

THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2004

THE SENATE

Wednesday, August 15, 2001

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, August 15, 2001, at 11.20 a.m.

PRESENT

His Honour Senator Sir Fred GOLLOP, K.A. (President)

His Honour Senator C. L. BOLDEN, C.B.E. (Deputy President)

Senator The Hon. P. C. GODDARD (Minister of Health) (Leader of the Senate)

Senator The Hon. G. S. H. MURRAY, B.A. (Hons.) J.P. (Minister of State, Prime Minister's Office and the Civil Service)

Senator Miss C. Y. FORDE, L.C.P., J.P. (Parliamentary Secretary, Ministry of Education, Youth Affairs and Culture)

Senator T. E. BARKER, B.A. (Hons.), M.A. (Econ.) (Parliamentary Secretary, Ministry of the Environment, Energy and Natural Resources)

Senator The Hon. Dame Patricia SYMMONDS, D.B.E., G.C.M., B.A. (Hons.), P.G.C.E., J.P.

Senator Mrs. P. E. RICKINSON, B.A. (Hons.) M.P.H. (Harvard), S.R.N.

Senator C. K. LAURIE, D.I.C.T.A. (S.T.) FBSTA

Senator C. LeR. TROTMAN

Senator Miss J. C. ODLE, J.P.

Senator C. A. MASCOLL, B.Sc. (Econ.) (Hons.) M.A. (Public Finance)

Senator LeR. H. McCLEAN

Senator G. E. N. BROME

Senator Mrs. V. E. NEWTON, S.C.M., B.A., (Spec. Hons.), M.A., LL.B. (Hons.) (U.W.I.), F.L.A. (Gt. Brit.) L.E.C.

Senator D. D. MARSHALL, LL.B (Hons.)

Senator Sir John Stanley GODDARD, K.A., B.Com., C.A., Hon. LL.D. (U.W.I.)

Senator The Rev. L. W. B. ROCK

Senator B. R. COLLYMORE, C.M.G.

Senator Mrs. J. P. ALLEYNE, Dip. Man. (Hons.) J.P.

Senator J. E. D. WILLIAMS, B.Sc., M.B.A., J.P.

Prayers were led by Rev. Father Errington Massiah.

Mr. PRESIDENT: The Senate is in session.

ANNOUNCEMENTS BY HIS HONOUR THE PRESIDENT

Mr. PRESIDENT: I have received the following Message from the Honourable the House of Assembly:-

“The House of Assembly has the honour to present its compliments to the Honourable the Senate.

On August 8, 2001 the House of Assembly proposed the constitution of a Joint Parliamentary Committee on Foreign Affairs and Foreign Trade. Subject to the convenience of the Senate in constituting the Committee the House has approved the following terms of reference for the Committee:

TERMS OF REFERENCE

1. Keep under constant review, the development and implementation of Barbados' political and economic external relations.
2. Receive reports and recommendations from the Minister of Foreign Affairs and Foreign Trade and other relevant authorities.
3. Send for persons' papers and records.

4. Appoint specialists and experts as advisers to the Committee as deemed necessary.
5. Meet concurrently with other departmental committees to exchange information and views.
6. Receive oral and written submissions from members of the general public, concerning matters relating to foreign affairs and foreign trade.
7. Examine Bills and legislation pertinent to the Ministry of Foreign Affairs and Foreign Trade and any other matters referred to it.
8. Report recommendations and findings and submit such reports and findings to the Honourable the House of Assembly from time to time, as may be considered appropriate.
9. Convene at least once every quarter.
10. Perform any other functions and tasks that may be referred to the Committee.

The House of Assembly has appointed the following Members to the Joint Parliamentary Committee:

Hon. A. P. Wood, Minister of Agriculture and Rural Development.

Hon. R. R. Farley, Minister of Industry and International Business.

Mr. D. J. H. Thompson, Leader of the Opposition.

Miss H. E. Thompson

Hon. Miss B. A. Miller, Deputy Prime Minister, Minister of Foreign Affairs and Foreign Trade.

The House of Assembly has the Honour to invite the Honourable The Senate to appoint four Senators to constitute the Joint Committee with the designated Members of the House of Assembly.

Dated the 8th day of August, 2001 and it is signed by Mr. Speaker."

PRESENTATION OF PAPERS

SENATOR THE HON. P. C. GODDARD: Mr. President, I am commanded to lay the following Papers before the Honourable the Senate:

1. The Report of the Accountant General for the financial year, 2000 to 2001.
2. Reports on the Registration Department for the years, 1998 and 1999.
3. Annual Report on Accounts to the Barbados Agricultural Management Company Limited for the year ended, June 30, 1997.
4. A Green Paper on National Sports Policy.
5. A Report on the Public Enterprise Investment Fund for the quarter ended, June 30, 2001.
6. The Civil Establishment General Order, 2001.
7. The Civil Establishment General (Amendment) Order, 2001.

SUSPENSION OF STANDING ORDERS

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg to move that we suspend Standing Order No. 42(5) for the remainder of this Sitting.

The question was put to the Senate and agreed to.

INTRODUCTION OF BILLS

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg to move the first reading of the following Bills:

1. The Exempt Insurance (Amendment) Bill, 2001.
2. The Companies (Amendment) Bill, 2001.
3. The Insurance (Amendment) Bill, 2001.
4. The International Business (Miscellaneous Provisions) Bill, 2001.
5. The Student Revolving Loan Fund (Amendment) Bill, 2001.
6. The Insurance (Amendment) (No. 2) Bill, 2001.
7. The Telecommunications (Amendment) Bill, 2001.

INTRODUCTION OF RESOLUTIONS

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg to move the following Resolutions:-

1. To approve the Civil Establishment General Order, 2001.
2. To approve the Civil Establishment General (Amendment) Bill, 2001.
3. To move the passing of a Resolution to approve, in accordance with section 5 of the Crown Lands Vesting and Disposal Act, Cap. 225 surrender by the Crown to the Barbados Mutual Life Assurance Society of the rights to lay over cart tracks at Fort George Heights, Upton, in the parish of St. Michael in exchange of the grant of right-of-way over a new road in the said Fort George Heights, to provide access to Crown Lands, adjacent to lands belonging to the Barbados Mutual Life Assurance Society.

PUBLIC BUSINESS

ORDER NO. 1 – THE EXEMPT INSURANCE (AMENDMENT) BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. President, the amendments in this Bill have been proposed to ensure that this legislation benefits from the segregated account and segregated cell structure. The proposed Bill incorporates the following:

The definition of an insurance business to include variable life insurance and variable annuity insurance. Conditions of the licence should make provision for the regulation of various insurance businesses and separate accounts as outlined in the Insurance Act and the amendment of the creditors rights to reflect provision similar to those in section 128(4) of the Insurance Act.

The solvency test should be made similar to those in section 58, No. 4 Schedule to the Insurance Act.

Mr. President, this is part and parcel of a wider amendment to update our international business and it is also to permit exempt insurance companies to write local business in very limited circumstances. In respect of local business, to permit the taxing of such exempt insurance companies in the same manner as domestic insurances are taxed without any allowances for tax credits.

This is to improve the international environment and the profile of these exempt insurance companies in the

international arena, and brings us more in line with the international taxation environment and protects the business that has grown up out of our exempt insurance business in Barbados.

Mr. President, I beg to move that this Bill be now read a second time.

SENATOR C. A. MASCOLL: Mr. President, am I to believe that the Bill that was just presented in this Honourable Chamber on Exempt Insurance has been amended in such a way as to permit exempt insurance companies from overseas to do limited local business and, that in doing so, one would expect that these companies would also have to pay, not the typical corporate tax, but a corporate tax that a domestic company would also be entitled to pay.

Again, there is not much to be said here except on the whole question of principle. It is becoming very difficult to understand the direction in which this economy is being managed because almost every other week we are in this Chamber seeking to facilitate the process called globalization. We are seeking to accommodate and bring down barriers to allow foreign companies to do business in Barbados and we are really acting in conformity with the international global environment which we have become party to, under the various agreements that we have signed, particularly those relating to the World Trade Organisation (WTO).

11.30 a.m.

What is unfortunate about this process is that we are never given enough time in this Upper House to fully understand the implications of these measures that we are putting in place. While we seek to accommodate the new global environment that we have signed on to, I think it is imperative that we fully understand the implications of many of these measures that we are putting in place.

In fact, this one does not offer much by way of an understanding but the principle here is that we have continued in whichever way to open up and become part of the new global environment. The question, therefore, that one would wish to ask is how come, particularly in the area of the financial sector, we have not had an outcry from those local companies which participate in the provision of these services, but when you seek to introduce legislation to accommodate business activity in tradeable areas, there are all kinds of outcries which are very difficult to understand because that sector of the economy, especially in the provision of services, has almost willingly accepted the competition from international sources but you get a huge outcry from the traditional players in the more traditional sector of services which are provided in Barbados.

What is not being understood, and I do not intend to address it now because I can see a lot of opportunity for me to speak from what I see on the agenda, is the interrelatedness of the services and non-services sectors in Barbados and the implications that making these kinds of adjustments could have on the entire economy of Barbados. As I said, there is not much that I can be critical of with this piece of legislation but certainly there is more to come, not only from the length of the agenda, but from the contents. So I invite Honourable Senators on the Other Side to be around for a long day.

Thank you, Mr. President.

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg to move that this Bill be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the Senate resolved itself in Committee on the Bill, HIS HONOUR SENATOR C. L. BOLDEN in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

SENATOR THE HON. P. C. GODDARD: Mr. Chairman, I am advised that there is a substitution page to this Bill, page 3 which is being circulated now by the Clerk of Parliament.

This changes sections 1 and 2 which expand on the definitions of insurance business.

The substitution page to the Bill was then passed to Honourable Senators.

SENATOR C. LeR. TROTMAN: On a point of order. Mr. Chairman, we are now being asked to examine a substantive point of a Bill at the stage of Committee when, in fact, approval has been given to the principal Bill. I am wondering, and I am asking for your guidance on the question of the order, whether we are not taking this thing the wrong way around and if we have not got, therefore, to recognize that we would be acting improperly.

Mr. CHAIRMAN: The question here is what was dealt with in the Other Place and then sent forward to This Place. What one would have to seek to find out is if the document which is being circulated represents the Act as it left the Other Place and came to us. That is what we will have to find out from the Clerk.

Mr. Clerk, can you possibly advise the Leader of the Senate as to what took place in the Other Place?

The Clerk went into conference with the Leader of the Opposition and Mr. Chairman.

Mr. CHAIRMAN: I am advised that the document which has been circulated represents the amendment to the original Bill which was in the Other Place and that, therefore, this amendment would be in order.

Honourable Senators may be worried about what has happened but it appears to me that the documents which you now hold were printed and circulated before it was dealt with in the Other Place. If this document, the entire Bill, was amended in the Other Place and came to us as an amendment, and this document represents the amendment which was made in the Other Place, then what is before the Chamber, excluding the original places and including this document will constitute the Bill which left the Other Place and would be in order to be dealt with in this Chamber.
11.40 a.m.

SENATOR Mrs. P. E. RICKINSON: Mr. Chairman, I rise on a point of order. While I do accept what you say – I have no choice – what I would like to say is that this is not the Bill that was debated and sent to Committee. This is something in addition to what was put before us to debate before it went to Committee. I would feel that we need to go through Committee what was debated and then come back and go through this procedure in the debate.

I might be wrong but I need some guidance.

Mr. CHAIRMAN: I beg to disagree with that, because amendments can be made at any time during the passage of a Bill, either in the House of Assembly or in the Senate. I think the unfortunate position is that this document was circulated after the Leader of the Senate had made his presentation. Therefore, this document which came from the Other Place is the only document that we can deal with in This Place. To debate a document which is not, is futile. We cannot debate a document which is not. The error occurred, in my view, in that this document should have been circulated before the Leader of the Senate debated or introduced the matter so that members could have been aware of what the Leader was speaking about and what he was speaking about should have been the document that came from the House of Assembly.

I therefore rule that we may proceed with this document as now constituted.

Clauses 1 to 5, 6 to 10 and the Schedule were called and passed.

On the motion of SENATOR THE HON. P. C. GODDARD, Mr. CHAIRMAN reported to HIS HONOUR THE PRESIDENT the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. P. C. GODDARD the Bill was read a third time and passed and cited as the Exempt Insurance (Amendment) Act, 2001.

ORDER NO. 2 – SECOND READING OF THE
COMPANIES (AMENDMENT)
BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. President, I rise on the Companies (Amendment) Bill, 2001 and the objectives being made in these amendments are to give effect to the 1998 Budgetary proposals relating to the filing by companies of an annual return and certain aspects of the financial and economic policies of October 2000 aimed at ensuring the validity of all share transfers depending on being presented to the Registrar within a specified period of time; to allow external companies to be revived under section 339 of the Act and to give the Registrar of Corporate Affairs and Intellectual Property a discretion to permit former-Act companies to continue under section 349 of the Act; to amend the definition of "take-over bid" appearing in that Act and to provide for the establishment by certain companies of a separate account structure to be known as "segregated accounts" and to allow for the registration and regulation of segregated cell companies.

The Bill proposes a re-introduction of an annual return into the Barbados Companies Law and the reason behind the introduction of this legislation is that it would improve the supervisory standards within Barbados with respect to companies. The annual return is being introduced for all companies, international business entities, that is, companies licensed under the IBC or International Business Companies Act. The Offshore Banking Act, The Barbados Foreign Sales Corporation Act and the Exempt Insurance Act have not been excluded. So this tightens up our international business regime.

Where the Registrar deems it expedient, he may require a company to disclose to him the nature and extent of any beneficial ownership of shares. A similar provision has been made for the High Court. This particular area of amendment addresses problems relating to money laundering and also problems related to knowing the source of funds, of investments being conducted in and through Barbados. The Bill also includes provisions to facilitate the implementation of the take-over bid code.

The Bill also seeks to facilitate revival of the registration of external companies so that registration is no longer valid because of their failure to file any fundamental changes to the companies with the Registrar. The Bill also introduces a penalty for failure to file the changes with the Registrar, to encourage companies to do so promptly. This was something that had been overlooked in the past and is now being regularised and tightened up. The Bill also seeks to address changes where the companies fail to be continued under the current Act and seeks to amend 349 of the principal Act in order to allow such companies to be continued.

With respect to segregated cell companies, in particular, it should be noted that a segregated cell company which has several divisions, generally referred to as cells, has the following characteristics. It is treated as a separate and single legal entity. It may issue shares in respect to each of the cells as well as general shares which do not relate to any one cell in particular. Different classes of shares may also be issued with respect to each cell. The assets may be held in the form of cellular assets or non-cellular assets. However, where its assets are held as cellular assets, the assets attributable to each cell must be kept separate.

The holder of shares in a particular cell only has rights over the income and assets in respect of that cell. Dividends can be paid in respect of cell shares or cell shares of a particular class but only with reference to the assets and liabilities relating to the particular cells to which the shares relate.

Liabilities of an SSC which are not related to any of the cells are discharged out of the non-cellular assets of the company. The company must advise all third parties who transact business with it that it is an SSC. Otherwise, the directors are fully liable except to the extent that they are able to claim from non-cellular assets or court approval as obtained to set aside the liability.

11.50 a.m.

