
THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 1999 – 2004

THE SENATE

Wednesday, November 27, 2002

The Senate met in the Senate Chamber, Parliament Buildings, on Wednesday, November 27, 2002, at 11.00 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. J. X. WALCOTT, FRCS (Edin.),
J.P. (Minister of Health) (Leader of the Senate)

Senator the Hon. G. S. H. MURRAY, B.A. (Econ.),
J.P. (Minister of State, Prime Minister's Office)

Senator T. E. BARKER, B.A. (Hons.), M.A. (Econ.),
J.P. (Parliamentary Secretary, Ministry of Economic
Development)

Senator P. C. GODDARD

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

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

Senator J. E. D. WILLIAMS, B.Sc., MBA, J.P.

Senator D. D. MARSHALL, LL.B. (Hons.), L.E.C.

Senator D. L. HAYNES, S.C.M.

Senator K. D. SYMMONDS, LL.B.

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

Senator LeR. H. McCLEAN, B.Sc. (Hons.)

Senator C. LeR. TROTMAN, M.A.

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

Senator C. K. LAURIE, DICTA. (ST.), FBSTA

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

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

Senator the Rev. L. W. B. ROCK, M. Div.

Senator The Hon. 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.

Prayers were led by Rev. Father Errington Massiah.

PUBLIC BUSINESS

Mr. PRESIDENT: Public Business is the Order of the
day.

ORDER NO. 3 – SECOND READING OF THE CONSUMER PROTECTION BILL, 2002

SENATOR THE HON. J. X. WALCOTT: Mr.
President, I am indeed please to lead this debate in this
Honourable Chamber on what I consider to be a very
important piece of legislation which will go down in the
annals of the history of Barbados as perhaps, being a
watershed in the protection of the rights of the consumer.

Indeed, I feel that it will transform the Barbadian
marketplace to one which can be said that the consumer is
truly king.

Sir, the Fair Trading Commission Act was proclaimed
in January 2001 and that Act provides for the establishment
of the Fair Trading Commission. The purposes of this Act
included safeguarding the interest of the consumer in
addition to regulating utility services and ensuring fair
competition.

Section 4 (2) of that Act spoke to improving the
quality of goods and services supplied by service providers
and business enterprises. Section 4 (3) of that Act also spoke
of the Commission being able to receive and evaluate
consumer complaints and that it should have a role in
educating and assisting consumers in resolving their
complaints.

Sir, the Fair Trading Commission has been set up to
look after the interests of consumers of this country. All of

us are consumers and this Act is now looking after the interest of each and every one of us.

Mr. President, you will agree that for many years consumers of this country have been getting a raw deal from all size of businesses and almost every sector, and every facet of business has had its share of complaints from the consumers. Sir, one might purchase a household appliance and after a short period of time it malfunctions and there is no redress. Sometimes items are on display in a supermarket or store without a visible price and in some cases there are two or three prices affixed to these pieces of merchandise.

Sir, in some cases they purchased machinery and cars and there is not an adequate supply of spare parts for the sales persons who are selling the machinery or vehicles. Also, in many cases there is no proper after sales service.

Sir, many times individuals pay up-front for services by professionals and long after, they have difficulty in receiving the actual service for which they have paid.

Mr. President, many of us have had to discard food on the same day or the day after it has been bought from the supermarket. We also have the problem from time to time of food products being put on display long after the expiry date. These are only a few examples of what we have had to endure in this country as consumers. I am sure that Honourable Members can think of several more incidences.

In addition, with the advancement of technology, telemarketing, mail order and the concept of distance selling, this arrangement is obviously convenient for the consumer but it is also fraught with risk and at this time the whole world is caught up in the process as globalisation and trade liberalisation. This means that there will be easy access to imports to Barbados. It is obvious that Government will have to be careful in ensuring that the rights, interests, health and safety of all Barbadian consumers are protected in this new emerging world environment.

Sir, it is imperative that Governments of Barbados ensure that consumers are able to get fair value for their money spent and at the end of the day are able to get redress, not only redress but redress that is timely and without much added expense.

Sir, against this background, Government has developed a consumer policy for this island. This consumer policy has certain specific objects to ensure that consumers have adequate access to adequate information on goods and services. This policy aims to improve the quality of goods and services which are provided by suppliers and it also aims to ensure that weights and measures used in trade and services are indeed accurate and quality services to facilitate

timely, satisfactory and inexpensive redress for consumers. It also seeks to encourage consumers by the formation of activities of consumer groups.

Sir, there is a need for strengthening the legislative framework for the buying and selling of goods and services. There are numerous pieces of legislation on the statute books intended to protect the consumer but it has been felt that these pieces of legislation show some glaring deficiencies and weaknesses. A decision has been made that will have to be looked at and a lot of shortcomings will have to be corrected.

It is also felt that it was necessary to introduce two new pieces of legislation, the first of which we are dealing with now and the second will be dealt with later today.

