Work permits can be granted for up to six months for temporary purposes. Those positions are not required to be advertised, and the applications can be turned around in a couple of days, because it is designed for a legitimate temporary labour demand.

In practice, this process is often used as a sort of probationary process by an employer looking to see how well an employee will work out in their business. And that is fine. So, often you will see by month four or five an application being put in for a full term work permit. The position is then required to be advertised.

The challenge that the board and the department have observed with this is that in many cases Caymanians do respond to the advertised position, but the employer has now become comfortable and satisfied with the foreign employee who is on the temporary work permit, and is loath to hire somebody else to replace them. So, if the board turns down the application for a full-term work permit what often happens is that the employer will then appeal that decision. Meanwhile, the temporary work permit expires. But, under the present legislation, the employee who was there on a temporary work permit, and has had their application for their full-term work permit declined or refused, is allowed to continue to work by operation of law merely because the application for the full term grant has been refused.

So they can wind up working a year, two years essentially without any work permit at all. In circumstances where the position has been advertised and suitable Caymanians have applied for it, they can continue to work notwithstanding that, while the appeal against the refusal of the full-term work permit is being considered.

So, this has been viewed by all of the technical people involved and by the committee as unreasonable and an exploitation of the system. So the process is being changed. If a full-term work permit application is denied you cannot work beyond the term of the temporary work permit, which will not exceed six months. We have to do these things, Madam Speaker, particularly in these times, to make sure that Caymanians who are willing and able to do these jobs do get the opportunity to take them up.

Further, Madam Speaker, we have many instances which have become apparent of employers failing to disclose to the Immigration Department that when making an application for a work permit that a Caymanian, or a spouse of a Caymanian, or a permanent resident, has in fact applied for the position.

Madam Speaker, I have an instance that was just reported to me—this is in the financial services sector, and I have all of the proof, so it is not one of those anecdotal things—where one of the major law firms advertised for a significant position and a lady applied for the position. Based on what I have seen she had the basic qualifications to be able to at least be considered for this job. Maybe somebody else would interview better or have better qualifications. I am not saying that she was entitled to the job but she certainly, in my view, would be entitled to at least be interviewed for the position. It was a fairly significant position; big ad was run in the *Compass* for it.

She spoke to me about it (this is someone I talk to regularly). She has a current position but I told her I think she should go for it because it would be a significant step up. So, she applied for it and she spoke to me last week and I asked her how the interview had gone. She said that she had not gotten a call nor had she gotten an interview. I asked her if she had followed up because it had been some weeks. She said she did not. I then said to her that she needed to follow up because those people would just ignore her.

So, she sent them an email the next day and called me to say that she had gotten an email back from the chief of the HR at the operation who denied that she had ever received the application and that someone else—a foreigner—had been appointed to the position and it would be too late now.

[Inaudible interjection]

Mr. V. Arden McLean: Sounds familiar.

The Premier, Hon. Alden McLaughlin: So, I don't have to operate, Madam Speaker, on the basis of what other people tell me about this might be happening or it might not be happening. This is an instance where I have the emails. I have the evidence of the lady in question. And I have no doubt at all about what actually transpired. They deliberately ignored what was the application of someone whom it would be difficult to say that this person as a Caymanian ought not to have an opportunity at this job. And I am willing to bet that the Immigration Board was never told that that application was made.

This provision will create an offence carrying a fine of up to \$20,000 in the first instance for an employer who fails to disclose to the Immigration Department or the Board when making an application of a work permit that a Caymanian, a spouse of a Caymanian, or a permanent resident has applied for the

position. And when we start to prosecute a few of these, I believe the message will finally hit home.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: Madam Speaker, another of the changes is that the Chief Immigration Officer and persons designated by her will now be allowed to process all types of work permit applications, including those where a Caymanian has applied for the position.

Madam Speaker, the practice of the Chief Immigration Officer or her designate, actually considering work permit applications has been something that has been around now for about seven years. So it is not new. But what this proposal is doing is increasing the range of permits that can actually be considered by the Chief Immigration Officer or her designate. Cayman is one of the few jurisdictions in the world where these matters are considered by boards rather than being considered administratively.

Madam Speaker, concerns have been expressed to us from some quarters about placing what is considered by some to be such a grave responsibility in the hands of a public servant. And the concerns have been that only one person gets to make this decision.

Madam Speaker, as I said, not only is this a function that is carried out fairly routinely in most other jurisdictions, but the system has built into it what I would call an audit process where the administrator who considers these matters has their decisions checked by a compliance officer and then there is a system of spot-checking carried out higher up the immigration hierarchy, by either the Chief Immigration Officer or one of her senior staff. So there are actually three people who are looking at this. And these applications will be considered subject to criteria; they are not matters which would involve a great deal of subjective judgment.

In one instance, this is an improvement over the current process where once the board decides, the board decides. No one else looks at it unless you appeal it. And we are not proposing that the appeals process be removed from this. So, you actually will have the possibility of not just three people looking at it, but, if the matter is appealed, essentially four tribunals having looked to see whether or not the decision is the right decision.

Madam Speaker, I have already spoken about Phase 2 of the immigration reforms, and so I do not need to go back into that again, but to say that we know (those of us who have been around) that immigration is always a controversial, always an evolving issue. And I would not stand here today and try to say that we have gotten it absolutely right.

I know, Madam Speaker, that a number of people have reservations about what is being proposed. We know, and acknowledge and accept, that

this has been controversial in some respects, in large part, Madam Speaker, because I think (and have to take responsibility for that) in the initial stages of the publication of what the Government was proposing to do, we did not—I, in particular, did not—spend enough time and effort on explaining precisely what the impact of the proposed changes would be. I have all sorts of good reasons and excuses I could give for not having done that at the time. But none of those really matter.

I believe that we have been able over the course of the last month, in particular, to allay many of the concerns which many people had about what these proposals would actually do. We have held a significant number of meetings, one in each district except Cayman Brac. We met first in West Bay on Tuesday, 8th October; in George Town on Thursday, the 10th; in Bodden Town on Monday, the 14th; in East End on Tuesday the 15th; and in North Side, Wednesday, the 16th. I wish to thank the Representatives for all of those districts for attending and participating in the process. I particularly wish to thank the MLA for North Side who actually sat at the head table with us and introduced us.

Mr. V. Arden McLean: You did what?

[Laughter]

The Premier, Hon. Alden McLaughlin: And, Madam Speaker, helped to field some of the questions. I thought that that was . . . and, Madam Speaker, I should say that those who were present thought that that was the way that Members of the House on either side of the House should operate.

I wish to also thank the Member for East End for engaging us extensively, comprehensively. That was the longest meetings of all the meetings we had. By the time I got home from East End, Madam Speaker, it was midnight. The Member for East End explored every single section of the amending legislation. And so, I have no doubt that he is absolutely clear about what the provisions now mean.

Madam Speaker, in addition, we appeared on the talk show *Cayman Crosstalk* on Friday, the 4th of October and Friday, the 11th of October, and on Radio Cayman on two occasions, but most recently on Wednesday the 7th of October. And, Madam Speaker, I need to say that I, the Government, and the country as a whole, are deeply indebted to the Chief Officer in the Ministry of Home Affairs, Mr. Eric Bush, for not only chairing the committee which has done an immense amount of work over the course of the past few months spending hundreds of hours involved in this, but who also led from the front and explained by way of a Power Point presentation all of these proposals in every district in Grand Cayman, and answered all questions, took on board all suggestions and concerns.

That, Madam Speaker, is, I think, exemplary conduct, [by] an exemplary public servant who understood and understands what the government policy is, what it is the Government is seeking to achieve and is able to go and explain it in detail. He said it was his job, and I agreed with him, to answer the “what” questions about all of this. The “why” questions (which are the policy questions) were matters which I handled as best I could and I was assisted in some instances by some of my colleagues—notably Councillor Winston Connolly and the Minister of Finance as well—to make sure that those who have the interest in this subject got the answers that they needed, even if it meant, Madam Speaker, that in the end they didn’t agree with all of the proposals.

Madam Speaker, as I said, the Government has not taken this lightly. The Government understands that there are still those who have different views. The petition which was belatedly presented to us just a while ago is an indication of that. We know there has been a march and something approaching a demonstration on Saturday. But all of those things the Government . . . even though the numbers, Madam Speaker, were not great, they do indicate that there are people who are not entirely comfortable with what the Government is proposing. To those people I say that the Government has taken your concerns on board. Some changes have been made, the notable one [being] the reduction of the proposed term limit from 10 years to 9, and a number of other changes which have been incorporated into the present legislation.

Madam Speaker, if I may have one moment to confer with my Chief Officer, there is one other point I wish to cover. [Pause]

Madam Speaker, while I am awaiting that, I just wish to move on quickly to say (although I have touched on it) that the Government understands that there are real concerns about the state of the economy and that there is still significant unemployment, and that all of those things colour the views of people about this legislation because many people are of the view that this is going to make life easier for employers to employ foreign workers, and so forth and so on.

Madam Speaker, we take the other view. We believe that all of the changes here are going to make it more likely that Caymanians are going to be employed. The move to increase the term limit is a response to what employers and others have said to us about the attractiveness of Cayman as a place for businesses to come and invest and to grow and grow jobs. They want to know that there is the possibility of employees being able to stay here for a longer period than is presently the case.

Bermuda, from which we borrowed the whole concept of the rollover, has done away entirely with the rollover policy on the basis that it made them less competitive as a jurisdiction. We did not feel that we could go that far but we believe we have gone as far

as we possibly can. But all of the other changes are aimed at making sure that Caymanians get the best possible opportunity to get jobs, and to provide fairly severe consequences if employers try to manipulate, try to defraud, the system.

Madam Speaker, the one thing that I ask people to always think about is that the only way that we are going to get Cayman back to full employment, to get us out of the present economic rut—and I think things are starting to move, but, still, far more slowly than any of us would hope for—is if there is the confidence, if we get more investment, if businesses are prepared to expand, grow jobs, invest in Cayman. And we have to create that environment to enable that to happen, because it is businesses that create jobs. If businesses shrink or migrate, those jobs are gone. And that is the bit that we have to remember. And the Government is seeking to strike a balance so that we create the right environment for investment and growth and the creation of jobs and more jobs, but at the same time we ensure that employers, when those jobs are created, give Caymanians and permanent residents the first opportunity to do those jobs if they have the wherewithal to do that.

Madam Speaker, the Ministry of Employment ably led by Minister Tara Rivers, who is unfortunately ill today, has been doing a tremendous amount of work through the NWDA through a range of other programmes to improve the opportunities, improve the prospects, improve the skilling-up of Caymanians to be able to take some of these employment opportunities.

The Fifth Elected Member for George Town and Councillor, Winston Connolly, when he speaks, is going to speak at some length about these programmes, so I am not going to delve too deeply into them except to say that the Government is very cognisant of the need to address that side of this particular equation.

Madam Speaker, I wish to conclude my introduction of the Bill by again conveying my heartfelt thanks and that of the Government and I believe the people of the Cayman Islands for the tremendous efforts and dedication and sacrifice of the committee which has carried out this important exercise. As I have indicated before, the committee is led by Mr. Eric Bush, the Chief Officer for the Ministry of Home Affairs, as its Chairman; Mrs. Linda Evans, Chief Immigration Officer as Deputy Chairperson; Mr. Christopher Eakin, Director of Policy and Strategy Management; Mrs. Sophia Harris, Chairperson of the Immigration Appeals Tribunal; Mr. Wade DaCosta, Chairman of the Cayman Status and Permanent Residence Board; Ms. Susan Dixon, Secretary to the Permanent Residence and Caymanian Status Board; Mr. John Meghoo, Mr. Shane Foster, Mr. Adolphus Laidlow, Mr. Taron Jackman, Mrs. Betty Baraud, Mrs. Sabrina Fennell, Mr. Jason Webster, Policy Analyst in the Cabinet Office, and Mr. Stephen Miller, and Mrs. Su-

zanne Bothwell, both from the Legal Department who have provided invaluable advice, guidance and hard work in drafting the Bill and ensuring that it is compliant with the human rights provisions contained in our Bill of Rights and Responsibilities.

Madam Speaker, a tremendous amount of effort, hard work, thought and insight has gone into producing the Bill that is before the House today. I thank again all of those who have contributed. I thank my parliamentary colleagues, my Cabinet colleagues and those in caucus who have stayed with this even through some of the difficult times while spending a great deal of time agonizing over many of the proposed changes. But we have reached the place where all of us can support the legislation that is before the House, and I am grateful to all of my colleagues. I ask all Members of the House to give the Bill their careful consideration.

I will listen carefully to the debate. I should indicate that there are some committee stage amendments that are being proposed by the Government and they have been circulated. I have not spoken to them in my contribution, but if they are raised by Members, I will seek to do so in my windup of the debate of this. Otherwise, I will deal with them when we get to the committee stage of the Bill.

Madam Speaker, I thank you and all Members of the House for your patience and indulgence.

The Speaker: Thank you, Honourable Premier.

Does any other Member wish to speak? [pause] I recognise the Honourable Leader of the Opposition.

Hon. W. McKeever Bush, Leader of the Opposition:

Madam Speaker, the Bill before the House is a very important one to this country, and it will always, more than likely, evoke more than feelings in these Islands. This matter of immigration . . . migration has been the bitter cup for large and small countries, and we have not been spared as everyone tries to come to grips with the issues, particularly in a small community such as we have.

Rightly or wrongly, many of our people see the issuance of work permits as keeping our people out of work. While I have my strong feelings about how we build this country, when all is said and done, the overriding issue is that jobs have to be created in this country for our people, for the short term and for the long term. That will not be done by driving anyone out.

Madam Speaker, in regard to work permits and who comes for whatever reason, there needs to be a sit-down-look-at people who come here, people who want or have a work permit in this particular instance at this point and time. See who is working. Do they have a connection? Is their spouse here, for instance? Look at what that permit holder is doing. How important is the job they are doing? If they have a

permit but do not have work, then what are they doing? What are their circumstances?

For those persons looking at the 1,500 odd permits, they need not be misguided to think that Caymanians are going to get those jobs. Wishful thinking, no matter how well it is articulated by anyone. I don't even see in this Bill the wherewithal to be able to carry out the kind of enforcement that that would take.

Madam Speaker, I am not going to support the Bill for more reasons than one, but not on the basis of what I hear the clamour is, because I have been here long enough and have taken enough licks and am tough enough to withstand those. And I have shown that. I have to think very long-term here and do what I think is best, as I am sure that is what everybody is doing. So, I cannot support the Bill for a couple of reasons.

I don't think it builds or will build any real confidence. The process, as outlined, is going to be costly. And my position for the long term and the way I see that I think we need to build the country, what we have is not an immigration problem in the greatest part, but the economy that is causing unemployment. And this, from my perspective, is not going to create jobs, as I said earlier, with no disrespect to anyone who has worked on that committee as named by the Premier.

Madam Speaker, with no disrespect to the Chief Immigration Officer, I also do not want to put our work permits and the PR in the hands of one person. So, I have a fault with that.

I think in the end the Bill is going to hurt more than help. I trust and hope that that will not be the case, but I do not see this system working the way they are saying it is going to work. And I trust, Madam Speaker, that this Bill is not something set up to kick out the West Indian casual worker in this country. For I ask, how will they qualify if you are going to have to pay a nonrefundable . . . it looks to me like something in the region of [\$]3,500 with the fees that we have in place. So, Madam Speaker, I do have my concerns about it.

I do not scuff at the work done, Madam Speaker, because I am very well aware of the effort, and I am much aware of what it takes to try to please everyone. And I know that is what the Government is trying to do. I am a legislator. When I realise I cannot please everyone, I do what I think is best. And I don't know if that is what they are going to say, but when you listen to what the Premier has said, they might have wanted to go a little bit different but they bent here and there to please different persons who have. . . I don't know whether they beat him over the head or what. Anyhow, they wanted certain things and he must have capitulated in that direction.

[Inaudible interjection]

Hon. W. McKeever Bush, Leader of the Opposition:
Mm-hmm.

So, Madam Speaker, this debate has been ongoing for some time and nothing has been said in recent times to make me change my mind that our population base is too small to upkeep the businesses in these Islands and to continue to give our people the opportunities that they want. And if we do not recognise that and keep going in this direction, we are going to keep doing what we are doing piece-meal here. As much as we are saying this is short term and we are going to do more in the long term, the fact is, our population base is too small.

While we must make sure that all of our people are given an opportunity to have a job and be gainfully employed, the very same things that some people do not want to happen if taken as we are told to do, or asked to do, and some of what the Bill will do, we will succeed in killing more businesses, and thereby stop more employment opportunities in these Islands as much as we want to create, as the Premier said, more opportunities.

Madam Speaker, for those who say more people means fewer jobs for our people, that cannot be the entirety of the matter! It can't! Facts do not bear that out. When there was between 56,000 to 58,000 people here, did we have a serious unemployment problem? Ask ourselves that. Did we? Or are we capitulating to the thought process that we just do not want all of these people here, but we want all that they bring? Do not love the neighbor, but you want to borrow his bicycle.

Unemployment comes, Madam Speaker, when the economy is at a standstill. And we can't have our cake and eat it too. We did that in the late 1960s and 1970s in the early stages of these Islands developing as a financial centre. When we were getting that kind of business we took the foreign employees then and, at the same time, other businesses sprung up and our people owned them and, our people got the jobs. Today, Madam Speaker, while there is much talk about people staying here and qualifying for PR [permanent residence] and thus Caymanian status, we are going to have to accept that some of that is going to have to happen.

Sometime ago, Madam Speaker, I employed Lord Pannick to give the Government an opinion as to what would be a legal break in stay for work permit holders. We received an opinion from our own, the Honourable Attorney General. And both of them agreed that a legal break could be a day, a week, a month, for a break is what it is—a break in your time in these Islands. That's what it is. I searched to try to get that legal opinion, but I could not find it, Madam Speaker.

I know the Immigration Department had also got Lord Pannick to do an opinion for the IRT [Immigration Review Team]. He said the same thing, but he addressed more issues for them than the break in

stay for me. I only got him to do an opinion on the break in stay. The IRT and the Immigration Department, I think, got him to do more than that. But that was also told to them. I've asked them if I could get [a copy of] that, but they cannot find theirs either. Perhaps, Madam Speaker, they will find it after I sit down.

If we are serious about building this country with a vibrant economy we would go and take what the two legal minds say can happen and we would not have to worry about who becomes status holders or permanent residents. And we could choose them more reasonably. Because at the end of the day, besides the jobs . . . and I say the jobs are not an immigration issue; it is about a weak economy. But besides that, people are concerned about how many people stay and who we give Caymanian status to and us being outnumbered and right down to the issues that our people worry about.

In the United States if you leave the country for one day, you have made your break. And we sit here time after time pulling our hair out worrying about those sorts of things, not the jobs because we can always regulate that. We can always put in enforcement, although I do not see any money for the enforcement in this Bill that I know it is going to take. So, how we are going to charge somebody \$20,000 if we cannot catch them, Madam Speaker, I don't know. I don't know.

For instance, we charge people for breaking the investment process. Has anybody been caught under that? Nah! We whistle in the wind. Until we take those matters in hand and stand foursquare and say, *This is the problem and this is how we are going to deal with it*, this question will continue to be a problem to every government until, Madam Speaker, we realise that with all that we have done it is a patched quilt, a mixed-match, and it does not really build the country for the future. So we are going to continue to have this. You fix it a little bit, and for the four years that that administration stands strong with their backbench and says, *This is how it is going to work*, they make it somehow.

The Premier mentioned Bermuda just now. We are told, Madam Speaker, that Bermuda built a fairly prosperous society until the immigration started to be changed. And when companies begin to be pushed with the fallout of the financial crisis, the loss of business and attitudes creeping in for one employment reason or the other, those companies had all the means to go, and to say, *Well, no security for my workers, then my business can go elsewhere*. And we know what Bermuda did; they did away with the rollover.

Madam Speaker, these Islands do not have the wherewithal to develop the kind of industry on our own that can hire all of our people, except for what we are as a people. That's what we have, and the natural environment. So we must depend on investment by others. And that investment means people with it, and

it gives us Caymanians our opportunities to own, to work and live and move and have our being. And that is how we built the country and it can still be done! No changes. No changes if we accept that they are going to build the economy and that we need the people. But at the same time, we are going to put in the measures that ensure our Caymanians are employed.

Madam Speaker, in this Bill the Government is saying . . . and they are trying to satisfy some people. You give them the opportunity to apply for PR. Let's look at it and see how it works and is going to work. You give those persons who have reached their time, the opportunity to apply for PR and then you say that their jobs are to be advertised. So, they somehow cough up (for the persons making a salary under \$15,000) that [\$]3,500 or [\$]3,700, whatever it is. I think it is nonrefundable at that. And then for anything over \$15,000, I think it amounts up to about [\$]4,2[00] that they would have to put up (I think it is nonrefundable as well) when they are going to make their application for PR.

So, the Government says that you have the opportunity to apply for Permanent Residency, and then the Government tells the Caymanians, *You see how much I am doing? I am doing this for you. So, you foreign national, you go and apply but your job is going to be advertised*. So, they apply and they get PR. They get their permanent residency (let's say, not too sure). Their job is advertised and the Caymanian is lucky enough to get it. Well, that is good; but now you have a new permanent resident that has no job and is then another statistic adding to the unemployment list.

Where are we going? What are we doing?

Is that what we are saying the Bill is about? Well, yes, that is what the Bill is about. That's what the Bill is doing.

What happens when the Caymanians can't get the job? What happens then?

Madam Speaker, the one thing that I am concerned about is the specialist caregiver. He says they do not earn the salary to care for themselves, but, Madam Speaker, that is not true. I don't know how many cases but I know many, many cases where those persons are well taken care of by their employers. Anyone who employs one of the specialist caregivers should be able to take care of themselves or take care of them. They should provide a decent salary, decent housing, healthcare, et cetera. And while the Government says it has assisted somewhat, that those who have the specialist caregiver can keep them but no more will be granted—

The Speaker: Leader of the Opposition, can we suspend for five minutes. I will ask Members to please stay in their seats.

Hon. W. McKeeva Bush, Leader of the Opposition: Yes Ma'am.

Proceedings suspended at 3:40 pm**Proceedings resumed at 3:43 pm**

The Speaker: Please be seated. The House is resumed. I invite the Honourable Leader of the Opposition to continue his debate.

BILL**SECOND READING****IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013**

[Continuation of debate thereon]

Hon. W. McKeeva Bush, Leader of the Opposition: thank you, Madam Speaker.

Madam Speaker, this matter—and let me tell every Member on that side—of people who need specialist caregivers, those with an elderly person in need of such care, or a handicapped person, or such other person, is not going to go away from these Islands. We can take out that amendment and we can form the excuses that we want, but those needs are not going to go away. They will always exist.

Those of us who have parents of that age group—my mother is 90 and in a wheelchair, and there are others around. This is not something to take on a policy about who can afford. We should never tell our people that they can't get or they can't keep a person whom they know, whom they trust in their house, and who has the ability, not only by virtue of skill, but by the awareness built up over those seven or nine years. They should never tell them. They should put out the regulations to make sure that they can take care of whatever or whomever I am employing to take care of my mother. I should have housing for her and all of those other things. But don't tell me, because you are afraid to build up numbers and you are afraid of cost down there I must accept if I am going to hire someone . . . you make the regulations to ensure that I can take care of that person.

I've seen it in my time. Seven years does not mean anything to those handicapped persons when they get used to an individual. I can't go and give the medication because my mother has built up that relationship and that is who she trusts, particularly, when they have Alzheimer's, and today they are good and tomorrow they are different. I've seen where they get so used to that individual and they had to go just before we made that change, Madam Speaker. Constituents had to take their loved ones and send them off the Island so that that loved one could be where they were satisfied with the caregiver that was leaving.

Why?

What kind of elitist movement do you want to build up here? You are talking about protecting? Who

are you protecting? The people who need the service?

So, I am appreciative of the fact that there are people who have their caregiver and they will be able to apply the same way, as I understand it, for their certificate. But I am concerned, because the issue is not going away, that people who will find themselves in that jam will not be able to get or keep their person. I think that is what was said. I know I will be corrected if I am wrong.

Madam Speaker, a viable economy that provides employment for Caymanians and our young people who are graduating from school is essential to the development of these Islands. As everyone will recall, and as I said earlier, prior to Hurricane Ivan there was approximately close to 60,000 people here, I believe. Some people said it was. I don't know. But I know it was in that region (58,000 or 56,000 somewhere around there), and there was virtually no unemployment. But a lot of the major businesses in the Cayman Islands moved to other competitive jurisdictions, such as Ireland and Nova Scotia in Canada, as a number of persons working in those companies decided that Cayman was not a place they could call home. The result of that was significant decline in government revenues, economic activity and business growth.

The decline in jobs is not about the Immigration Bill! It's about the economy! And when I came into the Government in 2009, austerity measures, increased fees had to be introduced to try to balance back the government's deteriorating position. The economy of the Cayman Islands is dependent upon business establishing offices in the Cayman Islands which create employment for our people and future jobs for our children. And so, proper immigration policies are essential to achieving this. Unfortunately, as I said, we as a country have been unable to put these measures in place.

What is urgently needed, Madam Speaker, is an immigration policy which encourages the majority of the work which being done outside of the Cayman Islands by various sectors of our financial community, to return to Cayman. Some people are not going to like this, but this will require incentives. It will require reduced bureaucracy, and it will require an expedited process. And that process must not be cumbersome. Our financial industry is now creating hundreds of thousands of jobs in developed countries that recognise the importance of the services that our financial industry gives, and which our industry supplies to its customers, and, as a result, the employment and benefit to their economies and the trickle-down effect to their economies. And we have lost that trickle-down effect and some direct jobs. That is happening while we create jobs for others. While we created jobs for others, we want to continue to produce immigration policies which are disincentive to companies establishing businesses here.

We cannot expect people, anyone to come to our country, invest in it, bring their children and then throw them out after seven to nine years. You think it is going to happen? Yeah. Well you know what is going to happen? Just what is happening right now. And it is a policy which has not worked and will continue to create economic disaster for our economy, and will continue to reduce jobs available to Caymanians and our children.

Our immigration policies, Madam Speaker, should encourage high net-worth individuals to retire here, and for those who have sufficient funds, make it easier for their children and families to come and live in the Cayman Islands. That, Madam Speaker, will create employment for Caymanians and, indeed, we will have to keep some casual labour as well.

Not what I see happening here. This is . . . you want to create an elite society—yeah—because you are doing that, because the casual labour sector is not going to be able to take this up.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: Well, we hope. But I want to see that happen. But not in this Bill, it can't.

Other countries, Madam Speaker, have introduced what I am talking about and continue to introduce policies of this nature—the last one being approximately two weeks ago introduced by Portugal. And other countries are doing it.

The present changes to the immigration policies which are now contained in this 38-page Bill make it a lot more difficult and expensive for persons to bring employees here and for those that we need to remain. I think this will drive out more businesses and cause more unemployment. It will reduce the number of persons in the Cayman Islands and it will discourage businesses from establishing here when the word goes out. The changes introduced will not achieve economic growth, as I have said, which is what is needed to create the jobs for Caymanians that we all say we want.

Presently, Madam Speaker, there are Caymanians who cannot pay their light bills, their school fees, and are finding it difficult to buy food. There are many young Caymanians who have invested in properties, who have established businesses, and these businesses have been and are experiencing extremely difficult economic times. As I said, the population base is too small to support the same. We have to find the balance. We send our children overseas to get trained and they come back qualified, so we have to find that balance. Yes, we have to find that balance.

It is no good saying we want them trained and then when they come back they do not get the experience in the job because they do not get the jobs. But they are not going to get a job with five and six jobs. They are going to get the jobs when there are more

and more jobs. That is the way it has worked and nobody can say that that is the way it can't work because that it has worked that way. From what I know, unless we get serious about economic growth, encouraging businesses and others to come and live and create a harmonious environment, the situation is going to get worse and there will be fewer jobs for our Caymanians and fewer jobs for their children. You know what we are finding? Already many Caymanian children are choosing to live abroad as they see opportunities declining.

Madam Speaker, I will say again that we have to find the balance. Wealthy persons who wish to retire here and who invest in our country are no longer willing to pay exorbitant fees that we had to put in to experience the bureaucracy that is growing. These persons have other opportunities in other countries which are more friendly and encouraging. Investors need to know that there will be incentives to them spending significant sums of money in developing property and/or business in the Islands and that there will be available the labour, and we must give them that opportunity. And we are educating our people and we must see that those who have the trained ability get the jobs.

But they are going to want those trained persons, either locally or from abroad. And some have complained about the work permit fees being too high. Well yes, work permits range in fees from over 30,000 per annum. We can't say that that is business friendly. But I will say this: It is one of the areas that we had to increase. And I told the United Kingdom it one that some professionals complain about. What I look at is (truth be told) they pay more than that in taxes in their countries. Nevertheless, Madam Speaker, what we do as a Government is scrutinise and our competitiveness is tested based on the fees and . . . well other areas as well, but based on fees we charge.

Madam Speaker, there are some other areas that I am concerned about. Page 17 of the Bill under section 7(29), somewhere around there, gives power to the CIO [Chief Immigration Officer] or any staff member designated by her to grant or refuse and revoke a person's right to permanent reside on the Islands. And we know that PR is the first step to citizenship so this has to be treated very carefully. Therefore, making this an instrument in the hands of any one particular person, I don't know if that is going to give certainty and confidence to the system, and, of course, our long term residents who would be applying.

There would be many applicants and that is a procedural difficulty, yes. But we cannot go the opposite, which is to leave that important decision to anyone. I think the law says "anyone". I will wait to find out in committee how that is described. Anyone the CIO (whoever that is) appoints. I believe that should be a decision for several persons.

On other areas on the grounds of appeal, a non-technical person who is not legal minded and files an appeal, very well could have it refused and then there is no appeal. And if you are a person and you cannot afford a lawyer, you could appear before the Appeals Tribunal and state your case. After this comes into effect nobody will be allowed to appear, which means more than likely you will need a legal mind to prepare—which means cost for that poor person, that's what it means—taking it out of the hands of them.

If a poor person appeals and the tribunal decides that the appeal has no merit or basis, they can award costs against that person. Full cost! You know how easy it is for people filling out applications themselves to make a mistake.

It talks about the one losing after the age of 18. I've seen that some really forget, and they did forget, or parents did not make them aware that they had to apply after 18, and genuinely they will lose that while they had it.

This one I have seen so often—"the right to appeal." It is good if you get in on time. If not, you lose the right to appeal, and how do you do it when local mail will sometimes take 21 days here to get to you.

I can't understand with all the Human Rights issues that are bearing down on us, why there will not be a right to appeal, whether we like it or not. Jurisprudence demands that there is a right, and I think it is going to fall foul of the Human Rights legislation in that regard. They should always have some right to appeal of some kind, particularly, Madam Speaker, when you are only getting scrutiny where the decision is given by one person. [There] should be a right to some kind of appeal.

And what happens, Madam Speaker, when Immigration miscalculates your time and there is no discretion for the Immigration people to accept an application that is late (because you are taking that discretion out)? And don't say it does not happen that they miscalculate time.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: It happens.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: You too!

So, I don't know if they can appease the business community (because here I think they are appeasing those two that we had in West Bay, must be) on the varying of occupation—original occupation shall remain and higher fees to be paid [clause 30(8)]. So, if you lose and you get a lesser position, you still have to pay the higher fee. That is going to endear them to the business community. That is going to en-

gender confidence alright. Yeah, right! That's helping those two in West Bay who did not want to run around with that petition.

[Laughter and Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: Who?

No, no, no, no. You don't worry about that. I know how to stay clear of them. Once bitten, twice shy.

Mr. V. Arden McLean, Elected Member for East End: That is that one who came out of the government building with the money [INAUDIBLE].

Hon. W. McKeeva Bush, Leader of the Opposition: Yeah he went to a honey meeting but it wasn't any meeting with me. Must have been the one he had with the Premier. They never invited me to any meeting. You never heard they said they invited the two from North Side, Madam Speaker? The one from North Side and they invited the one from East End, and East End did not go.

Mr. V. Arden McLean: Don't involve me in nothing!