The introduction of this legislation is as a result of specific need by international investors for a vehicle which could be used for the pooling of assets but also for protecting those assets separately from any other fund activities.

Mr. President, this amendment to the Companies Act improves the competitive position of Barbados. I had hoped to see this legislation come earlier because it has been under discussion with the financial community for some period of time and this will provide a more competitive environment for our international business clients. It will also improve the regulations, the transparency and the integrity of our international business regime.

I move that this Bill be now read a second time.

SENATOR C. A. MASCOLL: Mr. President, I rise to make a contribution in this debate feeling, perhaps for the first time, particularly inadequate, not because of any lack of intellect, but I honestly believe that we are not being given sufficient time to peruse these Bills that are coming before us.

Mr. President, I say that in a light-hearted manner but really intending to be particularly serious. This legislation appears to be part of a process of facilitating predominately foreign investment. I have my own suspicions about why that is so at this time.

Although we have not been given the information, it is well known that we have seen a substantial decline in the registration of companies in the offshore sector. In fact, over the last year or so, there has been a dramatic 50 per cent decline. Notwithstanding the laudable efforts of the Prime Minister, the sector is now very much prone...

SENATOR THE HON. P. C. GODDARD: Mr. President, on a point of order. I would wish the Honourable Senator to tell us how he arrived at 50 per cent decline because the statistics for the international business companies show that we have had the highest number of registrations last year that we ever had. We all know that the foreign sales corporations in the United States of America have made those companies not viable but the statistics should reflect that our main business is indeed growing.

SENATOR C. A. MASCOLL: Mr. President, I use the loose jargon of the offshore sector but that has about five different major components. As has been admitted, the foreign sales corporations have been declining dramatically in the last year.

However, we have taken note here of the need to tighten up and again, even though the information is not forthcoming, there must be some signal that has appeared on the screen in front of the Government for them to want to tighten up as I do not think that anybody introduces policies without objectives. What is most apparent in this legislation is the absolute lack of objectives given in terms of the future management of the Barbados economy.

I have taken note in the limited time I have had that a cell company in the Bill applies to every company incorporated under this Act for the purposes of carrying our financial services activities, including insurance, banking and mutual fund activity.

Those areas have been clearly identified and we know that in Barbados, as far back as 1998, the financial services sector has been undergoing tremendous change. We have taken note of what is happening within the commercial

banking sector. We are seeing the mergers that will be forthcoming and we have also taken note of what is happening to the major player in the financial sector in Barbados, the Barbados Mutual Insurance Company, and the implications of demutualization for Barbados and the wider Caribbean.

What is happening here, therefore, cannot be taken lightly because, in as much as we have not been given information on the intent of this legislation, the very fact that it is going to be applied predominately to the financial services sector is of very critical note. It cannot be the case that it is coming at this time without a clear mandate.

We all know the importance of the Barbados Mutual Insurance Company. We all know how large a player the mutual company is in Barbados and across the region. The mutual company which operates in several different areas of financial activity operates also within about 14 different countries across the region and has a very large base as far as the assets are concerned. In fact, the entire group of companies in the mutual group has an asset base of well over \$1.1 billion.

12.00 noon.

Sir, not only is it in life insurance but there are several other companies that I can identify. Therefore, when I look at the nature of this legislation, I believe that it could have very severe implications for the future of the Barbados economy and the future relationship within the Barbados economy.

The establishment of a cell company is not limited to any foreign investment. A company only has to be incorporated in order to be able to establish a cell company. I, therefore, need to ask the question because I am not particularly clear. Is it possible that a company as large as the Barbados Shipping and Trading can be able to establish a cell company that would take care of activities outside, or perceived to be outside of, financial services?

When I look at section 356 (21), it tells me that such activity of a non-financial nature, as approved by the Minister, means that while it is being suggested that this legislation is being established to cater mainly to the financial services sector, there is authority within the Act for the Minister to give such privilege to non-financial activity. In that regard, we never know what will happen. We are not sure whether or not the Barbados Shipping and Trading (BS&T) could establish a cell company that takes care of its entire advertising budget. This is quite possible, given the nature of the services provided in advertising and public relations, that an entity as large as BS&T could, in fact, seek approval to establish such a cell company and one could well

understand the implications of such a company being formed by such a large powerful player within the domestic economy.

Mr. President, I feel that this legislation, as innocent as it appears to be from the outset, could have very serious implications for the future governance or management of the sectors in the economy of Barbados over the foreseeable future, particularly in light of the fact that we know that local companies are being asked every day to struggle with the pending competition that can result from the globalized world economy. If it is that Government is seeking to provide legislation to allow companies to become more flexible, then, perhaps, it needs to be stated up-front that this is the intent of Government.

I do suspect that this is the intent. This is almost like a shell company. A shell is a company that is just in existence. When you look at all the definitions of the cell assets, you are really offering protection to your larger entities by giving expression to the company within that company that cannot affect the operations of the bigger company. In fact, you are allowing for greater flexibility as far as the company's activities are concerned. It is somewhat like a constituency, where to effectively manage a constituency, you can establish cells within the constituency. While you are seeking to control and influence the bigger picture, you are allowing each individual cell to have an influence without in any way tampering with or affecting the bigger constituency. If you have difficulty within a particular area, you are hoping that it does not find its way across the constituency to the detriment of the politician.

Mr. President, this is what, apparently, appears to be happening here as far as the so-called segregated cell companies are concerned. I go further. I believe that I have been consistently attacking the BS&T, not because I am seeking any particular explanation from them. Sir, for the last three or four years, the Pierhead Development was on the cards. We cannot help but believe that a lot of what is happening in Barbados seems to be very much tied up in this project.

This project has been hailed as the bull's eye of Barbados. This project has been hailed as the greatest undertaking, a significant development yet to occur in Barbados. This project is also intended to be a project in which BS&T will lie in bed with a British investor. This project will require a lot of funding and when we look at the behaviour of BS&T in the last few years, we would see that this large group has been extending its arms as wide as they can get across the economic landscape of Barbados.

How could it be that this entity is so powerful as to be pursuing an almost local take-over, yet would be in a

financially viable position to undertake as massive an investment, collaborative though it is, with a British company? We are being told that on the Pierhead there would be all kinds of retailers as never seen before in Barbados. We are being told that BS&T's headquarters would decorate the approximately 19 acres of land on the waterfront. We are being told that there would be a strong linkage between the cruise ship passengers at the port and this facility because we would have water taxis coming across the ocean directly to the Pierhead to the exclusion of Bridgetown and the motor taxis. Sir, one can now see the entire picture unfolding.

Why am I making all this connection? In the business people's magazine called "Business Barbados", at page 74, edition 2000, and I quote:

"The intention will be to attract international retailers who are not yet present anywhere in this part of the Caribbean."

Sir, one could therefore begin to appreciate why BS&T was in bed with PriceSmart. The whole relationship, the whole development of Bridgetown, the whole establishment of legislation to facilitate flexibility across and among, between and betwixt, could now be fully appreciated. It is not surprising that this Government is doing whatever it can to facilitate this process.

12.10 p.m.

When I look at the contents of this article written by a Mr. John Beale, Director of Barbados Shipping and Trading, and at what is happening outside, and within the walls of Parliament, I can begin to appreciate what the future Barbados is going to look like.

Mr. President, I am, therefore, making a very serious connection between this legislation before us and the financial and economic landscape of Barbados. That is why at the beginning I said that I felt a little inadequate for the first time in this Chamber. But happily for me, though my inadequacy exists, it has guided me to an apparent place of intellectual comfort. Since they have not fully succeeded in doing so, I therefore, wish the Government to explain to the people of Barbados and to the Members of the Lower House, as they will hardly succeed in doing so to the Members of the Upper House...

Mr. PRESIDENT: Senator Mascoll, you cannot speak for the Other Place. It is out of order.

SENATOR C. A. MASCOLL: I am out of order, Sir, but the evidence is there to show the haste with which this legislation was passed. It smacks of either brilliance on the part of the individuals, or an inability to comprehend fully

the intentions of the legislation. The writing of the Companies Act is very deep, except that it deals with this phenomenon called a cell company, which is new to Barbados. But the other thing is that in the legislation it states clearly that:

“The cell company shall inform any person with whom it transacts business that it is a cell company...”

And that again, is very, very important. If Barbadians are going to become accustomed to doing business with a cell company, then it is imperative that they appreciate the limits of that company. And they may not.

If a reputable organization with a large assets base appears to be the owner of a company which happens to be a cell company, then the average individual conducting business with that company may find some degree of comfort in knowing that this cell company is part of a wider conglomerate. But unless told, the average individual will not know the limits of the cell company and, therefore, will not understand the degree of risk that he is undertaking. Therefore, there is that need for education on the part that one needs, up front, to identify the extent to which this company is liable and the capacity of the company to cope and to deal with the difficulties.

Of course, we have been told that the liability of a cell company is limited to its available assets and in no way will an individual be able to call upon the bigger company for protection. But the impression given here is that this company, in every sense of the word, is a cell company.

Therefore, Mr. President, I am worried and while this legislation seeks to offer tremendous flexibility to established companies, there is provision, within the Act, to give scope of a wider nature to any company to engage in or to establish such a cell company. I do not know to what extent the Minister, whoever he or she may be, will give such privileges to potential owners of a cell company for it to operate outside the stated financial services in the Act. But, certainly, given the historical realities in Barbados, it will not be surprising to hear that certain individuals are allowed to participate in non-financial activities approved by the Minister responsible. That, in itself, constitutes a major worry because it allows for an extraordinary level of flexibility.

The other thing is, should these companies become public companies, is there any particular requirement for a cell company to become a public and not a private company? Again, one does not know the answer to that question, but given the degree of flexibility that is being allowed, it should be within the legislation that only a public company can be

established as a cell company for the purposes of delivering the services identified in the Act.

I am not too clear, from the legislation, as to whether or not there are any restrictions as to the kind of company that a cell company has to be.

Now, it states that:

“3. The directors of a cell company may cause or permit

- (a) cellular assets and non-cellular assets to be held
 - (i) by or through the trustee or other custodian; or
 - (ii) by a company the shares and capital interests of which may be cellular assets or non-cellular assets or a combination of both;
- (b) cellular assets or non-cellular assets, or a combination of both, to be collectively managed by an investment manager, provided that the assets in question remain separately identifiable.”

Again, this is heavy stuff and new territory and the issue of whether they are predominately cell assets or non-cell assets has not been determined. Should there not be a restriction on the amount of assets held by a non-cellular company within a cell company? Would you allow persons outside of the cell company to hold a huge amount of assets? Are you saying, therefore, that the cell company has lost its initial intention, because its assets base is now not within, but outside of, the cell company?

Therefore, if the directors can have the power to cause or to permit both cellular assets and non-cellular assets to be held, then they can very well be changing the character of the cell company.

Now, Mr. President, I do not wish to engage in any of the other so-called esoterics in the Act, but I am worried that such legislation will have far-reaching implications for the nature and conduct of business in Barbados in the not too distant future. I thank you, Mr. President.

Mr. PRESIDENT: Senator Marshall.

SENATOR D. D. MARSHALL: Mr. President, I am distinctly pleased that I am being given the opportunity to speak on this legislation and to speak so closely following my colleague Senator Mascoll. I believe that as Senators, we all have had the benefit of a set of the Laws of Barbados being given to us.

The reality, of course, is that not even persons who have been trained in the law have had the opportunity to delve deeply into many of them, perhaps only 10 or 12. Therefore, I am honestly not surprised that there is some deficiency in the understanding of the workings of the Companies Act. I would first, however, like to clarify one issue. The learned Senator referred to "haste" in getting the legislation through Parliament.

I would like to state that, notwithstanding the legislation having gone through Parliament, or being likely to go through Parliament with some 'dispatch' – a word which I prefer to use rather than 'haste' – there has been a very extensive consultative procedure in relation to these amendments. The process of consultations which has been ongoing, certainly for at least two years, given my own involvement, and more than likely before that.

That consultation included several meetings with attorneys-at-law, bankers, the offshore professionals and the persons who are actually involved in the offshore business themselves. Therefore, whatever else one may say about these amendments, one certainly cannot convey the impression that they are misconceived. The consultative process has been thorough and has allowed us to draft these amendments to the Companies Act in a way that works. Some of these amendments are extensive and others are rather minor.

12.20 p.m.

I am aware, Mr. President, that the policy has been that instead of running to Parliament with the little changes that you could do and satisfying small interest groups, it was felt by the relevant ministry that it was important that we examine the Companies Act in its totality to see which areas needed amendment and come to Parliament with them all at once.

This Amendment Act can hardly be said to be rewriting the Companies Act. That is a comment made by my learned friend and I would consider that to be entirely absurd. Notwithstanding that we have forty-six pages of amendment, in fact, the principal Companies Act has been affected in very few ways. There is substantial provision made in relation to segregated cell companies. In fact, I believe that runs from page 12 almost down to the end.

Segregated cell companies are not new in relation to the world of international finance. They will be, if this Act is passed, new to the landscape of Barbados. We have to recognise that in the international finance services industry, flexibility is called for. I do not harbour any fears that people will start using cells to avoid or to limit their liabilities. In fact, people have been effectively using companies for that purpose for many years.

I am sure many of us are aware of instances where people set up companies just to do a particular thing and at the end of the day, if the creditors are paid, they are paid. If they are not paid, that company is shut down or abandoned and the person moves on to set up another company.

The idea that a person can structure his business in a way so as to defeat creditors and so on, is not something that is new. We must recognise that the call for segregated cell companies is a call that has come, in large measure, from our customers. When I say our customers, I am not talking about somebody who walks into the bank or the supermarket. We have to recognise that in the international financial services sector, the world has become our customer. Barbados has to ensure that it is able to deliver to every single one of our customers cutting edge goods and materials. We have to remember that while we labour, other people are also labouring. This is in factor range. We have it in Bermuda, Turks and Caicos Islands, Cayman Islands, Ireland, Gibraltar and we have a whole set of other persons that are competing in this marketplace. It does us a tremendous disservice if the people in the outside world see that we are moving too slowly.

Sir, haste is never a good thing. I remember there is a saying, "hurry birds do not build good nests" and Barbados has not at all been hasty. We have not been hasty with our e-commerce. We have not been hasty with the segregated cell legislation. The point is that we have to meet the needs of our marketplace and while we examine these things very carefully, sooner or later we have to recognise that if we are not carrying pork to market, they will buy from somebody else.

This legislation, while it may seem complex, the concept is really quite simple. I do not have any worry that anybody is going to start opening supermarkets using segregated cells. The amendment says clearly that it applies to every company incorporated under the Act for the purpose of carrying on financial services, *et cetera*, in accordance with a plan whereby the assets and business operations are divided into cells for the purpose of segregating and so on.

Sir, we have to remember that we are dealing with a special kind of service. We are dealing with high finance, you might call it, but more importantly, there is the requirement that this business is conducted in accordance with a plan which, no doubt, has to be submitted to the authorities.

These segregated cells, from my own foray in the international financial services sector, will prove to be very useful. There are numerous companies that have wanted to engage in this convenient way of doing business before, but they have not been able to and I am happy to see that we have now brought this to the table.