Sir, I mentioned the need for legislative strengthening and there is also a need for institutional strengthening. In addition to the establishment of the Public Counsel, it is also proposed that the whole Price Control Division will be restructured so that it will become transformed into a commerce and consumers affairs department which will in effect formulate and review consumer policy and programmes. It will have responsibility for reviewing pricing policies in the commercial sector and it will police and administer weights, measures and the control of standing legislation. It will also have consumerism as one of its areas.

Sir, last October, the first CARICOM Meeting on Consumer Affairs was held in Georgetown, Guyana. At that meeting, it was clear that our policy was already addressing many of the issues and recommendations which were now being made at CARICOM.

The Consumer Protection Bill was meant to ensure fairness in transactions and safety, that is, the general safety of goods supplied to the consumer. It will cover all goods used in a household. The Bill will provide for protection against unfair trade practices and it will provide for product liability to deal with the compulsory recall of defected goods. It will also provide for the use of industrial codes and the safety of consumer goods.

Sir, the Bill will have 10 Parts. Part I will be the preliminary which outlines the title and definitions of the Act. Part II will deal essentially with unfair contract terms. In the past many consumers have complained, particularly when they have taken items on hire purchase, that they are unable to read the fine print. There are now provisions that the written terms be expressed in plain and intelligible language.

Part III deals with unfair trade practices. There are numerous unfair trade practices which have been identified. These include misleading or deceptive conduct, false representations where you are encouraged to buy something that, perhaps, say celebrities use. The offering of gifts or

prizes with the intention not to supply them. Misleading conduct in relation to services. Failure to disclose the full cost of goods and services and this refers to the hire purchase arena. Dual pricing - where displayed for sale is more than one price on the item. The consumer will have the right after this legislation to pay the lowest price.

Sir, bait advertising is another unfair trade practice which will be covered. It will be illegal for a supplier to advertise goods at a special price, then fail to supply those goods at the stated price in a reasonable quantity. Referral selling will be illegal under this Bill for a supplier to induce a consumer to give the names of prospective customers by offering special rebates and other rewards for such information. In addition, pyramid selling will become illegal.

Sir, I spoke about the intervention of technology. Part IV of this Bill address the issue of distance selling. This will give the Minister the authority to make regulations called Distance Selling Regulations to provide protection for consumers in transacting business through distance selling.

Part V will deal with product liability. Part VI will deal with consumer safety and Part VII will deal with the recall of goods. This will deal specifically with the recall of goods which are found to be faulty and capable of endangering the life of the consumer.

Sir, the Minister will be required to publish a notice in the *Official Gazette* with respect to the recall of a good but where life is threatened, the recall can take place with immediate effect.

Part IX deals with the administration and enforcement. This will give the Fair Trading Commission the necessary authority to administer the provisions of the Bill, especially to enforce those provisions. Part X is the miscellaneous part. This will stipulate the penalties for various offences.

Mr. President, that is essentially an outline of this Bill. As I said at the beginning, this Bill is vitally important in protecting the rights of consumers in this country. Indeed, Government should be congratulated for having the foresight to be progressive in its thinking in this regard in implementing and enacting legislation of this sort.

Sir, we are all consumers and stand to benefit from this important legislation. I expect that this debate will not be acrimonious and Members on both sides will be supportive of these measures.

Sir, I beg to move that this Bill be read a second time.

SENATOR LeR. H. McCLEAN: Mr. President, I must say that it is impossible for any well thinking Barbadian to

oppose legislation which aims at the protection of consumers or providing the framework within which business can be properly conducted in this country. However, I part company with the Government when they seek to talk about foresight and advance thinking, when all that we are doing is doing what is necessary and continuing a process which was started long ago.

I am sure that when a parent provides food and shelter for their children, they do not go about saying what a great parent I am, because I have given food and shelter to my children. They have done what is necessary and is required of them.

Therefore, this legislation is required and is necessary and it is extremely late. Nonetheless, we must thank God for small mercies and we must say that even though it is late, we welcome the introduction of this legislation. Certainly Government should not indulge and pat itself on the back and give itself all this praise. It is not something that is worthy of such great praise. It is something that is required and necessary.
11.20 a.m.

Sir, there have been significant strides in recent times, with respect to laws pertaining to consumer protection in European countries. The Journal of the European Community, under the heading, Effective Enforcement of Consumer Protection Rules, states that there is no good law, if it is not properly enforced. Sir, that is my main concern with respect to this and other pieces of legislation, which are introduced in this country.

Sir, presently on the Statute Book in Barbados, and even though Governments of Barbados in recent years have been predominantly made up of lawyers, there always seems to be some measure of legislation or a significant body of legislation which goes unnoticed on the statute book, Sir, and even when we introduce new legislation, we make little reference to the past legislation and sometimes we seem to be reinventing the wheel.