Hon. W. McKeeva Bush, Leader of the Opposition: You didn't go—

The Speaker: Order.

Hon. W. McKeeva Bush, Leader of the Opposition: But the Member said he was invited, Madam Speaker.

Mr. V. Arden McLean: Don't involve me in nothing.

Hon. W. McKeeva Bush, Leader of the Opposition: And so we didn't get any invitation. But I understand that. They did not have any opposition up in North Side except the Member for North Side, nor in East End. But in West Bay, Madam Speaker—

The Speaker: Order Members.

Hon. W. McKeeva Bush, Leader of the Opposition: —it would be easy, because they do not want us there. They have one, and it is separate sides. Anyway, I hope that is not a big issue with me. I attended the meeting for most of it.

Madam Speaker, there are a number of declarations that are supposed to be made under this Bill. We do not know what enforcement will exist to do that. How do they know how correct is the declaration and who verifies it. How is that going to happen? There are a number of declarations made, Madam Speaker, in section 30 and so on.

Madam Speaker, we want to protect our people. At the same time we can't protect them if you are

making it difficult for the money people, or making it uneasy for them. It's not about the jobs; that's a different thing. It's not jobs we are talking about.

As I said earlier, they said it was going to be [\$]20,000. *Listen Cayman, see what I am doing for you, \$20,000, we are going to charge them if they lie to us.* How they are going to know they lie?! How? Lying to the Board was always an offence. That is not new, always an offence. But how is this going to be enforced? The Local Companies Control [Law] has a similar provision but nobody has ever been prosecuted in that. No.

Madam Speaker, this Bill is not the answer. It is not the answer, in my view, to the problem as much as the Premier is trying to get the right thing done.

Again, there is no question that there is unemployment of willing and able Caymanians. There is no question that in certain sectors in this country there are jobs that permits will be needed to be granted. There is no question that there are Caymanians who can hold some of those jobs. The overriding issue is jobs. And what this country needs to do now is to get people to work. The Bill does nothing about what I have just said. It gives the business and/or professionals false hope.

And don't talk about the casual worker from the Caribbean. They are going to take licks. *Go home*, that's what they are being told. It is discriminatory to certain foreign nationals, particularly those in the lower labour sector. It is discriminatory to our sick, handicapped and otherwise disabled. I just do not like that particular area of which I am talking about. Thank God, Madam Speaker, many of our children are coming out of school each year thank God many of them are going on to higher learning institutions.

In closing, Madam Speaker, as a country we need to come to grips with two very serious problems and those are: (1) How do we find or create the jobs for those children not going on to institutions of higher learning? (2) How do we have jobs for those coming back with degrees, jobs that will give them experience to take over positions in these Islands?

It is Government's responsibility to create the economy in these Islands so that our people can get those opportunities. We can't have those needed jobs, though, if we do not accept as a country that in this world's economy the same old, same old, cannot continue. There is much give and take to be had by all of us living here. Economic development is not easy to get. But there is enough on the table here now to employ all of the unemployed in these Islands, and more besides. There is too much vindictiveness, bureaucracy, greed and jealousy that have people unemployed in these Islands. It is not rollover that is needed, it is the need to create jobs and have people here.

So, as far as the problems we have now, of course, I agree with those against the Bill, but for different reasons. This Bill will not help us, but it will not help anyone in today's Cayman or the Cayman Is-

lands of tomorrow, Caymanian or expatriate. But I want . . . and say this to the Chamber of Commerce and all businesses in these Islands: I have found (as some have already said) that there are stumbling blocks put in the way of some locals. There are positions that could have been given to a local but ways were found to say no. That attitude did not help to build confidence and did not help to head off the feelings that have come to the forefront in our country now.

In this country, while my position is different to that of many in regard to population, it does not mean that we can accept situations where schemes are made to keep out our people. I had the same said situations to deal with as the Premier mentioned.

So, if there is no policing of the labour market, no enforcement, or not enough to give the required push for a Caymanian to be given a chance, how will they get a job in that instance? And in this country, small as we are, and perhaps that is a problem we have, there is too much, *I like this one but I do not like that one.* And no matter how good the one is that they do not like, that person will not get the opportunity just because someone does not like them. Too much of that goes on.

We see that creeping into the civil service. They cannot say that is not what it is. What else is it? That's what it is! *I don't like that one! And I got that job picked for that one! So, that is the one I am going to give.* It is in too much of the workplace and is causing problems that we do not need. We need to scrutinise those who come here, Madam Speaker, We do not need more cantankerous people coming here. The employers must do something, and there should be something in law to talk about that. I guess it is (we have had so many amendments to the law). I guess it is, though, that people need to have a good reputation. But find out what their makeup is—how they are going to relate?—before you bring them. Because we have enough trouble, some people, of our own. We don't need to import them.

So, I do believe to carefully scrutinise who gets a work permit and who comes to live here. What is their character? What are they like? Create the jobs for our people.

I'll close with that, Madam Speaker. The economy has to grow. There must be growth for jobs to be created in the short term, and meaningful job opportunities created for the long term where our children coming out of school can have a job.

Madam Speaker, those of us who were here for the election will recall that we said in our manifesto that we would do away with the rollover. But one of the campaign messages from the present Administration was that they understood that they immigration policies were having a negative effect on the creation of jobs and that Caymanians were suffering (the combined Government now, the Coalition—C4C, and the PPM). So, the promises to change the policies are not

contained in the present Bill, and, in fact, the Bill makes the situation more expensive, more difficult and will negatively affect the economies of the Cayman Islands and job opportunities for our people.

The C4C campaigned . . . Well, they were all over the place, mind you. And I see that their position was not the one their Members in this House are taking. But, as I said, people get the Government they vote for. So, for all of those reasons I cannot support the Bill and urge those in the Administration to rethink the process, live up to their campaign promise and take stronger and urgent steps to encourage new businesses and encourage those people who are here contributing to our economy to stay and to invest in our country.

I believe, Madam Speaker, that our future is still bright, regardless of the wrangling and jangling. I will always defend what is right for the people of the Cayman Islands and stand up for them even if it means being targeted for what I believe is the right thing for them. I think our future is bright and I am convinced that we are well placed with the correct policies to enjoy a good future as a leading financial centre and leading tourist destination with new industries created that can build this country.

Think of what Singapore did. Think of what they did. You think Lee Kuan Yew have the same thing? Read his books. The same thing was told to him—*Oh, you are not going to help.* He said: *This is going to help! I am going to create jobs even as big as the population is. I am going to create jobs. I am going to make you a strong and vibrant economy.* That is what Lee Kuan Yew did for Singapore, a place as small as Cayman with three million people.

But look at what they have built because they took the tough decisions, weeded out who they had to weed out, threw over the Communists; that's who they had to fight. And look at what they have. We can do the same thing. New markets in Latin America and Asia, both for our tourist industry, our financial industry, and there is more to be had for various kinds of industry, and we will create unity for all, fairness, robust, economic activity, jobs and a brighter future for our people.

I've said enough, Madam Speaker. They can get up now and beat me over the head with a mortar and pestle. But know this: the jobs are not going to come like this. We are going to have to take other action. And if we do not accept the changes now, as much as we think we are going to help, our children and grandchildren will not see those benefits that we want. Thank you.

The Speaker: Does any other Member wish to speak?

I recognise the Member for North Side.

Mr. D. Ezzard Miller: Thank you, Madam Speaker.

In my experience in this honourable House the only piece of legislation that is worse than the one currently before the House was when the former Minister of Health brought that Bill to change the standards in the medical industry. I have publically referred to this as Caymanian economic genocide and nothing that the Premier has said here today, or at the meeting that he had in my district at which I joined him at the head table, Madam Speaker . . . but he should tell the whole story. I was sitting in the audience, and he came in front of my people and invited me to join him.

My people in my constituency fully respect the position of Premier. And they regarded it a privilege and an honour to have the Premier at the meeting in their district. So their expectation . . . and the kind of Representative I am, I showed due respect and went to the head table, welcomed him to the district, introduced him to the community and, when the opportunity provided itself, made it clear that I opposed the Bill.

But, Madam Speaker, while what is happening here today is not new, it seems to be now fully accepted by the PPM Government that our Constitution is just a document to be abused, ignored whenever they wish, in particular section 77(2) when it comes to the introduction of Bills to this House.

We had a similar situation at the last meeting of the House. We were told then that there was a rush because the Budget had to be done. We are told now that there is a rush because we are getting too close to the 28th of October. We are also told that Cabinet dealt with this matter in July. I think if I remember, the date in the press was the 16th of July—but couldn't get it done 21 days before the 7th of October.

Madam Speaker, therein lies a fundamental problem in the way this Legislative Assembly is operating. We endured it for four years. We didn't know when the next meeting was going to be. We had no idea what the agenda was going to be. Madam Speaker, I come from a different era and my first eight years in Parliament were entirely different. There were only 12 of us then. And I realise that times change and time moves on. But some things are so basic to success that they should not be forgotten just because old people did it.

We sat down every year and we decided on four dates that Parliament was going to meet, because we only had four meetings of the Legislative Assembly in those days. The only date that we did not set firmly was the date that the Governor chose to deliver the Throne Speech, because that was his choice. But I knew that the Legislative Assembly was going to meet in the month of February. I knew that the Legislative Assembly was going to meet in the month of June. I knew that the Legislative Assembly was going to meet in the month of September. And I knew that the Legislative Assembly was going to meet in November.

The Speaker: Member for North Side, are you taking a procedural point? Or is it an introduction to the Immigration Bill before us?

Mr. D. Ezzard Miller: Introduction to the Immigration Bill, Madam Speaker. . . . there's no good in me . . . they have the vote, so I can't change anything that they want to do. But I am trying to impress on them why I believe the 21 days is so important, and how we might aspire to achieve it in the future.

Madam Speaker, I also had the opportunity to serve as a Member of ExCo (as we called it in those days). So we knew the Throne Speech was in February, the Budget was in November. We knew that we had a session in June, and a session in September. There was an understanding that the financial industry, in its infancy in those days, had priority to legislation in June and September. But any other Minister that wanted to get legislation before here had to meet the deadlines; he had to have his legislation, his policy taken to Cabinet in time to get it approved, referred to the Legal Department, bring it back in due course before the legislature started.

Now we can't even sit down and decide on some dates to meet. How the Ministers run their portfolio to achieve the legislative agenda that we just approved as part of the Budget is totally beyond me.

I can serve notice, Madam Speaker. I am going to write Her Excellency and invite her not to assent to the Bill on the basis of it being unconstitutional. And I am asking her to use section 78(2)(a) because the Bill is repugnant and contravenes the Constitution, not to assent to it. And if she assents to it, I will do my best to challenge it in court for judicial review, because I feel that strongly that what we are doing today is so wrong—not for me, but for future generations of this country.

Now, Madam Speaker, the Premier read a letter that he brought down today, kind of asking us to forgive them that they didn't make the 21 days, and for social/economic reasons this Bill would qualify under that phrase that the previous Government used as well, in section 77(2) of the 2009 Cayman Islands Constitution Order "in case of emergency." But there are no facts; there are no statistics in here that tell us where this capacity is coming from.

How many businesses will fail on the 29th of October, because these 1500 people can't work? Somebody asked for this to be changed. So they should be able to tell us which businesses claim they are going to fail on the 29th of October if these 1500 people leave.

Now, Madam Speaker, we need to understand that the business owners and the employers themselves have never placed enough importance on a single one of these 1500 people to their company or business to use the provisions of a key employee under the Immigration Law to get them beyond year eight. None of these people qualified, according to the

business people, because that was the way to apply. Madam Speaker, you have heard me say before that the ability to become a key employee is so wide that my dog Shanna [PHONETIC] could apply to be a key employee to me.

So the business people should have no fear, because I think the statistics from the Immigration Department show something greater than 60 per cent or 70 per cent of all those people who apply for key employee are granted. But none of these people were important enough to the business for them to certify them as key employee and ask for it. But all of a sudden, because of their bad management, bad management by the businesses . . . Now, two years ago, these same businesses had seven years to roll over or exchange their employees who came after Ivan (because we have to stop blaming things on Ivan now, it's a long time ago), and they did nothing.

All of a sudden, two years ago, because some bad HR manager, and some bad chief executive officer, did not manage their human resources and send some of these people out the year before, or the year before that, all of a sudden it became a national crisis and we had to create this TLEP [Term Limit Exemption Permit] to pacify them. So the Government . . . I voted against it. I didn't support it. I spoke against it. But the Government in its wisdom—and that's why you're the Government and I am not—chose to create this unique person and the employers, every one of them, and the employees, knew that they had two years to weed these people out.

Now, Madam Speaker, I am not so naïve to believe that every one of the jobs was going to go to a Caymanian. I think plenty of them can, and I will deal with that later on in my debate. But all they had to do is what they do every day of the week, apply for a permit and they grant it. But it is somebody else who has another seven years to go. But we are going even further now. We are going to increase that rollover to nine years.

Moment of interruption—4.30 pm

The Speaker: Member for North Side. Sorry for the interruption. But we have reached the hour of interruption. I will call on the honourable Minister of Works to move the suspension of Standing Order [10](2) to allow the business before the House to continue until whatever time the Government desires, or the House desires.

SUSPENSION OF STANDING ORDER 10(2)

Hon. D. Kurt Tibbetts: Thank you, Madam Speaker.

The Premier has indicated to Members that the intention is to complete all three readings of the Bill this evening. So I move the suspension of Standing Order 10(2) until the business of the House is completed.

The Speaker: The question is that Standing Order 10(2) be suspended to enable the business of the House to be duly completed. All those in favour please say Aye. Those against, No.

Ayes and one audible No [*Mr. D. Ezzard Miller*]

The Speaker: I believe the Ayes have it. The House will continue its business beyond the hour of 4.30 until the completion of this current business

Agreed: Standing Order 10(2) suspended.

BILL

SECOND READING

IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013

[Continuation of debate thereon]

The Speaker: Member for North Side, please continue.

Mr. D. Ezzard Miller: Thank you, Madam Speaker.

I am going to say with them tonight. They can be here until sunrise tomorrow morning. I had a big lunch and will be staying right here.

Now, Madam Speaker, I was saying that the Government—this Government—has even decided to go further in favour of these employees who like to hire expats to work for them. And later on I am going to present an interesting analysis done for me by some young Caymanian professionals who are all better educated and smarter than me. Members might find some of that information very interesting.

Madam Speaker, the representation that I am getting is not from domestics, unskilled people and ordinary people. It is from the total spectrum. While they might want to say that the people who have TLEPs, their larger numbers are in some of the skilled and unskilled, when I have lawyers with 10, 15 years experience calling me up and sending me email responses from law firms that they have applied to, where they have not even bothered to respond, and when they keep aggravating them they finally respond, but never even give them an interview.

It's like . . . when I was unemployed, Madam Speaker, when I lost election in 1992 I applied for 127 jobs. I got one interview and was promised another interview. The way my parents trained me I got an opportunity to make a first impression, I came to George Town and took my coat to the cleaners. I got my hair cut, I got my nails done. Got everything done. When I got back home there was a message on my answering machine, "Mr. Miller, you don't need to come to the meeting tomorrow, sir; we found the best candidate." That was without even interviewing me.

These people are making judgment calls about people that they will not even give the opportunity to present themselves and go through an interview. Madam Speaker, the unfortunate part of that was that I was fairly convinced that that was only happening in the private sector. But since what happened here Thursday night it has been like Niagara Falls, the number of civil servants—at senior level—who are telling me the same thing is happening to them. And even when they go to the meetings and they score high, either the job is deferred or they re-advertise it, tell them to reapply, put them through the same process again, then they still don't hire them. Then they re-advertise it again for the third time, they put them through the same processes, they score high, but they import somebody from outside with no public service experience.

Madam Speaker, Caymanians are getting fed up. People don't like when I say a revolution is brewing outside. Revolutions in any country are not caused by idiots and drunkards; they go along. Revolutions are planned and orchestrated by educated, intelligent people. We are now marginalising our own educated, intelligent people.

I see in the paper today a new CEO for LIME. Not a Caymanian. What has it been 20, 25 years? Every CEO of LIME has been Caymanian. Gentlemen, it is happening on your watch. Do something about it, or the people are going to do something about it.

Also in today's paper is an ad for Caymanian participation for an LCCL. You know, Madam Speaker, four years ago I moved a motion here to get rid of LCCLs (Local Companies (Control) Licence). They served a purpose in the 60s and 70s and maybe even into the 80s, but they have no place in this country today. This person is opening a café. They have come here (obviously has to be a non-Caymanian) and decided that they like our little paradise. They believe we need to drink more coffee so they are opening a café and they are advertising for a Caymanian partner, but they have to put up \$75,000.

There was a time when I used to routinely respond to these things just to see what information they would provide. And some of the information they provide is ridiculous. There is nowhere near the capital investment they are talking about—\$150,000 to set up a coffee shop, although it is an expensive to do business in Cayman.

This is not only happening at that level. I talked to . . . I was shocked in a conversation the other night to know how easy it is for people to come here and set up business in the financial industry without a business licence, or without any Caymanian participation at all. Law firms can come and set up shop, no Caymanian participation. How is that possible? For years I have been asking somebody to tell me and show me the section of the [Trade and] Business Licensing Law that says these things are ex-

empted from the business licence. They tell me it's in the various pieces of legislation that allows them to set up the stuff, because the [Trade and] Business Licensing Law requires 60 per cent Caymanian ownership. Not a bad thing for the 21st century in the Cayman Islands.

I disagree, Madam Speaker, entirely, with the philosophy of the Leader of the Opposition that what we need is more investment to create jobs. We are not in the situation of the United States. We don't need jobs; we have 20,000-plus jobs that we don't have Caymanians in.

Remember, fellow Legislative Assembly Members, our responsibility. We were elected to protect and promote who? Cay-man-ians! Not somebody who gets off the plane with a briefcase with a couple of million dollars in it! Or they wire transfer it before they come here and have a statement that says it's there. We have no moral, ethical or legal obligation to those people. But we, as legislators, have to be brave enough to say it. The formula we have been using by inviting people here to invest money to cream off the profits and the part there-from isn't working to create Caymanian wealth. The number of Caymanians who have succeeded at the top of the financial industry and gotten wealth (and I am not talking about those who come here and we make them Caymanian, you know, I am talking about Caymanians) . . . I can count them on both hands, and I can still hold my Puro. And I am not going to drop the ash off it either.

It is time, Madam Speaker, that our objective for this economy has to be to promote Caymanian employment and to promote Caymanian ownership and wealth. This Bill is not going to do that. This Bill is going to lock down a significant number of jobs from any access to Caymanians whatsoever for the next 10, 15, 20, 30 years. I can give you the point system and how it is skewed to keep Caymanians from getting promoted on the job. This new point system is worse than the old one.

Madam Speaker, I know that Caymanians applied for the CEO of LIME, because I have the emails that they sent applying for the job. And I don't even think they were interviewed. The Government is saying, *Oh, we are going to save the day; we are going to make it \$20,000*. Madam Speaker, it is an offence now under the Law to make false statements to Immigration. I don't know of a single successful prosecution since the 1972 Caymanian Protection Law came into place. Now, every one of us in this room knows that there have been hundreds, if not thousands, of transgressions. What do we do about it?

The Premier says he likes to talk what he knows. Madam Speaker, I was chairman of the board for 15 months. I know quite a bit of things that go on. And there were many times that I asked the Civil Service why can't we prosecute these people. No action was taken.

Madam Speaker, I can remember the 1990s when we were in a similar situation—not as bad as it is today, grant that. The same people who are telling the Leader of the Opposition that the solution for this country today is 100,000 people who are trying to convince me that the solution to the country when we had 35,000 people was 60,000 people. Madam Speaker, we have 60,000 people today, you know. Trust me. There are very few Caymanians who are better off today than they were in 1990. But those same people have 10, 5, 6 businesses, restaurants, but, *I need more people; I need more people*. More people come in, they open more restaurants. Almost every time you pick up the newspaper there is a new restaurant opening somewhere, but everybody is losing business because somewhere over the last two or three years this phantom figure of 10,000 people left the Island.

But, Madam Speaker, anybody who wants to take the time, and I think the Premier referred to it in his debate . . . these are not my statistics; this is the [Report](#) of the Term Limit [Review] Committee. There is no evidence in here, in all of their diagrams that 10,000 work permit people left. So where is this figure coming from? According to the figures in here we never went above 25,000. We are up at 20. That doesn't indicate to me that any 10,000 left. I know they are going to say, *Oh yeah, yeah, yeah, what happened to all those people is they got permanent residence status*. All of us beat up on the UDP Government for the 2003 status grant. But that's not the end of the story now, Madam Speaker.

Since 2003 we have granted 6,500. I didn't make this up. See the graft here? Get a copy from inside and look at it. PPM Government granted (according to this) 1,804. The other one granted in three years 2,407.

Madam Speaker, I come from a family [in which] almost every person in the generation before me left the Island for economic reasons. But every one of them had one ambition in life—to come back home to Cayman. These economic migrants we have here never seem to want to go back home. And we're always amending things for them to stay. We went through, what, four amendments to the Immigration Law during the last four years. Each one was supposed to be the economic miracle, and the silver bullet for the economy. I opposed every one of them, and I said it wouldn't work. And it hasn't worked. This ain't going to work either.

We have to stop (as my good friend, the Member for East End, reminds me of Mr. Benson Ebanks' statement) "Wearing our hearts on our sleeves" and believing that everybody who comes to the Cayman Islands comes here for our good. Not because they tell us that is it true, you know. I haven't met any one of them yet who didn't come to help Ezzard. But I'm still waiting on help!

I know, Madam Speaker, that if I migrate tomorrow to any country in the world I ain't going there to help them, the people. I am only going there because I believe Ezzard and his family is going to be better off. They are no different.

We have no moral, legal or ethical obligation to let these 1,500 people stay. They knew when they applied for it that they had to go. Their employer knew when it was granted when they had to go. This is not something that we did two or three weeks ago. All of a sudden, through your bad management, there is a national crisis. Madam Speaker, it bothers me when we get up here and tell people everybody has to leave on the 29th. We know that is not going to happen. Trust me; those people know how to maneuver around Immigration better than any Caymanian lawyer.

I will bet you that not even three will leave on the 29th. They will all go to Immigration, get an extension for a month, weeks, days, to stay to wind up their business. And we are going to allow them to stay.

My father, a master mariner on Limited Tonnage, worked with Ludwig West Indian Lines [PHONETIC] for years and years. When he told him take that ship to Japan and put her on dry dock, tell them to cut her up and make something else, he is lucky he gave him his ticket to come back here you know. And he never asked anybody in the United States about changing the law for him to stay there and bring us up there.

Madam Speaker, I have been asking in several forums, "Tell me who the people are that want these TLEPs extended." I don't believe, or up until this point I am trying to convince myself that I shouldn't believe, that the Government would take it upon itself to just do this to help some people. Who is it? The only one I know is from an article in the *Caymanian Compass*—not that we can believe anything that that says these days, because that little bow-tie wearing, freckle faced, sharp nose, tight lipped, whatever, individual should be . . . because, Madam Speaker, I saw that the Ritz Carlton said, when it was done, two years ago, they had 200, now they have 50 left.

Now, Madam Speaker, just think of that statement. We told him (or her, whoever the manager is) that we were giving them a special permit for two years and they had to change the people out or give the jobs to Caymanians. Well, they weren't going to give any jobs to Caymanians. We know that. And he decided that they wanted 200. Now he is telling the Government (in the article) that if he has to send home this 50 next week . . . Mind now, Madam Speaker, this is the slowest time of the tourist season. But he can't do it now; he can't change 50 people now at the slowest time. But if the Government would just be so helpful, so generous, so accommodating, to give him until the 6th of December for those that didn't get their job back—because no Caymanian is going to

get the job—and didn't apply for PR, please send them home in the high season.

Trust me, Madam Speaker, it is not going to happen.

Madam Speaker, I really was surprised when the Premier came down here this morning to tell us that one of the reasons the Government has to do this is because there is going to be the threat of law suits. Madam Speaker, I sat in this House and we were told, because the specific question was asked, if you tell these people that they can't count the period of the TLEP towards their PR they are going to probably want to take legal action to claim it. We were assured they had no legal ground; there was no risk to the Government to do so.

Now, Madam Speaker, that's the same Attorney General that is telling the Premier today that we need to fix this because we run all this risk of getting sued and Cayman tax payers are at risk, they will have to pay more taxes. There is no risk. Send them home. Or send them somewhere else. As long as they leave Cayman, I don't care where they go.

And those that they can't find Caymanians for, give them new permits and they have another seven years to go. Don't need to give them nine. Do not need to give them nine. In fact, Madam Speaker, if I were to change it I would back it up. It would only be five and there would be no hope of applying for anything under any circumstances. You put in your five, you go, and you can't come back! We have to protect this country for our grandchildren. We have to think of the future.

Madam Speaker, the Premier came to my constituency and he laid out the benefits of the Bill. Convened a little bit, Madam Speaker. Stopped the clause where they wanted it. Told us, *This is going to be prohibited, this is no longer going to happen*. They didn't finish the clause that said the Chief Immigration Officer or the Board can vary this if it thinks there are extenuating circumstances thereto. Now, I filed an amendment to delete every place that that appears in the Bill. Trust me, Madam Speaker, if we give them the option they are going to find the rationale to justify it. They have not failed to this point.

Madam Speaker, one of the Government's presentations to my people was that Caymanians didn't need to worry because somehow between . . . we are going to do something that we couldn't do from June 1 to October 28. We are going to somehow magically do it between the 29th and the 6th of December. And the agency that is going to do this is the NDWA [*sic*].

[*Inaudible interjection*]

Mr. D. Ezzard Miller: NWDA, my apologies. Don't want to get that fancy acronym wrong.

Madam Speaker, during Finance Committee we tried to find out how people registered and how

they handled it. I go to the NWDA (National Workforce Development Agency) . . . I go there and I tell these people I want you find me a job. Somehow they interpret that that they have to keep it secret that I want a job. That's not what the people go there and ask for jobs tell me. They want to tell everybody they need a job. But they come down here and refuse to give Parliament—people who are elected to a position of trust by the populace of this country—the names of people because it's a secret and they can't tell us. We might tell somebody.

Madam Speaker, I have been looking at this list—because they finally brought a list, although when I went there they told me they didn't have any list, you know. And the very people I was asking if they had a list for appear on this! Common labourers.

But, Madam Speaker, this is what my grandmother used to talk about it would take 50 Philadelphia lawyers to figure this out. "CISCO description, 9313, building construction labourers; 93130, building construction labourers (e.g., your handyman); 4224, hotel receptionist; 422403, receptionist (hotel). Isn't that the same thing? And this is consistent throughout this thing.

But the best one of all, Madam Speaker, is this one, because this is really . . . if weren't that people's livelihoods were being affected, this would be a joke for generations to come: 713203, painter, building; 265107, painters. Tell me, Madam Speaker, somebody who is a painter, he can't paint a building? *Wha* he painting? Bicycles? This is what we spent \$5 million and three years developing?

And they come here and tell us, what I don't understand as somebody looking to hire somebody is that I need to tell them what the job wants and they have to go to this fancy computer system and they are going to select the person that suits my criteria best and send them to me. Madam Speaker, I have not found anyone that got a recommendation from this agency that was any good, or that I hired. And I can now understand why.

This is the agency that the Government is telling Caymanians not to worry about these 1500 TLEPs keeping their jobs because we are going to see—this agency is going to see—that Caymanians get the jobs. Somehow, in some magic way, these people who have TLEP permits are going to advertise them, interview people, select a person, apply for a work permit and get it granted in 45 days.

Now, let's back up a little bit. The Immigration Law says that we have to advertise the position in two issues, preferably a week apart, in a local paper. So, unless they work for the ICTA they shouldn't be hiring people before the advertisement is closed. That is wrong, gentlemen. That is wrong. Please do not make that be the norm! Don't convert this now to say that because they did it, this is what everybody else can do.

So, we are taking 14 days off the 45. That leaves 31. That's just the advertisement. Most people who are seriously looking for somebody else are not likely to close the advert on the last day it is advertised because we are not going to be reading it tomorrow or tonight if it's finished today. So let's say another week. That's another seven days. So we are down to what? 28? 24? Somewhere around 24.

Now, they have to schedule these interviews. They have to conduct the interviews; they have to select a candidate. That should probably take a couple of days. Then they have to send the application to Immigration. Somehow those poor suffering souls at Immigration, because I know how hard they work, are going to be able to deal with 1500 applications in less than three weeks. Totally, totally unrealistic! Impossible! Impractical!

[Inaudible interjection]

Mr. D. Ezzard Miller: Worse than that, though, Madam Speaker.

The other thing that the Premier and his chief officer told the people in my district was, *Don't worry about it, man. We're going to enforce the Immigration Law.* The Budget (we will carry it through the Third Reading) says different. We are going to increase enforcement—HCA3, enforcement of Immigration Laws. It hasn't been increased. The 2012/13 actual is \$1,421,374.

The 2013 Budget is \$1,405,496 (\$15,878 less). But they tell us they are hiring, what, seven, eight, nine officers? How are they going to work? They will wait until somebody gets up out of his chair from his desk so they can work . . . got everything finished with the computer and going to take pen and pencil? Because we are cutting the stuff that they do the job with.

Alas, alas, Madam Speaker, the truth comes out. Because when you flip the page here is what we discover, Processing HCA4. Processing status and permanent residence applications: 2012/13 actuals, \$415,945; 2013/14 Budget \$567,945. A whopping increase of \$152,000. You see? You see? You see where they are placing the emphasis. But they tell us the new point system . . . *Oh, don't worry about that, ain't nobody getting through that.* But they are preparing for an influx.

Madam Speaker, let's talk about the point system a little bit, because they made a big deal . . . that was half the presentation. Of course, they never bothered to take the risk to hand out any copies to my people, you know. They like to read and study and dig up things in detail. That's how we operate up there. I carry the bills up there, and we go through it clause by clause. They put it up on one little board that they could hardly read. And I want to warn the people that the point system doesn't come down here for us to see it. That's done in Cabinet as a regulation.

You would have thought that if it were so great and it was going to solve all these problems and keep all these people out they would have distributed it down here long time; we'd all have copies of it.

Member for East End, do you have a copy of it?

[Inaudible reply]

Mr. D. Ezzard Miller: Oh, okay.

But they didn't hand anything out to us.

Mr. V. Arden McLean: No they didn't.

Mr. D. Ezzard Miller: Point taken.

Madam Speaker, what they presented to us was that the very people that we are training, the very jobs and the people who occupy those jobs now that we are training that 600 to 700 Caymanians to come back and eventually get promoted to, are the people that are going to get through. They have converted the glass ceiling for promotion and jobs for Caymanians to reinforced concrete. And they must have had that boy from East End inspecting the steel, because it's got plenty steel in it.

Overall, they made it clear that in their view very few of these TLEP people are going to qualify for PR. Madam Speaker, why are we fooling these people? Why are we going to spend \$500,000, \$750,000 a million dollars to process these people with the full intention of refusing them? That's the plan.

Now, I know they wouldn't do that the other night . . . because, Madam Speaker, if we take a conservative approach and we say that each one of those PRs that we process is going to consume CI\$1,000 in resources . . . and I am being very conservative here, because we are talking about board members' time, you are talking about staff time, materials, electricity all these things, that's \$1.5 million you know. That \$1.5 million could provide my three little police in North Side, the three little police in East End and the six little police in Bodden Town easily. Are we going to send these people home when we don't need the resources to process them? Their expectation was to go home. The expectation could be nothing else. The expectation of the employer had to have been that these people are leaving the Island on Sunday night.

I don't believe anybody got one of those TLEPs that said on the backside, *They say it's the 29th, but we will make the changes. Just hold on.*

That, I believe, is an immoral act, to tell these people that we are changing the law to provide them with an expectation that they didn't have, but with an opportunity that they all want to apply for PR and we have deliberately structured a point system for them to fail. It has to be morally wrong. Because these people are, hopefully . . . and I can tell you they are also going to be scheming to succeed to try and qualify. And we as legislators today are deliberately making it im-

possible—and knowingly! We are doing this, Madam Speaker, knowingly. That is what the Premier and his chief officer told the people in North Side. I don't know what he told the other districts.