The other amendments to the legislation are very important but they are really quite slight. One critical amendment is the rebirth of the requirement for filing annual returns. I have to say that as a law clerk in my student days, I used to go to the Corporate Affairs Registry and there were mountains of annual return forms. I am sure some of the lawyers in this Honourable Senate will remember that the forms were never completed. Most companies were in breach and, in fact, nobody ever bothered with the annual returns. They used to do more to gather dust and cause asthmatic problems, than anything else.

The world has changed. We are now being called on by our global partners to impose a strong, disciplined regime. We are being called on by our global partners to emphasise accountability and transparency. Knowing your client is important and doing due diligence is important. In that environment, we simply could not allow a situation to continue where a company could be established and could continue for many years and nobody knew whether or not directors and shareholders have changed or died.

In fact, we often get requests to do searches against companies in Barbados and we could never guarantee the client that the search was up-to-date. When you go to the Registry, the information that is there is often the information which was submitted on incorporation and ten years later, nobody has taken the trouble to update that information.

It is therefore imperative that we bring some sense of order to this environment and that we, therefore, go back to the situation of filing annual returns. It is indeed a burden. It always has been a burden but we have to recognise that we can no longer see just that side of the equation. We have to bear in mind that our international partners are simply not going to look on us as favourable business environments, if we continue in this vein.

In relation to the external companies, I am particularly pleased that this situation is now resolved. External companies have proven to be a blessing to Barbados in many ways. They are certainly one of the vehicles that are used for many of our prime real estate investments. However, difficulties have presented themselves over the years and they have to do with the filing of fundamental changes. In our Companies Act, any important changes would be things like changing directors and so on. These external companies, not being aware of our domestic requirements, frequently change directors and so on without notifying their Barbadian service providers.

If a fundamental change takes place and you do not notify the Corporate Affairs Registry within six months, then that company is considered to have fallen off the register.

The difficulty there is that under our same legislation, an external company can only do business in Barbados if it is registered. Sir, the quandary that we have been in for many years has been that a change might take place in this UK company, one director out of thirty, but we have not been told. Eight months later, you file the annual return, or try to file the annual return, the Registrar is compelled to tell you, "We cannot accept it because you should have notified us of this change within six months." The company still exists in its normal domicile but in Barbados it ceases to be registered. 12.30 p.m.

Now, this raises important issues. Suppose this company was conducting the business of a hotel or of banking. Under the Act, it is unlawful to conduct business unless you are registered. So really through conducting business in a perfectly normal, legitimate and innocent way, many companies have found themselves being penalized. There are companies which own real estate but they simply do not know whether the real estate is theirs or not because of this provision.

I think this is adequately addressed in this proposed amendment where we are putting a penalty provision in as an incentive for people to file. The penalty of \$10 per day may seem like a small amount but, in fact, you must recognize that if you are in default for a whole year, you will be looking at \$3 600 so that penalty is not so insignificant. Some companies have been in default now for ten years and if that penalty was ever extended to them, you could see that it is not a trifling amount.

This particular section will, therefore, go a long way in ensuring that the people who have the investments in Barbados through external companies but who, through no fault of their own, have to have those companies deregistered, will now be able to do business again. Something as simple as getting bank mandates has proven to be virtually impossible simply because the companies cannot be considered to be registered.

The process of consultation is extended to those items as well and the entire business community has had the opportunity to see the proposed amendments and to comment on them. In fact, I am able to say that some of the early drafts are very different from what we see here today. The consultative process has again served this Government and this Barbados Labour Party quite well.

I have no difficulty in supporting these amendments. I think they are timely and I do not accept that we have proceeded with any haste at all. The important thing is that the legislation in every facet has been well thought out and has been very well crafted to ensure that the needs of Barbados are met in the foreseeable future.

SUSPENSION OF SITTING

SENATOR THE HON. P. C. GODDARD: Mr. President, I move that we suspend this Sitting for one hour until 1.40 p.m.

The question that the Sitting do now suspend until 1.40 p.m. was put to the Senate and agreed to and Mr. PRESIDENT suspended the Sitting accordingly.
12.35 p.m.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

SENATOR LeR. H. McCLEAN: Mr. President, there is just a couple of points I would like to address with respect to the Bill before us.

First of all, the legislation states that third parties must be informed that a company is a segregated cell company (SCC). However, I do not think that this limited disclosure is any indication of the assets that that company might hold. The reason why I drew attention to this is that any liability of the SCC is limited solely to the assets of the SCC and not to the assets of any other company that would be within that group.

It means, therefore, that one could very well create a paper company, neglect to disclose that it is an SCC and proceed to conduct business. As was pointed out earlier, when one realises that this company is associated with a particular group of companies one will assume that the company is well connected only to find out at some later stage that the company has little or no assets, if those assets have to be called on.

SENATOR THE HON. P. C. GODDARD: On a point of order. Mr. President, I think you would recognise that the Bill clearly states that the company in its operations must be clear to all third parties that it is operating as a segregated cell company (SCC). So the disclosure must be made and people would not suddenly find out that they are in a disadvantageous situation.

SENATOR LeR. H. McCLEAN: I do not think that is against the point that I am making. The disclosure will be made that you are an SCC but in making that disclosure you would not disclose what assets you own because you are not required to do so. I am not saying that the legislation should ask that you necessarily disclose it but the fact remains that you do not have to disclose it.

If a company has no other connections, one is easily able to determine the possible extent of the assets that the

company may have because you will see the level at which they are operating. But if a large company creates a small entity within it, and you are assuming that you are dealing with the larger entity, and you find out later on that the entity which quite rightly had made the declaration that it is an SCC but had no assets, there is a distinct possibility that you would not be able to touch the assets of the larger company.

Furthermore, you can have a segregated cell account where a company can now create a contract with a specific account but the liability for that contract would be restricted only to the assets that are held within that account. The point I am making is that, as Senator Marshall has said, the possibility is there that it could be used in a negative way.

Now, the other point is that the segregated cell company, with respect to insurance companies... There is a problem in Barbados at this time where insurance companies are refusing to insure vehicles that some people want to use as hired cars. We see hired cars on the road all the time but when small individuals get a hired car permit to put a hired car on the road, suddenly all the insurance companies are telling them that they do not insure hired cars.

So I always ask this question, "Are the hired cars on the road there illegally because there are several individuals who have been unable to get this kind of insurance?" I am wondering, therefore, if insurance companies believe that, if they insure hired cars, it will put some strain on their portfolio and if they could use the SCC now as a means of providing a separate form of coverage which would not impact directly on the rest of their portfolio. This is just a question I am raising. I do not know whether it is possible but I am wondering if it is a possibility.

Senator Marshall made the point, when responding to earlier comments, that Parliamentarians and Senators are given a set of laws thereby making the assumption that we should all be aware of all of the laws. Now, what I can say is that maybe this is so but I do not have a set of laws. In fact, sometimes you even have difficulty in being able to access the principal legislation. You have a series of amendments but you very often do not have the privilege of seeing the substantive or the principal legislation which you are amending. Perhaps, this Chamber should consider whenever there is an amendment to come before the Senate that at least some effort be made to ascertain whether Senators have had access to the principal legislation.

Senator Marshall also made the point about how new this legislation is. The legislation is relatively new. I do not think he is making the point that Barbados is not necessarily moving too quickly. Maybe, we are not. The truth is that it is relatively new. I think it was 1997 when the first legislation that set up the segregated cell companies was made in Guernsey. Since then, a few others have come on board and

Delaware in the United States is one of the places where these companies have been set up and have involved insurance as well as the other financial institutions.

1.40 p.m.

Senator Marshall spoke of this as high finance activity and they have had the benefit of the consultative process. Sir, I am always amazed, without any reflection on yourself and other eminent attorneys, that lawyers very often seem to think that we are lesser mortals and therefore are not as readily able to absorb these things, high finance and the finer points of law, which they can deal with.

In this regard, therefore, I would believe that it is not good enough, having had the administrators or the persons responsible for bringing legislation before Parliament, that they have had the benefit of this consultative process and yet you expect that Parliamentarians or Senators must come in here and in one day examine this high finance or this legislation, which seems to be very high-brow, and you are supposed as a lesser mortal to absorb it, understand it and put it into legislation.

I believe that at least Senators should be given the opportunity to study the piece of legislation properly so that they can contribute to it or be able to seek advice from persons they believe are in a position to give them valuable advice. I do not think it is good enough that we should be asked to say we have been consulted on this and that therefore it is enough for you to accept it and put it into law.

The point was also made about the Registration Department where Senator Marshall said that sometimes you get directors resigning and the Registrar not being aware that that person has resigned as a director. To the best of my knowledge, if you have not informed the Registrar that you have resigned, I think you are still a director because the process of resignation as a director requires the completion of a form which has to be lodged with the Registrar. Therefore, if that form, in my view, is not completed and properly lodged with the Registrar then you have not resigned as a director.

I remember when Senator Goddard, the Leader of the Senate, was the Minister responsible for this area, he had stated clearly, and I remember it being highly publicized, that the Registration Department had now been brought into the modern era, had been computerised and you could transact business very easily with the Registration Department. In fact, this Bill makes provision for electronic lodging of financial statements with the Registrar.

If the Department is so highly computerised and up-to-date, one would expect that the information that is there should be up-to-date and therefore there should not be any

problem with getting good information out of the Registration Department. These things raise some measure of concern if you are hearing on the one hand that things are in place for things to be done and, on the other hand, you are hearing that that is not necessarily the case. We really would like to know exactly what is the situation in respect to the Registration Department.

I know that you have a lot of committed people in that department who are very good at what they do. It seems as though of recent times there is this tendency to bash the Civil Service. Ministers now cannot get things done because the civil servants are not doing what they are supposed to do. There is a need for special implementation bodies to be set up within the Government so that the Government's policy can be carried out. We hear all of this now. The same civil service which has been able to bring us this far seems all of a sudden to be working against the Government. I do not think that that is the case and that one should be reflecting in such a negative way...

HIS HONOUR SENATOR C. L. BOLDEN: On a point of order, Sir. Mr. President, there has been a long-standing Rule in Parliament that a person in one Chamber does not take reports heard outside and bring it into the other Chamber. This is exactly what the Senator is doing and I do not see how it can be justifiable in this Chamber when nobody in this Chamber has made those remarks.

Therefore, those statements should be struck from the record because they present a one-sided debate to assume that statements were made in this Chamber which were not so made, Sir.

Mr. PRESIDENT: I do not know what the Senator was referring to. As far as I was aware, he was not referring to the Other Place and I was giving him an opportunity to establish the relevance of what he was saying to what is before us. I think Erskine May says that the relevance is not always perceptible so I will go with that one.

Please proceed!

SENATOR LeR. H. McCLEAN: Mr. President, the point I am making is that the question was raised as to how current... In this presentation Senator Marshall said that if a client asked him to do a search, the information that he gets from the Registry is not necessarily current. This, therefore, would reflect on the accuracy of the information which the Registry has in its possession.

SENATOR THE HON. P. C. GODDARD: On a point of order, Mr. President. It is obvious that an information base can only be as accurate as those that put the information in it. If no one reports to the Registry on a change, the Registry

cannot reflect that change. Therefore it does not reflect on the work of the Registry itself.

Mr. PRESIDENT: No point of order. Please proceed!

SENATOR LeR. H. McCLEAN: Mr. President, in connection with this, the earlier point I made was that, to the best of my knowledge, if the Registrar has not been informed, using that instrument provided under the law for that purpose, if a person has not completed that form which says I have resigned as a director of company A, B, or C, then strictly speaking, that person remains a director of the company. Therefore one would assume that any information that the Registry has would have been correct.

Mr. President, I had no intention of being this long on this matter, except for the interventions, but I thank you for entertaining me.

SENATOR THE HON. G. S. H. MURRAY: Sir, I just need to make a short intervention on this matter. I am primarily intent on putting on record my commendations to Senator Mascoll for his very lucid, informed and expert presentation and contribution...

Asides.

SENATOR THE HON. G. S. H. MURRAY: I said Mascoll?

Mr. PRESIDENT: I think you would need to correct the record.

SENATOR THE HON. G. S. H. MURRAY: I hasten to correct the record, Sir. It must have been wishful thinking on my part. I only wish I could have said so about Senator Mascoll. I really intended it for Senator Marshall. Senator Mascoll was on my mind but coming in the next set of statements was that he really demonstrated the difference between inadequacy and suspicion, and information and expertise.
1.50 p.m.

I think Senator Marshall helped lay persons like myself to appreciate what this measure entails and his contribution bears out the facts and support the reputation which he has earned in the region and beyond for his expertise in this area. I really want to commend him on that.

Sir, on the other hand, Senator Mascoll tried to make it seem as though this measure was being rushed through Parliament only for this Government to satisfy its constituents and big business. Particularly where the question of the annual returns is concerned, I want to

indicate that this is not being done at the behest of anybody or to satisfy any big business desire.

Senator Mascoll is very familiar with all the Budgetary presentations of the Minister of Finance, so if he could turn to page 106 of the 1998 Financial Statement and Budgetary Proposals, where the Minister of Finance and Economic Affairs proposed, among other things, the reintroduction of filing of annual shareholding returns by all companies.

In that presentation the Prime Minister said:

"I understand that under the former Companies Act, companies were required to file annual returns which contained, *inter alia*, the names of the directors and shareholders and the number of shares held by each shareholder. The filing of annual returns was abolished under the new Companies Act in Barbados but I am advised that both Trinidad and Tobago and St. Lucia have retained this requirement in their new legislation. These annual returns permit the Registrar to determine whether a company is a citizen or permanent resident for the purpose of the Property Transfer Tax Act."

Therefore, Sir, as Senator Marshall quite rightly said, this is an attempt to keep Barbados current and up there in front with the competition.

I want to commend the Government for taking another measure to modernise the economy and to make sure that Barbados is positioned to take advantage of any legitimate opportunities that might come our way.

Sir, I commend the Bill to the House.

SENATOR THE HON. P. C. GODDARD: Mr. President, I move that this Bill be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the Senate resolved itself into Committee on the Bill, HIS HONOUR SENATOR C. L. BOLDEN in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

Clauses 1 to 4 were called and passed.

Clauses 5 to 8 were called and passed.

Clauses 9 to 12 were called and passed.

The Schedule became the Schedule to the Bill.

On the motion of SENATOR THE HON. P. C. GODDARD, Mr. CHAIRMAN reported to Mr. PRESIDENT the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. P. C. GODDARD the Bill was read a third time and passed and cited as the Companies (Amendment) Act, 2001.

ORDER NO. 3 – THE INSURANCE (AMENDMENT) BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. President, the Insurance (Amendment) Bill 2001 would allow for the introduction of new insurance products and will enhance Barbados' competitiveness as an international insurance domicile.

This is all part and parcel of a package that we bringing to the Honourable the Senate which includes those two previous Bills to improve the financial services of the country and to keep us current with competitive products for the marketplace.

I beg that this Bill be now read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the Senate resolved itself into Committee on the Bill, HIS HONOUR SENATOR C. L. BOLDEN in the Chair.
2.00 p.m.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

Clauses 1 – 5, inclusive, were called and passed.

Clauses 6 – 10, inclusive, were called and passed.

The Schedule became the Schedule to the Bill.

On the motion of SENATOR THE HON. P. C. GODDARD, Mr. CHAIRMAN reported to HIS HONOUR THE PRESIDENT the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. P. C. GODDARD the Bill was read a third time and passed and cited as the Insurance (Amendment) Act, 2001.