Now, under Title 25 in the Laws of Barbados, there are nine pieces of legislation which come under the broad heading of consumer protection. Caps 325(A), 326, 326(A), 327, 328, 328(A), 329, 330 and 331. Sir, as I said, all of these pieces of legislation fall under that heading, Consumer Protection, and has been on the statute book for quite some time. Unfortunately, it has not been revisited in recent years and, therefore, to some extent has lost its relevance. We do not seem to pay enough attention to what can be done with the existing legislation before we go on to putting new legislation on the statute book.

I particularly think, Sir, of when I looked at the European Commission's statement that there is no good law,

if it is not properly enforced. I am thinking particularly of the elements or the supporting institutions that are required, in order to make this legislation to really effectively benefit the people of this country.

Let us look, Sir, at the legislation with respect to the Barbados National Standards Institution. Presently, that body has the power to product standards, with respect to certain goods which are consumed in this country. They are mainly concerned with those things that are manufactured in Barbados and the standards which are used outside of Barbados which were accepted internationally. But, where is the legislative power for this body to enforce those standards?

Sir, I heard the head of the National Standards Institution in Jamaica once said that a manufacturer would come to him and say, I need a standard to produce this product and he said, but we already have a standard. The manufacturer said, no, that is the standard for export. I want a standard now for local consumption, so that the manufacturer in that instance was prepared to produce something of one quality for export and a different quality for local consumption. Sir, to some extent, that is the practice which seems to exist across the region.

SENATOR P. C. GODDARD: Mr. President, on a point of order. It is unreasonable for the Honourable Senator to take a practice that may obtain in one territory and interpolate that to be the same practice as obtains in Barbados. Our National Standards Institute in Barbados does not operate that way.

SENATOR LeR. H. McCLEAN: Mr. President, I had some experience in dealing with our National Standards Institute. I recall, Sir, making a case to them with respect to the standard of a particular commodity that was coming into Barbados, which was felt to be inferior to the quality of what could be produced in Barbados.

The point was made to me that there is a market for that product which was coming in and, therefore, we will not seek to enforce a standard which prohibits the importation of that product. Sir, the fact of the matter is that the ability of the importers to get that inferior product into Barbados at the cheap cost, meant that it destroyed local manufacturers who, merely by the methods used in Barbados, produce without putting in any special effort. The main methods that were used here produced some superior product but there was nothing that they could do with respect to having a product of inferior quality on the market and, in fact, one which consumers were complaining about, continuously.

Sir, the point I am making is that unless our National Standards Institute has the legislative power to enforce standards, this legislation really will not be of any significant

value to the consumer. If you have a situation and there are no legalities, what are we really doing? Therefore, I agree with the statement that there is no good law, it is not or cannot be properly enforced.

Sir, this brings me to the point that the first element of fair trading or consumer protection, must be on the basis that the consumers get the quality they pay for, and if we cannot guarantee that, we are doing nothing with respect to consumer protection.

Sir, I make reference to another piece of legislation which seems to be forgotten and that is the weight and measure legislation, Cap. 331 on the statute books. Unfortunately, I have spoken to lawyers who do not know of the existence of this legislation. They ask you what you are talking about.

11.30 a.m.

As a boy growing up, the village shopkeepers had to have certificates in their shops showing that their weights were good. Inspectors used to go around to inspect those scales to make sure that a fellow did not have anything stuck under the scale pan or that the weight did not have a piece of it chipped out or something like that to ensure that people got what they paid for. This was at a time when transportation was not that easy. Many of those inspectors travelled across Barbados either by bus or by bicycles but they went to every village in this country to ensure that shopkeepers were in line with what was required of the legislation.

But what do we have today? In this more modern society every place in Barbados is easily accessible now. We have public officers who have motorcars who are getting travel allowance but we do not see the same activity going on in this country at present. We have supermarkets that are using electronic scales which are clearly marked not for commercial use. Then you have the point of sale scales where you just put the items on the scale at the cash register.

What legislation has been updated in order to ensure the proper calibration of these weighting instruments that are being used in the supermarkets right now? We hardly have the staff in the Division which is responsible for weights and measures which is apparently taking logging with the Barbados National Standards Institute (BNSI) or the BNSI is taking logging with them or both of them are taking logging with some other institution. We do not even have a properly established body which is responsible for monitoring weights and measures in this country. We also have a situation where the oil companies or those companies selling petrol...

SENATOR P. C. GODDARD: On a point of order. Mr. President, I hate to rise again on a point of order but the

Honourable Senator is misleading this Honourable Chamber. There is a Weights and Measures Division that inspects and calibrates scales. They have up-to-date technology that calibrates the scales at the check out centres and in the back of the establishments of the various food selling operations throughout the length and breadth of Barbados. I have witnessed these people at work and I have seen them bring any difficulties which the particular weighting equipment may have to the attention of management and owners. One would also understand that with the advancement in technology, this equipment is quite often self-monitoring and can register when it has a fault.