Madam Speaker, sometimes it's good to sit at the head table. One thing I learned in politics, two things: listen while I talk and read upside down and backwards. And I really can't say that I saw them taking any notes about what the people in North Side were saying about the Bill to reflect in these amendments that the Premier has filed today. They only came out because the people threatened to march, and they tried to reduce amounts. Madam Speaker, the Premier himself said that they made this decision in July. They had all of July, all of August, all of September. But nobody, nobody from the Government came out to explain anything. Not to my constituency. And I have no knowledge of them explaining it to their constituencies.

They were told when it first came out in the press announcement that they had consulted widely with the private sector. For *unna* in Cayman, I know what private sector is, that's them business people down in George Town. That's who the private sector is—them business people down in George Town that them people meet with and they don't want them to know. And they are the people they are doing this law for. They are not doing this for any carpenters and people in North Side, waitresses and all that who can't get no work. That's why they can't tell me who asked them, at whose request, and who are you doing it for.

But that's not a concern of theirs, Madam Speaker. No, no, no, no. Their concern is for these business people and these employers whose business is going to BOOM on the 29th—going to explode, it shall exist no more if they don't have this TLEP walking through the door that morning. It's going to evaporate, disappear from the face of the earth. And the Government is going to collapse. They must have been reading Nostradamus, because these 1500 people must stay. They must stay.

The Premier admitted in his speech what they are finding. The reason they have gone from seven to nine years is because the employers tell them that they want to keep the people longer. All of us know that nine is longer than seven. You don't have to tell us that. The question is, What about the Caymanians out there who deserve jobs, qualify for jobs, deserve to be promoted to some of these positions, and have worked hard and were hoping that they would leave?

I had an interesting conversation with a young Caymanian businessman. This young man did the right thing. His foreign worker is coming up to rollover. He went up to the school and got a young Caymanian a year before the employee was supposed to rollover. He spent that year training the Caymanian. The foreign employee had agreed to leave when his rollover was up. No problem on going. The Government makes this announcement in July that we are going to

extend the rollover to nine years. Well, they came out in ten, Madam Speaker. And they are claiming now that they are backed up to nine because the people asked them. That's okay. What happened to him?

The foreign employee came to him and said, *Sir, I can see that the Government is changing the rules. I can stay. I need to stay.* He said, *But you know what the deal was. We spent a year training this young Caymanian for the job.* [The employee said], *Oh, no, no, no, but I don't have to work for you, sir. You just give me a release letter and I will go and work my three years with somebody else.*

Now, that young Caymanian businessman has one of two choices. He can lay the Caymanian off and keep the foreign employee and his business might continue. Or, he can keep the Caymanian, lay the foreign employee off and he goes to work for his competition and takes his clients with him. Do you really think this is helping Caymanians? That is not an isolated case.

There are some Caymanians . . . in fact, most Caymanians normally operate their business according to the law. It is these people who come here and make lord over us who decide that they can influence Government to change the laws to suit them to get what they want done. The Caymanians abide by the law and struggle to continue. And there are many Caymanian professionals 10, 15 years on the job, who were hoping to have the opportunity to get promoted because the guy above them was on rollover. But now that he is not being rolled over they can't do anything.

[Inaudible interjection]

Mr. D. Ezzard Miller: Exactly!

And they are going to get PR because they are the kind of people who are going to qualify. And the Government knows that in the way they have the point system structured.

And that Caymanian, if he wants to improve his lot in life, will have to move sideways to some other company. And do you know what they are going to tell him? *You are unreliable. You don't have no stickability. You don't stick around.*

We can't win, Madam Speaker. Whatever we will have is what they need most. Now we know of all the people who come here and have zero qualifications in what they apply to do, but they get the job over the Caymanian who doesn't have any qualifications and often over the Caymanian who has qualifications but doesn't happen to speak Hebrew, or wear a tam, because that's what they need for this job. This architect needs to speak Hebrew.

There was an ad in the paper on Friday for a job in the financial [sector] for a secretary. I know the young man who had the job five or six years ago. Did that exact job, managed their backroom operation. We had a conversation Saturday night. I asked him about it. He said, "Mr. Ezzard, I worked there 13 years. Nev-

er once did anyone call me speaking Italian. All the people who called spoke English, because they knew they were calling Cayman." But they are smart enough to get somebody who speaks English. But because we want to keep this particular national now—who is the same one who ran him out of the job, you know, and he had to teach him the job—the requirement now is like Registrar of Companies has a new requirement, have to speak Italian. Some Caymanians only *habla español*, but there are not too many who speak Italian.

I mean, it's like my good friend trying to get the Director of Tourism job. Told him he needed a degree. He got that degree. Told him he needed a master's degree. He got that. Told him he needed foreign experience. He went over and got years of foreign experience. Came back and they said, *We really think we need a woman.* He said, *Now, we're not doing no sex change operation for the job.*

[Laughter]

Mr. D. Ezzard Miller: This is not a laughing matter, gentlemen. This is a true story. This is a government agency doing this to people. And we are complaining about the shenanigans in the private sector. I have 10 FOI applications on my computer to serve this weekend based on information and phone calls and meetings that I have had since Friday morning.

Now, Madam Speaker, I am drawing a line in the sand. *Unna* don't know what I have. Make sure you send me what I ask for.

Mr. V. Arden McLean: Make sure [inaudible]

Mr. D. Ezzard Miller: Exactly.

Because, again . . . and I admit to being a Bensonite, you know. He always told me, "Ezzard, in politics don't ask a question you don't already know the answer to." So to any chief officer, or any FOI manager within the sound of my voice, if you get an FOI from me over the next couple of days, send it all. Because, Madam Speaker, if 15 per cent of what I have been told since Thursday night's fiasco here is true we have a serious problem in the government services.

I expect that that bowtie-wearing, freckle faced man will write an editorial next week saying I want to control the civil service. Couldn't care less.

Madam Speaker, I spoke earlier about this little analysis that these young Caymanian professionals . . . you see, I like to keep company with these young people now, Madam Speaker, because it makes me feel young. And I am going to do whatever I can to feel young. Getting over the hill now.

Here is a little matrix that they did for me.

[Inaudible interjection]

Mr. D. Ezzard Miller: Back's too stiff.

"Benefits of employing Caymanians to Cayman: reduction in Social Services" (and we don't need to reduce that); "reduction in crime" (we don't need to reduce that either); "more money in the country saved for others to borrow" (we don't need to do that either); "more money will be spent in the country to further stimulate the economy" (we don't need to do that either); "increase Caymanian ownership of land as Caymanians are more likely to invest locally" (don't need to do that either); "increase in Caymanian ownership of business as Caymanians are more likely to invest locally" (we are not really encouraging that either, we are giving TLEPs the right to apply for PR (and if any of them invest we are going to turn the world upside down to protect them)).

"Working Caymanians set a good example for their family and community, roll models; encourages education and personal development; Caymanian heads have a tendency to be more pro-Caymanian in hiring and supporting local businesses; dignity, pride and self-sufficiency; financial independence can encourage Caymanians to participate in the political process by speaking out of fear" (I know we don't want that one).

"Benefits of employing ex-pats to Cayman: ex-pats bring new skills and experience, work permit fees, rent, food and entertainment; broaden local contacts and networks, increase economic activity via tourism, friends and family visits; some jobs need ex-pats or they won't be done (i.e., domestics)" (the people are being very fair, professional people).

"Benefits of employing Caymanians to companies: no work permit fee; possibly Caymanian may grow with the company in the long run; Caymanians are not subject to rollover; Caymanians may have contacts in the community to get things done; Caymanians may train others; hiring a Caymanian is good optics for immigration, CUF; hiring a Caymanian could be good optics in some industries for public perception."

"Benefits of employing Ex-pats to companies: Ex-pats are work horses; view Cayman as a sprint to make money not a marathon; they have few commitments or distractions; flexible with fewer family and community ties; less likely to go to the Labour Board over workplace issues; more workplace abuse in some instances labour as domestics; financially through upward work, pension, health and overtime; often ex-pats will pay for their permits; little chance of an ex-pat leaving to compete against the boss; ex-pats may be skilled and ready to hit the ground running with no training required, hence the excuse of Caymanian not being ready; job descriptions are often tailored for friends and family to ensure the 'right fit' with regard to culture and country; in some cases ex-pats are willing to work for less or willing to work overtime without legal compensation for time and a half or double time; some ex-pats are not seeking promotion,

for them Cayman is a five-year plan which will yield them sufficient funds to set themselves up in their home country; often ex-pats give little pressure on wages as many of their expenses may be in lower cost jurisdictions; the work permit is often used as a bit and bridle for the ex-pat worker for the company where a free Caymanian is harder to control." [UNVERIFIED QUOTE] Interesting comparisons, Madam Speaker.

Now, Madam Speaker, the same group of people gave me a written submission and asked me to read it into the records of the House: "Immigration, Education and Employment Objectives."

The Speaker: Honourable Member, do you have a copy for the Chair?

Mr. D. Ezzard Miller: No, Madam, but I . . .

The Speaker: Read it, and then you can supply it.

Mr. D. Ezzard Miller: Okay. Thank you, Madam Speaker.

"Immigration, Education and Employment Objectives. Have Caymanians qualified in their respective field.

- **Ensure government receives a return on their investment for scholarships granted (bonded to Cayman for an equivalent time of study).**
- **Only fund areas of study that are needed (we have a job vacancy for this individual to fill upon completion of their study).**
- **Stabilise the population growth and demographic composition. The US has 13 per cent of its citizens foreign born. In Canada, which is considered to have a welcoming immigration policy, it's 21 per cent. In Cayman our population has grown by over 50 per cent in 20 years with over 90 per cent of that increase coming through immigration.**
- **The level of growth is unsustainable and places unnecessary pressure on infrastructure, our social fabric and culture as well as on our environment.**
- **Every progressive developed country attempts to manage its population growth with the goal of benefitting its citizens. They do this by identifying key objectives that they are trying to achieve for the benefit of their citizens by putting policies in place to achieve those goals. Research will confirm that all progressive developed nations have a form of roll over in place for migrant workers which is used as a population growth tool as well as providing labour protection for the current and future**

labour force of the country. The need for strict policies in a small jurisdiction is even more acute.”

“The work permit system and residency.

“Much of the economic success of the Cayman Islands has depended on our ability to use the work permit system to the country’s advantage, especially in the early years of development. Companies courted high school graduates to work in their companies offering training, experience and real opportunity. Industry worked with Caymanians to train them up as this was the government’s directive implied and explicit.

“Twenty years ago, as a result of this system, 5 of the 7 commercial banks had Caymanian born CEOs. Today, after over half century in the banking industry there is not one Caymanian born bank manager in the commercial banks.”

The same can be said for the tourism industry. The greatest period of growth in our tourism industry, every single hotel on Seven Mile Beach was managed by a Caymanian and largely staffed by Caymanians. Today, you are going to be hard pressed to find a single Caymanian employee in those institutions, much less, managers.

“Fair but firm management of this system is key to population management and maintaining a low unemployment rate through economic cycles.

“During an economic boom, workers were brought in to provide skills and expertise where there was a need. During an economic downturn these permits were discontinued/no longer granted. Statistics will show that throughout these economic gyrations Cayman was able to keep its unemployment rate consistently low. Residency/Cayman Status was kept low which ensured that our inflated population during the boom period was not permanent and was able to mobilise during a downturn. This kept pressure on the public purse down in areas such as social services receipts and maintained a high per capita income.

“In more recent times the focus appears to have shifted from what is best for Caymanians and has turned to what the business community wants. The result has been many more status and residency being granted and lax management of the work permit system. Statistics reveal that regardless of what stage in the economic cycle Cayman is in, work permits rise, residency rises, unemployment rises, crime rises and wages remain stagnant. With our population growing faster than GDP, the mathematical truth is that each person gets a smaller piece of the economic pie, or you experience a widening of the gulf between rich and poor.”

“The Fallacy of Fees.

“There is a belief that government is reliant on work permit fees to survive and therefore

finds its hands tied, being forced to grant permits almost by default.

“In the case of a low wage work permit holder whose work permit fee is \$1,100 and earns a salary of \$20,000 per annum or \$6.85 per hour, research shows and this can be supported by the immigration accommodation forms, that many work permit holders in this income bracket live in communal style, often 4 to room with shared meals. They are not permitted to keep dependents, have vehicular transportation, ride the bus or own a moped or bicycle. Approximately 50 per cent of their income is spent locally, mainly on food and accommodation with the remaining funds being remitted to their country of origin. This is a leakage of \$10,000 per low income worker from Cayman.

“A Caymanian worker on a similar salary does not live in the same conditions, is most likely to have a dependent and a vehicle and spends closer to 90 percent of their income locally. This additional \$8,000 spent in the local economy results in no less than \$1,600 in customs duty alone to government. This net gain of \$600 does not include the savings of not having to pay this person \$550 per month if they were out of work plus funds for their dependent. It is clear that having a Caymanian employed is actually more beneficial for the Cayman economy and the government budget than an expat.

“At higher income levels the result is even more pronounced. In effect, Cayman’s indirect tax system of import duties is for the most part a flat tax. When considered as a percentage of income, this tax is considered as regressive since it accounts for a larger percentage of income for the low wage earner. High net earners are able to attain a much higher level of disposable income which is not adequately offset by the work permit fee. For example, where an expat lawyer earning \$150,000 per annum may spend \$75,000 to sustain himself in Cayman, the fee of \$15,000 compared to the \$75,000 in disposable income that could have remained in the economy in Caymanian control to buy land or own a business.

“Instead of helping Cayman, the fallacy of fees results in economic and intellectual power as well as political influence being stripped away from Caymanians as the better educated, more wealthy imported class expand land and business ownership.”

“The TLEPs.

“There is false sense of urgency that has been created with regards to the TLEPs.

“None of the TLEPs were designated as key employees by their companies over the 9 year period they worked. This is evidence that dire need to retain these staff is false. Some of the TLEPs have already left the jurisdiction while oth-

ers intend to leave regardless of government's shifting position. Where a worker needs to be replaced companies are able to have a permit granted where Caymanians are not willing and able to fill the position.

"The TLEPs should not be permitted to apply for residency which would remove the need for the rushed change to the Points System by October 28, 2013."

"Points System.

"The points system in its current form is flawed and works to the detriment of Caymanians as it is backward looking in its approach to granting residency.

"During the presentation, it is important for government to be transparent and show the old and the new system side by side.

"The components of the points system and the points rewarded for each component need to be carefully assessed. For example, it is clear that in the first two components of the proposed system it is possible for an applicant to achieve 55 points which is 50 per cent of the requirement to achieve PR. What is most concerning is that the proposed system allots MORE points to the applicants in fields that Caymanians are NOT currently represented in effect creating a cement ceiling for Caymanians. The example used of domestics is not a true reflection of other industry sectors.

"A more appropriate vision would be to identify desirable, high earning professions and train Caymanians for those positions. Use a forward looking approach where returning graduates and other Caymanian professionals within industry are striving for these positions and refuse to allocate points on these grounds.

"Savings should not be considered as a significant element in the PR calculation yielding any more than 5 points as funds can enter and exit an account by the touch of a button. Money can't buy class or character, which are more important when becoming a part of the social fabric of a nation. Due diligence should be conducted to ensure the funds were placed in the account over time and not just before the PR application.

"Investments should be verified and required to have a Caymanian partner of 60/40.

"The proposed points system is only slight tinkering with a flawed backward looking system and will yield disappointing social, political and economic results. As population growth is exponential while economic growth is cyclical, drastic increases in our permanent population will exaggerate our recessions and limit our booms. This system must be abandoned and replaced.

"Appeals should not allow new information to be considered. Under the current system, a rejected application on appeal is permitted to introduce new facts that may influence their

points such as investments made while working on a WOL [Working under operation of Law] permit or the birth of a Caymanian child. This is wrong and should be stopped. Applications should be appealed on the merits that were presented to the Board."

"Vision and Planning/Testing and Stress Testing.

"Current immigration statistics reveal that approximately 50 per cent of applicants or between 1,000 and 1,600 applicants achieve PR per year. This number does not include their dependents. If the proposed system is aimed at making it more difficult for residency to be achieved, one objective measurement that can be used to confirm success of the new system is that the total number of successful applicants and their dependents should be reduced. An easy way to confirm this is by testing to see if applicants who made it through the current system would not be successful under the new system.

"Until the current and proposed systems are discarded and real effort made to introduce a system that places Caymanians first, the systematic culling of opportunities for Caymanians will continue.

"Cayman needs to determine how large and how fast we want to grow.

"We need to decide what jobs are most important for Caymanians to hold and train our people for these positions.

"We need to ask ourselves who and how many? Determine what kind of people we would like to become permanent members of our society and those we definitely don't require or desire.

"These policies must not be developed in a vacuum. Consideration must be given to concession commitments made, for example, in the case of Health City where in addition to natural growth and the PR grants we have already committed to residency for many of Dr. Shetty's staff. These kinds of concessions are unnecessary and only serve to distort the ever-changing image of Cayman's demography with no regard to the Caymanian youth. With these previous commitments in mind, we need to retain stricter control on immigration than ever before.

"We need to move away from a points system where the government has no control with respect to population management or social engineering. The solution is developing a new objective system based on vision, planning and testing. The most objective way to accomplish these goals is by implementing a quota system. Aggregate quotas as well as industry quotas need to be set based on demographic metrics including but not limited to population age, profession, GDP performance and natural population growth.

“Sustainable economic growth must be organic and originate from within the society. Tying a country’s economic fortunes to foreign workers and investment is tantamount to trying to fill a sieve with water by pouring more and more water into it. No matter how much you pour in the leakage is too great to result in any sustainable substance.”

Madam Speaker, that’s what some of the young, qualified professional Caymanians think about what we are doing here today. And there is lots of good advice in there.

Madam Speaker, those young people are the future of this country. They are who we should be talking to, not these business people and conglomerates who have come here to rape and pillage the country and take their profits and leave. And, Madam Speaker, I say that is what they are doing. You see ads in the paper. They want somebody to work in a store. Got to work holiday. Got about 15 different tasks to do. Salary US\$900 per month. But we, as a Government, refuse to bring in a minimum wage for our people.

Madam Speaker, we send in these FOIs, and sometimes—sometimes—the information managers think, *That Member for North Side, he likes to harass us with FOI. We will make his job as difficult as we possibly can.* So, you ask for a list of categories of the persons on TLEPs. And they ignore you. You send in another request. I sent this in two weeks ago. I got no response. I got an email, *Well, we’re working on it, but we’re having some problems with the computer system.*

A week later you send another, they tell you, *Well, we had Computer Services over. And they really can’t solve the problem for us. They can’t break out the TLEPs from all the permits. So what we have decided to do, Mr. Miller, we won’t hold you up no longer, we sent you the whole list—the whole 20,000, 87 pages, every single permit by category granted in the country. They figured that I’m old and ancient and probably couldn’t do anything with it, but I got it about 4.00 am. I sat down at my computer. The Fourth Elected Member for Bodden Town helped me set up that Windows 8. And you know how confusing that is, they touch this, they touch that. They go so fast you can’t even see it going! And by 3.00 the next morning, I had extracted, by category, all of the TLEPs.*

They told me that WPR, WPG was the TLEPs. Well, it’s [INAUDIBLE]. WPG? What’s that? Oh, that’s a grant. But I was of the opinion when we passed this legislation that it was only for renewals. *No, no, no, sir. We are granting permits.* Okay, all right. But some of these . . . again, this is almost as bad as the one from NWDA. Because we even have four apprentice plumbers.

Now, I am not sure what an apprentice plumber is. But we have four people that are qualified under this TLEP. And we have all kinds of things here.

So when the Government tells you that this is mostly domestics, that is not the whole truth.

But alas, Madam Speaker, information overload is sometimes a good thing, because there is a column here that says “Government workers” on this sheet. And, Madam Speaker, I must confess that I never dreamed that the Government had 947 people which would normally be on work permit if they had to apply for a work permit. I knew they had some, but I really didn’t believe it was that high. So, I included them on my list. And it’s very interesting. Some 22 people at administrative level. Business development managers, business analysts.

So, Madam Speaker, I have filed an amendment to this Bill to delete from the substantive Law, the Immigration Law (2013 Revision), [section] 40(1)(a), which allows the government to hire people without going through the work permit process. And it is going to be very interesting to see if the Government bench supports that amendment, because all of them campaigned, like I did, that Government should be going through the same process. So here is an opportunity to put it in place.

We know what’s going on. We heard some of that last week. All they have to do is support that amendment to delete [section] 40(1)(a) from the [Law].

The Speaker: Honourable Member, is this an opportunity time to take the afternoon break? Or are you going to conclude shortly?

Mr. D. Ezzard Miller: I have about another hour and a half to go, Madam Speaker.

The Speaker: Does that mean that—

Mr. D. Ezzard Miller: I am going to ask some people to yield some time for me again today.

The Speaker: Do you want the afternoon break now?

Mr. D. Ezzard Miller: Have the break now, Ma’am. That’s a good idea.

The Speaker: We will take the afternoon break and reconvene at 6:15.

Proceedings suspended at 5:50 pm

Proceedings resumed at 6:58 pm

The Speaker: Please be seated.

The House is resumed. I will invite the Honourable Member for North Side to continue his debate.

BILL

SECOND READING

IMMIGRATION (AMENDMENT)(NO. 2) BILL, 2013

[Continuation of debate thereon]

Mr. D. Ezzard Miller: Thank you, Madam Speaker.

Madam Speaker, often times, as a politician, a community activist, and simply being a Caymanian prepared to defend, promote and advocate for Caymanians, when I relate the terrible experiences of Caymanians seeking employment only to be passed over by a work permit holder, I am told, *It's rubbish. Which employer in his right mind would pay such high work permit fees to government if they could find a Caymanian?* And on the surface, that sounds reasonable.

Sometimes it is difficult to counteract it, because you would think that the fees, particularly the level of fees that are charged now, would be a deterrent to the work permit. But if you dig a little deeper we will see that it's all economic. Madam Speaker, in most cases, particularly in the lower-skilled and semi-skilled, the salary paid to the worker is less, and often times substantially less. So that helps to make up for the work permit.

Madam Speaker, at all levels they then save 10 per cent of the salary up to \$60,000 (if you don't happen to be an MLA, like us, who pay on the full amount, we don't get the limit to the \$60,000). So, that is another substantial savings because they don't have to pay that for the first nine months. And particularly . . . because I had one instance (and I didn't know this was happening until it happened in real time to me) when a special person applied for a job at the Ritz. After several attempts and all kind of monkeying around, they found out who she was connected with and they offered her a job—but only for six months. She had to take a three-month break and then they would consider her for another six months.

If you talk with many of these employees in the tourism industry, in the hotels, the restaurants and the bars, they are only on the job for six months. They pay no pension at all for any of them. So that's another substantial savings. When you get up to the professional level, sometimes they pay the worker more than they are paying the Caymanian (but that formula would not necessarily apply in that situation), but it is always economic and the bottom line for these business people. And they do (and I can't fault them for it if we allow them to get away with it) what is in their best interest to keep or improve their bottom line.

They are not worried because they have hired some non-national for US\$4.00 per hour that there is some Caymanian who needs a job at \$10.00 per hour. And if one of those people who can't get a job turns to criminal activity, the likelihood of them being the victim is very small because they live in these isolated environments around here—gated communities and eve-

rything else. And, Madam Speaker, there is nothing in this legislation, in my view, that is going to help Caymanians.

We say that we are going to introduce a \$20,000 fine and the unfortunate thing for the Government is that if you talk to the Caymanians, they are t'd off because the Government is letting the 1,500 TLEPs stay. If you talk with some of the expatriate employers, they are t'd off with the Government because they make it impossible for them to get PR and stay forever. So, I don't see where the Government is going to win any kudos from any group out of this.

Madam Speaker, I don't support the legislation. I have filed a few amendments, and if all are accepted I will vote for the Bill. The first amendment . . . and there's a typo, it should be "guest workers" and not "guess" . . . sometimes I would like to have them where they have to *guess* the right answer to a riddle in order to stay, but we can take care of that. But I believe that if we change the word "work permit" to "guest worker" it would create a difficult psychological expectation in the mind of the worker.

The second set of amendments relates to the time periods for the appeal process. And I just think that all and sundry should each have seven days equal. Some shouldn't have 28, some 14, some unlimited. Make them all seven days.

I don't like the Chief Immigration Officer or the Board being able to change some of the restrictions that the legislation was trying to put in place because of special circumstances. And I think that should be deleted. I think if the legislation was intended that they were supposed to have dependents identified before, they shouldn't be able to add any under any special circumstances other than it's a matter of the birth of children after they were granted. But to be able to go back home and adopt five or six children, members of the extended family, or whatever, and bring them back here and get them put on as dependents, which could be interpreted as special circumstances, it could be changed.

I think where the Bill refers to "caretakers" . . . leave what we have. Delete the whole clause and leave it as it is. The same with the TLEP—delete the amending clause and go back to the original. They all leave after the 28. Give some a week, some two weeks, some three days, so they don't all have to leave on the same day, and we don't over-crowd the airport. But they must go.

As I said earlier, we all say that we believe Government should have to go through the work permit process, so I have filed an amendment to give us the opportunity to do that by deleting the section in the law that gives Government the exemption.

Some of the young people and professionals complain to me that they have no way of knowing when people's work permits expire. So, they don't know when . . . and every time they apply for a job, the place they are applying at tells them they don't

need anybody because they have work permits. But, if they had to display their business staffing plan, or provide it so that it could be inspected by a member of the public during normal working hours, you could go in—if you're an accountant or a lawyer or a doctor or a nurse or a carpenter—and look at the business plan and say, *Okay, I'm a lawyer. I'm unemployed now. They have a lawyer's work permit that expires in two or three months; let's see what the competency of the business plan is* (some people call it GAP analysis for himself). *What do I need to do to qualify for that job?* And come back in three months and apply for it. But if there is no way of knowing, they have no opportunity.

I think that those people who go to the Work Permit Board and don't have a business staffing plan should have to have a list of all work permits, competencies for the job, when the job expires [contained] in a document that anybody can ask [for and] inspect during normal working hours and see when there are likely to be openings at the company.

I believe that we have to provide every opportunity for Caymanians to access these jobs. The Caymanian will go today and apply for the job, and they don't need [him]. In six weeks or a month a job is open, but the Caymanian has already been told that that company has no opening. He has no way of getting that information, so he doesn't come back in six weeks and apply for the job that is now vacant. And if he sees an ad in the paper he ignores it because the people just told him that they don't have any jobs. So he figures it's a work permit application.

In fact, some people even add the insult of putting in the ad that it is for a work permit. The Board should not consider any ad that has that because those kinds of ads should not be allowed. All jobs in the Cayman Islands should be available for Caymanians to apply [for].

So, Madam Speaker, with those few comments, if the Government is mindful to accept some of these amendments, and, in particular, to leave the caregivers and the TLEPs as it is, there are some other aspects of the [Bill], with amendments, that I could support. But unless that is done by the Government, I will be voting "No" on the Bill.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? I recognise the Fourth Elected Member for Bodden Town.

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

I would like to start my contribution to the Immigration (Amendment) (No. 2) Bill, by acknowledging receipt of the petition that was tabled in the House today by the Member for North Side, and by thanking those individuals who took the time to collect those signatures and bring their concerns to our attention.

I have heard on several occasions that the number of signatures collected was on the low side because of fear of intimidation. I want to assure those individuals responsible for circulating the petition that I can't speak for any other government, but I can speak for this one. And there is no fear of intimidation by any Member of this Government. We appreciate the efforts. We appreciate that they have taken the time to bring their issues to our attention.

We are not a Government that would seek to exact revenge or intimidate anyone. And I hope that they can be assured, Madam Speaker, that that would be a deal-breaker for me if this Government started to behave in that manner.

Madam Speaker, the PPM Manifesto stated that if the PPM were elected in sufficient numbers to form the Government it would, **"Reduce bureaucracy, eliminate the current system of boards and have applications for work permits, licenses, permanent residence and Caymanian Status dealt with administratively."**

It also stated that a PPM Government would, **"Enforce the Immigration Law to ensure that Caymanians, Permanent Residents and spouses of Caymanians are given the first preference in jobs for which they are qualified."**

A further commitment was made to, **"Change the rollover system by doing away with the concept of 'key employee' and allowing everyone here on work-permit for more than seven years to be able to apply for permanent residence."**

Nowhere in the PPM Manifesto, or in any other campaign material, was it written that a PPM Government would seek to allow the mass granting of permanent residence or status to work permit holders, specifically to TLEPs; or that we would implement any policy that would negatively impact the ability of any Caymanian to apply for and receive any job that is currently being held by a work permit holder; or that we would implement any policy which improves the ability of an employer to hire an expatriate over a Caymanian. None of these things were part of the campaign to this party, and none of these things are influencing anything that we are doing here tonight.

I have heard many people question the motivation for and the origin of the changes contained within the Bill that is before the House. I think it is unfortunate that a number of people who should know, and I think who do know, better are turning this issue into something that it is not.

Firstly, every single Member of this House campaigned primarily on making positive changes for Caymanians. We campaigned on reducing unemployment and reducing the cost of living and, by extension, reducing the level of poverty in this country.

There is no mistaking that we do have a desperate situation here, Madam Speaker. Serious crimes are on the rise, Caymanians are unable to pay their bills, our children are going to school hungry with

no means to get the nourishment they need to be productive students, and rising tensions in the workplace exist as many Caymanians are being held down, pushed out and kept out.

The PPM and the C4C partners are no different than other individuals in this honourable House. We may have come from different social and economic backgrounds, and we may have stood on different political platforms, but we have one thing in common which unites us all. And, in light of the revelations last week in Finance Committee, it became obvious that we are all loyal Caymanians who are willing to stand up for those who are being taken advantage of.

Madam Speaker, I was proud to see how quickly every single Member of this House came together to deal with what we all perceived to be the ever-lingering threat of discrimination against our own people. I am one that is not surprised by what took place in Finance Committee as I bore witness to some of the questionable hiring practices that have been perpetrated on the Caymanian people. I have experienced this all too often myself, Madam Speaker. As the saying goes, he who feels it knows it.

The question remains, though: What are we prepared to do about it? I have already asked the question: If we cannot keep our house in order, how do we expect to tell the private sector how to keep their house in order? Madam Speaker, I came into this honourable House with one thing—my good name and the promises that I made to the people who put me here. It angers me to see what transpired in the last week of Finance Committee. But I will save that for another time.

Madam Speaker, I am confronted from time to time by individuals who are not clear on how the proposed changes to the Immigration Law will improve the position of Caymanians in the workplace. It is important to make a distinction between the rollover policy and the work permit system. The rollover was never intended to be used as a method for securing jobs for Caymanians. The purpose of the rollover was to set a limit on how long any individual can remain in these Islands, but it assumes that there is a work permit process that is working. The rollover policy therefore states how long you can remain here provided that you can qualify for a work permit. And here is the problem: How effective has this work permit system been?

Under the past Government, I think around 90 per cent of work permit applications were approved. The TLEP [Term Limit Exemption Work Permit] issue was created under that same regime. The same past Government now criticizes this Government for trying to clean up the mess that was created. Madam Speaker, it is not too far-fetched for me to draw the conclusion that there are those who would seek to distract the attention of the public away from some of the real issues at hand, issues that we have inherited but have boldly taken on.

Besides the TLEP fiasco, the PPM-led Government must now sort out the Affordable Housing mess, the waste management [mess], the FCIA [ForCayman Investment Alliance] mess, the cruise port mess, and the airport expansion mess, just to name a few. Instead of focusing on these critical issues, we have individuals out there who choose to single the PPM Government out for trying to fix a major immigration mess.

Madam Speaker, we are not about trying to create an elitist society. We are ensuring that entry-level positions are available for our young people. The Leader of the Opposition made that comment earlier today, Madam Speaker, and I chose to address it. What we are trying to do is to level the playing field for our people.

I will not go into all the specifics of the Bill, as the Honourable Premier has already given a thorough presentation. But I do need to make the following points: This Bill is a result of many long hours of consultation and discussion with many of the stakeholders who rely on a mixture of Caymanian and foreign labour to operate their businesses. It is a priority of the PPM Government to create and safeguard jobs for Caymanians and this is the rationale for many of the changes presented in the Bill.