ORDER NO. 4 – THE INTERNATIONAL BUSINESS (MISCELLANEOUS) BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. President, the purpose of this Bill, the International Business (Miscellaneous) Bill, 2001, is to enhance the competitive position of our international business, its supervisory and regulatory standards in respect of the business and financial services, and to correct any existing anomalies and errors in the legislation. More specifically, Barbados' IBCs are to be allowed to sell goods and provide services to CARICOM countries.

Sir, this brings us in line with other CARICOM countries which have been operating in this environment for some time. As Barbados took the Caribbean position that the IBCs were constrained from operating within CARICOM, we have now determined that IBCs can operate in any country outside of Barbados as this amendment now provides.

The ministerial discretion that now exists for the International Business Companies Act and the Foreign Sales Corporation Act for the modification of tax rates is removed. The Foreign Corporation Act, the Off-Shore Banking Act and the Exempt Insurance Act are amended so that the tax concessions granted to specially skilled individuals should not be granted to residents of CARICOM since it is not available to Barbadian residents. Therefore, a CARICOM resident could not avail himself of those same tax benefits which a Barbadian resident cannot.

It also provides for financial statements, now filed with the Ministry of Finance and Economic Affairs under the International Business Corporation Act, to be filed with the Ministry of Industry and International Business, which is the Ministry responsible for the Corporate Registry. Therefore, this starts to harmonise some of the reporting functions of businesses in Barbados. The SRL Act is amended so that the same withholding tax benefits now afforded to the IBCs can be exempt from SRLs.

There is also a provision for the Minister to delegate his responsibility of approving licences to the Director of International Business where he considers it appropriate to do so without giving up his right to exercise that power. This streamlines the administrative flow where the Minister may be absent from Barbados frequently on promoting the business of Barbados and also attending various international consultations. Therefore, this allows for certificates to be signed by the Director of International Business.

There is also the establishment of penalties for the late filing for both SRLs and IBCs. Provision for dealing with the Minister's discretion to revoke a licence is to be

enhanced and that the Minister is given the power to revoke a licence on the grounds of public policies; and that International Trusts will be required to register with the Ministry of Industry and International Business. The information that will be required to be declared will be such that would not result in the loss of confidentiality. International Trusts should be voidable only in the circumstances where they are fraudulent.

Mr. President, I think that the Minister's discretion to revoke a licence needed to be strengthened. In the past we have been confronted with situations where we have seen corporations acting in areas of business that they had not declared and they were working in areas of activity that did not do credit to the good business image of Barbados.

I can tell you of my own experience in having to investigate a company that was involved in the sale of pornographic material and deeming Barbados as a resident. In fact, it turned out that Barbados was not a resident. We had some associated companies that were sailing very close to the line and we had some difficulty in curtailing some of these activities. I think that this legislation will strengthen the Minister's hand in dealing with such companies. We are upgrading our transparency, regulatory and reporting standards. This is being done in the climate of an increased regulatory environment for financial institutions around the globe. This Bill will make Barbados a more competitive environment.

I beg that this Bill be now read a second time.
2.10 p.m.

Mr. PRESIDENT: Senator Mascoll.

SENATOR C. A. MASCOLL: Mr. President, I was trying to recall a debate, either earlier this year or late last year, where the whole definition of a CARICOM business, being local or external was a bone of contention. I well recall making representation that with the new global environment our Caribbean brothers across the region will expect to be treated like locals, relative to taxation and accommodating investments. Therefore, it appears to me that this amendment now accepts the nature of CARICOM and embraces it in a bigger way than was previously conceived.

I wish to raise one matter in this debate which has to do with the concessions granted to specially qualified expatriate employees, exempting them from payment of taxes up to 25 per cent of their remuneration. It is something that is a practical issue. There might be some foreign companies that would have had, for example, the service of this very qualified nature and, for some reason, those persons or group of persons providing the service might have remained in Barbados, after the existence of the company they had originally provided the service to.

However, Mr. President, if a local company employs that qualified expatriate, could it be the case that the new company could employ that employee and he still be given privileges of only being taxed up to 35 per cent of his income? Apparently, it has happened here where you may have a specially qualified specialist coming to Barbados and providing a service to a company. That company may go out of existence and that qualified specialist happen to take a job in another local company. Then an overseas company applies for a licence to exist under OECD. Would that company be able to draw on the services of that qualified individual who remains an expatriate but who has, within recent months, been working for a local firm where the privilege might not have been granted? To that extent then, the question is, should the person still be considered, or should the company still be qualified for that kind of concession as under the IBCs Act?

I must confess that I am happy to see that privilege now extend to CARICOM and, while it was being argued in that debate, I recall the position of the Other Side. But I take comfort in knowing that the Other Side has finally come around to a view that we are just a parish within a wider country called CARICOM, and that the treatment of CARICOM individual investors or whomever, should be in concert with how we treat so-called locals. If we understand the integration process, then all the region will become as one and everything will be done to facilitate the process.

As I understand it though, a major bone of contention now hovering over the negotiations between the OECD and the other countries remains whether or not we move our corporate tax rate in line with the provisions within the international legislation for business, or whether we are going to demand international businesses to pay corporation tax rates.

Should the case be in this new global order that we are going to adjust the payment of corporate taxes one way or the other because of the notion of national treatment under the WTO arrangements which becomes paramount?

That issue has not yet been resolved and so, resolving it one way or the other, is going to be critical to the Barbados experience, because we are not in a position to give up 60 per cent of our present level of corporate taxation, since we get about 40 per cent from international businesses. We also must come to an agreement whether we can go half way on this issue, because to forego that level of taxation in attempting to treat our local businesses like international businesses regarding corporate tax purposes would be a major adjustment downwards. To go the other way, of course, would imply a significant reduction in our competitive edge in the international business arena. Therefore, there are several issues here to be dealt with.

Another issue is, since we have now embraced CARICOM for the purposes of the legislation, the question of adequately harmonizing and coordinating our tax systems for the future is going to become critical. Already there is an indication that we are moving toward the 33 1/3 per cent that is fairly common in the region. Of course, there will be obvious implications to that, because if we are going to be consistent, then our highest income tax must also be harmonized with the corporate tax rate in order to prevent individuals from incorporating for the purposes of reducing their tax levels, as we have done in the past. Therefore, the future is encouraging and exciting and that major problem of confronting and embracing the concepts of national treatment is going to be very, very critical to future Caribbean regions. Where we go from here should now be engaging our attention in a very full way because if it requires us to have to adjust the way in which we have to tax our businesses, then we will have to do that.

It may mean that we can tax sales and then be indifferent to whether or not companies make a profit, given that you would be imposing a burden on a company that may not be profitable. The question remains, how does one proceed from here in terms of not only harmonizing the local, but also the regional and international tax systems?
2.20 p.m.

I would not go that route, given that you will be imposing a burden on a company that may not be profitable or may be making losses. The question is how really do you proceed from here in terms of harmonising not only your local but your regional and international tax systems.

It is going to be a major point of divide between us and the world. It is already so and will continue to be so because, as I have explained in this Chamber before, the whole purpose is to try to coordinate and harmonise tax systems and any policies we put in place, and this must be done across the board.

It is one of the major reasons why, in fact, the region itself is prepared to go towards a value added tax system. If you are really going to get the kind of integration movement that you need and if you are really going to talk about single market and economy, then what you are talking about is trying to coordinate and harmonise your tax systems.

It explains why in the EU there were such foci on the value added tax system and it would explain why in the region, in order to truly integrate and come together politically, economically and otherwise, we need to be even more conscious of that overall objective of being similar.

We do not have, as I said in this Chamber already, to sing the same part to be in harmony. You can sing bass,

tenor, soprano, alto and any variation of those four areas and be in harmony. You do not have to sing in unison to be in harmony, so harmonisation is not about doing the same thing. It is about doing things which complement each other and that is important.

Again, it is just a question of being able to facilitate the process however best we can, but in this amendment we are certainly moving in the right direction. It only goes to show what the importance of wisdom could be, but it takes a while for some to join in the choir. It is about harmony.

I thank you, Mr. President.

SENATOR THE HON. P. C. GODDARD: Mr. President, I now beg that this Bill be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the Senate resolved itself into Committee on the Bill, HIS HONOUR SENATOR C. L. BOLDEN in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

Clauses 1 and 2 were called and passed.

The Schedule became the Schedule to the Bill.

On the motion of SENATOR THE HON. P. C. GODDARD, Mr. CHAIRMAN reported to HIS HONOUR THE PRESIDENT, the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. P. C. GODDARD, the Bill was read a third time and passed and cited as the International Business (Miscellaneous Provisions) Act, 2001.

ORDER NO. 5 – THE STUDENT REVOLVING LOAN FUND (AMENDMENT) BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. President, Section 6(2) of the Student Revolving Loan Fund Act, gave the Management Committee the power to convert loans to a grant status in a manner prescribed by regulation.

The regulation was amended in 1990 to restrict the conversion of loans to grant to studies at post-secondary and tertiary levels.

The 2001 amendment removes the provision relating to the conversion of a loan to a grant and, therefore, the Bill is now seeking to remove section 6(2) of the Act.

In 1977 the Student Revolving Loan Fund was established with the assistance of the Inter-American Development Bank, through a loan of US\$800 000. The purpose of the Fund was to provide sub-loans to eligible Barbadians to pursue studies at the undergraduate level in areas which were considered crucial for economic and social development.

In 1990 the regulations were further expanded and modified to provide loans and grants for Barbadian nationals to finance post-secondary, technical and vocational training programmes, primarily at the Samuel Jackman Prescod Polytechnic and the Barbados Community College. Provision was also made for the loans to be granted for graduate students.

The regulations for this Fund have been revised and we have noted a significant increase in the need for not only graduate, but post-graduate training in a diverse range of fields which are not taught at the University of the West Indies.

We are finding that with the increasing complexity of technical activities, particularly in the area of the Ministry of Health, that there are new disciplines, new technologies that we have to train people in. The level of their development necessitates that they go on to a masters, or even to doctorate level, to be able to provide services that we are now requiring in our society.

I think at the time that this Fund was established, we were clearly seen as a developing country. Today, Barbados is providing a developed country service profile in many of its institutions and we have to recognise that reality.

Therefore, Mr. President, I think that we have to expand this activity and ensure that we have the human resources necessary for training in the various disciplines. This is why we are coming with this amendment.

Sir, as you know the Revolving Loan Fund requires that people repay over a period of time and, quite frankly, there has been an element of non-revolving because people have not honoured their commitments.

2.30 p.m.

The Student Revolving Loan Fund has redoubled its efforts to reduce arrears by adopting an escalated collection process and all defaulters were initially given an opportunity to make a lump sum repayment to reduce arrears within a one-year period with the understanding that their accounts would be kept in-house.

However, accounts belonging to defaulters who renege on recent promises to repay, as well as recalcitrant borrowers, were sent out to external credit collectors with the understanding that they must pay the collection fee charged. So you will see, Mr. President, that there is an element of increased discipline being exerted in trying to recoup some of the funds that are necessary.

During the heavy demand months of June to September, disbursement for outstanding commitments and new loans exceeded receipts. The draw down of Government's \$1.5 million allocation provided a crucial injection of the funds that cover that shortfall for financing new loans. In fact, the strategy of only committing the Fund during peak demand periods to the extent of its bank account and an anticipated Government funding worked well in that receipts were better matched to disbursements. Receipts from October 2000 to March 2001 exceeded disbursements with a result that the Fund carried forward approximately \$2.24 million into the current fiscal year. Therefore, there has been that recent improvement.

To date, 246 loans have been received and evidence suggests that the demand for loans for extra-regional studies would remain high. It is also anticipated that as soon as the 'A' level results are announced, loan applications will increase. I anticipate this will be an ongoing activity. I think that the Student Revolving Loan Fund contributes significantly to the development of our human resources in this country.

I move that this Bill be read a second time.

SENATOR LeR. H. McCLEAN: Mr. President, the Student Revolving Loan Fund has served to assist many Barbadians in achieving higher education but so far, from the presentation by the Honourable Leader of the Senate, I am still not clear exactly why the amendment is brought.

However, with respect to the matter of repayment, I know that some time ago there was a lot of concern about the level of arrears by the people who had loans from this Fund. I would like to state that many of the persons who owe the Student Revolving Loan Fund are not persons who are in any dire economic strait because these are people who are now in very lucrative professions who are depriving persons who really need the assistance when they fail to repay this money to the Student Revolving Loan Fund.

As I said, it is not a case of someone or persons who are not in a position to repay the loans. Very often these persons are persons who are lawyers, doctors or accountants who have just basically decided that they are not paying back the money. But some of these are the same persons who would want to preside over the demise of the business people

who might fall into arrears in other areas through legitimate business failures and who would want to make a lot of fuss about those failures while they themselves have been refusing to honour their obligation to the Student Revolving Loan Fund and are, therefore, jeopardizing the future of many deserving, young Barbadians who cannot afford the cost of post-secondary study and would very much like to have a loan.

So I would just like, as my contribution, to join with those who have been asking those persons who can afford to repay the Student Revolving Loan to do so as soon as possible.

I thank you, Sir.

SENATOR THE HON. Dame PATRICIA SYMMONDS: Mr. President, I understand, and I am pleased that it is so, that the demand for loans is consistent and ranges from diplomas to doctorates, bachelors, masters, and so on.

I am particularly pleased about this because in my time a first degree was a great accomplishment and unless people won Barbados Scholarships, very few, especially women, could go abroad to study. In my days, in the 1950s, there were very few women who were going abroad to study because they could not afford it and unless they were, as in my case, courageous and went overseas on very little, or were well off, they certainly could not go far afield. The University of the West Indies, Mona Campus had not long opened and, of course, there was no Cave Hill or St. Augustine.

Since those days there have been many changes and many more opportunities and a first degree, however good it is, is not looked upon with the same respect and awe as it was years ago. We are hearing young students who have just completed their bachelors saying that they are going on to do their masters. Some will be doing it part-time, but this is very pleasing because obviously they have recognized the need for self-development and self-advancement in a highly competitive world and a world of globalization, so that a second degree and doctorates are becoming the norm and are really becoming necessary.

As a previous Senator just said, those people who have had the opportunity to obtain loans since that time should in turn give others the opportunity to benefit as well. There has been trouble with the Student Revolving Loan Fund. It is not rolling over as it should because people, some who can pay and some who cannot pay, are not paying back the loans, hence these measures to see that the loans are now collected on a most systematic basis and I heartily endorse that.

2.40 p.m.

I hope, Mr. President, that those who have loans now, those who are seeking loans and those who will obtain them will show a greater sense of responsibility, a sense of consideration for others and altruism because – I hate to say it, but – to some extent it is a case of “Well, I got my chance and I really do not care what happens about the other person”. We have to look at that. We are our brother’s keeper. That when we get up on the ladder, not to kick it down. Try and help others and bring them up. This is one of the ways in which it can be done besides giving back, if you can afford it, to your country or your university or your school. If you are not going to do that, at least be sure and pay back the money which you have borrowed so that other people who cannot afford it can be given a chance.

Therefore, I have no hesitation whatsoever in supporting this Bill. I am much obliged to you, Mr. President.