Thank you, Mr. President.

SENATOR LeR. H. McCLEAN: Mr. President, I hope that when the Honourable Senator has the opportunity to speak on this matter that he will tell us how many metrologists are currently employed by Government for carrying out these functions, how many of those establishments have been visited over a period of a year and how would one explain the fact that there are still commercial entities in this country that are using scales that are clearly marked not for commercial use. I am saying that there is a body set up by law but it is incapable of working effectively because it is not properly staffed and, I dear say, not properly equipped.

There are oil companies in this country, I do not know if they are responsible for doing it, which calibrate the pumps at the gas station themselves. I am asking the Honourable Senator or anyone on the Government side to check with the relevant authority to find out when last they have calibrated a pump at a gas station because I have seen the employees of oil companies calibrating the pumps at the gas stations using a three-litre container where they pump the gas to determine if it is the correct measurement and they are the only people who know whether it is right or not. So we have got to put the necessary mechanisms in place to ensure that we do not only have the laws but that these laws can be properly enforced.

I want to refer again to the policy of the European Union which seems to be the one body that has been paying great attention to all parts of the world in relation to consumer protection. They have said that:

“European consumer policy is central to one of the Commission’s strategic objectives, that of contributing to a better quality of life for all. It is an essential element of the Commission’s strategic objective of creating new economic dynamism and modernising the European Economy”.

Sir, you can therefore see the importance that consumer laws and consumer protection carry where the European Commission and other bodies are concerned.

That is why I said that Government should not be patting itself on the back but should be saying, well okay, we are coming in line with what is happening in the rest of the world. You must be so humble to allow somebody else to give you some sort of applause and not be walking about patting yourself on the back and saying how great I am because I have done what I should have done ever since.
11.40 a.m.

The other point I want to address is the matter of consumer organisations. It is important that the consumer has a say in what kind of legislation is being put on the statute books, as well as those persons who are providing goods and services. It cannot be a one-off situation where persons are simply asked to make submissions with respect to the kind of legislation that has to be put on the statute books. There must be an ongoing mechanism which allows both the consumer and the provider of services to meet and to examine what is happening in order to ensure that the policies that we have to enforce are up-to-date. I believe that, in this regard, there is a need for a proper consumer body in Barbados.

Government has stated that the Fair Trading Commission will also engage in the production of literature to provide information to the consumers. I think we need to go further and to have Government’s input. There has been talk of having a Non-Governmental Organisation desk. I think there is need for it because we do not want a consumer organisation to be seen as an agency of the Government but as a Non-Governmental Organisation which receives some support from Government in order to make it viable. In the same way that we have paid attention to women’s affairs by setting up a Bureau for Women’s Affairs, which was then changed to a Bureau for Gender Affairs, I think it is not merely enough to have a Ministry of Consumer Affairs operating as a Government agency. We need to have a Non-Governmental Organisation which can truly function to represent the interest of consumers. We know that given the way in which things go in Barbados, we need to have some Government input in facilitating the establishment of a strong organisation in that regard.

I know people would say that already there is a consumer body but as far as I know that body only has 3 members. I have heard talk of it having 2 000 persons but based on the information from one of the 3 members, it is said to consist of only 3 active members. One of the reasons why many people are not being part of the organisation is that it is seen as a one-man show where one man is trying to promote himself, rather than the interest of the organisation.

I think the matter of food safety must also be high on the agenda when we are looking at consumer legislation. Again, I quote where it says:

“Products and services placed on the market should be safe and consumers should receive the relevant information to make appropriate choices. Consumers should also be protected from abusive practices.”

Sir, there are many things which we need to look at with respect to food safety. More recently, the one which would be more difficult to tackle relates to genetically modified foods.

I know that genetically modified foods are being imported into Barbados. Some time last year, there was a recall of corn which was being exported from the United States to Japan. It had to be recalled because it was contaminated by genetically modified corn. When this was realised the whole shipment that was being shipped to Japan was recalled to the United States. Unfortunately the one that was exported to Barbados was not recalled because it was so insignificant an amount when compared to what was being shipped to Japan. Therefore, we have no means in this country to determine what was genetically modified and so we have no way of determining what the people of this country consume.

I am not raising any debate as to whether genetically modified foods are good or bad but what I am saying is that the consumer has the right to know what is being consumed, so that he can make a decision as to whether or not he wants to consume that type of food.

We need to put those mechanisms in place. There are some very able persons who are working at the University of the West Indies, who have been doing significant work in the area of genetics. I think we have the nucleus there for the establishment of a monitoring body to ensure that foods that are coming into this country, if there are any doubts, could be properly tested. Furthermore, we can adopt some of the principles which only two months ago, were put in place by the European Commission. The European Commission have set out a set of rules pertaining to how the genetically modified foods must be dealt with, what labelling was required, so that the consumer knows exactly what they are getting so that they can make a sensible decision as to what they are doing.