It is not the function of the rollover to create jobs for Caymanians. The rollover does not protect Caymanian jobs. The rollover was put in place to prevent the expectation of the foreign worker that they could remain here indefinitely. It is a reminder that their time here is limited. It also assures that you have to qualify for a work permit to remain here. Madam Speaker, the function of the work permit system is to protect Caymanian jobs. But, to date, the work permit data indicates that a Caymanian does not automatically become the recipient of a job when a work permit expires. Instead, the practice has been to issue a new work permit.

The work permit system is broken, Madam Speaker, and that is the reason for the rush. That is why this Bill is being brought so early in our term. We have to begin the process of fixing the system to ensure that Caymanians are benefitting. We are fooling ourselves if we believe that we can exist in isolation from all outsiders. There are more jobs in Cayman than we have Caymanians, and our job is to ensure that Caymanians are getting a fair and unbiased opportunity to go after those jobs.

In tandem with the Immigration Bill, the Government is focused on education, training, and labour issues which also demand immediate attention. These changes are not happening in isolation, and the Government is initiating additional measures to protect Caymanians and to ensure that the long history of work permit abuses comes to an abrupt end. I want to assure the people of these Islands, Madam Speaker, that the Government is taking stock of the many excuses being offered for not employing Caymanians.

We are tackling immigration first so that this situation can be addressed once and for all, leaving us to focus on stimulating the economy, creating jobs that will go to Caymanians—and not to work permit holders where there is a qualified Caymanian—and reducing the cost of living for everyone. We recognise that in order for our country to recover we will have to bring in foreign labour and will have to make ourselves attractive to that labour. But it will not happen to spite Caymanians.

Our work permit policies have become more stringent and they will continue to until we are satisfied that Caymanians are getting the opportunities we promised them. We will continue to demand that qualified Caymanians are hired. We must prepare the Cayman Islands for long-term prosperity, and, as the global economy continues to suffer, we must ensure that we are able to compete with other jurisdictions by attracting the best minds to our industries while, at the same time, developing the best local minds.

Madam Speaker, we will prepare the next generation of Caymanians to take ownership of our industries. That long anticipated shift in priorities has finally come. And it's time for our people to step up to the plate and demonstrate that not only can we compete with the best of the best, but we can demonstrate that we are the best of the best. This Government is depending on our people to partner with us to chart the way forward.

Madam Speaker, one of the things that I am involved in that this Government decided to put in place, decided to take action on first, was to look at the operations of the National Workforce Development Agency [NWDA] and to create a task force that would be responsible for analysing the functioning of the NWDA making recommendations to an internal review committee and making final recommendations to Cabinet to improve the functioning of that department. I am proud to have accepted the chairmanship of that task force, and I can assure you that despite some of the comments I heard earlier today this will be no rubber-stamping exercise. My responsibilities on this task force are going to be taken seriously because I've believed all along, and I believe to this day, that labour must deal with labour issues.

Depending on the Immigration Department to assess our labour needs in this country is an exercise in madness, as far as I am concerned. What we are doing is repeating the same thing over and over again and expecting a different result. We must take a new approach and we must make the effort now to put the changes in place that will improve the labour situation in this country.

The Immigration Department cannot do it all on its own. Most of their responsibilities relate to enforcement. We need to develop labour. We need to be in tune with the requirements of the business community and of the people. We have to be able to respond to changes in those environments, and not have to

rely on the issuance of a work permit or the cancellation or refusal of a work permit for a Caymanian to get a job. We should already have plans in place that would be aimed at developing labour throughout this country.

Madam Speaker, I know the perception out there may be that I initially did not support these changes. Some of that initially came about because my initial reaction to the Bill (without having seen the entirety of the Bill) was slightly negative because I didn't quite understand why we were moving the rollover and I didn't quite draw the comparison between rollover and its effect on security for Caymanians. But I think I have explained that sufficiently to where everyone can see that moving the rollover is not going to be to the detriment of Caymanians. I don't think I need to go into that too much more, Madam Speaker, but I did take it upon myself, and my colleagues also took it upon themselves, to make additional suggestions to the Government because we know that this is just the initial phase of the changes that are coming.

Down the road there will be a need to make more changes. Some of the ideas that we have put forward come from our Manifesto. Some come from discussions in caucus. But just to give you a quick example of things that are coming, things that we are looking to implement, we want to launch a jobs and beautification programme to get unemployed people jobs before the next month is out. We are looking at this because we know there is a dire situation in the country now where people are definitely not employed and are looking at the holidays coming up. They have no way of taking care of their families, enjoying the Christmas season.

And while there will be some criticism towards this, I know, because I am on the ground everyday and I talk to these people, and I know how much they are suffering. If we can offer just a temporary relief until other things kick in, Madam Speaker, I will support this initiative.

Another change that I am going to strongly recommend to Government is to require businesses in the Cayman Islands who are seeking work permits to post job vacancies with the NWDA. The NWDA should provide a specific job ID for each job advertised and this will allow us to help track those jobs and link those to Caymanians who are applying for those jobs. But I think mandatory job registration is something that will be coming very soon.

We will also seek to set in law a retirement age of no earlier than age 65. This is something that we spoke about previously on the campaign trail and something that has been discussed to a large extent in caucus. We are also looking at changes to the pension regulations so that no cash should be paid to a work permit holder when they leave Cayman. Instead, their pension can be fully portable and transferred to another pension provider overseas. If not, that money

should stay here until that individual reaches retirement age.

Madam Speaker, we are also currently discussing the possibility of moving the non-Caymanian government employees on to the term limit and work permit regime. These discussions are now taking place. We are also reviewing the categories of jobs that currently do not need to be advertised, and we will change any that are appropriate to change to ensure that they require advertising; again, opening up these jobs to Caymanians.

Madam Speaker, it was generally thought that there is also a need to review the ability of temp agencies to be able to have what we refer to as “permanent temps”—temps who are employed in local companies and who tend to stay there for an extraordinary amount of time, but on a temporary contract. We believe that these situations are also becoming impediments to Caymanians getting those jobs. Some of our members have also suggested that in the case of the Cayman Islands Government, we look to employ Caymanians, retired Caymanians, for example, retired policemen in areas like security, keeping these individuals productive and working with us, rather than relying on foreign labour and work permits.

Madam Speaker, caucus has also initiated our discussion around minimum wage. And while we would like to have said that this is something we can do immediately, it obviously needs a lot of discussion and careful planning before we can implement it. But it is not off the table.

Madam Speaker, there are some key areas in the immigration reform that I think the Premier touched on. I might just briefly mention those again because they are important and demonstrate how this Bill, this change, is going to benefit Caymanians.

The abolishment of the key employee aspect of the rollover policy is an obvious one. As the Premier said earlier, it ensures that individuals who are here as key employees are no longer able to be moved into permanent resident applications at the whim of their employers. We feel that this levels the playing field to an extent and takes away some of the favouritism that was extended to key employees. And to discourage the abuse of the work permit system, it will no longer be possible to work by operation of law beyond the date of refusal of an application for a work permit where the worker has previously been working by operation of the law on the basis of having a temporary work permit. This change addresses the practice of employers using the simpler temporary work permit application process to their advantage.

Imposing a fine of \$20,000, in the first instance, for an employer who fails to disclose to the Immigration Department while making an application for a work permit that a Caymanian, a spouse of a Caymanian, or a permanent resident has applied for the position, is also a major change that we are making that will be extremely effective and act as a deter-

rent to individuals who chose to not be honest and open in their application for work permits. Not only is it a huge deterrent, but it was also a source of revenue for the Government in the case that this practice continues. And I do not think that anyone in this Government is going to shy away from imposing that fine.

Madam Speaker, any person who has been in these Islands for nine years already when this law comes into effect, will have 90 days in which to apply for permanent residency. Again, we are not, *carte blanche*, offering people permanent residence, we are expecting them to apply. As the Premier stated earlier, the point system has been revamped. It is not going to be as easy to qualify for permanent residence as it was in the past. He also mentioned the problem with permanent residence fees being outstanding and we are immediately going to change it so that permanent residence fees have to be paid up front. The fee is also being increased.

The other requirement for people applying for permanent residence is if they are selling a property that was listed in order to get permanent residence. They will have to ensure that that transfer is completed within 180 days. We have seen incidents and examples where individuals have simply transferred property for the convenience of their application and simply transferred it back once they received permanent residence. Again, Madam Speaker, this tightens up on the policy and ensures that they are not frivolously granting permanent residence to individuals who have obtained it through what I consider to be fraudulent means.

There are now new grants for the revocation of permanent residence. If you are delinquent in respect of the payment of your annual fee, if you are working in an occupation that is not authorising a certificate, and if you fail to make the required annual declarations, all of these are grounds for revocation of your permanent residence.

Looking at the point system, Madam Speaker, a major change that will be implemented is where the points allocated to an occupation are based on the current demand for the occupation, which is measured based on the ratio of Caymanians to non-Caymanians in the labour market. This alleviates the concern that we are going to grant permanent residence to people who will be here to block Caymanians from moving up the ladder. If there are individuals who are applying for permanent residence on the basis of them wanting to work in occupations that are currently occupied by a lot of Caymanians, they will not receive the points that they could have previously. This change allows the Government to control the situation and ensure that there are not going to be any blocks to Caymanians moving up.

Madam Speaker, I didn't plan to speak for quite so long because I know we have quite a few Members who are also ready to speak on this issue. But I just wanted to make sure that I got my points

across and that the general public listening understood why I am supporting this Bill. This Bill is not going to cause damage to Caymanians. We have spent many long hours tirelessly working on these changes, and I can stand behind what is being proposed here tonight, and I can support this Bill without any hesitation.

No one can question my loyalty to this country or to Caymanians, Madam Speaker. I didn't get elected to come here and stand up and lie to the people, and I didn't get elected to come here to help myself. My one goal in seeking election to political office in this country was to help my people. As I said earlier, there were times when I needed my Government to stand up for me, and they didn't. There is no way I am going to come here tonight and lay down and not stand up for Caymanians.

So, Madam Speaker, I will leave it at that. I think the record is clear. I am in full support of this Bill and I will vote "yes" when the time comes. I would encourage other Members of this House to do the same, because I think it is a positive step forward for Caymanians. There is nothing to our detriment in there. And we are not going to have to worry that the Government is doing anything underhanded or behind their backs. We campaigned on transparency and honesty and this Bill reflects that.

Thank you.

The Speaker: Does any other Member wish to speak? I recognise the Elected Member for East End.

Mr. V. Arden McLean, Elected Member for East End: Thank you, Madam Speaker, for recognising me.

I think I should start my debate on this Immigration (Amendment) (No. 2) Bill, 2013, first by responding somewhat to the Premier's presentation when he said that he had come to East End and it had been the longest meeting of them all, and that I had, I guess, ventilated most of what I had to say to him. I believe he was somewhat correct in that.

Certainly, I had gone through this Bill quite a bit. I had thoroughly reviewed this Bill once I received it. I went to that meeting with the hopes of changing the Premier's mind on some of the things I had found therein. I didn't, contrary to what he or others might believe, set the people of East End on him. They are aggrieved about this Bill as much as other residents in this country. So they had their say, just like they have it with me whenever I have a meeting or they meet me on the street or when I am visiting them.

He says that it was all 12 of them.

Madam Speaker, well, I have had meetings in East End that only had six! But I had to have the meetings, whether it is 6 or 9,000 or 900. They are East Enders, and we can't just dismiss them because it's only six. Maybe if he had advertised it better he

would have gotten more people to come to his meeting.

Madam Speaker, be that as it may, I know I had a meeting in East End prior to the Premier's coming there. And I had much more people than 6 or 12, or whatever he wishes to label them. I will remind us, though, that we shouldn't be so dismissive of the people of this country. Whether it is the signatures of 800 people or 40 in the street, they all have a right. But, most importantly, they have a pencil once every four years. I have heard [the term] 'dismissing a few' in this honourable House before. There is a silent majority in this country, and in any country. And we must always pay due respect to them.

Madam Speaker, at that meeting, as the Premier said, I went through quite a bit of it. And at the end I said to the Premier that there was much in this Bill that I could support with a few changes to some of it. However, I could not support it with the provision to allow the TLEPs, to be given the right to apply for residence when the original Bill (amendment) spelled out that they were not eligible nor could they use that time towards residency in this country.

What I also said to him was that if he was mindful, I believed the best way to resolve this problem that the country found itself in—which was not of his doing, nor the doing of the current Government—the most suitable way, in my view, was to extend the period of time those people were allowed to stay by six months and then use the same provisions they are using now to require them to advertise for the jobs. And if they didn't fill the jobs with Caymanians then he would have to issue another work permit.

I understood, Madam Speaker, that mixed messages were sent by the previous Government. And that is not the PNA, but the UDP Government. I understood that. I understood quite well that the employers may have received mixed messages. But to give them the benefit of the doubt, I thought it was necessary to do that.

Now, the underlying fact in all of this, and the reason why I said that, is because there is not one person who received a TLEP that their seven years have not expired. It is over. When they came to this country they knew that in seven years if they hadn't received a key employee designation they were leaving to go home. And their employer did not respect them or value them to that extent that they would apply for a key employee position for them. Here we are trying to do what the PPM said would never happen again. And this amendment is changing as well.

So, in essence, the Government is undoing what they are trying to do, which is to remove the key employee. That is what it is—seven to nine [years]. We are giving everybody key employee. It is not the employer anymore. And I agree; the key employee provision is wrong. We made a boo-boo on it. It is wrong. No employer should ever have the right or the privilege to decide who lives in the Cayman Islands.

My good friend, the Fourth Elected Member for Bodden Town, just read out the promises of the PPM that they were going to remove the key employee. They are removing it from the employer and putting it in law. That is what is happening. But, more importantly, they are removing it not only for those newcomers, but they are removing it and applying it to everybody who is here now who, by law, were told they couldn't do it. The people who got the term limit exemption permit were told that they would never, ever become a key employee. It was legislated by the UDP Government, rightly or wrongly.

[Inaudible interjection]

Mr. V. Arden McLean: Might be.

Madam Speaker, [section] 52A(4) says, “**(4) No period of residence in the Islands in employment authorised by the Term Limit Exemption Permit shall be taken into account by the Board in considering an application under section 30 for permission to reside permanently in the Islands.**” In essence, that's what it was. It said you cannot use it. Everyone that applied is over the seven years. The 1,500 people are over the seven-year rollover policy.

Madam Speaker, I started on this section, but there are other sections that I want to go to. The now Leader of the Opposition, when he introduced this Bill, like the Premier who recounted this morning that the announcement was that there were 500 people that the UDP did not want out of the economy. So, in essence, we should have had around 500 people who that provision was carved out for.

Now, Madam Speaker, that amendment says (52A(1)), “**Notwithstanding section 52 and subject to the provisions of this section an employer or prospective employer may, in respect of any person- (a) whose final work permit expired within thirty days prior to the appointed date or expires on or after the appointed date and who had not applied for permanent residence prior to such expiry; or (b) who, at the appointed date is working by operation of law having applied for key employee designation and such application is subsequently refused, apply to the Work Permit Board, the Business Staffing Plan Board or the Chief Immigration Officer, as the case may be, for the grant of a Term Limit Exemption Permit.**”

And then subsection (3), “**A Term Limit Exemption Permit granted under this section shall be for a period of one year from the appointed date and may be renewed upon application for a further period not exceeding the cut-off date.**”

Well, Madam Speaker, I requested the list of term limit exemption permits from the Immigration Department and I was sent 30 pages. I haven't counted how many that is. I still know that acronyms are used. Some of them were triple X's. I don't know what that means.

An Hon. Member: You know what it suggests.

Mr. V. Arden McLean: Anyway, Madam Speaker, as far as I am concerned, all of these should have followed the provision that was put in place in 2011. I hope they have.

However, one of the things I did was to count and ask them for the dates they started and their end date. I counted all of those that started in 2011 in accordance with the provision in the law. And I may be wrong, but I got 136 that were issued in 2011. All of those end dates are for 2012. Now it is either they have left or they renewed it. I can't tell from this whether there is . . . there is no identification number or anything on this as to whether it is the same one that has been extended to 28 October 2013. However, I do know that only 136 were issued in 2011.

As far as I am concerned, Madam Speaker, we should only be around 136/150, if I missed some that were issued in accordance with the provisions in the law. It is impossible for me to understand why we got to 1,500. That is yet to be explained to this country. Madam Speaker, I am yet to hear where and how we arrived at 1,500, because that was not . . . I want you to remember, Madam Speaker, that I did not support the Bill at the time (in 2011), because I didn't believe it was right, the same way I don't believe it's right now to change it to allow anyone to apply for residency after they have the provisions in the law that says no.

But I recall it being said that there were about 500 people who had come here right around [Hurricane] Ivan. We have to remember that Ivan hit this country somewhere between September 9 and 13. And this was done in October making it somewhat retroactive into September to cover those people who had come here in the aftermath of Ivan in 2004. From 2004 to 2011 is seven years. They were all going to be leaving right around September to December 2011.

Now, it could never be we had 1,500 people come in at that time. I don't believe that, Madam Speaker, so much so that this Government is now making provisions for anyone whose permit was reissued, TLEP was reissued, and has not served out more than six months, to get a refund. That tells me that the majority of them could only get 18 months, and it was intended for two years.

I want to know why it is (and I am sure the Government has an explanation for it, but obviously they haven't said) that we are discussing 1,500 people (I think the Premier said, 1,530 or whatever), when I could only find 136 that applied for term limit exemption on this list in 2011. Why are we finding 1,500? All others whose final permit was issued should have been rolled over. They should not have been issuing any more. Someone needs to tell me that.

Madam Speaker, I see some on here with a start date of March 2012, November 2012. It just doesn't make sense. Those people came here in November 2005, long after we had repaired the country. I was a Minister by that time. The PPM had taken over the Government. There was very little left to do. And the intent of this was . . . somewhere the message was sent that it was those people who came to help us right around Ivan. I don't know if my good friend the First Elected Member for Bodden Town remembers that. But by that time, people were going and coming . . . November 2005, people were going and coming as they pleased. Here we are . . . they are issued term limit exemption. I see some here issued on the 17th of July 2013. That is yesterday, you know. (Not yesterday, but today is, what, October?) The one before that was September, the one before that was August, the one before that was July; four months.

That means that if they were renewed in July of this year, they can only go to October of this year. That means if they had gotten it for the year before that, they got it in July 2012.

Madam Speaker, I don't know. But the country needs to know. And if the Government is defending this cycle, the Government needs to tell the country why. Why are they defending someone who came here in July of 2012 and got a TLEP—which meant they came here in 2005? So what are we going to do with them? We are going to allow them to continue.

Madam Speaker, there are some here that were issued all during 2012. I just don't understand. Someone needs to explain that. The Government needs to better explain that because I don't understand it.

Madam Speaker, let me go now to some of the other things in the Bill. I hear that this is good for the people of the Cayman Islands. I have heard the Members of the Government saying that all of the TLEPs are going to be advertised. And nobody can say that they haven't said it. They have all said it. And [Cayman News Service](#) on 3 October said, **“Government has announced the formation of a new task force to review the National Workforce Development Agency (NWDA) to ensure that the department fulfils its remit. In the meantime, government officials and the country's political representatives have committed to helping all unemployed Caymanians take up posts currently occupied by term limit exemption permit (TLEP) holders. As government begins the first step in its major overhaul of the immigration laws and policies, the regularization of TLEPS will not happen until all the positions they hold are advertised and jobless locals are given the chance to apply for those jobs.”**

Madam Speaker, it is going to be a stretch to find out how that is going to happen because if they are allowed to have the right to apply for residency regardless of how many are successful, if they are going to be allowed to do that, how are we going to

advertise the job? We cannot advertise the position if someone is allowed to apply for residence. If in the real world (let's say we do) a Caymanian gets the job and the applicant [for PR] is successful, we still have one resident out of a job. We need to stop telling people that, because it's not right.

Now, those who have to go, or those who are given the opportunity by Government to continue on until they reach eight or nine years to be able to become eligible for residency, those can be advertised. Those who have only been here seven and a half years and have a TLEP, and those who have been here eight years but haven't reached the end of year eight on the 28th day of October, those can be out and we can demand the employers to seek Caymanians to be put in their place. But any of those who have now become eligible to apply for residency, you cannot say that all are going to be advertised.

But there are a number of things where some of the Government is saying that only a few qualify. How many is it? Where is it? Where are the statistics of how many people will now qualify out of the 1,500? The Premier told me in East End that not many will qualify. Well, I think that's anticipation. And I am no lawyer, certainly far from being a constitutional lawyer (and we are going to get to that too), . . . advice is advice, and then advice is advice. That's how the lawyers work. One gives advice on the other's advice. And everybody's advice is wrong, or a different advice.

Madam Speaker, I want to see how the Government will respond to that. How are we going to advertise every job for Caymanians? It is not going to be regularised until every job has been advertised. The Government has announced that. Are these jobs being advertised now? Do we know who they are? Is the NWDA out actively trying to fill this list that my good friend from North Side was waving awhile ago?

Madam Speaker, we were all provided with that list. Now I want to know . . . You understand, Madam Speaker, Immigration never gives you the names or the occupation that these TLEPs are occupying; neither the names of the holder nor the position they are occupying. But through the by and by we came to understand that a number of them are in the tourism industry and teachers and the likes. Now, Madam Speaker, don't get me wrong. I believe in any circumstance teachers should have a special carve-out in this country. I have said that since 2000 when I came in here. I have always said that the same teacher who taught me should be teaching my children, and hopefully my grandchildren. All of us should look at it from that perspective. So, we cannot produce the teachers in this country. But those that are produced here, we need to treat better—treat with more respect so we can keep them in the classrooms.

Madam Speaker, we heard the Member for North Side talk about this list from the NWDA that was presented to us one day last week. Things like front

desk managers. Now, Madam Speaker, I do agree that when this list was presented here in Finance Committee there were a number of caveats that came with it, like they do not know how much is on it, didn't update it, and they don't know how many have a job, and the duplications. So, Madam Speaker, really, this list might not be worth the paper it's written on, if all of those caveats are put into play. I don't know; maybe I am shaking a blank list of things. I don't know.

But certainly, we are going to assume that it's not that bad off. And we talk about Caymanians getting jobs through the NWDA. I applaud the Government if they are trying to straighten it up, because it needs a lot of work. I believe the people who are there want to do a good job; they don't have the tools to get the job done. They are as frustrated as the clients who go to get registered.

You talk about getting jobs for Caymanians. Madam Speaker, let me talk about a little experience that I had recently. One of the two from East End that they interviewed was sent to three different places in the tourism industry. She is yet to get an interview. I hope that doesn't turn out to be just another opportunity to disappoint Caymanians. I hope that exercise was not in futility. I hope it was not a farce. I hope it was not trying to make people believe that someone is doing something to try to appease them—because that is going to be worse than doing nothing. That is what that is going to turn out to be if nobody follows up on it.

Madam Speaker, the Government needs to tell us and the country how many of these listed here, this 1,000 (I believe they said it was), are 1) legitimately registered still; and 2) since the controversy arose over the TLEPs, how many of these have been interviewed for possibly replacing the TLEPs like the Government said they would do. These are the questions that people ask, Madam Speaker. These are the questions they need to [have answered]. The country needs to know, I need to know. I am a legislator. I can't be expected to take the Government's word for it. Show me the beef! Show me how it's working. Show me the statistics and I will be satisfied. But it must be that someone knows.

These things are not just created in a void. It is not a void created. These are jobs to be done. This is about helping Caymanians. Let's not come to this honourable House and legislate morality. Law is about controlling behaviour. We don't control morality. It is about behaviour. Work is about behaviour. Someone needs to get on the job, get the job done and make the decisions. If you don't make decisions the paper ain't going to get updated. Madam Speaker, the list will never get updated.

Who is going to really, really, really, really help the Caymanians? I am in no position; I am not in Government. Neither do I have sufficient finances to be a developer. Nor am I a philanthropist. If such were the case, I would do it. The Government has the au-

thority, the Government has the responsibility, and the Government holds the purse strings of this country. The Government has the responsibility for the distribution of the resources of this country. And in so doing, the responsibility lies squarely on their shoulders to instruct and get things done with those resources. I know it's going to be a difficult thing. Ministers, it is a difficult road to travel. But there comes a time when we need to put a stop to it too.

Madam Speaker, we talk about helping Caymanians? This Bill will help? Let's look at another provision in there about giving authority to the Chief Immigration Officer and the Board to issue residency. I don't envy any Chief Immigration Officer who has in his/her sole discretion the power to issue residency. I don't. This thing called "point system" . . . you have to be very careful with it. It is extremely subjective. I agree with the Leader of the Opposition. This is a serious matter.

I, too, Madam Speaker, sang from the same song sheet as the Premier and the members of the PPM about removing the boards. We have sung that song for quite some time. I too believe that these work permits and stuff have to be separated from the Immigration Department. Immigration has the responsibility for border control. That is what their job is. Their job is not to control labour in this country. It makes it too subjective.

Now, if this NWDA can be developed into a system and a department that we can all trust, then we need to put all of the work over there, i.e., employment for Caymanians (or expats), wherein it is properly documented who comes in there, when an employer wants an employee they do not go to the boards where they have friends who are going to influence the other members to issue that work permit. Or put the onus on the Chief Immigration Officer as to his or her sole discretion as to when to issue the work permit or residency or whatever. You go over to the NWDA as an employer, and you ask for the list and tell them you are looking for a carpenter. And they have four carpenters registered. They will participate in the interview process with those four carpenters.

And when it is obvious that not one of those four carpenters fits your purpose, then, the NWDA will issue you a release to bring in someone from overseas. And you go over by the Immigration Department and the Immigration Department has absolute control over the entry of that person into this country. That is where we need to go.

If the NWDA sees that it is obvious that you are trying to stymie the whole process and one of the carpenters is suitable, and solved all your queries and questions on his capabilities, then, the NWDA must be strong enough to say, *I'm sorry; you're not going to do this. You are going to hire this man, unless you are going to find another Caymanian, because we are not giving you a release to go over to the Immigration Department to bring in anybody here.*

The Immigration Department is best suited to understand what needs to be looked for at that time in character, police records, and the list goes on, to ensure that we are not bringing a criminal into the country. Thereafter, when that person comes here he is then registered with the NWDA who then controls that person's work in this country. If he wants to transfer to someone else, then, really, he shouldn't be allowed to. Or, if we want to go to the other extreme, Madam Speaker, under the current system he shouldn't be able to.

But I believe there may be another system available that we need to do as well, wherein the employer does not hold the work permit, it is the employee, the expat that is coming in. And he can move wherever he wants to, just like the Caymanian—*betcha that will stop um*—because there is a certain expectation that that expat is going to be there on Monday morning for his servitude, or to carry out the indentured labour they have him under. But if that employer knows that he may be able to go down the road tomorrow and get a job, they will treat him much better. Because they treat them like indentured labour in this country as well; that needs to stop.

Mr. Attorney General, you talk about breaking laws in the country? That needs to stop. We are not back in the 30s, nor the 50s, nor the 20s.

Madam Speaker, the responsibility on the Chief Immigration Officer and that department needs to be properly spelled out. The fact that the Chief Immigration Officer is holding sole responsibility for the control of labour in this country is unbelievable. It needs to be removed—especially for the residency.

Madam Speaker, I am going to show you how that responsibility on the Chief Immigration Officer is going to cause problems with this same TLEP thing right now through the appeal process that they have. That is where natural justice must be looked at seriously in this Bill.

Under section 15 of the Law . . . remember, Madam Speaker, clause 5 of this amendment repeals section 15 and replaces it with a whole new section 15. Under [clause 5 which repeals] section 15(1) it says, **“(1) Save as otherwise provided in this Law, any person aggrieved by, or dissatisfied with, any decision of the Chief Immigration Officer under section 30, 37, 42(5) or 49 or of a Board other than a decision under section 14 may, within- (a) twenty-eight days of the communication of the decision to him; or (b) such longer period as the Chairman of the Appeals Tribunal may, for good reason shown, allow, serve notice on the Immigration Appeals Tribunal of his intention to appeal such decision.”**

So, the applicant applied under those sections, and he is refused. He is aggrieved because of the refusal under those sections. So, he is notified by the Board or the Chief Immigration Officer that it has been refused.

Section 15[(3)] says, **“Any correspondence from the pertinent Board or the Immigration Appeals Tribunal under this section or section 16 to the appellant- (a) by post, shall be deemed to have been received by him no later than seven days from the date of dispatch; or (b) by electronic mail, shall be deemed to have been received by him no later than twenty-four hours after its transmission.”**

So, the worst case scenario is seven days. The notification takes seven days. The applicant appeals, then, to the Tribunal and he has 28 days. The Tribunal notifies the Board of their decision being appealed, and that takes 14 days. They have within 14 days to do that. That is under section 15(4).

Now, Madam Speaker, the Board or the Chief Immigration Officer, whichever the case may be (if it was a decision of the Board, then it would be the Board; if it was a decision of the Chief Immigration Officer, it would be the Chief Immigration Officer), is required then to deliver to the Board or the Tribunal (again, as the case may be) the reasons for their decision. That's under [section] 15(5).

Now, let's look at [section] 15(5), **“Upon receipt of a notification under subsection (4)”** (which is where they were notified by the Appeal Tribunal) **“the Chief Immigration Officer or the Board, as the case may be, shall,”** ('shall' not 'may') **“within a reasonable period, deliver to the Immigration Appeals Tribunal or the Board and the appellant, the reasons for his or its decision.”**

Now, Madam Speaker, you noticed I attached times to the other processes. Now, all of a sudden, we have gone to “a reasonable time.” Madam Speaker, the appellant is required then to file the detailed grounds with the Tribunal and he has 28 days after receiving that from the Chief Immigration Officer or the Board, because they have to notify the appellant as well, so that he can develop the detailed grounds for his appeal. He has 28 days.

The Chief Immigration Officer and the Board must then provide written defence to the Board and the Tribunal and the appellant under 15(12). And they then have 28 days as well. The details received are under 15(8).

Now, Madam Speaker, I want to add up these times. When you add the 7 days, the 14 days, the 28 days, the 28 days . . . when you add all those up together, it comes up to about 105 days. But we are giving them 90 days to do it in. Mind you, Madam Speaker, that excludes the “reasonable time” the Chief Immigration Officer has to respond with the details in order . . . that could take a year!

Now, Madam Speaker, we need to do something about that. I suspect the reason there is “a reasonable time” in there is because the Chief Immigration Officer is going to be overworked, with all of the other stuff that is to be done. Nevertheless, we are saying that we are giving them 90 days to get it done.

We already have the possibility of 105 days without the reasonable time.

Madam Speaker, in the [committee stage] amendment, clause 39 [amends] section 114 by inserting after subsection (6) the following subsection: **“(7) For the avoidance of doubt where an appeal to the Immigration Appeals Tribunal was made prior to the commencement of the Immigration (Amendment)(No. 2) Law, 2013, the procedure governing the making and determination of such an appeal shall be that which is in effect after the commencement of that Law, but the appellant shall have a period of sixty days from the commencement of that Law in which to file detailed grounds of appeal as required by section 15(6) and if no written submissions are received by the Tribunal during such period it may proceed to determine the appeal without further notice being given to the appellant.”**

Now, Madam Speaker, for the appellant to get his appeal to be heard he must file his grounds of appeal. To get his grounds of appeal, the Board or the Chief Immigration Officer, must send it to him (or her). Now we hear there is a backup of 600. We need to know exactly where they are. If the grounds of appeal have not yet been filed, how do we know that it can be done in 60 days? The Chief Immigration Officer has “a reasonable time” to respond (or the Board, whichever one). I want to know why we are putting a timeframe on that, for that person to appeal. I understand the objective; but we need to look at the practicalities of these things happening.

I say all that to say that in the meantime we are also making another change which allows anyone who has made an application for residency to go to the Chief Immigration Officer and get their time extended to continue to work! Where is it going to help Caymanians? Which Caymanian is it going to help, except help the staff at the Immigration Department keep physical walking up and down carrying it from the Appeals Tribunal over to the Chief Immigration Officer?

