



CONTRIBUTION TO PARLIAMENT

BY

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TO

THE DEBATE ON

THE BAHAMAS INSTITUTE OF CHARTERED ACCOUNTANTS
BILL 2014.

WEDNESDAY, 22ND APRIL, 2015

MR. SPEAKER,

I rise to make my contribution to this debate on the Bahamas Institute of Chartered Accountants 2014 Bill. I do so on behalf of the good people of the Seabreeze Constituency whom I have the privilege to represent.

I wish to thank them for their participation in last weekend's events. We held our 3rd Annual Fun, Run, Walk, Health Monitoring, Souse Out and Easter Egg Hunt. It was a wonderful, fun filled experience. I wish to thank the members of my Team, the Seabreeze Fundraising Committee, all of those persons who so generously donated to our efforts and most of all I wish to thank the constituents of Seabreeze who came out and participated in goodly numbers. God is truly good.

MR. SPEAKER,

I wish to recognize Darnell Osbourne, President of BICA, Rees Chipman and Team from BICA.

I believe that this is a good day for the members of The Bahamas Institute of Chartered Accountants. They have been anxiously awaiting the passage of this legislation. It signals to the world especially international regulators that the Institute and the members who comprise BICA are serious about their commitment to international compliance and quality standards.

The Bahamas Institute of Chartered Accountants has the responsibility for regulating the Accounting Profession in The Bahamas. The Institute is presently governed by The Public Accountants Act Chap. 364. which provides for the existence of the Institute, the registration and licensing of its members, discipline of its members, offences and penalties for its

members and regulations. The Act was passed in 1991 and aside from some regulations being made there have been no amendments. This legislation is 24 years old. This is a long time in the history and evolution of the accounting profession. The profession has always been among the noble ones requiring its members to adhere to high principles of honesty, integrity, fidelity and trust. Notwithstanding these basic principles which governed the profession from time immemorial there have been major incidents in accounting which shed the spotlight on the profession and demonstrated that many in the profession were not committed to these principles. There were some hard lessons learned from the years between 2001 and 2008 in the United States by the likes of Enron, WorldCom and the Bernie Madoff Billion Dollar fraud scandals. These fraudulent criminal activities were facilitated by accounting loopholes, special purpose entities, poor financial reporting and criminal intent. Billions of Dollars

were lost by investors. Many were unsuspecting small investors who literally lost their life savings or pensions. These events put the spotlight on the entire financial services industry but the systemic failure of the regulatory regime of the accounting profession was glaring. Notwithstanding that it took place in the United States the global accounting sector was negatively impacted. It became obvious that there were serious deficiencies in accounting standards due to a lack of transparency and accountability in many areas. There was inadequate protection for the public against financial predators. Many Accountants and Auditors were caught up in the midst of the resultant bankruptcy proceedings, harsh financial penalties and prison terms. Arthur Andersen one of the 5 largest audit and accountancy partnerships in the world was destroyed. They had conspired with, actively facilitated, participated in and/or turned a blind eye to these criminal activities. These were not the only mind blowing financially

devastating scandals which emerged during this period but they were perhaps some of the most memorable.

Emerging from this dark period was a critical need to reform the sector, to close gaps, and to increase the accountability of auditing firms to remain unbiased and independent of their clients. The result was Legislation that was responsive and standards that are constantly evolving and that are more demanding to ensure the highest degrees of integrity, fidelity among members of the profession and the highest degree of transparency and accountability in the profession itself. There is little wonder that our 24 year old legislation has been found wanting today and inadequate to facilitate the demands of the international regulators such as The IMF, The International Federation of Accountants (IFAC) and the Institute of Chartered Accountants of the Caribbean (ICAC) both of which we are members in long standing since before

the U.S. scandals. Over the many years we have sought to adhere to the Principles of our International Regulators but have been limited under the Provisions of our existing legislation. The Public Accountants Act.

The Bahamas Financial Sector Stability Assessment issued by The International Monetary Fund (IMF) dated 18th January, 2013 further revealed deficiencies and weaknesses in our legislation for the accounting regulator in the enforcement of standards. These deficiencies came to light and were articulated in 2012 when they conducted a Financial Sector Assessment Program (FSAP) Mission to The Bahamas in July 2012.