SENATOR Miss C. Y. FORDE: Mr. President, I would just like to add brief comments to this debate and to say that this is one occasion on which Senator McClean and myself are on the same wavelength. I support him for the comment he made about the hundreds of Barbadians who have been accessing the Fund over the years, then many of them renege on their responsibilities of fulfilling the agreement they have made with Government to repay the loan.

My understanding of this Student Revolving Loan Fund Act is that in the past persons who accessed those loans, as long as they averaged in their studies a B+ or higher, could apply for part of that loan to be converted into a grant. We do appreciate the fact that we are placing a lot of emphasis on quality education being delivered at all levels of the education system and we do know that hundreds of individuals are now pursuing post-graduate studies and we also know of the provision that was mentioned earlier by Senator Goddard regarding persons who are at the Polytechnic and the Community College who have opportunities to access those loans.

One would appreciate that with the escalation of these numbers and the limited resources that we operate on in our country, it is really impacting on the budget within the Ministry. Indeed, with the opening of the scholarships and exhibitions to other areas, particularly for the CAPE examinations, as well as the BCC Associate Degree, we know that larger numbers of persons would be benefiting as a result. That is also coupled with other grants that are offered to persons who are studying. Particularly at this time, between June and September, the requests for loans are extremely high and, of course, the return of the results for the ‘A’ levels do put an exceedingly heavy burden on the Fund.

Mr. President, the *ad hoc* grant is offered to persons who indicate to the Fund that they are meeting extreme dire straits with their finances. The *ad hoc* grant is offered to individuals to help them to pursue their studies – and indeed, we hope, successfully. Also included, is the enabling grant which affords individuals in their final year of study the opportunity to make representation for a grant which amounts to the maximum of \$2 000. Particularly at this time, since the interviews have only just been finished, the National Development Scholarship spreads not only in the Ministry of Education, but in the Ministry of Health, the Ministry of Transport and we have now even moved into the private sector. Those are ways in which grants are offered to Barbadians who are in need and display a certain interest in expanding their horizons to be able to return to Barbados to give of service to the growth and development of this country.

Indeed, Senator Symmonds put it well. All I say nowadays, Mr. President, is that I hope that those individuals who have benefited from the Fund in the past and, indeed, all those who are able to receive scholarships, exhibitions and grants through the *ad hoc* scheme and the enabling scheme, as well as the National Development Scholarship, will return to this country and give of their service to show that they appreciate and want to practise the golden rule, doing unto others as they had been done to in being able to access the Fund.

Mr. President, it is with those comments that I also give my support to the provision for the removal of the conversion of a loan to a grant to the Students' Revolving Loan Fund. I thank you.

SENATOR Sir JOHN STANLEY GODDARD: Mr. President, I am sure all of us support the purpose of this Fund and others have expressed their concern that there still seem to be fairly large amounts of arrears. That was my suspicion, Sir, so I did some enquiries and I have been informed that the aggregate of loans presently outstanding amounts to \$38.7 million, of which \$9.3 million or 24 per cent are currently in arrears.

Sir, that is not a satisfactory position. As has been said, it is not thinking of others, depriving others of the same opportunity those students had to further their education. If you look at that in the context of the total loan, I have been advised that 20 per cent are made to students attending the Cave Hill Campus and 5 per cent to other tertiary education in Barbados which means that 75 per cent of the loans are made to students, most of whom are doing post-graduate courses abroad outside of the Caribbean.

We understand that the cost of that education is high, but the loan is granted to them as a privilege. They really

have a serious responsibility to service that loan. Tertiary education is more than about collecting degrees and diplomas. It should be about developing proper attitudes to life, to responsibility and integrity.

I really would like to see, if it is not done already, that aspect stressed more at the time the loans are made. I am very pleased to hear the Leader say that greater efforts are being made at collection and no effort will be spared in that direction so as not to deprive younger students that are coming on stream of the same opportunity.

Sir, with those few remarks, I support the amendment.

SENATOR Mrs. V. E. NEWTON: Mr. President, I rise like others to support this Bill which seems to me to guarantee that there is more money in the Fund by removing the provision whereby some of the loans are converted to grants. I also endorse the view that every effort should be made to ensure that those people who are not public spirited enough and unselfish enough to pay back the loan, when especially so many of them, it would seem, can afford to do so, every effort should be made to ensure that they do fulfil their responsibility.

I was also pleased to hear the Leader say that every effort is being made to strengthen the mechanism of collection but I wonder whether, instead of most of the money in the Fund which I understand – and I hope that the information I was given is correct – being given for undergraduate degrees which are the most expensive, more emphasis could not be placed on short-term programmes and higher degrees. As far as I know, many of the undergraduate degrees which persons would want to pursue are offered locally in some form or another at some one of the campuses of the University of the West Indies.

Another thing which I think could be done, and it was done very effectively by the National Insurance some years ago, is to publish the names of the defaulters.
1.50 p.m.

I know that public institutions do not like to pursue that path but if you have a scheme which is supposed to be revolving, which by now ought to be named something else because, clearly, there are no funds revolving in the scheme and Government is forever propping it up, I think that all the measures that need to be taken to ensure that the original scheme is kept in place should be taken. Mr. President, I would have no qualms about seeing the names of defaulters published.

Mr. President, several Barbadians who benefited can now be seen in all walks of life, and many areas in which there was a lack of expertise – like nursing and medicine and so – have now been filled. I am wondering if the Fund could

now focus more on training in Information Technology and some of the newer areas which will be of crucial importance to us at the beginning of the 21st century.

Mr. President, whatever is done to the Fund, especially since no collateral is given by persons who benefit from the Fund, and there is no provision for making guarantors pay up, all other aspects of possible collection ought to be put in place.

Mr. President, in ending I must say that in spite of all of the negatives about the operation of the Fund, it is still to the Government's credit that it seeks from time to time to shore up the Fund which will show that some of us still have a commitment to the developmental aspect of the Student Revolving Loan Fund.

If you look at educational provisions like this worldwide, collection is always a problem. People will take the money, go and train, come back and believe that the taxpayers are always there to shore the Fund up. So the situation which we now face is not a unique one, but we have to take the bull by the horn and ensure that the Fund revolves to what it was supposed to be.

Thank you, Mr. President.

SENATOR Miss J. C. ODLE: Mr. President, I too rise to give my support to this Bill and to make a few comments, some of which may have been stated already. I welcome this opportunity because for sometime now many of us had the concern that the funds were rapidly being depleted because of persons not meeting the commitment to pay back.

Sir, when any of us go to an institution to get a loan we have to have a guarantor or put up some sort of collateral, and if we renege on that commitment, that institution deals with the perpetrator in a very strong manner.

Sir, it is in this context that I welcome this opportunity because I believe that if people have one shred of decency left in them they will come forward and do as they should after a debate such as this.

I support the intention to publish the names of individuals because if National Insurance defaulters are put in the newspapers, defaulters of this Fund should also be put in the newspapers and then we will see how quickly these people will pay up.

Sir, I understand that to receive a loan through the Fund there should be at least one guarantor and I wonder to what extent those persons are called upon to address the issuance of repayment. The point is well made that persons who were recipients of these loans are more than able to repay these loans. I hope that this debate will spark the conscience and heart of those who are defaulters and they will begin to repay the Fund. Also, any other individual who is seeking to borrow from the Fund in the future should recognise that in order for other Barbadians to benefit from the Fund they must play their part. If they do not, their names should be smeared across the newspapers of Barbados because we have to ensure that a fund as vital as this remains constant.

Sir, I give the Bill my full support.

SENATOR Mrs. P. E. RICKINSON: Mr. President, I rise to make a few comments on the Student Revolving Loan Fund.

Mr. President, I will give an example of someone who was on a three-year course and had a loan for \$30 000. It is my understanding that there is a year's grace before repaying the loan but during this year interest rates are added to the loan. This individual started to pay \$300 a month but because the \$300 a month was not amortized, by the fourth year the amount went up to \$700 a month. The individual did not pay the loan every month and after five years she found that she still owed \$75 000. Sir, it is better for these people to go to the credit union or the bank and get a loan and start repaying right away.
3.00 p.m.

I notice that the loans, as I understand it, will not be converted into grants. If this is correct, I agree with that because of the lack of transparency of converting some loans into grants. Some people who had the attention of persons in authority were able to get their loans converted into grants and others were unable to do so. Mr. President, I feel that an arrangement should be made so that even if the loan cannot be converted into a grant, persons who borrowed money and the Government benefits from the education of those persons, that there would be some form of relief given to those persons.

In the beginning I could not repay my loan but as time went by, it was eventually taken from my gratuity. During that time, I saw many people who were not making the kind

of contribution that I was making to the Government of Barbados have their loans converted to grants, and that is not fair.

SENATOR Miss C. Y. FORDE: On a point of order. I hate to interrupt the Honourable Senator. There is a provision that was enshrined in the Act indicating that as long as the individual got a B+ or higher grade, then the loan was converted to a grant. The comments that the Senator is making would indicate that some people could pull wool over someone's eyes and theirs were converted to grants to the detriment of others. That is my understanding, Sir.

SENATOR Mrs. P. E. RICKINSON: Mr. President, those who were favoured over others had their loans converted into grants.

Asides.

SENATOR Mrs. P. E. RICKINSON: Mr. President, I feel that some provision needs to be made to give persons some form of a grant of repayment. Those persons who borrowed loans and returned to Barbados and worked for the Government, I feel that something should be done for them in a form of relief.

I also feel that we need to use the media more often for education. One way of doing this is to have the debates of this Chamber broadcast over the radio. I am not asking for debates to be televised because that is too expensive. The Barbados Community College has a radio station and it can be set up to broadcast the debates in the Senate. Sir, this is one way of educating the public about what is happening in Barbados.

I thank you, Mr. President.

SENATOR THE HON. P. C. GODDARD: Mr. President in wrapping up the debate, I would say that being able to convert a loan to a grant, you are sending the wrong signal to people.

Mr. President, I beg to move that this Bill be now read a second time.

The question was put to the Senate and agreed to.

COMMITTEE

On the motion of SENATOR the Hon. P. C. GODDARD, Mr. PRESIDENT left the Chair and the Senate went into Committee on the Bill, His Honour SENATOR C. L. BOLDEN in the Chair.

Mr. CHAIRMAN: The Senate is in Committee.

Clauses 1 and 2 were called and passed.

On the motion of SENATOR the Hon. P. C. GODDARD, Mr. CHAIRMAN reported to His Honour the PRESIDENT the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR the Hon. P. C. GODDARD, the Bill was read a third time and passed and cited as The Student Revolving Loan Fund (Amendment) Act, 2001.

ORDER NO. 6 – THE INSURANCE (AMENDMENT) (No. 2) BILL, 2001

SENATOR THE HON. P. C. GODDARD: Mr. President, the present law states that a mutual company may convert into a company with a share capital where it has obtained the permission of not less than two-thirds of its policyholders.

Under this provision, it is exceptionally restricted. In fact, more onerous than that is the changing of the Constitution. It is desirable that this be altered in light of the reality. We are now seeking to amend this so that it would read that there should not be less than two-thirds of the policyholders who voted on a resolution in respect of the conversion of the mutual company. The provision referred to in paragraph (a) came by way of a mechanism that ensures that every member is given a reasonable opportunity to vote, whether or not that member is present at a meeting of policyholders, and that the scheme for the conversion has been approved by the Supervisor of Insurance.

Sir, this is aimed at facilitating the Barbados Mutual to move from a mutual company to a stock company. This move will enable the company to enhance its capital. It will enable it to compete in the new environment in which we find ourselves. It is only a reasonable measure that the voting takes place on a percentage of those who are actually voting. It is in line with our Constitution as a country.

In addition, I should point out to Honourable Members that there was an error in paragraph 1. No.2, in brackets, should be inserted after the word "Amendment", since there was already an Insurance (Amendment) Act, 2001, that we have passed. It should now read "The Insurance (Amendment) (No.2) Act, 2001".

Therefore, I have no hesitation in recommending that this Bill be now read a second time.
3.10 p.m.

SENATOR C. A. MASCOLL: Mr. President, I rise to support this Bill with the understanding that it is intended to

facilitate the demutualization of the Mutual Life Assurance Society.

I have already stated that the Mutual Group has businesses from as far North as the Cayman Islands to Curacao in the South, operates within 14 countries in the region, and has a very wide assets base. I also understand that the intention here is to allow the Mutual to be able to compete within the global market, and to give them the opportunity to be able to borrow and to finance operations in the future.

As someone who holds an insurance policy at the Barbados Mutual Life Assurance Society, I must confess that I totally support its demutualization and it is important to note that you are basically converting a privilege into a right to own and to share in either common shares, cash or any other benefits that would be provided by the exchange of these rights. These privileges are what are called financial privileges.

I notice this process of demutualizing has already been differently interpreted by two so-called radicals of the past. I well recall being part of a group that was intended to infiltrate the ranks of this society where one radical was joined by another in shirt-jac. Suddenly, one notices that a decade later what we are witnessing is the two of them having completely opposing views on the question of demutualization. In fact, the radicals are now resplendently attired in the traditional garb of the dominating class.

It is fascinating to read the alternative views of those two men who led innocent Barbadians in the fight in that march towards freedom. Anyway, my position is that it does not make sense to me, to be a part of an institution of which I have a privilege, without being able to translate that privilege into something meaningful. It is similar to buying a piece of land for \$1.00 and that land appreciates over time to be worth as much as \$100.00, but the land is never sold. What does it mean to the owner of an asset which has realizable value if it is not employed beneficially in the interest of the owner? What would it mean for me to be part of the Mutual Society, having a privilege that has no real significant benefit? Therefore, from the inception I have supported that understanding of the implications of being locked into an archaic agreement that could not permit the flexibility for the Mutual Society to allow it to become more competitive in the existing global environment.

It has implications for the wider financial sector though, because they have been bombarded with this issue of efficiency and productivity gain in the short run. While I respect and understand that any business can do whatever it wishes with the input of process in order to make it more efficient, I also understand the limits of that process, because in the absence of accessing new technology and new

products and being able to invest the inputs into any business process, you are not going to be able to make the sort of quantum leap which is required to become competitive in this new global order. Therefore, access to finance is a necessary precondition to improving competitiveness in this new global order.

Earlier today, I said that the Mutual Society is a major player in Barbados' financial sectors and, in fact, throughout the region. I think that permits for a certain degree of latitude in understanding and appreciating the extent to which such a change can impact on Barbados' financial sectors and even on the region.

It is not by accident that we are seeing the pending mergers of large banks like CIBC and Barclays. What is known is that the principle is the same where you are seeking to make yourself capable of accessing larger quantities of finance to be able to employ the finance in a way as to make you efficient. What is important would be for us to appreciate the extent to which we can alter the face of the financial services provided in Barbados.

We have begun to see it at play. In that merger between the two financial sectors, one can say that there has to be one headquarters which has to be in Warrens. Therefore, anyone can forget the Rendezvous headquarters but to come and make themselves more comfortable between the larger business entities that are emerging in the Warrens area. Not only that, but it is also known that the implications of that merger will be that all players will have to adopt the information technology within CIBC as an entity. It should not be too hard to appreciate that CIBC has made more recent attempts at becoming more ready and flexible in its nature. I hate to speak to this issue knowing...

Mr. PRESIDENT: Knowing of its irrelevance to this debate...
3.20 p.m.