It is not going to help our people! I have heard it before! And it didn't work! Be careful what you all do. I guarantee you, Madam Speaker, within months we are coming back here to change it again. It is not going to work. It will not work.

Madam Speaker, I am going back now to the Constitution. And I hope the Attorney General . . . oh yes, the Attorney General is here.

Madam Speaker, we say we are doing all of this to avoid us getting sued. We have been sued more than a war criminal in the time I have been in here. And we have survived them.

Now, in 2011 it was okay to give them two years. All of a sudden now, the Premier says we are going to be sued. We were told that that could work wherein the two years wouldn't count towards residency. Now if we leave it, we're going to be in trouble

again. I don't know who is advising him. What I do know is that under the Constitution . . . and I understand his advice comes from the fact that there is a provision in the Constitution which could be . . . you know. . . we would have to wait to see which way it goes about discrimination against foreign nationals, immigrants or whatever you want to call it. Madam Speaker, I don't know if that is correct, but that is what I have heard.

Now, Madam Speaker, under the Bill of Rights, section 16, which is entitled **“Non-discrimination,”** says, **“(1) Subject to subsections (3), (4), (5) and (6), government shall not treat any person in a discriminatory manner in respect of the rights under this Part of the Constitution.”**

It's subject to subsection (4), which says, **“(4) Subsection (1) shall not apply to any law so far as that law makes provision—(a) for the appropriation of revenues or other funds of the Cayman Islands or for the imposition of taxation (including the levying of fees for the grants of licences); (b) with respect to the entry into or exclusion from, or the employment, engaging in any business or profession, movement or residence within, the Cayman Islands of persons who are not Caymanian.”**

Madam Speaker, the operative thing here is . . . and I am sure the Government will explain this to us because we all know that I am no lawyer. But we all know that I will read and I will find it. Whether I can explain it or not is a different matter. But I was recently told that there are eight lawyers in here . . . nine, I'm told now. Who the other one is? Me, the family lawyer.

[Inaudible interjection]

Mr. V. Arden McLean: Nine? Nine lawyers in here? And *unna* got me up here searching for this and talking about it? It's my argument. Now I want to hear those nine counter-arguments that *unna* are going to have out there, because I know there's no lawyer on this side.

[Inaudible interjection]

Mr. V. Arden McLean: Wow!

There are nine of you out there? We have to split this up. We have to make sure next election we split this up. I don't care, she's out there.

Madam Speaker—

The Speaker: Member for East End, please regroup your argument towards the Bill that's on the floor.

Mr. V. Arden McLean: I thought it was them who were saying they were lawyers. It wasn't me!

The Speaker: I am specifically referring to your reference to the Chair.

Mr. V. Arden McLean: Madam Speaker, I shall do that, but as far as I know, you are a member of the PPM Government. That's all I was saying, Madam Speaker. And there is nothing wrong with that.

The Speaker: Just providing, Member, you are not inferring that while I sit in the Chair I am a member of any Government. I am the Speaker.

Mr. V. Arden McLean: Well, Madam Speaker, let me put it this way: Prior to your appointment, you were a Member of the PPM. Now, if you have left them, that's fine. I don't have a problem with that, Madam Speaker. I don't have a problem with that.

Madam Speaker, the operative thing here is that subsection (4) provides that any law in this country can discriminate against non-Caymanians. That's how I read it. I would like to hear what the lawyers' views are on it. It can . . . well, let's not say it can discriminate; it is not considered discrimination. Is that a better way to put it? Maybe.

Any laws we make as a country that control entry or exclusion from this country, or employment of anyone engaged in any business or profession, movement or residency within the Cayman Islands of persons who are not Caymanian. Madam Speaker, I want to know how far we are going to go to circumvent the Constitution, or to avoid or to tell the people that we cannot do this, we cannot do that, because it is not natural justice.

Now, if there is an explanation for it, Madam Speaker, I would welcome any of the nine lawyers (well, now eight lawyers) over on that side. I would welcome that. I mean, that means that there are six in the PPM and two . . . one is the Deputy Governor and one is the legal advisor to the Government. They don't need you when they have six. They can't need the two of you when they have six.

So, Madam Speaker, I submit that there is no need for us to be putting our heads in the guillotine when we are well protected. But, Madam Speaker, we love to wear our hearts on our sleeves. We do. Let me just put it this way: I want this country to know that I am not against expats. I am not. I don't believe that Caymanians by and large are. They want to be a part of their country. And if they see provisions being made for someone else who is in Europe, or in America or in the Caribbean, and they are out of a job and are not given opportunities, they become aggrieved. I do! Absolutely!

Madam Speaker, we are providing for everybody else but our own. That is what it appears like. People feel it. People feel these things, Madam Speaker. They know what it was to struggle in this country to survive. They know what their parents went through to raise them and to survive. And many have made their many sacrifices to ensure that their children's lives are better than theirs—700 overseas in tertiary education.

Madam Speaker, I don't have the answers. I don't have the silver bullet. So don't look to me. It is all of us together. I don't have it, my good friend, Minister of Agriculture. And I know you don't have it. It's us. Us! They look to us. They expect their children to look to us. Every country wrestles with this thing called Immigration. We are no different. How do we resolve it? Every new Government that comes in jumps on it immediately.

I am not criticising you all. But it is the one that the Civil Service dangles in front of us every time we come in. My good friend, the Minister of Agriculture, knows. We walked into Cabinet in May 2005. Within days the Deputy Governor was there with this big carrot in front of him about Immigration and the problems they are having.

[Inaudible interjection]

Mr. V. Arden McLean: He was Chief Immigration Officer.

Madam Speaker, I was just in England. All the parties have their conferences over one week, one right behind the other. I was watching the Labour Party. They promised in the next election (which is two years away) that the platform they are going to be campaigning on (and they are likely to win the election with it too) is that for every immigrant's work permit in England the employer must find a job for one Brit. One for one. Six of one, half dozen of the other. *If you bring one, you hire one. We'll give you the one. That could work into two or it could work into three, but you got two or three Brits that you must hire.* That is their platform for this next election.

Now, we may not be able to do that because of the expertise within those different areas. But what we can do, Madam Speaker, is that those companies who assist with hiring Caymanians and giving scholarships, we know who they are. We know who they are that gives scholarships in Cayman. We know who promotes Caymanians and puts them up in the big spots, middle management and above. We know who they are. We must reward them. And if they need 10 work permits, give them 10 work permits, because we know there are 10 Caymanians somewhere in the wings that they are training. Reward them. And those who do not, punish them!

They must be punished for being deviant and disrespectful to the very people who allowed them in their country and they are disrespecting them.

Madam Speaker, do you think that is only for those of us who buck our toe in this country? And I like using that term kind of loosely, but I am talking about those of us who grew up here. You think it's only for them that I speak? This morning on my way in here . . . I don't know what to do with the traffic around here. Who is the Minister of roads anyhow?

[Inaudible interjection]

Mr. V. Arden McLean: Well, you need to do something about that. Plenty inheritance—but it wasn't from me. There were four years since I've been there.

Madam Speaker, a lady called me this morning as I got out of my gate. And it took me nearly an hour to get here and then half hour after I got here I was talking to her. This woman has lived here 20-odd years. Not Caymanian, she's Jamaican. I could hear the accent. I don't know what the woman's name is. She got my number somewhere. Everybody gets that. And, Madam Speaker, this woman is mad. She's angry. So it's not only about what we call indigenous Caymanians, she is angry about the way Caymanians are being treated in the workplace. And she watches it every day.

Our biggest problem, Madam Speaker, is that we don't have any statistics on ourselves. Very little is known about us. All that is known is about those who come to us. That's why we can afford to change those laws to suit them.

And if you believe I'm telling you a lie . . . actually NWDA could define this list. They don't know anything about us. The Immigration Department has all those statistics on those who come. The Education Scholarship Secretariat is doing very good. She can tell me the numbers they have, not of those that are privately going to school. She estimates that's somewhere around 50 to 75, somewhere in that region. But they know how many, by and large, that we are dealing with.

Madam Speaker, 700, thereabouts. What are we going to do with those? Have we ever thought of it? It takes an average of four years to get tertiary education. Woe be unto us. Madam Speaker, this is a recurring thing. As 10 come out, or 20 come out this year, there are 20 or 40 going in. But let's do straight line accounting, because there are plenty of them out there. In four years we are going to have 600 people in our workforce. Where are we going to put them?

They talk about the point system. For what? My good friend, we are losing. We are losing this battle that we have been fighting for a very long time. We are losing, Ossie. But there is one consolation that I have, that when they push me off the precipice and there is one cherry on any tree I catch up on, I'm eating it before I drop.

Madam Speaker, we are losing it, you know. We are. And it bothers me. It really bothers me that I can't do any more to leave this country better than I found it. And there are people who are depending upon me to do that. There are many people who are depending upon all of us to leave it better than we found it, environmentally and otherwise. Now I am not a tree-hugger, but I understand that extinction is forever. I understand that, Madam Speaker. And not only with trees, that's with a whole culture. When it's gone, it's gone, there is no coming back.

We need to think about these amendments. Madam Speaker, today, if the Premier gets up here and withdraws this and says that he is going to give these TLEP people six months, and the employer six months, I will support his Bill. As much as there are some changes that need to be done in it I believe they pale in comparison with what this is going to do to the children of tomorrow and future generations.

We think we have it hard? Every one of us in here has young children. And then there are people younger than us who have more children than we do. And there are people who are older than us who have younger children than we do. Madam Speaker, I cringe at the thought of all these young children coming back here and we are responsible for stopping them from succeeding. They can't blame anyone but us! We have the right! We have the opportunity to stop it and to prepare for them! We have the authority! Their parents and their grandparents gave us the opportunity to do it. And we are going to throw it away?

They should all come out in front of this building and stand up and don't make *unna* go home.

The Speaker: Member, sorry for the interruption, you have 32 minutes remaining.

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

Madam Speaker, I guess I was trying to impress the moral aspect and the damage this is going to do, in my view. This is my view, you know. You can't stop me from that. You all are going to get up and express yours. This is mine, the damage that I believe this potentially can do to our country. We have to be careful.

I support changes. We need to evolve, we need to get it, we need to do something. I fear this is not the answer. The Government believes that the point system is so strong, or it is so robust that they will never qualify. Do you really think so? Do you know what they have? [Do you know what] anyone has? Because it's all financial. You can give \$2,500 a year and you get big points. Madam Speaker, it's not about buying. We are not for sale. We should not be for sale.

Madam Speaker, I heard an experience of St. Kitts selling residency and people buying houses down there just so they could invest to get residency. Leave it there for 10 years locked up. You think that's what we are about? We are about protecting our own. And I am not saying that we have to make any laws to discriminate against anyone else. We need people to come here. I am just saying that in a country where you're one-eyed, two-eyed, or three-eyed, you are king! You must have the right to use your eyes to walk a path that is prepared for you. We are John the Baptist. We must lead the way for those who come behind us.

We have young Caymanians who made opportunities in this country, became partners and they

kick them out because they have the majority share in it, because they can come here and open these companies without being Caymanian. What are we going to do about it? We have 20, 30, 40 Caymanians who are overseas doing law. We have them all over the place.

The other night, 3:00 in the morning, a young lady sent me this thing from the Education Ministry, which I need to talk to the Minister and the Council about, cutting her scholarship [from] the Young Nation Builders Education Scholarship. Madam Speaker, we are already there. I can understand from going forward. I need to talk to them about it. Three o'clock in the morning, a kid that has 12 or 13 O Levels, med school. Don't we want that? Don't we want to be proud and stand with our heads in the clouds to know that these young children come back as doctors and they are going to populate our hospital? Aren't we glad? Aren't we ready to welcome them home and say: "Welcome Home! Here is where we have prepared for you"?

Everybody else we welcome home. I don't know. I don't know. I give up.

Not yet! Don't relax!

Madam Speaker, things like \$2,000 . . . I support all that. But that's not what . . . I don't know. I must be getting cynical in my old age. I don't know. I must be getting soft or something. What I want is for more of us to do more for they who are coming behind. Maybe I view myself as in the evening of life, Madam Speaker, and I need to make amends now and I need to come to Jesus, or something. I don't know what it is. But I know what, it is escaping us. Something is escaping us. Must be all of us are suffering from Alzheimer's or dementia. I don't know what it is, Madam Speaker. But I know we are missing something. We are missing it. I don't feel good about it.

My good friends, my colleagues, I don't feel good about this. I don't feel good about it. I don't know what else to say, Madam Speaker. I can't support it with that old thing in there about TLEP. I can't. I can't. I can't. My conscience will not allow me to do that with how I view it and see how it's going to go. I cannot do that. It will go against all that I ever stood for and all that I believe. I understand what the Premier is trying to do from here forward, he and the Government, to try and get some kind of scheme going to do something. But we have every right . . . and trying to balance these things, I understand all of that, Madam Speaker. But at some stage you have to be a little bit imbalanced now. We have to discriminate for us a little bit. You know?

I don't know, Madam Speaker. There is much more I could say on the Bill and the little clauses and stuff, but what is the use? The Government didn't listen to the people they went out to in the districts. I don't know if they recorded it, because the only recording that could have been done was through the PA system. They didn't listen then. Didn't listen to me

in East End . . . well, they listened, but they didn't take note. It doesn't make sense to me to take up the other five minutes any more. That's a waste of time for me to get up here and pound up my mouth and you all smile at me and nod your heads and then you get up and say, *We're sorry; we can't accept it*. But I have a right to say it, Madam Speaker, I'm afraid. I have fears.

I live in fear. I go to sleep at night every night wondering what tomorrow is going to bring. And I don't mean tomorrow, Thursday; I mean a few years down the road when we are really in the evening of life and we wish we had done something better. Do not regret the defending of our people. Let us not postpone our principle, let us not postpone today and leave it for those who come behind us tomorrow. Let them know that we have paved the way. They are going to come in here. I hope *unna* don't think that *unna* going to be in here for the rest of *unna* life! They are coming here—those same 600 that are in schools somewhere in the broad yonder are coming in here. They are going to beat *unna*.

Thank you.

The Speaker: Does any other Member wish to speak? I recognise the Honourable Minister of Finance.

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

Madam Speaker, I think it's probably something that you learn as you go along. But, then, I have always been the kind of person that there are some things I wish never to learn, despite the fact that I do enjoy learning. I always find it puzzling that what can be said in a few words, for whatever reason, seems to take parliamentarians forever to articulate. I think I like to be brief and relatively speaking I think that I will be brief, compared to the two hours that I am allowed, or compared to my colleague across the aisle.

Some Hon. Members: Which one?

Hon. Marco S. Archer: So, Madam Speaker, in being honest with myself, and keeping it honest, I will launch straight into what I have to say so I can be brief. I do recognise that it is well after 9:00 pm on Thursday, 23 October. They have been here that long!

Madam Speaker, like many others in this Parliament, I too have struggled with this legislation so early in our term. I believe that there are many arguments for and against this legislation. But, as with everything else in life, it obviously depends on your experience and your present situation in life. Undoubtedly, Madam Speaker, this is an emotive topic.

It is emotive from the standpoint that many Caymanians see us as their voice, their hope, and perhaps, it may even be fair to say for some people,

their last chance. It is when faced with that stark realisation that while there are those who look to us to do for them what they are incapable of doing for themselves, we also recognise that there are times and there are circumstances in which we struggle to live up to expectations. So, Madam Speaker, I will be the first to admit that this legislation is not perfect. In fact, you rarely find perfect legislation that deals with matters concerning immigration, employment or pensions.

Madam Speaker, to please one side is to displease the other with respect to citizens, employers and employees. Nevertheless, I have tried to approach this matter with a view to protecting a fragile economy and with a sense of responsibility, being as fair as possible to all concerned, but also cognisant of the discrimination faced by Caymanians in the workplace. That discrimination is present both in the private sector and, as we have recently discovered—most glaringly, last week Thursday night—also in the public sector. And therefore, any opposition by Caymanians to this legislation is justifiable. As I have said before, they see us as their voice, their hope, and there are circumstances where we are limited as to what we can do. Therefore, Madam Speaker, I will speak to that which I believe is important to the equitable treatment of Caymanians with respect to employment.

First, Madam Speaker, you may recall the proposed new limit in this legislation before us was 10 years. That was up from 7 years, the current limit being 7 and the original intention of this legislation was to increase that to 10. I say with all good conscience that I argued, and thankfully I was heard. I argued strongly for that 10 years to become 9 and, Madam Speaker, 9 years is now reflected in the Bill before us. I firmly believe that 9 years is a sufficient length of time for employers to recoup whatever investment they have made in an expatriate employee. It is also sufficient time for them to identify and train a Caymanian so that that Caymanian can become their key employee, and for the expatriate employee to position himself both socially and financially to be deemed worthy of being granted permanent residence.

Secondly, Madam Speaker, I am in support of Mr. Suckoo's proposal, and now adopted by the National Workforce Development Agency, that all jobs be registered with the National Workforce Development Agency. Mr. Suckoo, of course, is the Fourth Elected Member for Bodden Town. His proposal that all jobs be registered with the NWDA in order for both the Immigration Department and Caymanian job-seekers to have full knowledge of what jobs are available within our economy and for which they can apply, and for which they should reasonably expect to be given every opportunity to prove themselves worthy of being employed in that particular job.

Madam Speaker, again, you may recall that as the law currently stands (that, being the law in force as we speak), anyone applying for permanent

residency but was unsuccessful could continue to work for up to 12 months after their application had been refused. Again, Madam Speaker, I am pleased to say that this period has been reduced to 3 months, or 90 days. In certain circles this has become known as the Minister Archer provision. I cannot think of any good reason why, after being in the country for 9 years, any individual should receive an additional 12 months, or an additional year, to tidy up loose ends. Over the nine years they would have had ample time to do any sightseeing and familiarisation with anything that they wished to have fond memories of.

Whatever has to be done in this day and age of technological advancement, can be done within three months. It can be done electronically. If it is real estate, Madam Speaker, it is still not necessary to be a resident on the Island for that transaction to take place. If it is closing out a bank account, it is still not necessary to be a resident for that transaction to take place. In other words, Madam Speaker, in this day and age of technology it is hardly necessary to maintain a physical presence to tidy up loose ends.

Madam Speaker, I am also of the view that the term limit policy should apply to the government or the public sector, whatever term we want to use. It is widely known that many people have left the private sector to join government in order to avoid being subject to a term limit policy. We have inadvertently created a safe haven for those who may otherwise have been rolled over because their employers thought they were not up to par to be considered a key employee.

If and when this does occur, that the public sector is subject to the same rules as that of the private sector so that one law governs all, it would help to improve performance. Because if an employee knows that he or she is not required to be judged by the same standards and to perform at the same level as their counterparts in the private sector, then they will not be compelled to perform to the best of their ability. There is no justifiable reason why the government should continue to be exempt from the term limit policy. We cannot be seen to be creating a safe haven for those who are not the *crème de la crème*.

Madam Speaker, again, with respect to the pension contributions by expatriate workers, in the spirit of fairness and equitable treatment, I believe that a lump sum payment of their contributions when departing is grossly unfair because when an expatriate worker departs the country, within a period of two years they are expecting to receive whatever contributions they have made to the pension fund. I am a fair person, Madam Speaker. I believe in principle and not personality. This Immigration legislation is about fair treatment. In this day of human rights the right to apply for permanent residence is, in essence, guaranteeing a human right. And I want to make it clear to the listening public: there is no right to permanent res-

idence. The human right is having the opportunity to apply for it.

So, Madam Speaker, if we are being fair in looking out for their rights, then I am saying we should also be fair in looking out for the rights of our Caymanian workers who will remain here for the rest of their lives. So I contend that it is grossly unfair to Caymanians who have no access to their pension fund until they have reached retirement age. Furthermore, there are other disadvantages to the pension fund itself as a result of this practice. As I have said before, this is about what is fair and equitable.

Additionally, there is another recent development that is taking a heavy toll on the older and more experienced Caymanian workers. They are being forced to retire at age 60. This has created the unfortunate situation where many people find themselves in a position where they are being told they are too old to work while, at the same time, they know they are too poor to retire. It is for this very same reason that I have argued for the retirement age to be raised from 60 to 65 years.

Madam Speaker, even at 65 years I think I am being reasonable because there are advantages with respect to pension funds. And I will speak to that perhaps on another day. But suffice it to say, that by raising the retirement age we benefit the workers and we also improve the viability of the pension fund itself. That applies both to the private and public sectors. Further afield, I read sometime recently where because of the performance of pension funds in the UK they are contemplating that within the next five to ten years they will have to increase their retirement age to 75. I think I am being quite reasonable in asking for 65.

Finally, Madam Speaker, sticking with the theme of fairness and equitable treatment, I now turn to the subject of a minimum wage. While we may differ as to the rate and the method of implementation, we agree on the need for the implementation of a minimum wage that will benefit both Caymanians and expatriate workers alike, and should have the additional benefit of discouraging employers from importing cheap labour to the detriment of Caymanians advancing both economically and socially. Therefore, Madam Speaker, if we as a people, if we as Caymanians, both old and new, if we are to advance our society both socially and economically in seeking to protect the stability of the business sector we ought to do so for employees too.

The minimum wage legislation is inevitable. Since without it, the unfair practices of some employers, both large and small, will continue. And this Government and successive Governments, as have previous Governments, will continue to chase their tails in trying to keep citizens above the poverty line and enjoying a reasonable standard of living.

So, Madam Speaker, while I am in support of the legislation, I am also in support of fair and equita-

ble treatment for Caymanians in order to ensure that they do not continue to fall behind in the workplace and in society generally. And with that, Madam Speaker, as I promised to be brief, I have been brief.

Thank you.

The Speaker: Does any other Member wish to speak? I recognise the Honourable Minister of Health.

Hon. Osbourne V. Bodden, Minister of Health, Sports, Youth and Culture: Thank you, Madam Speaker.

It's late in the night and I, too, will attempt to be as brief as possible in my contribution in support of this very important piece of immigration legislation.

The proposed Bill is an amendment to the Immigration Law (2013). It is by no means a non-controversial one. That has been quite obvious from the very start. As said previously, when you are dealing with immigration matters, it is emotional because you are talking about people's livelihood and where they reside at the end of the day. One of the biggest problems we have in this country is that we are victims of our own success. Nobody who comes here wants to leave!

It is a difficult conundrum (as my friend would say), because it puts you in a situation where you constantly have to balance the expectations of those that come with your own people. But at the end of the day our people . . . and I make no bones about this, I have always preached this, I've written about it and talked about it before on the floor of this House. Our people must come first. So when it comes to work permit matters, immigration matters, it is very, very important that when we are considering the granting of a work permit it is only done in a situation where there is not a suitably qualified Caymanian. I want to make that absolutely clear.

Like the Minister of Finance, I too have had my share of struggles, my own mental struggles with this proposed legislation, because there is no perfect answer. No matter what you do, you are going to upset someone. The fact is that the Government Bench, along with those who have worked extremely hard to help prepare this along with us under the chairmanship of Chief Officer Eric Bush . . . I want to pay kudos to that group for the long hours they put in and for the presentations they made around the Island. But, when we were considering this, we struggled on our side. And we had many debates about the pros and cons of what we were trying to do. But at the end of the day, the Government had to take a position and we had to do what we felt was the right thing for these Islands. Time will tell.

We are certainly doing it with the best interests of our people and our country at heart. We have to ensure that we send the right message to the private sector, the businesses, that, indeed, the Government is business friendly. But, at the same time,

the Government expects them to hold up their end of the bargain and provide fair treatment to our people.

Madam Speaker, I am under no illusion about the discrimination that is taking place in our workplace. We are seeing it right in our own Civil Service, sadly. And we have to clean up our own house, sometimes, before we can tell someone how to do theirs. But, Madam Speaker, on a daily basis, sadly too often, I see firsthand the complaints of victimisation and discrimination against Caymanians and the shifting goalposts and the ceilings that are put in place against our own people. It is very upsetting because I get copied into a lot of this stuff because people see me as someone who will open his mouth and support and stand for them. Like many of us.

We are all here fighting, believing and loving our people and our country. I don't think there is one single person out of the 18 elected Members . . . and I have gotten to know the new ones well. There is no one on our side or on the Opposition who is here for the detriment of the Caymanian people. We are all here fighting every day doing what we can in our own way. And I certainly would not be part of any legislation to hurt my people. I want to make that absolutely clear.

The people of Bodden Town elected me because they see me as someone who stands for right, someone who is willing to stand up and fight for them and fight for this country. And that is what I intend to do. And I make no bones about it. If I am in my caucus or in my group talking, they know my voice will be heard. I may not always win the argument, but I am going to argue!

Madam Speaker, we have to put the term limit into the Civil Service. As the Minister of Finance, my good colleague said just now, that has become a place where foreign workers run to when, in fact, that's a reversal of what the Civil Service was. It was always the haven for our own people. That was the safety net for the Caymanian people. Now we are seeing more and more strange faces in the Civil Service doing jobs that Caymanians are quite capable of doing. And we are seeing the shenanigans going on to make it even more upsetting that people go out of their way to bring others in, to bring their friends and colleagues in. Madam Speaker, it has to stop. And I will preach and preach and talk and talk until that term limit is put in place in the public service.

Madam Speaker, I grew comfortable with the proposed change because when I understood that we were making clear progress on the work end of things, that is, yes, we were doing on one end and sending a clear message that we are open for business and we are business friendly, but, at the same time we were working hard to create employment opportunities for our own people. I am sure when the Councillor for Labour, the Fifth Elected Member for George Town, gets up to do his contribution, you will hear more about how much has been done in that regard and

how hard he, in particular (I know), has worked in that area.

Madam Speaker, we have to make sure that we get Immigration sorted. We have to do as we said we would do and let Immigration deal with border control. We have to work towards that. And I know that is the aim of the group, to work towards Immigration dealing with what it should be dealing with and have work related matters, the permit system, in conjunction with the National Work Development Agency, or whatever name it grows to be, because that name tends to change as we move along. Whether it is a human resource authority or whatever it turns out to be we need to make sure that we are dealing and we are matching jobs with people, not fictitious lists, but real lists and real people, real jobs. No secrets, fully transparent, and make sure that everyone understands where we are trying to get.

I have no problem discriminating in my country for my people, Madam Speaker. I need to make that absolutely clear! Something is wrong with a country that doesn't discriminate in favour of its own people!

You have to! You have to! If you are an American, you get certain privileges. If you are a Caymanian you must have them too. The Caymanian, on the other hand, must hold up his end of the deal. When we push and we push and we struggle to put the systems in place, you, as a Caymanian worker, must go there and you must perform. Now, if you are victimised we can stand by you; but if you go there and you don't perform, what are we do to? We tried. Then the responsibility is in your hands.

Madam Speaker, I have said this before as well, by my dear mother (of blessed memory) always used to talk about . . . and this lady was saying this, it must have been 15 years ago, and I couldn't understand quite what she meant. But she said we needed to stop importing poverty into this country, son. And everyone she talked to, she preached that. And I kept wondering what mama was really talking about. And now I understand.

Half of the problems we have in this country now are because we have imported the amount of poverty we have. We never had the social service problems, the Children and Family Services have never been so burdened as it is now. We would not have these things if our immigration policies had been put right a long time ago and we had done the right thing and brought the right people, and taken our time and looked carefully at what we were doing, and not making reckless, hasty decisions.

Madam Speaker, to this end is why you now see a very difficult permanent residency proposal. There are some people saying . . . I had a friend of mine who said it would take a (what was it?) . . . you'd have to be a welfare Romanian or Albanian lawyer, he said, to get PR. Well, I do not want to see it become a situation where PR is only for the elite. That is far from

what . . . we don't want to go [there]. Either extreme is bad.

Madam Speaker, I am going to certainly be watching this one carefully. I believe that we have to strike a balance where the people you take into your country certainly have to be able to look out for themselves and not become a burden on the Government. But, at the same time, you can't set the bar so high that you lose the middle class. The middle class is the backbone of society, Madam Speaker. And when you lose that, you lose a lot. And you cannot have one end where we've already messed up, and the other end where you go now and it is pure doctors, lawyers and engineers and architects. We cannot do that. We have to be sensible about this. The PR criteria has to be fair, it has to be transparent, and it has to be at a level where a person earning a decent living can attain PR with the right benefits that go along with that.

That person, he or she, must be a productive citizen in the country. That goes without saying. We do not want to be taking on any further burden. We have quite enough of our own. And we have imported what we have already and we have to find a way of gradually weeding, and weeding, and weeding and going through all of the problems we have.

We are under no illusion. We have people in the system abusing it. And the Premier (whom this falls under), his people are working to find a solution to some of this. But it is not something that you can just go in one fell swoop and say, *Bam! you're not* . . . and just start over. It's not that easy. It's human lives, it's people you are dealing with. But we have to make sure that the system is not being abused to the detriment of others.

Madam Speaker, we are confident, along with the moves we are making . . . and we by no means feel that we have this perfect. But the moves that we are making on the labour front with the partnerships we are seeing from employers with even the Tourism Association working in conjunction with us, and with the signs of the economic stimulation that we have seen with the plans that are coming through, with the investors that are showing up, Madam Speaker, I believe that we are going to get through this difficult period. It's not without challenges. And every day all of us in here are getting the, *No food in the fridge, no power, no water, no job*. We know the difficulties. We have to find a way to make sure that employment is easier to access and becomes more available.

We have too many people in the system that are beating the system, beating immigration, beating the workforce to the detriment of our own people. I have no problem at all with permits, Madam Speaker. But they must come after all of our people who want to work, and who are able to work, are working. That is the bottom line. We know that we do not have the people to service our economy. We know that. We have youngsters graduating every year from high

school, from university. We have to grow the economy. It has to grow.

The Leader of the Opposition alluded to this. We have to grow. But we have to grow in the right fashion with the right people. I have two kids overseas in university right now. I don't want them to come back here to walk around town. I want them to have a job. Our system should provide to know who is overseas and what they are coming back to. That is the system I want to see in this country, Madam Speaker.

I don't want anyone coming back here after four, six, eight years, beating their head against the wall. And, trust me; I have been a student overseas. It is not an easy life. And coming back to your country and feeling that you have no hope . . . that must be the worst feeling in the world! Thank God I came back to a job. A lot of us did. But it is not happening like that anymore. We have qualified people coming back to this country and can't find work, and going a year and a half, two years, without jobs. It has to stop!

Madam Speaker, I wish I had a golden wand, and I wish I had a crystal ball to put this all right by tomorrow morning. But that is not to be. But what I know is that we have to keep chipping away at this, not just as a Government but as a Legislative Assembly, as colleagues, to fight what is an evil amongst us. I have seen too many cases of abuse. And when our people perform—and, trust me, we have some of the best workers. I know Caymanians who work in three jobs. We have some of the most committed people. But when you have that element out there that doesn't want to have them working . . . they find every excuse in the world why they ain't no good and why they can't hold a job. And that needs to be . . . Madam Speaker, I get upset.

If it were left to me, Madam Speaker, it would be . . . I tell you, it would be heavily monitored. Unfortunately, that takes serious resources. But I would love to be on their back like ticks when they are going on, and make them understand, *You behave. You are going to be treated good. You are going to get perks. And if you misbehave you are going to get what's coming to you*.

Madam Speaker, I don't want to take up any more time. It's 10:00 at night, and I know there are other Members who want to speak. We're all tired, but this is an area that I think is important to all of us and we need to have our little piece to say.

So, Madam Speaker, I am very close to concluding now, but I just want everyone to understand, including the Opposition, that we feel as strongly, or stronger, about this as anyone, we on this side. I know it is easy for the Opposition . . . they have to do what they have to do. They have to say what they have to say. But we have to make the decisions and we have to live with those decisions. And, if we get it wrong, Madam Speaker, we are man enough and woman enough, to come back here and say we did. But I don't think that we are doing anything that is going to

create much of the doom and gloom that I have heard being talked about.

My Members here, some Members here, and by some of the people in the public . . . I want to pay kudos to those members of the public who signed a petition. That's their free right. We encourage that. It's healthy. It's democracy. We see them come into the gallery and listen to us. Everybody has been very peaceful and respectful about what their view is.