Sir, this brings me to the point of a news item which seemed only to be something that was said in passing. It did not receive very much prominence and I guess one could assume why. I think that if there is any possibility, whatsoever, that the people of this country could be exposed to any danger with respect to foods, it should be made quite clear.

A minister of government in the United Kingdom has resigned over the matter of salmonella in eggs. I heard a Government officer, either yesterday or the day before in a news item where it was said that there has been a detection

of salmonella in some locally produced poultry. This is a matter that has to be dealt with very openly so that the people of this country will know if there is any danger so that the necessary steps could be taken to make sure this does not become a crisis.

What the officer addressed at that time was the fact the recent research has shown that salmonella can be transferred from poultry manure to food crops and, therefore, it has implications for organic farming. What I am saying is that if there is any question about salmonella in locally produced poultry, we cannot be merely concerned with keeping it quiet so as to prevent any negative fallouts. We need to deal with it up front and openly so that the problem could be dealt with and eradicated rather than trying to deal with it secretly.

Sir, I am surprised there has not been any debate or discussion on it. I guess someone had said this is something that had to be dealt with quietly but it cannot be dealt with quietly. It has to be dealt with in a manner that the people of this country can be sure they are not exposed to any threat of salmonella contamination.

Mr. President, I am not saying that to raise any sense of alarm but the fact of the matter is that we have to deal with issues and not hide them because it will not change the situation. Therefore, I hope this matter would be dealt with either by the Ministry of Health, the Ministry of Agriculture or the Barbados Egg and Poultry Producers Association, so that Barbadians could consume their chicken with confidence.

Sir, there is another piece of legislation on the statute books with respect to therapeutic substances, a piece of legislation which seems to be forgotten. Sir, given the fact that Barbados is now producing pharmaceutical products – however, I have heard of cases where people are told not to use the generic manufactured products but to use the foreign one – I think our local manufacturers in any sphere are as good or better than some of those manufacturers who are operating outside of this country.

The fact of the matter is that we need to be sure that the mechanisms are in place to monitor the production of these items. When I speak of the mechanisms, I not only mean the laws or legislation but the fact that we must have the relevant agencies properly manned by competent persons. They must be given the necessary resources that are required to make sure they can properly do the job that is required of them.

Mr. President, I welcome this legislation. I am happy that the consumer does not only have to rely on the doctrine of *caveat emptor* but that there is now a body of legislation to which the consumer can refer. There is now a Public Counsel who would assist consumers with matters of this nature.

11.50 a.m.

Sir, the legal counsel said on radio that even though the legislation is not in place he has been able to resolve some matters which were brought to his attention by consumers.

Even though this is commendable, it raises the question of the relevance of this body to Chamber because the legislation provides for the employment of public counsel but before this Chamber can pass the legislation persons are employed. I will not quiver over that since it is to the benefit of the people of this country but this is something that we must guard against. Very often we dismiss things as being minor but an accumulation of these minor things eventually lead to the erosion of the systems that we have built up over the years.

Sir, this is not the first time that this has happened because as soon as a piece of legislation is passed in the Lower House it is assumed to be law. I want to remind the Honourable Chamber of an instance where the Chairman of a state entity was making statements and doing things which the law would have given him the power to do once the Bill was passed in this Chamber even before it was discussed here.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, on a point of order. The Honourable Member is confusing the Chamber because the passage of legislation has nothing to do with the employment of persons in the public sector. The fact that there was going to be a Public Counsel was announced in 1998 and since then the post of Public Counsel has been established as a senior position in the Ministry of Commerce, Consumer Affairs and Business Development. There is nothing in practice, that I know of, which says you have to pass legislation before you can employ persons to set up an agency. Sir, one deals with powers of administration and the other deals with the power of implementation of law.

SENATOR LeR. H. McCLEAN: Mr. President, we must ensure that when things are done we pay due regard to all the entities and persons responsible for putting those things in place.

I support the legislation and I hope that Government will take whatever steps necessary to ensure that the supporting mechanisms are put in place. Sir, we cannot do anything in this country without some form of contention or acrimony. An old gentleman said to me that when adult suffrage was passed a late member of the plantocracy in this country assumed that black people would take over the running of Government. He said they would withdraw from Parliament and leave the blacks to fight each other like dogs but they would rule from the outside. Sir, to some extent those unfortunate remarks appear to have come true in this country because it seems as though no one can say a single word with respect to anything Government does unless that

person is criticised. Persons will vilify you, threaten you and try to deprive you of a livelihood or something of the sort.

Mr. PRESIDENT: Senator McClean, please bring us back to consumer protection.

SENATOR LeR. H. McCLEAN: Mr. President, this is all to do with consumer protection because if the consumer complains about a service provided by Government, he is subjected to the same kind of treatment to which I have just alluded.