SENATOR C. A. MASCOLL: Its relevance is particularly clear in that the whole question of facilitated demutualization has significant implications for the financial sector of Barbados. While it may come through the guise of an Insurance Act Amendment, it is the implications of the amendment that I seek to address. In the absence of that the process would be particularly mundane and without substance.

Sir, as I said earlier, we have been seeing these adjustments to the financial system as far back as about 1997/1998 when particularly the privately owned foreign commercial banks started to downsize and to trim staff in preparation for globalization.

This amendment has also to do with the Mutual Assurance Society preparing for globalization which is a major challenge that it has to confront in the new global order.

Sir, let me delve, in the limited time that I have available, into some of the more critical issues that could emerge. The question coming out of this whole process would be how would you treat the various classes of holders of policies at the Barbados Mutual Society. We know that in life an insurance policy of the endowment kind is completely different to a whole life policy and that the benefits derived in those two programmes are completely different.

It therefore means that in seeking to convert the privilege that shareholders may now have or, in fact, holders of life insurance policies may now have, there are going to be several levels of complexities in trying to organise how you convert that privilege to a financial privilege as a shareholder.

I would never be given the privilege of knowing how that will happen but be involved in the methodology that would be adopted to so convert the privilege into a financial privilege. It really does constitute a major challenge for the Barbados Mutual Life Assurance Society. While the intention is understood, how do you set about to really compare and contrast the providing of benefits to the various holders of policies at the Barbados Mutual, and where would the benefits be cut off?

As it stands now, the major possible argument against it – and I do not think it is an argument against it – is that we all know that in the annual affairs of the Mutual you basically have a vote and that vote is independent of how large or small a policy you may have, but you have a vote like any other individual who happens to hold a policy.

Sir, it therefore means that it is perhaps the one major area of criticism that, depending on the size of the policy or policies you hold, you are now going to be entitled to different levels of privilege. It is an argument, you can put on the table and become exceedingly academic about because when you check the reality, not many people participate in the decision-making in spite of the fact that they have the right to participate. So it is not a real bone of contention. You could get very academic about it and if you want to create fuss about the demutualization of the society you can begin to speak to that because you can talk about reversing the intent of the original society to allow all to have a say, regardless of the level of contribution to the process.

I am not going to be caught up in that sort of fantasy world because the effective level of participation has been particularly low. Therefore, while you can justify such an

argument on theoretical grounds, on practical grounds, it goes through the window.

Sir, apart from that, we have all other kinds of things emerging in the financial system, across the board at BNB. We have the ICB situation and we have the issue of shares so we can see that in a very short space of time the financial character of Barbados has changed and fairly dramatically. Therefore, this demutualization is going to contribute further to that change.

We also never wish to discuss the several different areas in which a group or a company like the Mutual can influence overall activity at all levels in the society. When you start to think about the several different life insurances across the region: the Capital Life Insurance in The Bahamas, the Capital Pension Services Limited, the Capital International Management Services, Nationwide Insurance Company Limited, Island Life Insurance Company Limited, and these are a whole range of life insurances that the Mutual is actually involved in across the region.

Sir, when you talk about financial services and the involvement of the Mutual in the financial services sector in the region, you are talking about the Mutual Financial Services, the Mutual Bank of the Caribbean, Inc., the Caribbean CariCard Services, Inc., the Mutual Finance, Inc., the Mutual Funds, Inc., The Mutual Asset Management and there are several other institutions across the region in which the Mutual is involved.

Sir, it does not stop here because, apart from being owners and the major players in these companies, the Mutual group also manages companies on behalf of owners of financial services.

This amendment, Mr. President, seems to be a simple amendment that allows for the demutualization of the Barbados Mutual Life Assurance Society but the reality is that this simple amendment permits a whole lot of changes to occur within the financial sector, not only in Barbados, but throughout the Caribbean region.

Again, it then begs the question, could the management structure that presently obtains at the Barbados Mutual really be said to be in a position to deal with this new reality? Sir, you are no longer talking about just simply dealing with the assets of this company and having that structure there in place from as far back, I suppose, as 1840 when it was established. You are now talking about redefining this thing called the Mutual Group in its entirety and what would be the implications of restructuring the management of this Group to cope with this new global reality.

Sir, you hate to get there because, when you get there, you may be accused of being *ad hominem* and it appears then

as though you are questioning the so-called competence of the existing management and that kind of thing. You know how we are in this part of the world that as soon as you begin to look ahead and ask questions about, not necessarily the existing competence of people, but the future competence, you put yourself in a position where you can, without even coming into contact with people, be marginalised.
3.30 p.m.

I have no fear of being marginalised because my ambitions in life are very limited and are really confined to being happy. Therefore, I do not worry about people having interpretations of me that are simply derived from a few words that I may have written, or an opinion that I may have expressed because, like me, everyone else has a limited life and it does not matter. It is a question of making a contribution to this society as I see fit and not being concerned with whether or not an individual may make a contribution to my forward movement and in doing so whether or not I should have permitted that to confine me to saying or making comments about the realities as I see them.

So in this exercise I am not going to be confined to not asking questions about the existing management structure at the Barbados Mutual Life Assurance Society because if you are going as far as to demutualize, you would also need to do a complete restructuring of the management of this society in light of the fact that you are really talking about being able to enter a financial market. Because being able to access finances or compete on that level is not going to be a protected market as has been the case for well over 150 years as we know it.

So, as a policyholder at the Barbados Mutual Life Assurance Society, I feel that this is a step in the right direction. Demutualization is attractive to me, as I would suspect it would be to most other policyholders, because it translates an ownership right into a financial privilege. I feel that we cannot confine the Barbados Mutual Life Assurance Society to its defined space in the new global environment and, therefore, it has to be given the opportunity to spread its assets base and its capacity to borrow much wider than presently obtains.

I would think that like every other business that is ready to be competitive and to be efficient in this new global order, it has to become as large an entity as possible so that it can compete effectively. So I have no problems with demutualization.

I have already written to this in an arriving paper called "The Business Authority" which is a publication of the Mutual Group of Companies. I hope that people would read the issues that are presented in it which would have included demutualization in a very extensive way. The coverage is

wide and varied and sought the opinion of several players and went beyond that to look to the future. If I may say so, that paper has to be marketed so that more people can read the opinions expressed therein which are very well presented by several of the authors.

On that note, I would say, therefore, that I am happy to be part of this whole process and to find myself in a position to say yes to such an amendment to advance the cause of the Barbados Mutual Life Assurance Society.

I thank you, Mr. President.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, I too am in a strange position, like Senator Forde alluded to earlier, where I find myself in total agreement with my Opposition colleague, Senator Mascoll, on the question of the demutualization of the Barbados Mutual Life Assurance Society.

Like Senator Mascoll, I too am a policyholder of the Barbados Mutual Life Assurance Society. I have a number of policies with them and I welcome this move to demutualize because for one thing it will help to demystify the Barbados Mutual by converting what is now insurance policies into tangible assets of various forms. It will also provide a further instrument of investment for ordinary Barbadians, many of whom hold policies in that company today.

When I recall what the Barbados Mutual Life Assurance Society used to symbolize growing up in Barbados over the years, it has come a long way and, while it still has a long way to go, I am sure that this move will be part of that process of not only demutualizing the Barbados Mutual Life Assurance Society, but demystifying it and making it more accessible and understandable, where more people would be able to relate to it in the same way that they relate to other similar insurance institutions which are not necessarily mutual insurance companies in this country.

Sir, one of the things I welcome about this move to demutualize the Barbados Mutual Life Assurance Society is what it will mean to policyholders. According to the information provided, policyholders will have their policies converted into tangible assets in the form of common shares, cash, a combination of common shares and cash or a policy credit. So people will have a range of instruments in exchange for their rights in the Barbados Mutual.

Although these things no longer exist, I think they would make a lot of difference to people's lives and their investment portfolios and will help to make being part of an insurance company more meaningful to persons while they are alive. Many persons do not realize many of the benefits of insurance policies, but their survivors will. Right now, the

ownership rights cannot be sold and are lost when the eligible policyholder of an insurance policy comes to an end.

Therefore, I welcome this move and would also like to commend the Barbados Mutual Life Assurance Society for the way it has gone about, from the very beginning, to educate its policyholders of the implications of this move.

Many months ago – I forget how long ago, I am trying to see if there is a date on this publication – I got a publication from the Barbados Mutual Life Assurance Society which sets out demutualization and answers to frequently asked questions. It is an 18-page document which explains what the implications of the demutualization would be and talks about the advantages and disadvantages of it and it spells them out in detail. In the final analysis the advantages far outweigh the disadvantages.

Mr. PRESIDENT: I presume, Senator Murray, that you will make that a document of the Senate.

SENATOR THE HON. G. S. H. MURRAY: Yes, I am going to make it a document of the Senate. This is not something that is being thrust upon the policyholders but I believe that they would have learnt from previous experiences and have started the educational process. It is quite easy to understand and can be read by the average person like myself. Therefore, this is very commendable on their part.

The Barbados Mutual Life Assurance Society will be engaging the services of various experts in the field of demutualization such as actuaries and persons with experience in financial disciplines who have worked and operated in markets where demutualization has occurred. 3.40 p.m.

Therefore, I think this is also a very responsible and informed attitude to take and I suspect that it would help to minimise the anxiety and the possibility of any major belly-ups occurring when the final step is actually taken.

The document also spells out, and Senator Mascoll raised the question of, the management structure, but it says that the experts will advise the company basically how to handle the future assets and the combination of assets to protect the policyholders' interests and to protect the interest of the Government. I think that this is going to happen in a very professional manner and I look forward to being part of the process and to exercise my options as to whether I will have shares, or cash, or whatever combination of shares and cash, or policy credit.

Like Senator Mascoll, I think this is going to make a considerable impact on the Society, both as regards the

investment opportunity it will provide for several other persons and also on the psyche of Barbadians. Persons who had only bought insurance policies as a means of protecting themselves or their families' interests in the future will now see that policy converted into more regular tradeable assets at their own disposal which they can use for their own well-being in times to come.

Therefore, I wholeheartedly join in supporting this measure and I wish, because of my enlightened self-interest in this matter, that it will be a tremendously successful undertaking.

SENATOR Sir JOHN STANLEY GODDARD: Mr. President, like Senator Murray, I too would want to commend the Mutual for the way they have gone about educating their policyholders and the public generally in the whole process of demutualization. I think that any exercise in demutualization has as the main objective, not the only objective, greater flexibility and access to the capital market. Mutual companies not having shares cannot raise equity capital. I think that is the main financial reason.

However, Sir, I do not share the concerns which were well expressed by Senator Mascoll as to the difficulties that may arise, because there are good models. In recent years in Canada, we have had the Manufacturers' Life, Canada Life, Sun Life and the Mutual Life of Canada, all mutual companies, and they have all demutualized. They are four very good models for the Barbados Mutual Life Assurance Society to follow, and I am sure they have done that already and will continue to do that to facilitate this whole process.

Sir, with those very few remarks, I would certainly like to support this Bill.

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg to move that this Bill be read a second time.

The question was put and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the Senate resolved itself into Committee on the Bill, His Honour SENATOR C. L. BOLDEN in the Chair.

Clauses 1 and 2 were called and passed.

On the motion of SENATOR THE HON. P. C. GODDARD, Mr. CHAIRMAN reported to His Honour The PRESIDENT the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. P. C. GODDARD the Bill was read a third time and passed and cited as the Insurance (Amendment)(No. 2) Act, 2001.

**ORDER NO. 7 – SECOND READING OF THE
TELECOMMUNICATIONS (AMEND-
MENT) BILL, 2001**

SENATOR THE HON. P. C. GODDARD: Mr. President, in moving the Second Reading of this Bill, this is to make changes consequent upon the enactment of the Fair Trading Commission Act and the Utilities Regulation Act. It changes the authority to empower the Fair Trading Commission to regulate local and international telecommunications services and replace the Minister with the Fair Trading Commission in the appropriate areas of legislation which would allow for the Fair Trading Commission to rule on the rates of telecommunications services in Barbados.

In section 6 of the Telecommunications Act under:

- (a) we insert immediately after the words "approval" the words "except in the case where the service to be provided is a public mobile service".
- (b) deleting the words "the Minister may" in subsection (2) and substituting the following:

"The Fair Trading Commission in accordance with the Fair Trading Commission Act may" and under

- (c) deleting the word "Minister" once again and wherever it appears substituting the word "Fair Trading Commission"

and inserting immediately after subsection (6) the following new subsections:

- "(7) Rates in respect of a public mobile service shall be submitted to the Minister for his approval and he shall

- (a) approve those rates;

- (b) return any proposed rates to the public mobile service carrier with directions to make such adjustments as he specifies, and that carrier shall comply with the directions.

- (8) In approving the rates for a public mobile service, the Minister shall have regard to the interests of the public and those of the public mobile service carrier.

- (9) A public mobile service carrier shall adhere to the rates approved by the Minister, and that carrier may not alter those rates without first obtaining the Minister's written approval."

In this, the "Minister" relates to the Minister of Telecommunications.

Section 9 of the principal Act is amended by deleting subsection (1) and substituting the following:

- "(1) Subject to subsection (2), every person shall pay the rate approved by the Fair Trading Commission, pursuant to section 6, for the use of telecommunication services."

Essentially, Mr. President, this Act seeks to amend our existing Telecommunications Act to take into account the provisions of the Fair Trading Commission Act and the Utilities Regulation Act. I might add that there is going to be a subsequent overall amendment which will take into account further areas of deregulation but this provides for the existing operation of the Telecommunications Act in accordance with the Fair Trading Commission Act and the Utilities Regulation Act as they stand today.

Mr. President, this is an evolutionary change and one that is ongoing in our move to deregulate the telecommunications industry and to create a competitive environment and a more transparent environment and more efficient rate-setting environment for the industry.

I move that this Bill be read a second time.
3.50 p.m.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. P. C. GODDARD, the Senate resolved itself into Committee on the Bill, His Honour SENATOR C. L. BOLDEN in the Chair.

COMMITTEE

Mr. CHAIRMAN: The Senate is in Committee.

Clauses 1 to 4 were called and passed.

On the motion of SENATOR THE HON. P. C. GODDARD, Mr. CHAIRMAN reported to His Honour The PRESIDENT the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. P. C. GODDARD the Bill was read a third time and passed and cited as the Telecommunications (Amendment) Act, 2001.

**ORDER NO. 8 – RESOLUTION TO APPROVE THE
CIVIL ESTABLISHMENT (GENERAL)
ORDER, 2001**

SENATOR THE HON. G. S. H. MURRAY: Sir, this Order represents part of the process where Government establishes a number of posts. This particular Order follows the latest made in 1999 as it is the policy of the Ministry of the Civil Service to establish these Orders as frequently as possible and at least once a year. This particular Order makes provisions for a number of things:-

1. It seeks to establish a number of temporary posts.
2. The establishment of additional posts to facilitate the conversion of former casual workers and public employee status of public officers.
3. It seeks to correct a number of errors and omissions that would have occurred in the Civil Establishment General Order of 1999.
4. It encompasses the changes that would have occurred in Ministries and Departments as a result of the re-designation of certain posts between 1999 and 2001.