What I have found, Madam Speaker, with this whole thing since it started is that once you can sit someone down and explain it to them, a lot of people tend to . . . because it's an emotional thing and they may have heard someone say, *Oh, this is not good for us*, they simply jump on the bandwagon. When you sit them down and you take them through it, in large part a lot of them have said, *Yes, I can see where you are coming from now*. So I ask members of the public to be informed. Read and understand, before you jump to conclusions.

This Government is a pro-Caymanian Government. This Legislative Assembly, I think I can speak to say that we are, as a whole, a very much pro-Caymanian set of people. And we are doing what we feel is right for our people and our country. We are sticking to what we said in our Manifesto and, therefore, I have no problem supporting the proposed Bill.

With that, I take my seat. Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? I recognise the Fifth Elected Member for George Town.

Mr. Winston C. Connolly, Jr., Fifth Elected Member for George Town: Thank you, Madam Speaker.

I have been asked by the Premier to give some comments on what we are doing on the employment section. I will do that before I add my thoughts and comments on the debate that has ensued. Madam Speaker, this is my task tonight because the Minister of Employment is sick and was in hospital earlier this morning. But I know that if she were giving this address she would say the same things. I know that she is committed, as am I, as is this Government, to tackling the hard issues head on and to take decisions on things that we know that not every single person will accept. But we are doing it for the greater good and we are doing it for Caymanians first.

Madam Speaker, let me discuss some of the items that have been taking place under the watch of the Minister of Employment. Both she and the Ministry see the National Workforce Development Agency (NWDA) as the potential clearing house for all employment on-Island, meaning every employer will be registered there, everyone seeking employment will register there. No one on the Government Bench believes that there is some magic bullet that can cure

the employment ills of the country. These things did not happen overnight; these things were inherited by this Government. But we aim to correct them, hopefully with the aid of all the Members in this honourable House. At the end of the day we are all Caymanians. And we want the best for our Caymanian people.

Madam Speaker, we campaigned—and this is all of us in this room—on unemployment. We said that it was *the* priority of this campaign. We said that we had to address it holistically. We couldn't do things in a vacuum. We will be debating the Immigration Bill, but it does not cure everything that the petition, brought before the House and tabled, asked for. And we knew that. That's why we have to look at employment as well.

Since the Government came into play it recognised that the NWDA was very under-staffed. But, Madam Speaker, we also realise that we are cash-strapped. Given the constraints, the Government has approved four new posts for the NWDA, including a director position, a manager of training and development, an employment services officer, and a receptionist. Do we think that this is the full complement? Absolutely not! But the journey of 1,000 miles begins with the first step.

There has also been a secondment of HR staff in various ministries. Again, because the entire Government, all the Ministers recognise that this is all of our issue. We all have to be a part of the solution. These people have been seconded to try and get the data at the NWDA in the best form that it can be, and to have true and proper data points. What we inherited, we realised, was not accurate.

Madam Speaker, one of the initiatives that the Minister spoke about in her Throne Speech debate was the tourism employment drive. I am happy to say that the district days have now concluded. Those identified with the requisite skills have been referred to jobs. And the Cayman Islands Tourism Association is preparing a report to give feedback on persons referred and not referred and details of the gaps in those who were not referred so that the NWDA can follow up. This is expected momentarily, Madam Speaker, and as soon as we have it, we will share it with all Members of this House.

Since this Government took over, 57 job-seekers have been hired, 166 new people have been registered with the NWDA, and 1,055 new job openings have been posted on the NWDA website. After the exercise I spoke about, the latest data which is being reviewed as we speak reflects some 927 active clients. These are clients that are registered and being referred to jobs for which they broadly meet the requirements, or those job descriptions.

My expertise in triple X is grossly lacking, so I won't try to appease the Member for East End on that one. I will leave that to the technocrats.

But, Madam Speaker, with the workforce, the total labour force in the Cayman Islands of 38,811

people, 18,418 of which are Caymanians, so roughly 47.5 per cent, to the 20,393 non-Caymanians, like some of the Members who spoke before me said, we don't have a job problem; what we have in our country is a situation where we have been told that Caymanian labour cannot meet the existing demand for labour, and thus the need for work permit holders.

At the same time, Madam Speaker, like you have also heard from speakers before me, we realise that some Caymanians are being marginalised and disenfranchised. The aim of this national clearing house, which is what we hope the NWDA will become, is to look at four major phases, including needs assessments, training, job assessment and, finally and most importantly, job placement of Caymanians.

The other initiatives that I wish to discuss tonight, most of which have started other adult educational opportunities, which will begin in November, are the Tech-byte through Library Services, which teaches basic computer literacy as an eight-week course of one and a half hour sessions once per week. The new course started in the West Bay Library on September 20th with eight participants. The George Town Library course began on October 18th. And there are plans to offer this course at the Bodden Town Library next.

Madam Speaker, we have to fill the gaps identified in our people. Technology is the way of life as it stands, and we have to get all of our people computer literate.

Also, Madam Speaker, the Career Ready 101 is an assessment tool that identifies skills and knowledge deficits. This is being utilised by all the clients at NWDA and is what some of the trainers are tasked to do whenever a client walks through the door. And, Madam Speaker, there is also the National Work-readiness Programme at the NWDA which identifies barriers to employment and career projection and aims to remediate them through training opportunities. These courses began on September 24th and are now ongoing.

They say you can only win the lottery if you buy the ticket. We recognise, as a Government, that the reputation of the NWDA in the past has not lent itself to people actively signing up. A number of the criticisms we have heard in this House we accept. But we are going to fix it. I just want to reiterate that it won't happen overnight. We have recognised it and have accepted it and that is the start of this battle.

Madam Speaker, we also sponsor national employment programmes such as Passport2Success, which seeks to help vulnerable groups overcome specific barriers to employment. The 12th cohort began on September 9, and this cohort is made up of 25 young people aged 17 to 21. In January, I am very proud and happy to say that a special cohort for unemployed mothers will commence. I think it is fitting, given the makeup of this Government and of this country, that our women be treated fairly, that they be given every

opportunity to leap over those hurdles put in front of them.

I spoke briefly on adult education opportunities and the NWDA is working with the Department of Education Services to ensure that adults in the communities have access to a variety of educational opportunities. We must give second chances, Madam Speaker. We also realise that some of our older Caymanians may need new skills, especially if they are transitioning to new opportunities. In November adult literacy and numeracy, as well as CXE math will be offered on the CIFEC [Cayman Islands Further Education Campus] in George Town. Provisions have also been made to deliver these courses in West Bay and in the eastern districts if there is a demand for them.

Madam Speaker, partnerships. This Government realises, especially in this cash-strapped situation that we find ourselves in, that we can't do this alone. We have to partner with good corporate citizens to facilitate success. To this end we have to look at and reward those persons who would seek out to partner with us. Just this week (just today, actually) a success story was relayed to me (wearing my hat as Councillor of Education, as well), in the construction industry. I think this should be part of a national plan going forward. I won't mention names, but I will say publicly that we appreciate this type of behaviour and we will seek to ensure that it is recognised. Specialist workers were brought into the country and the local company that engaged them sought to ensure that their specialist knowledge would be passed on to the Caymanian workers. To that end, they had a number of Caymanians do Saturday classes to learn this specialised skill set.

I was told this morning that every single Caymanian passed this highly technical skill set they were learning. And, in fact—and I hope the Member for East End is listening, as his back is turned to me—one of his constituents scored the highest in the whole cohort and the company is looking to keep him on (and this is the specialist company that was brought in) in some capacity. Madam Speaker, there will be opportunities for him to go to the home country and learn further because he stood out among all eight of the persons doing the course.

Mr. D. Ezzard Miller: [Inaudible] they are from North Side and East End, you are one of them.

Mr. Winston C. Connolly, Jr.: Madam Speaker, the Member for East End and the Member for North Side have said I have an affinity for where I come from, but, that being said, I have greater affinity for all things Caymanian.

These are examples that Caymanians, given the proper opportunities, can achieve great things and that's what all of this legislation should be about. It should be about giving opportunities.

Madam Speaker, we are inviting all such companies to reach out to this Government and we will meet them at the gate with open arms because this is behaviour to encourage. We have other partners, including mechanics, electricians; all these people who are running courses on their own time, sometimes out of their own pockets. These are people that we have to embrace. Specifically with the NWDA, I must mention CITA [Cayman Islands Tourism Association] that approached the Ministry and said they want Caymanians in the tourism sector. They will go out district by district and interview Caymanians and try to facilitate them in up to 200 jobs that they have identified as available.

Other private sector bodies/groups have entered into private/public partnerships and initiatives with us. There is a re-start programme, there is a partnership with Enterprise Cayman and Enterprise City, and there is also a public/private partnership with Health City being discussed. These are just small steps, I know, into getting a solution to our unemployment issues. But, like I said, we realise that sometimes we have to start off with small steps. We have to build on the successes that we achieve to get to an end result.

Madam Speaker, having carried out my duty as Councillor in Employment, I will now put on my hat as the Fifth Elected Member of George Town and also as a Member of the Government Backbench.

Immigration is never going to be a subject where we get universal acceptance. But as we stand here tonight, this is not only about immigration; it's about the Caymanian employee, the Caymanian employer, the expatriate employee, the expatriate employer. This is about fairness; it's about the greater good. I am neither bemused nor dumbfounded by what is happening in our country, contrary to those who may think so. I am also very aware, having been born here and having lived here all my life, other than tertiary and post-tertiary education, and now having started a new generation of my family as well, we need to change, Madam Speaker.

Where else in this world could you go where businesses are allowed to dictate who eventually becomes a citizen of a country? That is our right. And the right to be Caymanian should not be granted indiscriminately. This is what has happened in the past. But we are here tonight to remind people that Parliament should remain supreme.

We all campaigned on reforming the Government. We all campaigned on reforming labour, pensions, education, and the NWDA. We also campaigned on wages, although we had differing views. But I think it is all to the same extent because what we don't want is a system which treats anyone unfairly on these shores, but most especially, the Caymanians.

Madam Speaker, stakeholders who took the time to review the proposed Bill changed their minds. Some who were going to lead marches sat down and

stayed at home. The Bill before this honourable House was heavily debated at caucus. It was something that was a compromised position. Everyone in the Government realised that not every single aspect of that Bill would be to their liking. But if it achieved what it needed to achieve for the greater good, we would put it out for discussion and comment. We would listen, and then we would act.

We have heard that there is no perfect law. This Bill, like those that have come before, will not fix everything. It will not ensure wealth. It will not ensure every Caymanian gets to the top of their company. It will not ensure that our Caymanians get everything tomorrow. But, again, it's part of an overall plan. It's phase 1 of immigration reform. And I would like to ask people to be patient and take it as that. It is that first step because what we had before was not working. It had failed miserably. And because of bad legislation and bad policy in the past we have now inherited a really dire situation that needs fixing.

To fix the sins of the past we have to wipe the slate clean. In my opinion, we have to come up with a development plan for our people from cradle to grave. We need to take our people's aspirations and turn them into opportunities and results. Every single Caymanian should be able to reach their full potential in a country that has given so many things. Madam Speaker, that is what I want for my people. That is what I know this Government wants for its people. That is what I know the Opposition wants for our people. It is getting there that we may disagree on. Madam Speaker, it is also what the southeast corner wants for the Caymanian people.

[Hon. Anthony S. Eden, Deputy Speaker, presiding]

Mr. Winston C. Connolly, Jr.: Mr. Deputy Speaker, I can't sit around and accept that this piece of proposed legislation is just like the status grants of the UDP Government. And I can't see how any logical person could equate it to that. We are trying to correct some of those bad policy decisions that were made. I would like to invite the Opposition to work with the Government, as I believe we all want the same thing: a better Cayman for Caymanians. If we can leave this better than when we found it, we will have achieved something. And don't kid yourself; we won't achieve everything, but we can hand it off better than we found it.

It is also said that this piece of proposed legislation is a farce, an exercise in futility. Mr. Deputy Speaker, I would not be a part of any Government which just gives lip service. I know that in my Ministry the Minister of Employment is working on the infrastructure to get this right. I know that she has all of the Government's support to get this right. I would hope that by now everyone looking at these proceedings, everyone seeing what this Government has embarked

on and is trying to do, will know that we are here to work for our Caymanian people.

Mr. Deputy Speaker, good immigration policy requires that employers remove barriers to employment that disadvantage certain members of society. I wish that we didn't have to come here and say those certain members of society were Caymanians, especially not in our own country. But I will also say this, in the essence of fairness: There are a number of good corporate citizens out there who do the right thing. And those are the people that we as a country and as a Government should be rewarding.

Employers should also be required to institute positive practices and policies for hiring, training, retention and promotion of Caymanians. I don't think that we have done enough of this in this country over the last 40 years. I think in the next round I would implore everyone in this House, everyone in Government to try to ensure that there are positive policies and practices in place and not just lip service. Positive policies include good hiring practices. For example, asking all job candidates the same interview questions, advertising jobs widely and in places where it is likely to reach a majority of Caymanian applicants, not overseas, not for higher salaries in overseas publications than what it is in local publications, as we have seen in instances, and especially not after the job is already filled. That is where we should come down like a ton of bricks on somebody and make examples of those who would take our kindness, our dislike for confrontation, as weakness.

Mr. Deputy Speaker, those who would try to circumvent immigration laws by using loopholes, those who would verbally or otherwise abuse our Caymanian workers, we should single out. Employment equity in Cayman should also require employers to engage in proactive employment practices to increase representation of Caymanians in upper management. The US used affirmative action. It created strong emotions and ill will. I don't propose that we do that, Mr. Deputy Speaker, but if the people in the system are abusing the system, are not heeding the signs, including the increase in crime, then I am afraid that the same people doing the petition outside will start calling for more draconian measures. We have a chance to get this right. And I think the first start is the Bill that the Government is proposing.

We need to find employment equity in these Islands. Any employment legislation that will stand alongside the proposed immigration legislation must seek to achieve that equality in the workplace so that no Caymanian should be denied employment opportunities or benefits for reasons unrelated to ability, hard work and perseverance. And in fulfillment of that goal, again I say that businesses that do the right thing should be rewarded.

When given the opportunity, Caymanians have proven themselves over and over. Some industries in Cayman get it. They have Caymanians at the

top of their organisations, including responsibilities for extraterritorial offices and they have set the bar. Others, for whatever reasons, refuse to give Caymanians that opportunity. And I cannot, for the life of me, accept that it can't be replicated. I am a proud Caymanian, and I know that every single person in this room is the same. And those of us who were given opportunities have knocked it out of the park, Mr. Deputy Speaker.

Employment equity, frankly, has not been achieved in Cayman. Caymanian men and women still face glass ceilings, especially in the higher level occupations. Again, if we put in good balanced legislation, if we enforce that legislation, I believe we can achieve something that our grandchildren and their grandchildren will be proud of. I also believe that what is good for the goose should be good for the gander. I would like to talk about human rights. I would challenge the Human Rights Commission to look at the Caymanian condition, to look at some of these challenges and to opine on them, because it is not only expatriate labour in the Cayman Islands that is being abused. In fact, I challenge them to look at this immediately.

Mr. Deputy Speaker, additional focus should be placed on occupational inequities. Organisations must create a climate of acceptance and tolerance by sensitizing top management to the needs to eliminate glass ceilings for both Caymanian men, and especially our Caymanian women who seem to lag behind in salaries and other things. Additional focus should also be placed on sectors where Caymanians are under-represented. For example, in real estate, tourism, restaurant work, et cetera. Increased and vigorous monitoring of employment equity programmes is needed to effect real change. Without that monitoring, without that enforcement, we are basically spitting in the wind.

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

Mr. Winston C. Connolly, Jr.: Madam Speaker, managerial responsibilities are required to allow Caymanians to be prepared to take on managerial positions. This has to be done to prevent discrimination in the workplace. Caymanian employees must be made aware of their potential with clear pathways to top leadership. In the past, I think everybody in this room may have experienced one form of that or the other, where we simply were not given the opportunity. In better times people would get up and talk with their feet and go to where they believed the opportunities existed. Madam Speaker, in these times they don't have that luxury. So we need to fix the system where they are.

I will be forever grateful for persons who, in spite of the lack of any financial incentive or other things, took the time to mentor me. Not all of those

people were Caymanians, Madam Speaker. I stress that because, again, we have good and bad in every single demographic in these Islands, including our own Caymanians. Madam Speaker, those people who do the right thing, those people who go the extra mile when nobody is looking and for no reward, those are the people I would gladly support for PR. They are here, they want to help. And we need to use them as well. Madam Speaker, I dare say that they are probably in the minority and we need to turn that around.

Giving Caymanians the opportunity to train overseas and get valuable experience will also take away from some of the excuses. This is often seen as a deterrent to promotion of these same Caymanians in spite of whatever experience they gain at home. Some companies are actively doing this. Unfortunately, the majority are not. We have seen good corporate citizens put in countless hours to train our Caymanians. We have examples like I spoke about earlier in construction, auto mechanics, electricians, plumbers. We need this at the higher levels as well.

Like I said, Madam Speaker, I recognise that some people are already doing it. And I wish that as a Government we did more to applaud them and to enforce those good qualities. And if, by doing that, we gave them a competitive advantage by highlighting the good employment practices, I think that would be time well spent. But it is with these partnerships that we are going to get to the end of the road. It is with these partnerships that we can show that bad behaviour is not welcome and we can stamp out those who would continue to just take, take, and take.

Madam Speaker, we would not want to go down the road of the Canadians where they have to set out a definition of "visible minorities." The definition under their law is anyone other than aboriginal peoples who are non-Caucasian in race or non-white in colour. This isn't the Cayman that we need to get to, Madam Speaker. We have an opportunity at this fork in the road to take the path that leads us back to where we started out.

If we do not solve our immigration issues, if we do not solve our employment issues, I am afraid that this could be the next step. That policy in Canada was based on President John F. Kennedy's actions in 1961. He issued an executive order prohibiting discrimination amongst federally regulated contractors and requiring employees to develop affirmative action plans, including goals and time tables to correct the underrepresentation of minorities. Let us not accept this as a country, as a people. Let us not perpetuate Caymanians being minorities in their own country in all respects of the word. Therefore, Madam Speaker, I would implore all the Members of this honourable House to work together to set sensible laws in place and to enforce them before we have to resort to draconian measures because we didn't act in time.

Government plays a huge role in employment initiatives, practices and laws. We have to first clean

up our own house before we dictate to others. If we do not, we are all hypocrites.

Madam Speaker, if the vision of this Government is accepted in stages by all Members of this House due to the financial and other constraints placed on us, and if people do not expect that this Government can cure years—decades—of bad policy, bad decisions, piecemeal laws in one fell swoop, I think that there could be a smoother road forward. No one here wants to hurt anyone, especially not our Caymanians. We have so many things on our plate, Madam Speaker. I again implore the people of these Islands to give us an opportunity to prove that we were the right people for the job, their vote counted for something and, at the end of the day, with a strong plan we will get results.

This Government has started to focus on growing Cayman in a manner which is managed to provide maximum benefit. It recognises that if this does not happen, Caymanians will be left out of the true economic success of these Islands. We all have to roll up our sleeves and get to work to prevent further social disharmony. That means each and every one of us. It means employers, employees and the Government.

Madam Speaker, holistically, we must have a plan for the economy to forecast the job needs of the future, timing of scholarships and training so that as our Caymanians are coming out of school we can match them with employers and jobs. Any investment in these Islands should start with a focus on how it will benefit the Caymanians within. It must provide them job opportunities. It must provide them promotion opportunities. It must provide them with opportunities to form their own businesses.

Under a comprehensive plan which clearly sets out paths to success and the necessary training for Caymanians, I think that Cayman can achieve success for its Caymanians. Training should go hand in hand with a succession plan under which expatriate workers accept and recognise that if there is a willing and able Caymanian that they may eventually be out of a job. This, again, will not happen overnight. Places like Canada and Australia have started what some people call smart immigration policies which take on talented foreigners who have the skills the country needs and the determination and drive to succeed and invite them to their shores, but not to the detriment of its own people, even in some of those instances where their indigenous population is sometimes outnumbered.

Madam Speaker, Cayman is moving to get there under this Government. We cannot centre immigration on strong streams of nativism and xenophobia if we want a thriving economy, or to grow and have a vibrant cultural diversity. At the same time, those who come here need . . . no, Madam Speaker, must, respect our culture. But, most importantly, must respect

our people. If they abuse both they should and will no longer be welcomed.

Madam Speaker, I think it may have been Monday when people in this House asked for those people that supported this Bill to stand up and be counted. I support this Bill, Madam Speaker. Like I said before, it's a compromise document forged over a lot of hours of debate. But it is the best document that this Government can produce, in my view and in my opinion, at this time, given the time constraints. Madam Speaker, it will be better with public consultation, which has already ensued. It will be better with open honest dialogue.

Madam Speaker, thank you for allowing me the time. And to those viewing us in the House, God bless and good night.

The Speaker: Does any other Member wish to speak? [pause]. I recognise the honourable First Elected Member for Bodden Town.

Hon. Anthony S. Eden, First Elected Member for Bodden Town, Deputy Speaker: Thank you, Madam Speaker. As King Henry the VIII told his fifth or sixth wife, "Dear, I shall not keep you long."

As we approach the midnight hour and the passion that I have heard here this evening, lots of good stuff, I want to congratulate the Premier, his Chief Officer, and all those hard workers from Immigration that have put this legislation together. Their hard work and determination is very laudable.

Madam Speaker, I speak not for myself, and maybe I misinterpret the Bill, but I have to say that not since the 2003 status grants have I been beat up so much . . . on [Government] Motion 3/90¹, as a matter of fact, when so many people came to me. I used to love to go to the supermarket, but I have even reduced the time that I spend there.

As I said, Madam Speaker, what I am saying . . . and I quite understand most of the Bill. There are only a couple of things there that I have concern about, which it is my right, in my sixth term here. And if I have to apologise to the Premier and the party, the caucus knew from day one that, because of a section in there, I did not support the Bill. No one from my Bodden Town constituency said they supported part of the amending legislation—and that is the possible qualification of the TLEPs getting permanent residence. Not one single person indicated that they support this aspect of the legislation. As a matter of fact, many of them became very angry with me, as I alluded to before, and also the PPM.

I respect the petition that was tabled in Parliament this morning with over 800 signatures. I recognise many of them from my Bodden Town constituency. I will go back to the 2003 status grants, although

my colleague, the Fifth Elected Member for George Town didn't see how a connection could be made. Madam Speaker, I see a connection. And it is quite possible that I am wrong. But what the people have said to me . . . their concern is that the 1,500 . . . and I know and understand that it would not be that many who would qualify when listening and seeing the interpretation and the guidelines that have been established to literally weed out many people. But, how many will that be? How many of their dependents will qualify? I feel that the Premier will further explain this when it's his time to wind up.

Madam Speaker, a large company here in Cayman that employs over 500 people on work permits indicated that probably about 50 of those employees would be caught up in this. They said how these employees love Cayman so much. They don't love Cayman a bit better than I do.

One earlier Member spoke about growing the population with permanent residents and ultimately status. I say, how can this benefit our young Caymanians, with over 300 of them graduating every year, eventually training to be accountants, lawyers (and whatever other profession there is)? How can increasing the foreign population, as was said earlier by another [Member], with over 5,000 permanent residents ultimately leading to Cayman status, not reduce the possibility of our young Caymanians getting jobs? Madam Speaker, you have heard the term "voodoo economics." To me, that sounds like "voodoo mathematics".

There are alluded to be over 20,000 work permits. And from time immemorial, some of these were supposed to train Caymanians. Madam Speaker, it has not happened. And this is where many of our people out there, especially our younger people in the 25 to 35, 40 age group, have their concerns. And there is no doubt in my mind that some of the preventative maintenance that is into this Bill will eliminate much of that. But this is their concern. It is the perception of these people. They have been burned so many times, Madam Speaker. Are we going to smother our young Caymanians?

I know if it is left to this Government—because I must say in working with this Government I have never worked with a more committed, dedicated, educated and whatever other adjective you want to use—there is no doubt in my mind that with the leadership we have we can turn this around. With God's help we will.

The last area I want to touch on, Madam Speaker (and I guess I better declare my interest as I approach my senior citizen years), is the specialist caregivers. I have been approached. The First Elected Member for George Town and also the First Elected Member [of West Bay], the Leader of the Opposition, has been approached. One of these gentlemen was 85 years old. And once I explained to him after talking to my colleagues and he indicated that his daughter

¹ Government Motion 3/90 (*Official Hansard Report* 11 June 1990)

had in place the proper licence for the specialist caregiver that he would not be affected.

I would beseech the powers that be, that, if necessary (and I have preached this for 20 years) . . . there are laws but there must be ways we can deal with laws if the opportunity should present, especially, with our senior citizens, that we can make an exception.

I remember when the Leader of the Opposition was Premier one of my constituents was literally crying and begging. Her helper was going home, would she have to go to Jamaica with her. We were able to get that sorted out. And that's all I want my Government to consider; that if the time and opportunity presents, and we get that far, that we look at these things.

Madam Speaker, this is very important legislation. As I listened to the Fifth Elected Member for George Town . . . good stuff he had there. Him and the Minister of Labour [make] a good team. What they are putting in place will make a difference. But we can only get this done by working together. I hope that I am wrong in my understanding and perception of what could happen.

Thank you, and may God bless us all.

The Speaker: Does any other Member wish to speak? [pause] I recognise the Third Elected Member for West Bay.

Mr. Bernie A. Bush, Third Elected Member for West Bay: Thank you, Madam Speaker.

Madam Speaker, I had no intention of speaking after I prepared over 35 to 40 pages. I was going to make good use of my two hours this time. But then after the people who went before me I didn't think there was any need to get up and do it. But then some things were said which I feel I have to cover.

I don't know how many of the Members on the other side of the table have ever sat on the Permanent Residence and Status Board. I was honoured under the PPM Government to sit on the Board. And I am happy to say that the real leader of the PPM at that time, Mr. Kurt Tibbetts, the First Elected Member for George Town, was a good leader. In fact, when the chairman asked to have me removed from the Board because of my stubbornness, the First Elected Member for George Town told them to leave me alone, as long as I was not disrupting meetings.

They talk about the point system. There is a saying that the road to someplace is paved with good intentions. I pray to God that I am wrong about this Bill. I hope that the Government is right. When we were elected, the First Elected Member for West Bay, the Leader of the Opposition, sat me down and said, *Please, don't do them what they did me. Let us be a good opposition. Keep in mind if the Premier fails the whole country fails. We want to see him succeed, because we want to see the country succeed. You only*

oppose if you really feel strong and the people tell you to oppose.

Madam Speaker, the First Elected Member for Bodden Town . . . Sir, you're class. I too intend to be like you (First Elected Member for Bodden Town). If I have to stand by myself, I will stand by myself.

The Fourth Elected Member for George Town and the Second Elected Member for Bodden Town, my contribution will be shorter. And I hope to be in the class of those three gentlemen.

Minister Archer, the Fourth Elected Member for George Town, spoke about what took place in here last Thursday night. This is nothing new. A lot of people when they get up and make their speeches go on like they are so surprised. I left government after 20 years in 2000. I remember in 1990 when the man known as Peter Gough was brought here on a six month contract to do something for the Civil Service, and years later, Madam Speaker, they were known as the cartel.

What is happening now in the Civil Service has reflected what has been going on in the private sector. There is nothing new. When I heard the Member for East End and the Member for North Side talking about all the reports they are getting from various people, I have had them long time.

Madam Speaker, no longer is our economy producing enough jobs for our people. And cutting available jobs for Caymanians cannot be the answer. When I go to places and I see a few Caymanians employed, it brings back memories of the days when our people did just about every job in this country and more. We have spent so much time telling our people what they can't do that we have forgotten to tell them what they can do.

Madam Speaker, we can work hard. This was once an Island that gave a fair day's pay for a fair day's work. But, we decided to socially engineer our economy by telling people that this job and that job are beneath them. Look at where it's gotten us, Madam Speaker.

I heard one of the [Members] talk about us working together. This Immigration [(Amendment)] Bill, according to the Premier, has been worked on for the last two or three months. No one on this side was asked to sit on any committee concerning this. The other day we in here talked about the police force. The next morning there was a meeting with the Police Chief and the Governor. We were not asked to come in until afterwards. This is not the way to reach across; reach across from the beginning. I said from my very first speech that I have no problem working with anyone over there. And yesterday, when the Leader of the Opposition told me to vote my conscience and vote the way I wanted, I stood by myself over here and voted the way I did. Right away a remark came across the floor. But today I see the First Elected Member for Bodden Town doing the same thing I did.

Cayman must be developed. But it must be developed and evolved for Caymanians first. I listen to people talk about Caymanians' sense of entitlement. Tell me what is wrong with this. Madam Speaker, they speak as if this is a bad thing. Where else can we as Caymanians feel entitled if not in our own country? If feeling entitled makes some of them feel happy, who are we to say otherwise? This is their country. This is our country, or supposed to be.

Madam Speaker, aren't Americans guaranteed the pursuit of happiness in their Constitution? But no one complains about them feeling entitled. For too long, Madam Speaker, the minute a Caymanian opens his mouth . . . and that's why I was happy when the Second Elected Member for Bodden Town made this very clear when he spoke. Madam Speaker, it is time for us to stop feeling guilty, or feeling bad for being Caymanian.

I did believe a few of them when they said that they struggled with this, but not all of them.

When some young people came to me and told me about a young lady in one of the bigger law firms here in Grand Cayman, I went and looked for her. She told me she'd spoken to a former person from that company who is now in politics, about her situation and what was being done to her systematically. I said to her: *Why didn't you put it to me in writing?* The answer was: *I have a child. I cannot afford to lose my job.*

I said the same thing to the Deputy Governor when we were talking about the Civil Service. The civil servants feel that they will get no justice in going to the Deputy Governor because he handpicked all of the various officers they are complaining about. But give the Deputy Governor his due. He said he will find a way to get around this.

Madam Speaker, let me say this right now so that everyone will know where Bernie Bush stands on this Immigration issue. First, we are in a very small community that is still growing. Unless someone has very strong ties to these Islands, via their parents or grandparents, it should not be made easy to become Caymanian unless someone is married to one of us. Madam Speaker, this is my birthright and the birthright of every Caymanian. It is the birthright of our children. And we must pass this on to our children and outside of that only our spouses must share in this. People must earn it.

There are some people, Madam Speaker, especially some teachers that I have worked with over the years, who I am happy to see now be called Caymanians. But to the listening public out there, this has been the problem. There are a lot of people who have gotten Caymanian papers, are voting and everything, and they still refer to themselves as the nationality where they originally come from. This is what's wrong. Once you can cast that vote, you are now a Caymanian. There is nothing wrong with being proud of where you were born. But now you must think as a Cay-

manian. We must all get in this boat and paddle it together.

Madam Speaker, I started off by saying that I hope I am wrong about this Bill. I will vote "No" because there are some pieces in this. And those people that will reach 10 years and 8 years, I have a major problem there, Madam Speaker, because after sitting on that Board, I know how these boards operate. We had people on the Board with me at the time, there's a person who was reaching 98, *Oh, give him a chance.* No, Madam Speaker, the pass mark is 100. They must hit 100. Nothing about going and looking and giving people . . . I remember how it operated. And this is why I said they can talk about the point system all they want.

I remember getting applications. There was a piece of land that was passed around four different Canadians trying to get their permanent residence. Not trying to get . . .

[Inaudible interjection]

Mr. Bernie A. Bush: Yes. It's only a certain nationality, but no other nationality does these things.

Madam Speaker, in closing I said I was going to be real short because everything had been covered. Another thing that was put up was the possibility if we didn't do this we could be sued. Section 16(4)(b) of the Constitution covers that. I don't agree with that either.

Madam Speaker, I know where some members of the media stand based on how they cover the proceedings of this House and how they cover what happens around politics. I asked the Police Commissioner several questions the other night. And I noticed that one media outlet decided to report on my asking about the cow cod. I asked that question as a matter of being a Caymanian and having pride and feeling insulted. But also to show where the immigration, whatever we do, whatever the Bill, it should start to look at some way of who we allow to come here and work. We must check their backgrounds—have they been insensitive before? Have they been prejudiced before?—various things, Madam Speaker.