I heard an owner of a public service vehicle making the point that they are heavily discriminated against, that the Government transport system pays one level of taxation but the private system pays a higher rate of taxation. Sir, up to this point this matter has not been dealt with.

If you are a patient at the Queen Elizabeth Hospital and you complain that there is no cutlery or bed linen someone will say that the person has no right to say that or that it does not happen in Barbados.

Sir, freedom of expression and the freedom to speak is an important element with respect to protection of any group of people in this country because, all of us are consumers at some point in time and we may have reason to complain about something. The ability to complain should not be determined by whether you are a supporter of the Government or not. In other words, one should be able to speak freely in this country. Even in this matter of speaking about the consumer legislation people are ready to 'bite out' someone's throat.

I hope that Government is not so locked into a climate of confrontation that it does not appreciate when some is supporting it.

Asides.

SENATOR LeR. H. McCLEAN: Government is into confrontation so much that even when someone agrees with the Government, it does not understand and appreciate the freedom of expression of people in this country.

Sir, I hope Government will be more tolerant to the principles that we have built up over the years. We are seen as one of the most democratic countries in the world. People look to us in many regards with respect to the democratic institutions we have here and to how we do things here. Sir, we should not undermine these principles and the good name we have by being intolerant to the freedom of expression of persons.

Government is saying that the legislation is a great thing but this really is a requirement of the Caricom Single

Market and Economy and, therefore, it is required of us. Sir, we are not the first persons to put the legislation in place because Jamaica already put it in place and Trinidad is in the process of doing it. There are other countries that are looking at the same kind of legislation.

12.00 noon

It is something that is good and necessary. Let us not continue this feeling that we have done something so great that nobody should even say anything about it and to congratulate Government on doing what they should do. I am sure that all Barbadians are grateful that there is now legislation in place that will protect them from some of the practices which have been going on in this country over the years.

I beg Government to at least ensure that the necessary mechanisms are in place and those institutions which we have to make this legislation worthwhile, those institutions are in place and functioning, and will have the ability to carry out what is required of them in order to make sure that the consumers in this country get a better deal.

I thank you, Sir.

SENATOR P. C. GODDARD: Mr. President, I rise to support this legislation for the protection and safety of consumers. This legislation not only protects Barbadian consumers but it protects all consumers consuming Barbadian products and services. In this way it strengthens Barbados' position as an international business centre. This legislation also takes into view that Barbados will become a location for electronic commerce and the provision of services through electronic business means.

Sir, this legislation not only enhances the consumer's position of Barbadian nationals, it also protects those individuals consuming services here in the hospitality industry and it strengthens Barbados' position as an ethical, sound transparent business centre. This is just one of the suites of legislation that is being brought before this Parliament. We must see consumer legislation in its broader context.

Sir, Senator McClean raised several issues, though he did recognise that this legislation was welcomed and that he supports it. On the one hand he raised his concerns of our lack of capacity to administer this legislation. On the other hand, he complained about the rapidity and speed with which we were establishing a unit to do so. I am not sure where he stands on this matter.

It is, very clear that the Government has moved expeditiously to retool the Price Control Division...

SENATOR LeR. H. McCLEAN: On a point of order. I hate to interrupt the Honourable Senator. He is misrepresenting what I said. I am not criticising the speed of anything. All I am saying is that which is done must be done within the law and regulation with which we should do them. If you want to do something with speed, make sure that it is done within the law.

SENATOR P. C. GODDARD: Sir, I am very happy to get this clarification from Senator McClean. Apparently, the Public Counsel was hired under the Utilities Regulation Act, 2000, which was passed in this Honourable Senate sometime ago.

Asides.

SENATOR P. C. GODDARD: Sir, we have to understand we are moving swiftly and coherently to put in place the mechanisms to enforce and monitor this legislation.

Sir, some issues were raised over national standards. I would like to point out that national standards on products are basically set at a minimum. For example, one can expect that a Ford or Volkswagon would have certain minimum requirements for mechanical integrity and safety. One would also understand that a Mercedes or Rolls Royce would have higher standards. This does not mean that the standards set by a country would automatically go to the standard of a Rolls Royce. Clearly the average person in Barbados cannot afford a Rolls Royce or a Mercedes but would be content to have a Mazda, Nissan or a Suzuki. Sir, if you apply that concept to food standards, you will understand that we do have to have various levels of quality within a particular consumer group.

For example, there is strawberry jam available at \$3 a bottle and there is also strawberry jam available at \$12 a bottle. You have to understand that it is up to the consumer to decide what he or she wants.

Sir, we can put in place all the legislation that is necessary but still it comes down to the consumer to determine what it is that they buy. No one can complain if they pick up a product that is clearly time-dated with only one day to go, take it home and it spoils within four or five days. I do not know if this is the sort of problem that the Honourable Senator has encountered. Certainly, I make sure that anything that I purchase, that I check the expiry date on that product and I also refrigerate any product that I buy adequately.