On the question of the establishment of the temporary posts, the Senate will recall Government's steps to give greater security of tenure to several thousands of public servants over the last couple of years and this is part of the process. When the conversion from casual and public employees to established public officers occurred, it was found that there were not enough posts made to cover the number of posts that were in existence. Therefore, this is part of the process to establish over 348 posts because Government's position is that temporary posts should not be retained indefinitely but wherever possible should be converted to permanent/established posts once there is a clear and established need for them.

These 348 posts that are being established are those that would have proven their necessity over the past three years and it has been determined that there is a long-term need for these posts and hence their establishment.

On the question of correction of errors and omissions, Appendix 3 outlines the various errors that would have occurred in the 1999 Order which are now being corrected in this Order where some posts were either left out or incorrectly designated. This seeks to clean up that process.

In addition, this is another part of the housekeeping activity on the part of the Government where these Orders

are concerned and we are hopeful in the Ministry of the Civil Service of being able to do this on a more consistent and regular basis, but it is a time consuming effort because when you draw up the new Civil Establishment Order, it has to make the rounds to the various Ministries and departments to be checked and to make sure that the posts listed therein are correct, and there is a lot of to-ing and fro-ing in bringing it to a head.

I hope that we can make the system more efficient as a result of the lessons learnt in this exercise. We are hoping that we can bring it to a head more quickly in the times ahead.

Sir, the previous Civil Establishment Order made provision for the requirements of legal officers employed in the Public Service to be removed from the Draft Order and these requirements are now placed in the Civil Establishment Qualification Order. In other words, the previous Order contains qualifications for posts but these qualifications for posts are now being added to the other Civil Establishment Order which will come to Parliament very shortly and will also bring that measure up to date.

With those words, I beg to move that this Resolution do now pass.

SENATOR LeR. H. McCLEAN: Mr. President, with respect to the Civil Establishment Order, recently a number of our teachers have been granted leave from the Public Service to take up positions in New York. I am concerned about the conditions under which these persons have been given leave. Is it no-pay leave, or will the time spent outside of Barbados be counted as part of their time of service, or will they lose this period of service?

Also, Sir, what is the exact number of persons who have left the teaching service?
4.00 p.m.

I would like to know the exact number of persons who have left the teaching service or who are about to leave the teaching service to go overseas. We have been getting conflicting reports regarding the number of persons who will be going overseas. The Chief Education Officer said that they were approximately 22 teachers who were given permission to leave. I am also hearing reports coming out of New York that 56 or 57 Barbadian teachers have been recruited.

SENATOR THE HON. G. S. H. MURRAY: On a point of order. I hate to interrupt the Honourable Member as he is about to get into stride. Sir, this Order does not deal with teachers. It deals with the general service. We are dealing with the Civil Establishment General Order.

Therefore those comments would be best kept for a more appropriate and relevant discussion.

Asides.

Mr. PRESIDENT: We are dealing with the Civil Establishment General Order, 2001.

Asides.

SENATOR LeR. H. McCLEAN: Mr. President, the teachers fall into the Public Service as far as I know. Since they are members of the Public Service, I assume that they will fall under any Civil Establishment General Order.

SENATOR the Hon. G. S. H. MURRAY: On a point of order. I would like to enlighten my colleague that teachers have their own Order.

Asides.

Mr. PRESIDENT: Senator, please proceed but bear in mind that you should keep within the ambit of what is before you. I agree with the submission but it does not deal specifically with the teachers.

SENATOR LeR. H. McCLEAN: Mr. President, I think that it may be just a bit of nitpicking on the part of the Government's Senators when they want to...

Mr. PRESIDENT: I would ask that you withdraw the word 'nitpicking'. I think that the Senator has raised an objection. I have ruled. Please proceed.

SENATOR LeR. H. McCLEAN: I withdraw that word, Mr. President.

The concern that I am raising...

Mr. PRESIDENT: You have raised those concerns. I do not think that you need to repeat them. You have made your point.

SENATOR LeR. H. McCLEAN: If the numbers are not correct, then we will find that at the beginning of the next school term, our schools would be in disarray because we would be proceeding on the basis that only 'X' number of teachers would be out of the system when, in fact, we would have had twice that number. I think that rather than have

persons being concerned as to the accuracy of the numbers, we should be paying attention to ensure that we do not have any serious disruption at the beginning of the next academic year because of a larger number of teachers leaving than we expected. I am hoping that this is a word of caution.

Thank you, Sir.

SENATOR Mrs. P. E. RICKINSON: Mr. President, I do appreciate the making of temporary posts into permanent posts. Sir, it tells you that the posts are needed. The persons who are currently in these temporary posts should be the ones to be made permanent. It means that their working conditions should improve considerably. Their sick leave and vacation leave would now be regularised.

I know that they are health aides who have been working for several years who have not been appointed to date. We need to move swiftly to appoint these persons because when they are not appointed, they do not benefit from further training. The health aides at the Geriatric Hospital are allowed further training to qualify but those health aides at the Queen Elizabeth Hospital are not allowed to do so. When the health aides at the QEH apply to go on the Nursing Assistant Course at the Barbados Community College for further training, they are told that they have to resign, even though these persons have been working at that institution for three years as health aides. I believe that if the posts are permanent, they should be appointed.

I would like to draw to Senator Murray's attention, on page 45, the question of Trainee Nursing Assistant. That terminology should be changed. There is no such thing as a trainee nursing assistant. These nurses are untrained nurses who are employed to work and they are not in training. A trainee nursing assistant has a special term according to the Nurses and Midwives Registration Act and this is against the Nurses and Midwives Registration Act. Sir, when you are making up this Order, I would like you to change it to Untrained Nursing Assistants.

I recognise that the nurses at the Elroy Phillips Centre have been appointed. Sir, working with patients who are infected with the AIDS virus can be very stressful. I hope that we will be able to reduce the number of persons infected with the HIV/AIDS virus. I would also like them to increase the posts of health aides throughout the health care system in keeping with the Manifesto of the Barbados Labour Party. 4.10 p.m.

It is needed and I will tell you why. It is needed because, whether we like it or not, our nurses are being attracted to Canada, United States of America, Grand Cayman, England, *et cetera*, and are being offered attractive salaries. Therefore, in order to try to at least keep the level of

our health care at a certain level, we need to employ these persons in order to help boost the health care system.

I know that they are given on-the-job training, but on-the-job training is better than no training. They have had to do it in New Zealand, America and elsewhere, and therefore, Barbados is not alone in this area. Those countries have had to drastically restructure their nursing services and rather than have a lot of staff nurses, they broadened the base of health aids and reduced the number of staff nurses, because that number was not available, and I think that Barbados needs to take a quick look at that programme.

I notice that the Leader of Government Business mentioned reclassification and talked about the establishment of it. What I would like to see is the scale of Chief Nursing Officer and Nursing upgraded. The Chief Nursing Officer is at Grade S6 and the Director of Youth Services is also at S6, which is not good enough. We have to try and improve that so that the nurses can have some incentives to keep them in the island. And with this, I do support the Bill.

Mr. PRESIDENT: Senator Collymore.

SENATOR B. R. COLLYMORE: Mr. President, I want to introduce a slightly different aspect of this issue of the Civil Establishment Act.

If I had received this document one day earlier, I believe I would have been more greatly fortified in what I have to say. Nevertheless, the consolidation that is done here is something that has to be done from time to time. My concern is the burgeoning cost of personal emoluments.

Not long ago in a public statement, we heard that for this year personal emoluments had increased by 15 per cent, and that this was attributed to the repayment of the last tranche and refund of the eight per cent wages deduction of 1991-1992. But in simple mathematical terms, less than one-third of that repayment of the 1991-1992 salaries could hardly have caused a 15 per cent increase in today's personal emoluments. And it is that aspect of the increase in personal emoluments that worries me.

I am not bellyaching about the making of these casual employees permanent, but I am sure that there is a terrific cost which has not been recognized in having instituted that arrangement. I will give you one example. Last week in one department of Government, 500 persons were absent and, though being absent on sick leave, they still receive their full salaries. In that same department, not long ago, there were persons who had 200 days continuous sick leave. This is the cost of doing these things without looking at the full implication of that decision. I hate to be a bearer of bad news, but if there was 15 per cent increase this year, it will

become 20 per cent next year and without a salary revision! Sir, these are the hidden costs of making personnel decisions without full examination of their implications.

Let me repeat what I said in here before. Four administrations prior to this one were at pains to ensure there was a greater and a tighter control within the civil establishment. It could hardly have been that they were insensitive to the needs of the people. The points that were made were that we should seek, as far as possible, to find work for people by giving projects out to the private sector, therefore, allowing people to work in the private sector.

Mr. President, if in one department, in one day, there can be 500 people who were classified as casuals being absent, then that gives an indication of the necessity for us to bring strict disciplinary control over the Public Service, or else the Public Service will ruin our economy.

I am glad to see the consolidation. I think it is necessary. If I had been able to look at it in more detail I might have given more comparative numbers for the increase that has occurred, but the point will be made and demonstrated in practical figures at some other opportunity. But the fear is that we are heading down a bad road if people can simply take leave and say, "well, I am now appointed, so I do not have to worry about my entitlement."

There is a gentleman, who is a very good worker, and who is employed in one of the Ministries, but on Saturdays and Sundays is also employed by a well-known person to do maintenance around her home. Recently, he came to her and told her that he can also now come on Wednesdays and Thursdays. When he was questioned how that was possible the worker simply replied that he was permanent now and he could take two days' sick leave.

Therefore, I think this is a matter which I have to bring to this Chamber anytime I can, but the most important reform on the agenda is discipline and control of the Public Service. I thank you.

Mr. PRESIDENT: Senator Newton.

SENATOR Mrs. V. E. NEWTON: Mr. President, I rise to make a very short contribution to this Debate on this Order.

I fully agree with Senator Collymore about the indiscipline and the lack of concern for the country and the incidences of so much sick leave. It is not by any means something that is prevalent only in the Civil Service, but is a national problem. Again, I would hope that whatever measures need to be put in place to deal with it ought to be taken because in countries with far more resources than ours,

that we call the developed countries, the question of sick leave being an entitlement is not on the cards. Therefore, you have persons who have not been ill and just taking days because they had not taken any sick leave because they think that it is their right. So that when you add the 21 days of sick leave to the 30 or 40 days of vacation, one will then see how many days of man-hours that those persons are absent. It is small wonder that we have problems with productivity and all of the other negative things that are associated with it.

On another point, Mr. President, in leafing through the Order before us, I was quite pleased to see that in many departments of the various ministries there is provision of Library Assistants in almost all of them, and in some cases, there is provision for Library Assistants being trained to move into the post of Librarian. I wish to say that this is a situation that is not, at all, common in the Commonwealth Caribbean. I had an opportunity to conclude a study of a number of Governments and the situation in Barbados is, in fact, more satisfactory than in any of the other countries that I have looked at.
4.20 p.m.

However, I need to say that while the provisions are there for manpower to man small collections in the unit, provisions for them to do their work properly in terms of having collections that are being upgraded, and equipment and facilities are not always ideal. I know this is not the place to deal with it and I will not go into that in any great detail but I would wish that in the appropriate places, provision be made to upgrade library facilities around the country.

Thank you.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, I am probably fishing in very deep waters on this particular Resolution but there are several things which have come to light and the most amazing are the statements made by Senator Collymore.

Now, within the last six months, I had to write to three Government departments concerning the conversion from casual to public employees, as enunciated by the political end of Government and these were being frustrated by the Civil Service end of Government. The Prime Minister made a declaration that all casual employees will be converted to public officers. What Senator Collymore said raises serious implications for this country and I have been saying this in here for a long time. I am happy that a former Permanent Secretary, Head of the Civil Service, has come to this place and identified the very problems I have been talking about, which still exist today.

I keep saying that the public should know that it is the Civil Service that is ruining this country. When Senator Collymore can say that the greatest problem in this country is that the Public Service will ruin our economy, it is something for everybody to look at and to deal with.

The Prime Minister said that casual employees must be made public servants. Let me tell you what is happening. There are senior officers who are there beginning to lay down their own rules despite what the political party has said. One department sets out a new set of rules, putting his people back on probation for as much as a year. Another one set up their own rules, so it must be done.

Sir, I went personally to the Ministry of the Civil Service, sat with the Permanent Secretary and the Permanent Secretary said, "But this cannot be done." He called the Senior Establishment Officer who said, "This cannot be done" and the officer read the Act. They refused to do it. Months went by and we wrote another letter and still nothing was done.

I wrote a third letter and, when I put in it, "I am now sending a copy of this letter to the Prime Minister and the Minister responsible", would you believe that a gentleman had the gumption to call me at home one evening about 3.30 p.m. telling me this is unfair, why am I reporting this to the Prime Minister and the Minister responsible? They sat and frustrated the person being appointed.

Sir, do you know the next thing? Go out of here tomorrow morning or tomorrow afternoon about 1.30 p.m. to 2.00 p.m., call three-quarters of the Government departments in this country and you will hear,

"The Officer is not at his desk."

"When is he coming back?"

"I do not know."

"Will he be back this evening?"

"I do not think so."

"Will he be in tomorrow morning?"

"About 9.30."

Sir, Senator Collymore spoke about those who are on leave and he gave a case of somebody who now says that he is appointed so he can take two days out. The Police Department will tell you that they have no fewer than 150 policemen out sick every day.

Aside.

HIS HONOUR SENATOR C. L. BOLDEN: Overworked? Mr. President, the Senator must not make those statements about being overworked. I will tell you how they are being overworked. Call the Ministry of Finance and you will find that three-quarters of those 150 policemen who are out have made application to the Government for duty-free concession on double cab vehicles as farmers.

Aside.

HIS HONOUR SENATOR C. L. BOLDEN: That is a breach of the rules. Why the Commissioner of Police has sent out warnings?

Aside.

HIS HONOUR SENATOR C. L. BOLDEN: Sir, I am unhappy, as I said, that there is something lacking in how the Government's decisions are carried forward. There are those Heads of Departments who sit and decide but – I do not want to seem to be criticising Senator Collymore – but it brings something to mind. Senator Collymore's greatest concern is the hidden cost of establishing all these posts.

If the political directorates decide that they are going to establish these posts, it means that the Civil Service is frustrating the actions of the Government. As I said in here before, there was a Minister of Government who was a top Civil Servant in this country and he made a statement that the Government might have policy, but the Civil Service has another agenda.

I think all of these are coming to light now and we are beginning to see what is happening. But all I would like to say is that this debate should send a message to those in the Civil Service who would rather frustrate the actions of the politicians and the Government in power. Sir, there must be some how or some way to deal with them.

There is, somewhere around Bridgetown, a person who joined the Civil Service, not less than three years ago, and went to the Orientation Training Course in the Pine and met me in the Parliament yard and said, "Mr. Bolden, you all are wasting your time about reforming the Civil Service..."

(Certain remarks were ordered struck from the record by Mr. PRESIDENT).

HIS HONOUR SENATOR C. L. BOLDEN: Very well, Sir, but that is what happens.

If that, Sir, is seeking to create a situation where the Minister of Finance has the responsibility of dealing with it, I cannot see why anybody should not say that it should not be done. It shows you exactly what happens in this country.

I thank you, Sir.
4.30 p.m.