Who do we let come to our shores, Madam Speaker? They come here and they must adapt to us. This is something that we need to look at. These people have the inability to adapt to our culture and, more importantly, our inability and impotence in checking and vetting these people correctly is a problem, Madam Speaker.

That gift of the cow cod to the Governor from the Commissioner was an insult to the people of these Islands. And where the Commissioner comes from, he would not have dared, and he would not and he could not have gotten away with it. Madam Speaker, there is a UK Minister right now under fire for telling a homeless man to go and get a job after he asked him for money. Madam Speaker, do you believe that a senior

police officer in the UK could have made such a gesture and the media not eating him alive? Madam Speaker, this is a perfect reason why I say Immigration has to find a better way to process these people. But I guess, Madam Speaker, it is the same process used to hire Dr. Syed—the doctor who was not a doctor, but, rather, a con man.

Madam Speaker, I too will say once again, I am more than willing to work across the floor if it will better Caymanians. I have no intention of letting this cow cod issue go away. I will be writing both the Governor and the UK Minister with responsibility for the overseas territories to register my disgust.

Madam Speaker, I am glad the Civil Service has been exposed. And I am happy to see that the Premier and his Government intend to look at this very carefully. I know if he doesn't, Madam Speaker, there are a lot of Ministers in his party that will.

Madam Speaker, thank you for your time. Fellow Members of this House, let's pray that this Bill is the right Bill. But, as some of you know, I have been catching the bus to work here at the Legislative Assembly for the last three days, and one of the gentlemen gave me a ride. His daughter is finishing off her masters in finance next year, and it is people like her that I see this Bill affecting. Let's pray to God it doesn't. Because when a division on the vote is cast, I will be pointing out to young people to go and ask them where their job is. If these people affect them, we will pay. I won't pay for the sins of others.

Madam Speaker, thank you very much.

The Speaker: Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause] Last call, does any other Member wish to speak? [pause] If not, I will call upon the mover of the Bill if he wishes to exercise his right of reply.

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

I wish to thank all Members of this honourable House for their contributions. Some were eloquent; some were insightful. Some took us on a meander down all sorts of roads and involved things that I never contemplated as part of the Immigration (Amendment) (No. 2) Bill, like cow cods and so forth. But nonetheless, Madam Speaker, each Member makes his or her contribution and each Member speaks about things that they consider important. And that is the right of every Member of this House.

Madam Speaker, I need to address, late though the hour may be, some of the points that were raised, starting with the Honourable Leader of the Opposition, to hopefully disabuse him of some the views he has about the interpretation of some of the sections of the Bill. One of the things he said was that the permanent residence fees are non-refundable. That is not the case, Madam Speaker.

Although the Bill does not say this expressly, it is proposed that if the application is refused the issue fee, the dependent fee and the annual fee in respect of the first year will be refunded. In other words, all fees other than the application fee will be refunded if the application is refused. Madam Speaker, given the interpretation which the Leader of the Opposition has come to about this, we will seek to make that clear in the regulations, that all fees, other than the application fee, will be refunded.

The Leader of the Opposition also said that a person will lose the right of appeal if they don't submit their appeal in the time prescribed. That is not the case. Section 15(1)(b), which is in clause 5, states that the Chairman of the Immigration Appeals Tribunal may grant a longer period in which to file the appeal for good reason shown.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: "May," yes, "may."

Madam Speaker, the Leader of the Opposition also said that he disagreed that the power to decide a permanent resident's application should be extended to the Chief Immigration Officer or those designated by her, and went on to say that if that is to be the case, there needs to be a right of appeal in situations where such an important decision is taken by one individual, and that he would rather see that power vested in a group, rather than an individual. Madam Speaker, the right to appeal against the decisions of the Chief Immigration Officer or her designate is prescribed in the Law. So he needn't worry about that. The same right of appeal that exists now in relation to finding of the Board is the same right of appeal that will be the case when the Bill is amended to allow the Chief Immigration Officer or her designate to make those decisions.

The Leader of the Opposition also questioned who would verify the annual declarations that permanent residents have to provide for accuracy. I can advise him that a section in the Department of Immigration, which already exists, will review the content of declarations if there are material issues that have changed in respect of the information provided previously. And, if that is the case, this section will refer the matter to the Caymanian Status and Permanent Residency Board.

Madam Speaker, the Honourable Leader of the Opposition also suggested that we did not need any more unscrupulous people here, and that there should be something in the law to require employers to find out the person's makeup before they come here. Madam Speaker, persons who are the subject of a work permit application are required by section 44(3)(a) of the Law to show that they are of good character as part of the work permit application process by producing a police clearance certificate.

Madam Speaker, the Member for North Side made much of what he characterised as the disregard of the Government for section 77(2) of the Constitution in respect of the notice period for the Bill. I went through that in quite some detail and I will have to say regretfully that the Member and I will have to continue to respectfully disagree about that. He is, of course, entitled to write to anyone he wishes, and he is entitled if he thinks fit to seek redress through the court. I just hope, Madam Speaker, that we don't have to consider an application for legal aid to do so.

[Laughter and inaudible interjection]

The Premier, Hon. Alden McLaughlin: It was an attempt at levity at this late hour, but I guess not all of us have a sense of humour at this late hour.

[Inaudible interjections and laughter]

The Premier, Hon. Alden McLaughlin: I am glad, at least in one respect, the Member for East End agrees with me.

Madam Speaker, the Member for East End asked, among other things, how the positions held by holders of term limit exemption permits going to be advertised. One of the reasons for allowing holders of the TLEP to continue working by operation of law until the 9th of December is to allow the employers to comply fully with the advertising requirements prior to submitting an application for the grant of a work permit.

Prior to submitting an application for a work permit, an employer is required to advertise the position in order to ascertain whether there is a Caymanian, a permanent resident, or a person legally and ordinarily resident in the islands who is willing and capable of filling the position. Although advertising requirements do not apply presently in the case of temporary work permits, an amendment has been proposed in the draft Immigration Regulations 2013 that will require an employer to advertise the position in respect of temporary work permit applications in circumstances where the employee in question holds or has held a term limit exemption permit. It is clear, therefore, that where a position is held currently by a worker on a TLEP the position will have to be advertised even if the employer seeks to continue to employ the worker on a temporary work permit.

Madam Speaker, there are a significant number of committee stage amendments that are proposed both by myself and a number by the Member for North Side. When we reach committee stage of these proceedings we will go, no doubt, into some detail with respect to them. But before we get to that point, I need to address a number of other areas.

The first is the issue of enforcement, which was raised by the Leader of the Opposition and, I believe, by some other Members. We have recognised

the need for better enforcement with respect to the Immigration Law generally, not just with respect to the proposals which are currently before the House. Enforcement has been weak and many of the abuses, and many of the concerns which have been expressed about Caymanians not being given proper opportunities, the applications not being properly considered, employers making false representations to the boards with respect to applications, are because they know that the system is not at the moment capable of monitoring effectively work permit applications.

Even in these austere times, Madam Speaker, the Government has made provision in the Budget (which we just concluded) for five new positions for "compliance officers" who will be charged with responsibility for monitoring the work permit application process. In addition to those five there are three administrative support staff who will assist them with this process. And a further five posts have also been created and funded to deal with the administration of work permit applications and PR applications because, as we have indicated, we are moving incrementally to an administrative approach to dealing with work permit and permanent residence applications.

We are building up the strength and capacity within the Department of Immigration to deal with these issues. None of us are trying to say that this is the magic bullet and we are going to resolve all of these issues in one fell swoop by simply creating, funding and hiring people in these positions, but we believe that we are doing far more than has been done in recent times to give the Immigration legislation the proper key and the proper capability of delivering an efficient work permit process, a fair process and one that does prefer Caymanians over others when it is clear that there are Caymanians who can and are willing to do the jobs.

Madam Speaker, sitting here and listening to the debate over the course of these past few hours, I could not help but be struck by a number of things. I can only conclude, as I am sure most within the sound of his voice would have concluded, that the Member for North Side must be living in some bubble in which he believes that sending home all of the foreigners from Cayman will make everything right and Caymanians will all automatically walk into these jobs.

To believe that this country can survive without foreign investment, without companies coming here growing jobs and investing, without foreigners coming to help build the economy and build the country, is . . . I can't even say it's a dream. It's some sort of fantasy. Madam Speaker, sending home huge numbers of foreigners will also mean we are sending away the attendant jobs, many of the jobs. If we don't create an environment that welcomes foreign investment, encourages companies that are here and those that are elsewhere to come and grow businesses, there will be no jobs for Caymanians to quarrel about and to fight for!

Anyone can get up in this House and talk about how much they care and how passionate they are about Caymanians and Caymanian jobs. I am say this, Madam Speaker, there is on one in this House who cares more about this country than I do. They may care as much as I do, but no one cares more. I have two sons. One is 21 pursuing his second degree, the other is 18. I am 52 years old. This is my fourth term. I gave up a very successful practice to go into politics. I did that because I care about this country and where this country goes. And anyone who believes that I am reckless because I take a course which we campaigned on, which is in our Manifesto, for which we have a mandate, anyone who believes that I am reckless should go and have another think.

I don't usually pound my chest and talk about how many foreigners need to be kicked off of this Island, run out of this place, because somehow I believe that is going to make Caymanians feel that I care more about them. If this country were led at this time by the Member for North Side and the Third Elected Member for West Bay, we would see how far this economy gets. And we would see just what shambles would become of this place.

Madam Speaker, I don't usually get this way, but those who stand up and pound their chests and believe, and try to convince the people of this country that running foreigners away, running away business, is somehow going to translate into a better Cayman for those who live here now and for those coming up behind us, those sorts of people need to be pointed out for what they are.

And I don't usually get this way, not anymore. But I must tell you, Madam Speaker, that I take the gravest offence at any Member of this House, those who have been here before and those who have just come, who would try to suggest that somehow Alden McLaughlin, because he is Premier and proposes Immigration reform in this way, doesn't care about his people, doesn't care about this country. I want either of them to point to what they have done for this country that exceeds what my contribution has been.

I want them to tell me how many Caymanians they mentored, pushed through, went all the way to partner in a law firm by the time I was 38 years old. Madam Speaker, there are none here who care about this place more than I do. [Do] I always get it right? Of course I don't. Maybe there are things . . . of course, I am sure there are things in this Bill that could be better. But I have done everything I possibly could to make this happen. Do you think it came easy? They get up on the radio show and bang on and bang on and bang on and bang on Tuesday after Tuesday doing what? When they supposed to be here pushing through things they walk out because they are on the other side.

I take this responsibility seriously; very, very seriously. And every Member of this House is entitled to say what he or she thinks. But I serve notice here

and now that I am not going to let the Member for North Side, East End, West Bay, anywhere, get up and castigate me without a response. I have tried, Madam Speaker, over the course of the past four months to do everything I know within my power to include them in everything that we have done.

The Third Elected Member for West Bay says we don't include him. If he wants to be part of the Government he has to come to this side. When the Government is having meetings, the Government is having meetings. When the Government sees it fit and proper to have meetings with Members from the other side, we do.

I offered him, in the instance he talked about, and all Members of the Opposition, the opportunity to meet with the Commissioner and the Governor. Some took it up, the Leader of the Opposition, others didn't. It is a matter for them. But unless they are members of the Government, when the Government is meeting they are not going to be inside. It is as simple as that. I have stretched my hand across. I have tried everything to make peace. But every single opportunity to complain, to oppose, is seized upon. That's the way they want to play the game. That's fine.

The Government will not be distracted. The Government will continue to do what it has done to be reasonable, to be fair, to take on board what is said by both sides of this House. Madam Speaker, I have sat in every possible position in this House except the Speakership. I know what it is to be a Member of the Opposition. I know what it is to be the Leader of the Opposition. I know what it is to be a supporting Member of the Government Backbench. I know the roles.

But, Madam Speaker, I have told myself for years to avoid being personal and bitter in my role as a representative. But when I see things happening, especially what I have seen transpiring over the course of the past few weeks, and I see people who have just come here—like the Third Elected Member for West Bay—constantly, constantly harping and harping and throwing barbs, I have to tell you, Madam Speaker, it gets me the other way. I am the most reasonable, fair person in the world. But if you get the other side of me, Madam Speaker, it is not good.

So, Madam Speaker, having gotten that off my chest, let me say that as I listened to the debate of the Leader of the Opposition, I was starting to think that he could not help but to support the Bill. Much of what he said I take on board and I accept. The difference, as I have been able to distill it, is that he doesn't think that the Bill has gone as far as it ought to, that we ought to do away entirely with the rollover policy. Madam Speaker, I hear that. It is a position that he has posited before. He says he doesn't think the Bill is going to do any good.

Now, Madam Speaker, the Leader of the Opposition was Premier of this country for three and a half years, until the 18th of December just gone. He knew about this. In fact, it was an administration led

by him in 2003 that introduced the amending legislation which created what has become called the rollover policy, the term limit policy. He introduced it!

Now, Madam Speaker, he had three and a half years to address this issue. In fact, in October of 2011, the Leader of the Opposition, in a statement to this House, announced that he had appointed a Term Limit Review Committee to review this issue and that the matter was going to be taken forward.

In May of the following year (2012), he laid on the Table of this honourable House a copy of the report which went to some 125 pages. A review of that report will disclose that the committee recommended to the then Premier (now the Leader of the Opposition) and his Government that the rollover policy should be retained, that term limits should be extended to 10 years, that the key employee provision should be repealed. And that report sat on the Table of this House from May 2012 until the Premier lost the Government in December and we took office in May of this year.

So, Madam Speaker, what I wish to say about this is that the [former] Premier [now Leader of the Opposition] had—if I leave aside the fact that he introduced the policy in 2003—three and a half years of *looking* at the legislation and complaining about it and saying how it was impeding foreign investment, how it was keeping Cayman back—three and a half years of talk and no action. But he has, Madam Speaker, the temerity to stand on the Floor of this House today and say that the Bill before the House which, though it may be far from perfect, advances the case significantly beyond the present situation for now, even though the rollover policy is not done away with, the term limit is to be extended from seven to nine years, the key employee provision is to go away, we have a new regime for permanent residence applications to deal with.

We have been in office for four months and we have managed to achieve what he couldn't in three and a half years, but the Bill is not satisfactory and so he is prepared to sacrifice good on the altar of perfection and say because it isn't the perfect document that he had in his dreams, but was unable to translate to reality, he is not going to support it.

Now, his deputy takes the other view. It is that the Bill has gone too far and, in fact, nobody beside those who are married to Caymanians should get permanent residence, the term limit should not be extended, in fact we need to get rid of all the foreigners. So he is going to vote no as well. Madam Speaker, if I were in another environment (which I am not) I would describe the situation in the Opposition as schizophrenic. But, Madam Speaker, that is where we are at.

Madam Speaker, as I said, this has not been easy. It has been a challenge. We have heard from the Deputy Speaker who has continued to express his concerns about various aspects of the Bill. There are

other members of the team, myself included, who have differing views on what the Bill should actually say. But, Madam Speaker, that is the nature of the game. I have said time and time again that politics is the art of compromise. Politics is the art of the possible. So, as the Fifth Elected Member for George Town, and Councillor said, the Bill is the product of compromise.

We have done the best we could in the time we had. We have consulted widely. We have gone to every district except Cayman Brac and Little Cayman. We have been on the talk shows. We have tried our very best. So, Madam Speaker, the Bill that is before the House is a product of all of that. We have tried to take into account what everyone has said to us. Taking it into account doesn't mean that we adopt it. But as will be seen from the committee stage amendments to come, we have and are proposing to make a significant number of changes to the original Bill.

Madam Speaker, we have come to the end of what has been a long and difficult process. I am grateful to you and Members of the House for having stayed until after [midnight] to conclude the debate on the Second Reading of this Bill. I hope that we can proceed through the committee stage swiftly and that we can pass the Bill very early this morning.

Thank you, Madam Speaker.

The Speaker: The question is that a Bill shortly entitled the Immigration (Amendment) (No. 2) Bill, 2013, be given a second reading. All those in favour, please say Aye. Those against, No.

Ayes and Noes

The Speaker: I believe the Ayes have it.

Hon. W. McKeever Bush, Leader of the Opposition: Can we have a division please?

The Speaker: Madam Clerk, please call the division.

The Clerk: *[Calling the division on the Second Reading of the Bill]*

Division No. 1

Ayes: 10

Hon. Alden McLaughlin
Hon. Moses I. Kirkconnell
Hon. D. Kurt Tibbetts
Hon. Osbourne V. Bodden
Hon. G. Wayne Panton
Hon. Marco S. Archer
Mr. Winston C. Connolly
Mr. Roy M McTaggart
Mr. Joseph X. Hew
Mr. Alva H. Suckoo

Noes: 6

Hon. Anthony S. Eden
Hon. W. McKeever Bush
Mr. Bernie A. Bush
Capt. A. Eugene Ebanks
Mr. D. Ezzard Miller
Mr. V. Arden McLean

Absent: 1

Hon. Tara A. Rivers

The Speaker: The result of the Division is 10 Ayes; 6 Noes; and 1 Absent. The Ayes have it.

Agreed by majority on division: The Immigration (Amendment)(No. 2) Bill, 2013, given a second reading.

The Speaker: The House will now go into committee to consider the Bill.

House in Committee at 12:10 am

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

COMMITTEE ON BILL

IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013

The Chairman: Please be seated.

The House is now in Committee. With the leave of the House, may I assume that, as usual, we should authorise the Honourable Attorney General to correct minor errors and such the like in these Bills?

Would the Clerk please state the Bill and read the clauses?

The Clerk: The Immigration (Amendment)(No. 2) Bill, 2013. Clause 1 Short title.

The Chairman: The question is that clause 1 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Clause 1 passed.

The Clerk: Clause 2 Amendment of section 2 of the Immigration Law (2013 Revision) – definitions.

The Chairman: I recognise the Elected Member for North Side. I believe he has amendments to clause 2.

PROPOSED AMENDMENT TO CLAUSE 2

Mr. D. Ezzard Miller: Yes, Madam Chairman. I guess I would ask a question before we get into the individual amendments that I have filed.

If the Premier and his Government are not mindful to support any of these amendments, I would rather not waste the time of the House at such a late hour. I don't need to get into any big discussion with him, I will just move them and they can vote them down. But the idea here is to introduce a new title for work permit holders, because I believe that calling people who come here "guests" in our society . . . and

there is a typo in what was circulated. And [if] they understand they are guest workers I believe creates a different psychological expectation by them.

The Chairman: Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Speaker, the Government is not minded to accept that amendment.

Madam Speaker, to address the question raised by the Member earlier, the Government has not been given an explanation as to the amendments individually and the Government certainly does not want to reject out of hand, all of the amendments. So, I would suggest that the Member for North Side should take us through each of the amendments with explanations and the Government will give each one proper consideration and decide.

The Chairman: The amendment has been duly moved by the Member for North Side. Do you wish to say anything further? If not, does any other Member wish to speak on the proposed amendment?

Member for North Side, did you wish to further elucidate?

Mr. D. Ezzard Miller: No, Madam Chairman. I have said what the intent of the amendment is. Put it to the vote.

The Chairman: Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Chair, the term "work permit" is one that is well recognised. It has been part of our legislation for many, many years. We certainly don't see any benefit of introducing a new term called "guest worker" or "guest worker permit" into the legislation. I am not sure I buy into this psychological argument.

The Chairman: The question is that the amendment stands part of clause 2. All those in favour please say Aye. Those against, No.

Ayes and Noes.

The Chairman: I believe the Noes have it.

Proposed amendment to clause 2 negated.

The Chairman: The question is that clause 2 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: I believe by a voice of one, the Ayes have it.

Agreed: Clause 2 passed.**The Clerk:**

Clause 3 Amendment of section 7 – appointment of Immigration Boards, Director of Boards and Work Permits and functions of Boards

Clause 4 Amendment of section 14 – appeals from decisions of immigration officer

The Chairman: Clauses 3 and 4. Does any Member wish to speak? [pause] If not, the question is that clauses 3 and 4 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Clauses 3 and 4 passed.

The Clerk: Clause 5 Repeal and substitution of section 15 – appeals from decisions of Boards and Chief Immigration Officer.

The Premier, Hon. Alden McLaughlin: Madam Chair?

The Chairman: Honourable Premier?

There is an amendment by the Member for North Side.

The Premier, Hon. Alden McLaughlin: We will deal with his first then—fine.

The Chairman: Member for North Side.

PROPOSED AMENDMENT TO CLAUSE 5

Mr. D. Ezzard Miller: Again the amendments proposed to clause 5 were to treat everybody in the process of an appeal equally and to reduce all of the various days and numbers and “reasonable” times and unquantified periods to seven days equally for all parties.

The Chairman: The amendment has been duly moved. Does any Member wish to speak? [pause]
Honourable Premier?

The Premier, Hon. Alden McLaughlin: Could we have just a moment to consider it?

The Chairman: Certainly.

The Premier, Hon. Alden McLaughlin: Madam Chair, the advice that I have is that to try to complete all of those various processes (if I may call them that) in seven days would create an administrative burden

which is simply not capable of being carried by the system the way it is and would require significantly more resources than are available. That is why there is a distinction in relation to the time periods with respect to different parts of the overall process. Therefore, regrettably, the Government cannot accept the proposed amendment.

The Chairman: I recognise the Member for East End.

Mr. V. Arden McLean: Madam Chair, certainly, the Premier must reconsider section 15(5) [clause 5] wherein the timeframe is “a reasonable period.”

Mr. D. Ezzard Miller: Just for clarity, Madam Chairman, the proposal is not to complete the whole exercise in seven days. It is to give each party in each step of the way seven days to complete their activity. It is not expected that you would complete the whole appeal process in seven days, but each person has an equal timeframe to complete their exercise.

The Chairman: Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Chair, I am still advised that that is simply impossible and that there is another factor, which I didn't mention, and which I am grateful to the Attorney General for having mentioned to me now. We are moving to essentially a paper appeal process and this is going to create a burden even for the appellants themselves to be able to get this done and completed within a seven-day period.

The Chairman: Member for East End?

Mr. V. Arden McLean: Madam Chair, I think I have said, I wondered, I asked if the Premier would certainly consider section 15(5) [clause 5] that a timeframe be placed in at least that.

Mr. D. Ezzard Miller: I mean this is the Immigration Department which has resources. The poor appellant is on his own, but he must do his in his specified period of time, whether it is 14 days or 28 days. But the department with the resources has “a reasonable time.” What is the definition of “a reasonable time”? It is not defined in the definitions of the Bill.

Hon. D. Kurt Tibbetts: The poor appellant? After you don't want them to exist you are going to call them the poor one?

The Premier, Hon. Alden McLaughlin: Madam Chair, the concern expressed by the Member is real and legitimate. The difficulty from this end is a question of resources. We are talking about hundreds of appeals. And what is the reasonable period of time is dependent, really, on the system's ability to process

these appeals. I accept that it is less than satisfactory for it not to be a defined period. But based on the knowledge and advice that I have about this, we would be setting ourselves up for real problems if we were to seek to put in a specific period at this stage without having the wherewithal to be able to process these appeals as quickly as we would like.

The Chairman: Member for East End?

Mr. V. Arden McLean: Madam Chair, I hear the Premier, but, certainly, is he not concerned about his wishes to have these things fast-tracked, and this being one . . . well, the pivotal factor in what could very well be a lengthy hold-up on this?

Hon. Osbourne V. Bodden: Madam Chair, is it possible he could consider a maximum?

The Chairman: Honourable Premier, will you give way to the Minister of Health?

[No audible reply]

The Chairman: Minister of Health, sorry. Could you please repeat it so the Premier can be cognisant?

Hon. Osbourne V. Bodden: I was saying that maybe we could put it in terms of a reasonable time, but-no-more-than type of frame.

The Chairman: Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Chair, the issue is still the same. If we put in a specific period of time and we are unable to meet it and unless the House is able to vote significantly more resources to deal with these matters it is likely, more likely than not, that we are going to wind up in breach of such a provision. We then run the risk of appeals being dismissed on the basis that there has been a failure to comply with the legislative requirement with respect to time.

This is less than satisfactory. I am not for a minute trying to say that, as I have said, the concerns of the Members are real and legitimate. But the Government has to work within the parameters it has and I don't want to go down the road of setting us up for more challenges with respect to these decisions.

The Chairman: Member for East End, you have a follow up?

Mr. V. Arden McLean: Madam Chair, I should respectfully draw the Premier's attention to the timeframe he is going to set on those back-logs that he talked about, the 600, in clause 39 (the new amendment to the amendment), which is amending section 114 where he is requiring a 60 day period

from the commencement of this law for the appellant to file his detailed grounds of appeal.

Now, to file those detailed grounds of appeal this section 5 comes first. So, all I am saying, Madam Chair, to the Premier is that you have to be careful to set the time there and the Immigration Department has a reasonable period to respond and then it is not going to be natural justice for the guy who has his . . . he can't submit his detailed grounds of appeal unless he gets it from the Immigration Department and it's 60 days that he has. Or they are going to proceed to determine the appeal without further notice.

That is a little . . . there is no natural justice in that, really.

The Chairman: Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Chairman, all I can say again is that I note and recognise the concerns expressed by the Members, but the reality in which we are operating this, I am advised, is the best arrangement that we can come to.

The Chairman: If there is no further debate, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes and Noes.

The Chairman: I believe the Noes have it.

Proposed amendment to clause 5 negatived.

The Chairman: The question is that . . .

Honourable Premier, you also have an amendment to clause 5? Would you move it at this time?

AMENDMENT TO CLAUSE 5

The Premier, Hon. Alden McLaughlin: Madam Chairman, in accordance with the provisions of Standing Order 52(1) and (2), I, the Honourable Premier and Minister of Home and Community Affairs, give notice to move the following amendments to the Immigration (Amendment)(No.2) Bill 2013: That the Bill be amended in clause 5 as follows:

In clause 5 at section 15, by inserting after subsection (3) the following subsection: "(3A) At a hearing on grounds under subsection (1) the Immigration Appeals Tribunal shall apply the Law that is or was in effect at the time of the Board's or the Chief Immigration Officer's decision."

The Chairman: The amendment has been duly moved. Does the mover wish to speak to it?

The Premier, Hon. Alden McLaughlin: Madam Chair, this proposed amendment is an attempt to clari-

fy which law is to be applied when the Immigration Appeals Tribunal is holding a hearing to determine whether the appellant has made out one or more of the prescribed grounds of appeal.

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

If not, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 5 passed.

The Chairman: The question now is that clause 5, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 5 as amended passed.

The Clerk: Clause 6 Repeal and substitution of section 16 – conduct of appeals.

The Chairman: I recognise the Member for North Side.

PROPOSED AMENDMENT TO CLAUSE 6

Mr. D. Ezzard Miller: Yes, Madam Chair, a further amendment here to delete the word “neither” and substitute “either” and by deleting the word “shall” and substituting the word “may”, just to provide both parties either the board or the appellant to have the option to appear . . . the appellant or the board has the option to summon the parties to the board if the occasion arises.

How it is now, if the board wishes to bring the parties in, I don’t think the clause in its present form allows the board that option, or the appellant that option of requesting to attend the hearing.

The Chairman: The amendment to clause 6 has been moved and the Member has spoken to it. Does any other Member wish to speak? Or does the Premier wish to reply?

The Premier, Hon. Alden McLaughlin: Madam Chair, it would be helpful if the Member could repeat his explanation.

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: No problem, Madam Chairman.

As I see the clause as is now read, neither the appeals board nor the person making the appeal has the opportunity . . . the board can’t call the person if they wish to have them come, nor can the appellant request. What I am suggesting is to amend it so that that option is there for either the board or the appellant, not that they have to appear, but there is an option that if the board needs to call the appellant to get a better explanation or if the appellant believes they can represent themselves better in person than they can in writing, they may request from the board and the board may allow them to come if it is reasonable.

The Premier, Hon. Alden McLaughlin: I now understand what the Member is saying. But if the Member reads the proposed subsection (3) he will see that it says, “**Notwithstanding subsection (2), the Immigration Appeals Tribunal or the pertinent Board, as the case may be, may, in its absolute discretion, call upon either party or any persons as it deems necessary and relevant to address it.**”

So, the purpose of subsection (2) is to move to a paperless . . . not paperless, the opposite of paperless, to a paper based appeal process, but subsection (3) will allow the board or the appeals tribunal where it thinks necessary to call for the appellant, or anyone else for that matter, to come and address it with respect to any issue.

Mr. D. Ezzard Miller: But the appellant doesn’t have that opportunity.

The Premier, Hon. Alden McLaughlin: Right. That is precisely the objective of the provision because, as was explained during the debate on this matter, one of the delaying factors in dealing with these appeals is being able to get all the relevant parties assembled in one place at an agreed time. And we really have to get beyond the point where there are hundreds, at one point thousands, of outstanding PR appeals pending.

The Chairman: Does any other Member wish to speak? [pause] If not, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Noes.

The Chairman: The Noes have it.

Proposed amendment to clause 6 negated.

The Chairman: The question is that clause 6—

Mr. D. Ezzard Miller: I have asked for an amendment to clause 6(11), again to—

The Chairman: Please proceed.

Mr. D. Ezzard Miller: —address this thing of “reasonable period of time” and to make it “within twenty-four hours by e-mail or seven days by mail”, as opposed to “a reasonable time.”

The Chairman: Honourable Premier, the amendment has been moved.

Mr. D. Ezzard Miller: And I don’t think the resources can be an argument here. I think the decision is made; it’s just informing the appellant. And for it to just sit on somebody’s desk until they feel like doing it, I think is unfair. So, I think we should put a timeframe. It doesn’t have to be timeframe that I suggested, but I suggest that within 24 hours by email if possible, or 7 days by mail is reasonable.

The Premier, Hon. Alden McLaughlin: Madam Chair, if I may have just a moment please.

The Chairman: Certainly.

[pause]

The Chairman: Honourable Premier.

The Premier, Hon. Alden McLaughlin: Madam Chair, the issue is still one of resources. Perhaps when we get the numbers of appeals down to a more manageable number we might be able to revisit these sorts of provisions and insert time periods. But with the number of appeals that are pending and the strain that is on the Tribunal and the administrative staff, this provision of “within a reasonable period of time” was thought to be the most workable in the circumstances. As I said, I acknowledge that this is less than satisfactory in many respects, but we have to operate within the constraints that exist.

The Chairman: The question is that the amendment stands part of the clause.

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

Noes.

The Chairman: The Noes have it.

Proposed amendment to clause 6 negated.

The Chairman: The question is that clause 6 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 6 passed.

The Clerk: Clause 7 Repeal and substitution of section 18 – decisions to be administrative.

The Chairman: I recognise the Elected Member for North Side for his amendment.

PROPOSED AMENDMENT TO CLAUSE 7

Mr. D. Ezzard Miller: Again, Madam Chair, just trying to shorten the time from “fourteen days” to “seven days.”

The Chairman: The amendment has been moved. Do you wish to expound further?

Mr. D. Ezzard Miller: No Ma’am.

The Chairman: Honourable Premier?

The Premier, Hon. Alden McLaughlin: For the reasons hitherto articulated, Madam Chair, it is a question of being able to comply and not setting the system up to fail before the new system is actually put in place; or a modified system is put in place.

The Chairman: The question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Aye and Noes.

The Chairman: The Noes have it.

Proposed amendment to clause 7 negated.

The Chairman: The question is that clause 7 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 7 passed.

The Premier, Hon. Alden McLaughlin: Madam Chair, I need to ask to re-open debate on clause 7.

The Chairman: Permission granted.

[Clause 7 recommitted]

The Premier, Hon. Alden McLaughlin: I beg to move an amendment to clause 7 at section 18 by repealing subsection—

[long pause]

The Chairman: Members there is necessity for some amendments that the Government would like to make as a result of listening to various debates and revisions. So we would propose that we take five minutes so that those amendments can be copied and circulated to Members. If Members would please stay in their seats so that we won't have a quorum problem. Thank you.

Proceedings suspended

Proceedings resumed

The Chairman: The Committee is now resumed.
I recognise the Honourable Premier to move the amendment to clause 7.