The specific findings by the IMF were that:

1. BICA does not provide interpretations of International Financial Reporting Standards;

2. There is no body acting in the public interest to oversee the work of auditors or BICA;
3. There is no peer review being conducted of the work of BICA members;
4. There is no adequate enforcement mechanism for compliance with internationally accepted auditing standards

The findings of the IMF would have been based on internationally accepted standards of International Bodies such as The International Organization of Securities Commissions (IOSCO) which adhere to strict principles of accounting and auditing, chief among which are that

- a. Accounting standards used by issuers to prepare financial statements should be of a high and internationally acceptable quality

- b. Auditors should be subject to adequate levels of oversight
- c. Auditors should be independent of the issuing entity that they audit
- d. Audit standards should be of a high and internationally acceptable quality

As a member of the International Federation of Accountants The Bahamas has specific mandates as defined in its Statements of Members Obligations. These Mandates are to ensure BICAs' compliance in the following areas:-

1. Quality Assurance
2. International Education Standards for Professional Accountants
3. International Auditing and Assurance standards

4. A Code of Ethics for Professional Accountants based on the IESBA (International Ethics Standards Board for Accounting)
5. International Accounting Standards (IPSAS)
6. Investigations and Discipline

BICA's failure to implement programmes under these mandates resulted in their suspension in June 2012. The suspension was lifted only after initial steps were taken to implement an action plan which included the intention towards Legislation such as this Bill to empower BICA to carry out its mandate to the IFAC. Another suspension looms large on the horizon unless today we in this place move with alacrity to pass this Bill and to move it onto the Senate for consideration and passage.

This Bill is intended to repeal and replace the existing legislation. It will modernize the Accounting profession and it will help to ensure that the Institute and its members are compliant with International standards of the Regulatory authorities mentioned. This will be done through the introduction of several new concepts not included in the present legislation. These are throughout the Legislation but I wish to focus on various key provisions:

S. **18 (1)** introduces a public practice committee which has “responsibility for ensuring that the **high professional standards** of the public accounting profession are maintained by the members of the institute who are licensed to engage in such practice.. ”

The key words here are **high professional standards** ” which encapsulates the entire substance of the Legislation and the mandate of the profession.

By **S. 33** – the Council with the approval of the Governor-General may make Regulations for carrying into effect the purposes and provisions of the Act. ”

This Section empowers the Council to prescribe the requirement for Continuing Professional Education and also to engage in practice monitoring and peer review to overcome the inherent challenges associated with self regulation. These were key deficiencies in the IMF report and in the mandates set by IFAC.

The key objective of S. 18 and S. 33 are also undergirded by Part IV of the Bill which quite comprehensively deals with the Professional misconduct and discipline of registrants, the complaints process, the committees that deal with complaints i.e.; the investigative committee, the disciplinary committee and the Appeals Committee. Provisions for penalties to be

imposed are also addressed here and in S. 34 of the Bill. This corrects a major deficiency outlined in the IMF report giving power to the BICAs' Council to initiate investigations and disciplinary proceedings on its own and thereafter based on its findings to penalize through several different methods including suspension and fines. Aggrieved registrants or clients are also given rights of appeal to The Supreme Court.

MR. SPEAKER,

The Institute of Chartered Accountants is well served by this legislation. It has created a framework for the complete modernization of the profession. Its savings and transitional clauses allows for the smooth transition of the organization from one legislative structure to the other by transferring all matters, complaints, property rights, liabilities of the former institute to the new institute created by this new legislation. The current council also has a more secure mandate as the

time of tenure for elected officers has been increased from one year to two increasing the ability of the council to plan and execute its plans and mandates.

MR. SPEAKER,

There is no doubt in my mind that by this legislation we are yet again transforming another sector of our economy. I understand that the Bill was circulated to BICA AND ITS MEMBERSHIP and their blessing has been obtained. The Accounting Profession is critical to the sustainable development of our country and this legislation will further enhance our reputation both here and abroad as a first class financial jurisdiction. I have no doubt that we are once again on the right track to build a stronger Bahamas.

SEABREEZE SUPPORTS THIS BILL.