12.10 p.m.

Now, this comes to the point of consumers' education and the Government has made provision to improve the quality of consumer information and education in the country. Sir, for a very long time, the Ministry of Education had course content in all of the schools – which are

accessible to both boys and girls – that have taught them about the nutritional value of various foods.

They taught them about the standards and quality of food and about value for money. Quite honestly, this type of food content was not available to me when I was in school. I would dare say, that the school system has moved quite considerably to improve the quality of subject matter relating to consumers.

I must also say that the weights and measures are still being checked and that there is provision for ongoing checking of these mechanisms. Now, this may not be obvious to the general public but for the operators who are in the organisation, day in and day out, they are very conscious about the routine and regular inspection of their scales and operating systems which deal with measurements and weights.

Quite frankly, Mr. President, I remember when I was a young boy and started working during my Summer holidays at Johnson and Redman on Roebuck Street, inspectors used to come around to ensure that the scales used to measure rice and peas and so on, were accurate. Sir, this is an ongoing situation and I underwent that same sort of inspection much later on in life, when I was engaged in supermarket activities in the 1970s and 1980s.

Now, the Honourable Senator complained about the fact that he could not speak freely. Quite frankly, he is entirely welcome to speak as freely as he wants, if not wisely.

Asides.

SENATOR P. C. GODDARD: He brought up several issues which tend to put concern amongst the general public, about the products being produced and used in Barbados. I must say that under this legislation, the consumers of this country will have a considerably strengthened hand to ensure that the products they purchase and the services they get in relation to those products, are strengthened.

Mr. President, one must also recognise that there are changing trading patterns which are taking place in Barbados. The consumers should be aware, when they purchase goods on line, that the consumers' legislation of the domicile from which they are purchasing those products, will be the operative legislation.

Now, we have many people supplying automobiles in Barbados and we also have many people purchasing automobiles on line. In addition, we have individuals directly purchasing automobiles which are not necessarily supported by the local distributors. We have to understand that there are certain things called the economies of scale and we cannot expect a complete stocking of everything

conceivable for a particular automobile, particularly if it is a one-off or two-off type vehicle being introduced into the country.

However, I think that this legislation goes a long way to ensuring that there are certain quality standards and that reasonable access to spare parts and for observing the warranties, will be enforced under this legislation.

Mr. President, like the previous legislation that came to this Senate, good businesses will welcome good consumer legislation. This will raise the bar of consumerism in Barbados for all companies and for all trading activities in Barbados. This should be well understood by the business community at large.

One of the issues that I am particularly interested in, Mr. President, is Part VI of this legislation which relates to consumer trading. As a society, we do not seem to be concerned about the degree of safety that is acceptable. This part requires the suppliers to supply goods which are safe and consistent with the standards set by the Minister and the advice of the Barbados National Standards Institution which is the National Standards Bureau. It shall be an offence to fail to comply with the safety requirements set out under section 38 in the Bill, giving the range of goods and the range of brands of goods which are coming onto the Barbados market, as a result of trade liberalisation. Sir, it is important that the provisions of this part of the Bill are put on the statute books.

Mr. President, there are many products which are in general use that have natural hazards to them and we should be aware of those hazards before we use those products. I will talk about a simple thing like a garden weed-wacker where people need to be cautious, to wear proper goggles and to ensure that when they use that product that they are no spectators standing near by or people casually passing through an area of hazard, as a result of an object being hit by one of those rapidly spinning parts and hurling the product into somebody's eye or seriously damaging them.

Another important part of this legislation is the recall of goods. Part VII provides for the recall of goods which are found to be faulty and capable of endangering the lives of consumers. Guidelines in this Bill are provided for the handling of the recall process.

12.20 p.m.

The Minister is required to publish a notice in the *Official Gazette* with respect to the recall of goods. Where life is threatened, the recall can take place with immediate effect. The Minister is also authorised to seek out and collect any information needed to facilitate the recall of goods. There are provisions giving the manufacturer or the supplier of goods which are being recalled, the right to be heard by the Minister. The offences have been created under the provisions of this part of the Bill.

A few years ago, the Ministry had to deal with the supply of faulty ovens by a well-known manufacturer. The particular brand was not supplied from the country in which the manufacturer is known to be headquartered. Fortunately, the local distributor cooperated fully with the Ministry and it was possible to contact all of the persons who had purchased the faulty ovens to have the defect corrected. It was also fortunate that none of the consumers who purchased the faulty ovens suffered injury as a consequence of the malfunctioning of the product. There was no legal basis at that time to enforce a recall and a fix of the operation. Therefore, we cannot leave it to chance that everybody will behave the same way so this legislation now puts an onus on all business activities to be guided by this new consumer legislation. This highlights my statement earlier that sound businesses will follow the procedures as set out in this legislation.