SENATOR T. E. BARKER: Mr. President, I rise to support this Resolution which is timely and is in keeping with the promises made by this Barbados Labour Party Administration. However, I want to focus on something which Senator Collymore said earlier about the establishment of these casual posts where he mentioned some of the ill effects which came about as a result of this move.

I want to impress upon Honourable Senators here that the decision to upgrade the status of casual workers is an exercise in equity. Why should the so-called white-collar civil servants have all the security and the blue-collar worker have no security? A blue-collar worker can wake up one morning and somebody can tell him not to come to work but he has his family to feed and his mortgage to pay just like the white-collar worker but he cannot even get a job letter in order to get a loan to repair his home. So this is an exercise in equity.

Now, if you are talking about sick leave and so on, that is not confined to the blue-collar worker alone. So why should they be the ones to be singled out for this measure of indiscipline when it is pervasive. The management among the Public Service must be such that they should be able to address these problems as they arise. What we are now having is a general disregard of the Public Orders where people are openly flouting the General Orders and where officers who should know better are challenging the Government on certain provisions of the General Orders. That is the problem we are having.

So when people are told that the sick days are there, they take them as they like without recognising that the sick days are for those who are really sick. But some people see them as a right. For example, if a person is entitled to 45 sick days a year, you will hear them in November saying that they only took 30 and, therefore, they are still entitled to 15 more.

So all I am saying is that casual workers must not be singled out. This is a problem which is throughout the Public Service so one must not say that because we are converting casual workers to public officers by giving them a better status and a more permanent status that you are opening up yourself for all of these difficulties. The problem is that the managers have to manage and all of these problems are problems that must be solved and can be solved. So I am not wringing my hands in despair because I believe that these problems can be solved.

We are proud of the fact that we are elevating the status of former casual workers who have put in some tremendous work over the years. The Ministry of Public Works and Transport workers have kept the roads in very good

condition over the years, so why should they now be the only ones not to benefit from security and other forms of improved conditions and so on. Therefore, we are not making any apologies on this Side for enhancing the position of casual workers to make sure that they get a proper pension or gratuity.

We recognize that there is a cost attached to this but we also recognize that it is a moral duty and that the society must bear the cost of improving the lot of the workers so we have no quarrel with that. So in supporting this, we are supporting, as I said before, equity and fairness. If one is saying that security is a problem, well then, nobody in the public service should be secure at all. But the same conditions should be spread across the public service.

Sir, we must not forget that Ministers of the Crown have no security and that is a little unfortunate. The point must be made that this is in keeping with our promise to improve the lot of the workers and when we have identified problems we must have the confidence to know that every problem can be solved with the Bill.

So with those few remarks I want to support this measure and commend it to this Honourable Chamber.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, in wrapping up this debate I would like to respond to an issue which was raised by Senator McClean regarding the number of teachers who are supposed to be going to the United States of America to take up duty there. It is on the record, Sir, and I like to set the record straight.

As far as we know, permission has been granted for 20 persons to take up such posts but only two have moved to take advantage of that offer so far. The names of the 20 persons passed my desk some weeks ago so I am sure about that figure. I have no knowledge that the figure stands at 57 so I will have to admit that that comes from the rumour mill and the innuendo mill.

As far as we know, these officers have been given two years leave of absence but their service abroad will not count toward pensionable service. This is a common policy which was extended to people who went to serve in the Cayman Islands and The Bahamas. So that is as much as I can say about the teachers.

I also would like to respond to Senator Collymore's concern of what he called the burdensome cost of personal emoluments. The cost of personal emoluments is something that is very much the focus of the Minister of Finance who has ultimate responsibility for the Public Service and, therefore, posts are not created willy-nilly. Each creation of

a post in the public service and at statutory boards which are financed directly from the Consolidated Fund have to come through the Minister of the Civil Service for justification of their need, for a rationale to be given for their duties and for the salaries to be given, *et cetera*. So it is not something that is done *ad hoc* or arbitrarily because it is controlled.

Regarding the upgrading of casual workers to public officers, these are posts that were in existence for three years, or more sometimes, which means that the people were working for three years or more. As a matter of fact, there are some people who are converted from casual and public employees to public officers who have been working every day, every week for over 20 years. In fact, these people were permanent employees but still temporary employees, if you see what I mean.

Therefore, they were being paid over an extended period of time and no cost will be accrued by the establishment of these posts. If there is any cost to be accrued, it will only come when it comes to the calculation of their retirement benefits because their benefits will be enhanced because of their conversion from casual employees to public officers.

On the other question of the abuse of leave provision, this is a phenomenon that exists across the service and to some extent in the private sector as well. I am not familiar with why or how people take sick leave because I have never really taken sick leave in my life. I came back to Barbados and started working in 1972 and have never had a sick day from that time. So I am not familiar with sick leave and so on. There is this thing where people know that they are entitled to three weeks uncertified sick leave and would want to take every day. Some people are even working it out down to the last day and at the end of the year you can bet that they have taken advantage of it all.
4.40 p.m.

The whole question of absenteeism really is a function apart from the syndrome that seems to obtain across the society where people think they can get the most for little or nothing, the least effort for the most benefit. The whole question of absenteeism is the function of the supervision and the management on the spot, as Senator Barker said. Therefore, this issue of discipline in the Public Service is one which is being addressed very directly in the new Public Service Act which is coming and which should be laid in Parliament soon after Parliament reconvenes.

There is a Committee set up which has completed its work. A policy has been agreed upon, there have been consultations with the unions and there is a settled policy and a settled framework in which to operate. When this new Public Service Act comes before Parliament, people will get to understand the mechanisms that will be provided in future for dealing with the whole question of discipline.

The whole question of discipline has really been found to be the number one bug-bear in the Public Service, admitted by the public servants themselves, by their managers, by the public, *et cetera*. We are confronting that. We are dealing with it and there are better days ahead.

On the other hand, Sir, Senator Bolden talked about the question of the frustration of Government policy for the conversion of casual workers and public employees to public workers. That is true. There was a clear understanding and agreement involving the unions. There has been a committee set up with the Ministry of the Civil Service and the unions and we worked out a mechanism to go through this very complex process of the conversion to public officers. It went very smoothly. There was great cooperation on all sides but then it was found that in some departments and at some statutory boards persons then sought to frustrate and to blunt the policy. These persons were consulted, called in, visited, written by the Ministry of the Civil Service. I do not want to be invidious but the more recalcitrant ones have been dealt with and I am familiar with the complaint made by Senator Bolden and these matters are being looked into.

The Ministry of the Civil Service is not really going to take it lying down once we get complaints about it. When we get complaints from time to time from the unions, they are investigated and steps are taken to correct them as soon as possible.

All in all, Sir, I think that that apart, Barbados still has a first-rate Public Service which is still admired by many people, not only in the Caribbean but abroad. As a matter of fact, Sir, as the Senate would know, the Prime Minister had transferred the coordination of national HIV/AIDS policy to his Ministry, the Prime Minister's Office. The public servants, and Senator Goddard will attest to this, had been asked to produce a national action plan on HIV/AIDS in very short order, which they did to the amazement of the World Bank and other institutions who expressed amazement that a Public Service could produce such a document of such quality, so comprehensive and of such depth, at such short notice, in such a fine manner. That policy is now being used as the Barbados model across the Caribbean. We still have good, excellent workers in the Public Service of Barbados when they are managed properly.

Persons would have heard the commendations being heaped upon the staff of the Ministry of Finance and Economic Affairs who worked so assiduously over Crop Over and other periods for many weeks preceding that, leading to the Prime Minister's Financial Statement last week.

I am familiar, for example, with the Inland Revenue Department where the Prime Minister also spoke about the rapidity with which people are now getting back their income

tax returns. There are people in the Inland Revenue Department who have worked since June without over time, every weekend, on Kadooment Day, on Saturdays and Sundays, to eight and ten o'clock at night, to ensure that the public get back their money as quickly as possible – without a cent, because the vote for overtime money has expired, but they say that is not going to stop them, they have a standard to meet and they want to satisfy the public and they are doing it. This has been going on since June without any complaint.

So we still have some good work ethic and good work principles in the Service, but it is a function of the management, a function of the supervisors and management, motivating people and leading them by example and by inspiring them.

I am not in any way pessimistic about the Barbados Public Service. I think that it has a fine tradition. It has served us well in the past. Barbados could not have been where it is today unless we had an institution like the Public Service. A public service is a vital institution in any society. Hence, some of the problems we see in Haiti and other countries where there is no similar institution. They are as vital as a police force, as a judiciary, whatever. They play a crucial part. The new performance appraisal system is also being worked on in which public officers will not just be expected to be commented upon by the management at the end of the year using the old fashioned confidential report. The new performance review system will entail persons being called in at the beginning of the year and they will have set targets. There will be a review. If they are not meeting their targets, they will be told what the problems are. This is all part of Public Sector Reform. Every improvement in the service is part of Public Sector Reform. They will be told what the difficulties are and given a chance to correct them and then they will be reviewed again at the end of the year and those who have accomplished their targets will be given rewards.

There is a new vision for the Public Service which is beginning to unfold. I am sure that when the new Public Service Act has come into being, when the new performance review system is implemented, people will begin to see even more fruits of that labour. As it stands now, there are still large pockets in many departments. Anybody who has been to the Immigration Department would have seen the improved conditions of service and the attitude of staff there is really impressive.

There is no need to take potshots at the few bad ones and generalize across the Service. The point is that those persons are persons who will be dealt with in one way or another when the new framework comes for the discipline of public servants. It will not be as difficult and time-consuming and frustrating as it is now. We will see the emergence of an even better Public Service.

Sir, with those few words, I beg to move that this Resolution do now pass.

The question was put and agreed to.

SUSPENSION OF SITTING

SENATOR THE HON. P. C. GODDARD: Mr. President, I beg to move that this Sitting be suspended for 15 minutes until 5.15 p.m.

The question that the Sitting be suspended until 5.15 p.m. was put to the Senate and agreed to, and Mr. PRESIDENT suspended the Sitting accordingly. 5.00 p.m.

RESUMPTION

Mr. PRESIDENT: This Senate is resumed.

ORDER NO. 9 – CIVIL ESTABLISHMENT (GENERAL) (AMENDMENT) BILL, 2001

SENATOR THE HON. G. S. H. MURRAY: Mr. President, this Order is the companion of the Civil Establishment (General) Order. Its intention is to provide for the correction of errors and omissions that would have occurred in the Civil Establishment (General) Order, 1999 and brings them up-to-date.

I beg to move that this Resolution do now pass.

The question was put and agreed to.

RECOMMITTAL

ANNOUNCEMENTS BY YOUR HONOUR

Mr. PRESIDENT: I have received a further message from the Honourable the House of Assembly which reads as follows:

“To the Honourable the Senate

The House of Assembly has the honour to inform The Honourable the Senate that from August 14, 2001, The Honourable the House of Assembly committed the following Bill, Family Law (Amendment) 2001, to a Joint Select Committee of the two Houses comprising seven Members of The Honourable the House of Assembly and four Members of The Honourable the

Senate and invites the Senate to nominate Members to the said Committee.

Dated this 14th day of August 2001.

Signed.

His Honour I. A. Roett
Speaker of the House of Assembly.”

SENATOR THE HON. P. C. GODDARD: Mr. President, The Honourable the Senate recommends the following Senators to sit on the Family Law (Amendment) Bill Committee:

Senator the Honourable Dame Patricia SYMMONDS

Senator Mrs. J. P. ALLEYNE

Senator LeR. H. McCLEAN

Senator Mrs. V. E. NEWTON

Mr. President, I would further report that the Senate recommends myself, Senator D. D. Marshall, Senator C. LeR. Trotman and Senator C. A. Mascoll to sit on the Joint Parliamentary Committee of Foreign Affairs and Foreign Trade.

The question was put and agreed to.

ORDER NO. 10 – RESOLUTION TO APPROVE IN ACCORDANCE WITH SECTION 5 OF THE CROWN LANDS (VESTING AND DISPOSAL) ACT, CAP. 225 THE SURRENDER BY THE CROWN TO THE BARBADOS MUTUAL LIFE ASSURANCE SOCIETY OF RIGHTS-OF-WAY OVER CART TRACKS AT FORT GEORGE HEIGHTS, UPTON, IN THE PARISH OF SAINT MICHAEL IN EXCHANGE FOR A GRANT OF A RIGHT-OF-WAY OVER A NEW ROAD IN THE SAID FORT GEORGE HEIGHTS TO PROVIDE ACCESS TO CROWN LANDS ADJACENT TO LANDS BELONGING TO THE BARBADOS MUTUAL LIFE ASSURANCE SOCIETY

SENATOR THE HON. P. C. GODDARD: This Resolution seeks to hand over to the Barbados Mutual the cart roads and the area in Fort George Heights which was purchased from the Government of Barbados on April 22, 1988. Part of that agreement was the stipulation that the Crown should maintain access to Fort George Reservoir and other Government lands adjacent regardless of the state of the construction or development. The Crown would also retain full right to repair any part of the roads, to lay pipes and erect poles in respect to any public utility. The Crown

should release rights to cart tracks within the area of land which the Barbados Mutual Life Assurance Society proposes to develop.

As Honourable Senators would be well aware, the Barbados Mutual has already developed a portion of the 26 hectare parcel of land for housing and it was necessary at that phase of the development for the Crown to surrender right-of-way over an old cart track which criss-crossed the area. In exchange, the Crown was granted right-of-way over a section of the then proposed Fort George Boulevard.

The Barbados Mutual is now in the process of disposing of lots in Stages II and III of the development and the lots in these phases lie to the west and east respectively of the main Fort George Boulevard as is shown on a plan dated August 17, 2000, which is available for inspection.

The disposal of these lots was frustrated by the existence of a number of cart tracks which criss-cross that area as well and the Barbados Mutual has requested the Crown to surrender its right over those tracks in order to facilitate the lots in this development.

This interim Resolution provides for the surrender of those cart tracks but in exchange we have full access to the areas still controlled and maintained by the Government.

I beg that this Resolution do now pass.

The question was put and agreed to.

SENATOR THE HON. P. C. GODDARD: Mr. President, I rise to thank Honourable Senators for working so expeditiously and conscientiously today to deal with the substantial body of business which the Senate completed.

ADJOURNMENT

SENATOR THE HON. P. C. GODDARD: I beg to move that the Senate do now adjourn *sine die*.

SENATOR C. A. MASCOLL: Mr. President, on behalf of the Opposition, I would like to say that we are once again quite happy with the cooperation that we have received from the staff of Parliament, particularly the Clerks at the Table and we look forward to resuming battle in October this year.

Thank you, Mr. President.

Mr. PRESIDENT: Before putting the Question, may I take the opportunity to express the wish that Honourable Senators will enjoy a well-earned recess and return refreshed and reinvigorated for 'the battle' of which Senator Mascoll speaks so eloquently.

The question that the Senate do now stand adjourned sine die was put and agreed to and the Senate adjourned accordingly.
5.20 p.m.

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2. Reports on the Registration Department for the years, 1998 and 1999.
3. Annual Report and Accounts of the Barbados Agricultural Management Company Limited for the year ended, June 30, 1997.
4. A Green Paper on a National Sports Policy.
5. Report on the Public Enterprise Investment Fund for quarter ended, June 30, 2001.
6. The Civil Establishment (General) Order, 2001.
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