AMENDMENT TO CLAUSE 7

The Premier, Hon. Alden McLaughlin: Madam Chair, thank you and the Committee for your indulgence.

In accordance with the provisions of Standing Order 52(1) and (2), I move that the Bill be amended in clause 7 at section 18, by repealing subsections (1) and (2) and substituting the following subsections:

"(1) Decisions made under or by virtue of sections 7, 14, 15 and 16 shall be deemed to be administrative and not judicial decisions.

"(2) Where the Board or the Chief Immigration Officer rejects an application either in whole or in part, it or he, if requested, shall give the applicant brief reasons for that rejection and inform him of his rights under section 15."

The Chairman: The amendment has been duly moved. Does any Member wish to speak further to it?

If not, the question is that the amendment stands part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 7 passed.

The Chairman: The question now is that clause 7, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 7 as amended passed.

The Clerk:

Clause 8	Amendment of section 22 – acquisition of the right to be Caymanian by grant of the Board
Clause 9	Amendment of section 24 – matters for Board's consideration
Clause 10	Amendment of section 27 – loss of right to be Caymanian

The Chairman: The question is that clauses 8 through 10 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 8 through 10 passed.

The Clerk: Clause 11 Amendment of section 28 – revocation on conviction.

The Chairman: Honourable Member for North Side.

PROPOSED AMENDMENT TO CLAUSE 11

Mr. D. Ezzard Miller: Thank you, Madam Chair.

I had filed an amendment to delete the words of "other than for non-payment of a fine" because I believe that with the liberalisation of some of the, particularly drug offences in other jurisdictions, I am concerned that the person going to jail for non-payment of a fine related to something like a drug crime . . . I think if he is going to jail for the 12-month period, regardless of the offence or for non-payment of a fine, he should lose it.

The Chairman: The amendment has been duly moved. Does any other Member wish to speak? [pause] I recognise the Honourable Attorney General.

Hon. Samuel W. Bulgin: Thank you, Madam Chair.

I was just getting some instructions. My understanding, and certainly from my knowledge, is that invariably there are instances where what has been imposed is a non-custodial sentence, a fine instead is levied on the person. And it might not be paid and the person is probably given a six-month sentence in lieu because of the non-payment of the fine. But invariably, such a sentence is in respect of offences that are considered really not serious as to attract an immediate term of imprisonment.

I take the Member's point. It does not necessarily always follow, but invariably that's what happens, an offence that is not considered serious enough to attract an immediate term of imprisonment. A fine is levied instead. And this is common among many other pieces of legislation.

The Chairman: Does any other Member wish to speak? [pause] If not, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: And those against, No.

Mr. D. Ezzard Miller: You can't call for the vote twice, you know, Madam Chairman. You can only call once. And if nobody answers, the Ayes win!

Roberts Rules of Order, parliamentary procedure.

The Chairman: I believe after calling the first time that the Noes have it. The amendment fails.

Proposed amendment to clause 11 negatived.

The Chairman: The question is that clause 11 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 11 passed.

The Clerk:

- | | |
|-----------|---|
| Clause 12 | Insertion of section 28A – right to relinquish grant |
| Clause 13 | Amendment of the heading of Part IV – Permanent Residence |
| Clause 14 | Amendment of section 29 – categories of permanent residence |

The Chairman: The question is that clauses 12 through 14 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 12 through 14 passed.

The Clerk: Clause 15 Repeal and substitution of section 30 – persons legally and ordinarily resident in the Islands for at least eight years.

PROPOSED AMENDMENT TO CLAUSE 15

The Chairman: I recognise the Member for North Side.

Mr. D. Ezzard Miller: Again, Madam Chair, I move the amendment that would give the Board or the Chief Immigration Officer the option to turn it down as there may be other extenuating circumstances, even though the person got the hundred points. Even with the, as I understand (I don't have it, but I understand), the new point system like the old one, will allow them to deduct points for certain things, but the person might still get 100, but he might still be a scallywag. And I believe that if we change it to "may" instead of "shall" the Board could still refuse to give it to the person even though he got the 110 points.

Hon. D. Kurt Tibbetts: But if he is a scallywag how would he get to the point where they would even—

The Chairman: The amendment has been duly moved.

Mr. D. Ezzard Miller: No, because he gets the financing, he gets the education and he gets all of the other things.

The Chairman: The amendment has been duly moved. Does the Member wish to further expound on it.

Mr. D. Ezzard Miller: No.

The Chairman: If not, does any other Member wish to speak? [pause]
Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Chair, we are seeking to set up a system that is objective and predictable. So, such deductions as may be made are actually specified in the legislation and we do not wish to inject any discretion beyond that into the process because then the system becomes subjective again and it becomes very difficult for any applicant or anyone else to be able to assess in advance whether or not they will actually qualify to obtain permanent residence.

So, that is the reason why the legislation says "shall" and not "may."

The Chairman: Member for North Side, do you have any follow up?

Mr. D. Ezzard Miller: No.

The Chairman: The question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes and Noes.

The Chairman: The Ayes have it. The amendment has failed.

Proposed amendment to clause 15 negatived.**AMENDMENT TO CLAUSE 15**

The Premier, Hon. Alden McLaughlin: Madam Chair, we probably should have proceeded to clause 15 at section 30(1) before we dealt with that one, but nonetheless, I wish to move that the Bill be amended in clause 15, at section 30(1), by deleting the words "The following persons who have been and are" and substituting the words "Any person who has been, and is;"

The Chairman: The amendment has been duly moved, does the Member wish to speak further to it? Or any other Member?

[No audible reply]

The Chairman: If not, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 15 passed.

The Chairman: The question now is that clause 15, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 15 as amended passed.

The Clerk: Clause 16 Amendment of section 31 – Residency and Employment Rights Certificate for spouse of a Caymanian.

The Chairman: I recognise the Member for North Side.

PROPOSED AMENDMENT TO CLAUSE 16

Mr. D. Ezzard Miller: Thank you, Madam Chairman. Again, the Bill is proposing that dependents can retain until they are age 18 and they can only stay beyond 18 unless they are in full time tertiary education. But then we give the Board or the Chief Immigration Officer . . . they can change it if they believe that there are special circumstances. I believe we should delete the words "or the Board or the Chief Immigration Officer is satisfied that there are special circumstances". And the person, if he is over 18, is either in tertiary

education or he is not and he has . . . as my people in North Side were told, he has to go to work.

The Chairman: Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Chair, Special circumstances are actually defined in the regulations, the current regulations, not proposed regulations, and they read "Special circumstances shall be taken to mean instances where the child remains involuntarily either wholly or substantially dependent upon the holder as a result of a physical or mental disability." And we believe it would be inhumane to remove those sorts of provisions.

The Chairman: Member for North Side, do you have a follow up?

Mr. D. Ezzard Miller: No, Madam Chair.

The Chairman: Okay.

The question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes and Noes.

The Chairman: The Noes have it.

Proposed amendment to clause 16 negatived.

The Chairman: The question now is that clause 16 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 16 passed.

The Clerk:

Clause 17 Amendment of section 32 – dependants of Residency and Employment Rights Certificate holders

Clause 18 Amendment of section 33 – loss of Residency and Employment Rights Certificate

The Chairman: The question is that clauses 17 and 18 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 17 and 18 passed.

The Clerk: Clause 19 Amendment of section 34A – Certificate of Permanent Residence for Persons of Independent Means.

PROPOSED AMENDMENT TO CLAUSE 19

[Withdrawn]

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: Madam Chair, I withdraw the amendment.

The Chairman: The question is that clause 19 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 19 passed.

The Clerk: Clause 20 Amendment of section 35 – spouse and dependants of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means.

PROPOSED AMENDMENT TO CLAUSE 20

[Withdrawn]

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: I withdraw the amendment.

The Chairman: The question is that clause 20 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 20 passed.

The Clerk: Clause 21 Amendment of section 36 – dependants of the holder of a Residency Certificate for Persons of Independent Means or a Certificate of Permanent Residence for Persons of Independent Means.

PROPOSED AMENDMENT TO CLAUSE 21

[Withdrawn]

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: I withdraw the amendment.

The Chairman: The question is that clause 21 stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 21 passed.

The Clerk:

Clause 22 Amendment of section 37 – revocation of Residency Certificate for Persons of Independent Means

Clause 23 Amendment of section 37A – Certificate of Direct Investment

The Chairman: The question is that clauses 22 and 23 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 22 and 23 passed.

The Clerk: Clause 24 Amendment of section 37C – Certificate for Specialist Caregivers.

PROPOSED AMENDMENT TO CLAUSE 24

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: I would prefer that the existing provisions in the law to remain, therefore I am moving that that clause be deleted.

The Chairman: The amendment has been moved. Does any other Member wish to speak? [pause] Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Chair, this is where I believe we had a fundamental divergence of view about the existence or continued existence of the certificate of specialist caregivers. We need to retain those provisions that are proposed, given the position the Government has taken with respect to this particular category.

The Chairman: Member for North Side, do you have a follow up?

[No audible reply]

The Chairman: The question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes and Noes.

The Chairman: The Noes have it.

Proposed amendment to clause 24 negatived.

The Chairman: The question now is that clause 24 stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: **Clause 24 passed.**

The Clerk: Clause 25 Amendment of section 38 – general provisions relating to loss of permanent residency.

The Chairman: Honourable Premier, I believe you have an amendment.

The Premier, Hon. Alden McLaughlin: Yes, Madam Chair.

AMENDMENT TO CLAUSE 25

The Premier, Hon. Alden McLaughlin: I beg to move that the Bill be amended in clause 25, at section 38(1)(f), by deleting the words “Mental Health Law, 2013” and substituting the words “Mental Health Law (1997 Revision)”.

The Chairman: The amendment has been duly moved. Does any other Member wish to speak? [pause] If not, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: **Amendment to clause 25 passed.**

The Chairman: The question now is that clause 25 as amended stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: **Clause 25 as amended passed.**

The Clerk:

Clause 26 Amendment of section 39 – qualifications for legal and ordinary residence in Part IV

Clause 27 Amendment of section 40A – provisions not applicable to special economic zone developer and special economic zone enterprise

Clause 28 Amendment of section 42 – application for work permit

Clause 29 Amendment to section 44 – consideration of application for work permit by Board or Chief Immigration Officer

Clause 30 Amendment of section 45 – Business Staffing Plan

The Chairman: The question now is that clause 26 through 30 as amended stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: **Clauses 26 through 30 passed.**

The Clerk: Clause 31 Amendment of section 48 – grant or refusal of work permit.

The Chairman: Honourable Premier.

AMENDMENT TO CLAUSE 31

The Premier, Hon. Alden McLaughlin: Madam Chair, I beg to move that the Bill be amended in clause 31(b), at section 48, by deleting the word “and” at the end of subparagraph (i) and inserting after subparagraph (ii) the following subparagraphs:

“(iii) in paragraph (f) by inserting after the word ‘Board’ the words ‘or the Chief Immigration Officer’; and

“(iv) in paragraph (j) by deleting the words ‘section 52(1) and (20)’ and substituting the words ‘section 52(1) and (14)’.”

The Chairman: The amendment has been duly moved. Does any other Member wish to speak? [pause] If not, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: **Amendment to clause 31 passed.**

The Chairman: The question now is that clause 31, as amended, stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 31 as amended passed.

The Clerk:

Clause 32 Amendment of section 49 – key employees
 Clause 33 Amendment of section 51 – prohibition against unauthorised promotion or re-designation

The Chairman: The question is that clauses 32 and 33 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 32 and 33 passed.

The Clerk: Clause 34 Repeal and substitution of section 52 – term limits

The Chairman: Member for North Side.

PROPOSED AMENDMENT TO CLAUSE 34

Mr. D. Ezzard Miller: Madam Chairman, there is a typo in item 12 on the amendments I passed out. It should read clause 34, not 35. So I move that the clause be deleted so that we stick to what exists in the current law in relation to TLEPs.

The Chairman: So the amendment has been duly moved. Do you wish to speak further to it?
 Honourable Premier, do you wish to reply?

The Premier, Hon. Alden McLaughlin: I regret that the Government cannot accept that amendment.

The Chairman: The question is that the amendment stands part of the clause.
 All those in favour please say Aye. Those against, No.

Noes.

The Chairman: The Noes have it.

Proposed amendment to clause 34 negatived.

The Chairman: Premier, you also have an amendment to clause 34?

The Premier, Hon. Alden McLaughlin: Yes, Madam Chair.

I beg to move that clause 34 be amended at section 52, by deleting subsection (4) and substituting the following subsection:

“(4) Subject to subsection (5), where a person is eligible to apply, and has applied, for permission to reside permanently in the Islands under section 30 during the currency of a work permit, a Term Limit Exemption Permit or whilst working by operation of law under section 52A(11) he may apply to the Chief Immigration Officer for permission-

“(a) to continue working on the same terms that applied to the work permit, the Term Limit Exemption Permit or those that applied to his working by operation of law; or

“(b) to work for a different employer but in the same occupation as that in which he was authorised to work at the time of making the application, and such permission may be granted or renewed until such time as his application or any appeal arising from it is determined.”;

In subsection (6) by deleting “52A(12)” and substituting “52A(11)”;

In subsection (10)(v) by deleting “52A(12)” and substituting “52A(11)”;

By inserting after subsection (16) the following subsection:

“(17) Subsection (16) does not apply to a person who, prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013 was a key employee and who-

“(a) ceased to be a key employee after the end of his seventh year but before becoming eligible to apply for the right to reside permanently under section 30; and

“(b) at the commencement of that Law was no longer residing in the Islands.”.

The Chairman: The amendment has been duly moved. Does the Premier wish to speak further on clause 34?

The Premier, Hon. Alden McLaughlin: Sorry, I was moving on to 35.

No, Madam Chair.

The Chairman: Does any other Member wish to speak? [pause] If not, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 34 passed.

The Chairman: The question is that clause 34, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 34 as amended passed.

The Clerk: Clause 35 Amendment of section 52A – Term Limit Exemption Permit.

The Chairman: Honourable Premier?

AMENDMENT TO CLAUSE 35

The Premier, Hon. Alden McLaughlin: I beg to move that the Bill be amended in clause 35, at section 52A, by repealing paragraph (d) and substituting the following paragraph: “(d) by repealing subsection (11) and substituting the following subsections:

“(11) The holder of a Term Limit Exemption Permit on the cut-off date may continue to work by operation of law on the same terms and conditions until 9th December, 2013, but prior to doing so he shall comply with the requirements of section 52(6).

“(12) Where the employer of the holder of a Term Limit Exemption Permit applies for the grant of a work permit in respect of that worker prior to the expiry of the Term Limit Exemption Permit on the cut-off date or while the worker is working by operation of law under subsection (11) the worker shall be entitled to continue working on the same terms and conditions as applied to his Term Limit Exemption Permit until the outcome of the application and any subsequent appeal.”

The Chairman: The amendment has been duly moved. Does any other Member wish to speak? [pause] If not, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 35 passed.

The Chairman: The question is that clause 35, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 35 as amended passed

The Clerk: Clause 36 Amendment of section 55 – work permit fees.

The Chairman: The question is that clause 36 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Clause 36 passed.

The Clerk: Clause 37 Amendment of section 56 – offence to engage in gainful occupation or to employ persons in contravention of this Part.

AMENDMENT TO CLAUSE 37

The Premier, Hon. Alden McLaughlin: I beg to move that the Bill be amended in clause 37, at section 56, by repealing paragraph (a) and substituting the following paragraph:

“(a) by repealing subsection (3) and substituting the following subsections:

‘(3) Subject to subsection (3A), where during the currency of a work permit an application has been made to the Board or the Chief Immigration Officer for the grant or renewal of a work permit with the same employer for a period to commence immediately upon its expiration, then if such application-

‘(a) has not yet been determined by the Board or the Chief Immigration Officer; or

‘(b) has been refused by the Board or the Chief Immigration Officer and that refusal has been appealed under section 15 to the Immigration Appeals Tribunal,

‘notwithstanding the fact that the original work permit has expired, it shall not be an offence for the worker to continue to be engaged in gainful occupation of the same kind and on the same terms and conditions of the original work permit while he awaits a notification of the determination of his application or his appeal, save that no worker shall be entitled to work under the provisions of this subsection beyond the date of his term limit unless he is a worker applying under the provisions of section 52(10).

‘(3A) Paragraph (b) of subsection (3) shall not apply where the original work permit was a

temporary work permit unless the application for the grant of a work permit was made before the commencement of the Immigration (Amendment) (No. 2) Law, 2013.”

The Chairman: The amendment has been duly moved. Does any other Member wish to speak? [pause] If not, the question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 37 passed.

The Chairman: The question is that clause 37, as amended, stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Clause 37 as amended passed.

The Clerk: Clause 38 Amendment of section 104 – offences relating to false documents, etc.

The Chairman: The question is that clause 38 stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

Agreed: Clause 38 passed.

The Clerk: Clause 39 Repeal and substitution of section 114 – transitional provisions.

The Chairman: Honourable Premier.

AMENDMENT TO CLAUSE 39

The Premier, Hon. Alden McLaughlin: Madam Chair, I beg to move that the Bill be amended in clause 39, at section 114, by inserting after subsection (6) the following subsection:

“(7) For the avoidance of doubt where an appeal to the Immigration Appeals Tribunal was made prior to the commencement of the Immigration (Amendment) (No. 2) Law, 2013, the procedure governing the making and determination of such an appeal shall be that which is in effect after the commencement of that Law, but the appellant shall have a period of sixty days from the commencement of that

Law in which to file detailed grounds of appeal as required by section 15(6) and if no written submissions are received by the Tribunal during such period it may proceed to determine the appeal without further notice being given to the appellant.”

The Chairman: The amendment has been duly moved. Does any other Member wish to speak? [pause]

If not, the question is that amendment stands part of the clause . All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 39 passed.

The Chairman: The question now is that clause 39, as amended stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 39 as amended passed.

The Clerk:

Clause 40	Repeal of section 118 – saving
Clause 41	Repeal of section 119 – validation of certain acts and things

The Chairman: The question is that clauses 40 and 41 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 40 and 41 passed.

PROPOSED NEW CLAUSE 42

Mr. D. Ezzard Miller: Madam Chair—

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: I gave notice of insertion of a new clause 42.

One of the things that complained about by Caymanians is particularly that of people in the professional category. Caymanians have no way of knowing when companies have positions due to work permit expiration or what the competence is. So, I am proposing that we put in a section that requires “Every Company, Firm or other Business Enterprise shall

display or make available to any person or persons a copy of the current Business Staffing Plan for inspection.”

In that plan Caymanians would be able to see when positions are becoming vacant and also what the requirements are in terms of scholarships. Often a lot of these companies get their business staffing plans approved with certain commitments for scholarships and although they advertise them and they commit to it, when Caymanians apply for them, they tell them that they are not offering any scholarships. So it's just an attempt to provide some mechanism that Caymanians can find out when work permits are expiring in jobs that they believe they are qualified for, or that they have to get additional competencies for. They will know what they are and if a work permit is expiring a year from now and they need another certificate they have an opportunity to know that and they can go and get the certification and apply for the job when it is becoming vacant.

The Clerk: New Clause 42 Amendment to section 45 of the Immigration Law?

Mr. D. Ezzard Miller: That is where I think it can be put, but I am not a lawyer, and I will be subject to all the lawyers on the other side giving us guidance if they think it can be placed in a better place.

What I am trying to do is provide Caymanians with the opportunity to go into a firm and say, *Look, I'd like to see your business staffing plan*, so they can be informed on what's becoming available.

[Inaudible interjections]

The Chairman: Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Chair, if I may just address a concern raised by the Member for North Side. The definition of special circumstances in the Law is specific to a change of employer or occupation. That is not the same set of circumstances that we considered earlier.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: It is in the regulations. It is regulation 14(d)(3).

The Clerk: New Clause 42 Amendment to section 45 of the Immigration Law (2013 Revision).

The Chairman: The clause has been read a first time. The question now is that the clause be read a second time. All those in favour please say Aye. Those against, No.

Ayes and Noes.

The Chairman: The Noes have it.

Proposed new clause 42 negated.

The Chairman: Madam Clerk?

PROPOSED NEW CLAUSE 43

The Clerk: New Clause 43 Amendment to section 42 of the Immigration Law (2013 Revision).

The Chairman: Members, the clause has been read a first time. Member for North Side.

Mr. D. Ezzard Miller: The same rationale, Madam Chair, but these are people who have work permits and don't have a business staffing plan. But somehow, Caymanians can find out what work permits they have and work towards aspiring to getting the jobs when the work permits are . . .

The Premier, Hon. Alden McLaughlin, Jr.: Madam Chair, may I say in relation to this proposal and the one—

The Chairman: Premier, just one minute please.

The question is now that the clause be read a second time. All those in favour please say Aye. Those against, No.

Aye [one audible Aye]

The Chairman: The Ayes have it.

Agreed: New Clause 43 read a second time.

The Chairman: We now move on to the Second Reading. Honourable Premier.

The Premier, Hon. Alden McLaughlin: Yes, Madam Chair.

I just want to say that the Government is conscious of the need somehow to be able to publicise some aspects of these matters so that, as the Member correctly says, it can become more apparent to those who are interested; the issues about conditions that are applied to work permits and so forth. The Government immigration team is looking at these issues as part of the phase 2 of the review.

The difficulty we have with the current proposals is that to give access to a business staffing plan is to give access to commercially sensitive information and personal details as well. And we have to find some means of conveying the information which ought properly to be conveyed without falling foul of those concerns, or those considerations.

So, if I could just ask the Member for some patience as the review team looks at how best we can

address these issues in the second phase of the review exercise.

The Chairman: I recognise Councillor Connolly.

Mr. Winston C. Connolly, Jr.: Madam Chair, maybe one suggestion is on the Immigration website—they could list scholarships attached to companies. No personal information other than a company and a reference to the scholarship amount. Something simple that wouldn't interfere with privacy.

The Chairman: Honourable Premier.

The Premier, Hon. Alden McLaughlin: Yes, Madam Chair, that is a suggestion that is very worthwhile following up.

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: But we still have the problem of qualified Caymanians being able to discover what jobs . . . maybe the Government's position is different from mine, but I believe that every work permit holder's job belongs to a Caymanian once he becomes qualified for it. But if you have no way of knowing, and when Caymanians come back qualified . . . A good example is law firms. I have had two of my constituents come back well qualified. They go and give their CVs to these companies, and they simply tell them they have no vacancies. They don't bother to tell them, *Well, I don't have any vacancy today, but I have a work permit that is expiring in six months.* They simply tell them they have no vacancy.

And they have no way of knowing . . . well, if you want to put it on the website, put their business plan on the website. Because somehow Caymanians have got to have access to what's available.

The Chairman: Mr. Connolly, do you . . . ?

Mr. Winston C. Connolly, Jr.: Madam Chair, I don't agree with the Member for North Side because, again, that is personal information. I think it is names, et cetera.

What I think should happen is that at the end of every year people within a firm should be able to access whether or not they have been identified on these business staffing plans as people that are being Reg-6 or whatever the common term is, because we need to have some acceptance, or some identification for that person to know that they are supposed to be being trained so that they can demand it.

In terms about what the Member for North Side is saying about being able to go in and look at someone's business staffing plan, I think that should remain a function of the Immigration Department where if someone is looking, Immigration should be able to say when work permits, or term limits, are

coming up. But I can't see that being public information, Member.

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: Of course I have a different view because . . . but to further what Mr. Winston said, even the staff in these organisations themselves cannot see these business plans, because the company owners regard them like how the NWDA regards their list, a secret. And they often report that they are training Caymanians and they only have two months to go, and they're going on five years with the "only two months to go," and the poor Caymanians don't even know that they are listed in the business plan. So, if we allow them to keep it secret, then we can't solve the problem for Caymanians.

The Chairman: Honourable Premier.

Mr. D. Ezzard Miller: Even if we don't give the names, Winston, give the position and what the competencies are and when the job is expired. You know?

The Chairman: The question is that the new clause 43 be added to the Bill and that the subsequent clauses be renumbered accordingly. All those in favour please say Aye. Those against, No.

Ayes and Noes.

The Chairman: The Noes have it.

Proposed new clause 43 negatived.

PROPOSED NEW CLAUSE 44

The Clerk: New Clause 44.

The Chairman: Member for North Side.

Mr. D. Ezzard Miller: Yes, Madam Chairman, we have all laid claim here in recent times that the Government must be treated like a—

The Chairman: Please move it, first—sorry—because it's a new clause.

Mr. D. Ezzard Miller: Oh. Okay. I move that new clause 44 be part of the Bill.

The Chairman: The clause shall be deemed to have been read a first time. The question is now that the clause be read a second time. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Division No. 2

Agreed: New Clause 44 read a second time.

The Chairman: Member for North Side, do you wish to expound on it?

Mr. D. Ezzard Miller: Thank you, Madam Chairman.

Yes, Madam Chairman, we have all laid claim in recent times, and people like myself have laid claim to it from a long, long time that the Government should have to apply for work permits if they wish to employ non-Caymanians in gainful occupation. So, I am moving that the principal Law [is amended] in section 40(1) by the deletion of sub-clause (a)(i)- "A person employed by the Government of the Islands in respect, his employment". The effect of which would be that they would have to apply for work permits for non-Caymanians in order to work in the government service.

The Chairman: Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Chair, this issue is being considered by the committee in the second phase of this review process. It is something that the Government believes ought to occur, but it is something that is going to require a very careful thought and analysis before we actually make the provisions, because we must understand that there are significant numbers of persons currently employed by government who are from elsewhere. The Government has to be able to honour its contracts. The Government has to be able to ensure that everyone is treated fairly and that government continues to have the ability to operate and carry out its functions and provide the services that it does. So, all of those things have to be taken into account as part of the overall exercise.

The Deputy Governor have indicated his support for the proposal as well, so I am optimistic that this time (it has been proposed for many years) we will actually get there. But it is just going to take us few more months.

The Chairman: The question is that this clause be added as new clause 44 and that subsequent clauses be renumbered accordingly. All those in favour please say Aye. Those against, No.

Ayes and Noes.

Mr. D. Ezzard Miller: Madam Chair, can I have a division please?

The Chairman: Madam Clerk.

The Clerk: *[Calling the division on proposed new clause 44]*

Noes: 10

Hon. Alden McLaughlin
Hon. Moses I. Kirkconnell
Hon. D. Kurt Tibbetts
Hon. Osbourne V. Bodden
Hon. G. Wayne Panton
Hon. Marco S. Archer
Mr. Winston C. Connolly
Mr. Roy M. McTaggart
Mr. Joseph X. Hew
Mr. Alva H. Suckoo

Ayes: 2

Mr. D. Ezzard Miller
Mr. V. Arden McLean

Absent: 5

Hon. Tara A. Rivers
Hon. Anthony S. Eden
Hon. W. McKeever Bush
Mr. Bernie A. Bush
Capt. A. Eugene Ebanks

The Chairman: Honourable Minister of Finance.

Hon. Marco S. Archer: Madam Chairman, I am being advised that under collective responsibility I should change my vote to vote along with the Government lines. I wasn't aware that with respect to these amendments.

The Chairman: That's acceptable.

Do you wish to state what you would want to change your vote to?

Hon. Marco S. Archer: I think I would vote no. Yes, it would be no.

[Laughter]

Hon. Marco S. Archer: There have been so many amendments; I'm trying to remember what the Government voted.

The Chairman: Honourable Minister, the record has been so effected to record your change of vote.

Hon. Marco S. Archer: Thank you.

The Chairman: The result of the Division: 2 Ayes; 10 Noes; 5 Absent. The Noes have it. The new clause 44 fails.

By majority on division, proposed new clause 44 negatived.

The Clerk: A Bill for a Law to amend the Immigration Law (2013 Revision) to revise immigration policy as it relates to the term limit, permanent residence, key employees, holders of a term limit exemption permit, and specialist caregivers; to improve the appeals process; to extend the powers of the Chief Immigration

Officer; and to provide for incidental and connected purposes.

The Chairman: The question is that the Title stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bill be reported to the House. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: The Bill to be reported to the House.

House resumed at 1:54 am
[24 October 2013]

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

The Speaker: Please be seated. The House is now resumed.

REPORT ON BILL

IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013

The Speaker: I recognise the Honourable Premier .

The Premier, Hon. Alden McLaughlin: Madam Chairman, I am to report that a Bill shortly entitled, The Immigration (Amendment) (No. 2) Bill, 2013, was considered by a committee of the whole House and passed with amendments.

SUSPENSION OF STANDING ORDER 47

The Speaker: Honourable Premier.

The Premier, Hon. Alden McLaughlin: Madam Speaker, I beg to move the suspension of Standing Order 47 in order that a Bill shortly entitled, The Immigration (Amendment) (No. 2) Bill, 2013, may be read a third time.

The Speaker: The question is the suspension of Standing Order 47 in order that the Bill may be read a third time. All those in favour please say Aye. Those against, No.

Ayes and one audible No. [Mr. D. Ezzard Miller]

The Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended.

THIRD READING

IMMIGRATION (AMENDMENT) (NO. 2) BILL, 2013

The Clerk: The Immigration (Amendment) (No. 2) Bill, 2013.

The Speaker: Honourable Premier.

Mr. V. Arden McLean: Madam Speaker.

The Speaker: Oh, sorry. I recognise the Member for East End.

Mr. V. Arden McLean: Madam Speaker, on a procedural matter, were we supposed to set it down after the Report for its third reading?

The Speaker: Can you expound a bit, please?

Mr. V. Arden McLean: After the Premier reported it, were you supposed to set it down—announce, declare that it was set down—for Third Reading, whether it is today or the next day or whatever?

The Speaker: Thank you, honourable Member.

Mr. V. Arden McLean: Yes.

The Speaker: The Bill has been duly reported and is set down for its Third Reading.
Honourable Premier.

The Premier, Hon. Alden McLaughlin: Madam Speaker, I move that the Immigration (Amendment) (No. 2) Bill, 2013, be read a third time and passed. It's getting real late.

The Speaker: The question is that the Immigration (Amendment)(No. 2) Bill, 2013, be given its third reading and passed. All those in favour please say Aye. Those against, No.

Ayes and one audible No [Mr. D. Ezzard Miller]

The Speaker: The Ayes have it. The Immigration (Amendment) (No. 2) Bill, 2013, has been read a third time and passed.

Member for North Side?

[Inaudible reply]

The Speaker: Madam Clerk.

**AT 2:02 AM [24 OCTOBER 2013] THE HOUSE
STOOD ADJOURNED UNTIL 10:00 AM, MONDAY,
18 NOVEMBER 2013.**

The Clerk: *[Calling the division on the Third Reading of the Bill]*

Division No. 3

Ayes: 10

Hon. Alden McLaughlin
Hon. Moses I. Kirkconnell
Hon. D. Kurt Tibbetts
Hon. Osbourne V. Bodden
Hon. G. Wayne Panton
Hon. Marco S. Archer
Mr. Winston C. Connolly
Mr. Roy M. McTaggart
Mr. Joseph X. Hew
Mr. Alva H. Suckoo

Noes: 3

Hon. Anthony S. Eden
Mr. D. Ezzard Miller
Mr. V. Arden McLean

Absent: 4

Hon. Tara A. Rivers
Hon. W. McKeeva Bush
Mr. Bernie A. Bush
Capt. A. Eugene Ebanks

The Speaker: The result of the Division: 10 Ayes; 3 Noes; and 4 Absent.

By majority on division: The Immigration (Amendment)(No. 2) Bill, 2013 given a third reading and passed.

ADJOURNMENT

The Speaker: Honourable Premier.

The Premier, Hon. Alden McLaughlin: Madam Speaker, at 2:00 on the morning of Thursday, October 24th, as I stand to move the adjournment of this honourable House, I wish to thank you, all Members of this House who have stayed to the end, the Clerk, the Serjeant, and all Members of the Legislative Assembly staff who have stayed and worked, and all members of the Immigration team who have stayed with us through this very difficult and tortuous process; my undying gratitude to all of you on behalf of the Government.

And now, Madam Speaker, I move the adjournment of this honourable House until Monday, 18 November at 10:00 am.

The Speaker: The question is that this honourable House be adjourned until 10:00 am, Monday, the 18th day of November 2013.

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

Ayes.

The Speaker: The Ayes have it.