I would like to congratulate the Minister of Commerce for the work that he and his Ministry have done in the development of this legislation. This legislation entails a lot of work. It encompasses input from many people across our society. There has been a committee that has been at work in this regard. Clearly, I think that this Consumer Protection Bill, 2002 moves Barbados into the modern age as it relates to consumer protection.

The legislation is now here before us and I support it strongly. However, this does not mean that consumers should abdicate their own responsibility for ensuring that the products that they buy meet their demands and specifications. So with good consumer attitude and good legislation behind them I think that the consumer profile in this country would be raised to an all-time high standard.

Thank you, Mr. President.

SENATOR K. D. SYMMONDS: Mr. President, I want to start on the premise that this piece of legislation can fairly be said to be driven by a philosophical commitment on the part of the Government of Barbados and that trade of any nature and of any magnitude ultimately has at its very basis of measurement the benefit that it brings to the consumer.

Therefore, whether we are speaking about global trade or whether we bring it down to the regional level in CARICOM or as we should soon have to do to include the Andean Pact, Mercusor and groupings of that nature or whether we look at domestic trade as this piece of legislation is speaking to, the final analysis is that there are going to be unavoidable levels of measurements which are going to have to be seen in the context of what is the tangible benefit that comes to the consumer.

I start at that level, Sir, because once you can grasp hold of the philosophical handrail you are pretty much able

to walk a pathway to understanding that this piece of legislation is a natural handmaiden to the Fair Competition Bill which was passed in this Chamber last week. In the final analysis, one has to be appreciative of that point because it marks a significant point of departure between the way in which the Government of today sees the long term development of Barbados and the well-being of the Barbadian consumer and the way in which it is perceived by the Opposition.

One only had to hear some of the speeches coming out of the Abbot and Costello performance which took place in Independence Square last Sunday under the patronage of Senator Mascoll to recognise that there is a marked disparity. I want in all fairness to say that Senator Mascoll must be excused from that performance because he was worth listening to. In fact, I believe it is fair to say that he has caught the eye of the Barbadian public who are now watching him very closely because never before have we seen a person who appears to be a whole man so passionately fixated by the pursuit of another man.

Asides.

Mr. PRESIDENT: Senator Symmonds, you will tell us now about consumer protection.

SENATOR K. D. SYMMONDS: I will come, Sir, to the pith and the substance of the legislation. Sir, this legislation speaks to clothing the consumer with rights in a way that he has never been clothed before under any of the other pieces of legislation like the Weights and Measures Act, which has been spoken to earlier by Senator McClean, the Sale of Goods Act and even at common law. This legislation goes beyond the scope of those previous Acts. This legislation speaks to attributing rights in terms of the contract for sales or services, trading practices arising out of such contracts and the quality of goods and services offered to consumers in Barbados. That, Sir, is really where the politics of the legislation is located because one has to find a tangible and workable method of expressing, I think this is what these documents do, what is really otherwise just an empty rhetorical assertion about the well-being of the man in the street, the well-being of the poor black man, the well-being of the small man and any other forms of nomenclature that is applied politically.

12.30 p.m.

Mr. President, the fact of the matter is that added to that naked assertion, the claim for looking after the well-being of any person regardless of whatever class they are, is naked and empty.

Sir, if we look at the second part of the Consumer Protection Act, it speaks clearly to unfair contract terms which arise, generally speaking, in standard form contracts.

Sometimes it is useful to use a series of practical examples to help us to crystalise to what the legislation is speaking.

Very often, in average standard form contracts such as hire purchase agreements, one finds that it satisfies the Sale of Goods Act, because the item actually works, and works for a couple of months. What perhaps might arise, however, is that something might go wrong with the item after a period of five or six months and that the old doctrine of *caveat emptor* would come to apply. Therefore, there would be no benefit to the consumer in a situation where he has spent his hard-earned money, even though under a Contract of Sale but the product bought would essentially be of no use to him.

What the legislation is now saying is that it is not just a matter of the small man having a right but that life and meaning are given to that right by introducing provisions into the legislation for him to be benefitting by way of compensation or damages so that the bad or defective product could in turn lead the consumer to a position where he is put on an equal footing as he was at the point of the investment.

Mr. President, we are speaking about a situation where trade, in the final analysis, has to be seen and measured in the context of the benefits that it brings to the consumer. Sir, it is also a very common practice in Barbados where an item that has been bought on sale is therefore not returnable. For example, there is no refund to be given, however, when one buys a living room suite, in the space of two weeks, it becomes defective. What we are saying is that no longer should those bad days be existing in the country but rather that the spirit, intent and letter of the legislation, serve to rectify that.

It is also necessary to speak to the question of false representation. Sir, an understanding of this Act at Section 13 and onwards, is beating the point of false representation. I want to set a certain parameter in speaking to this issue.

Representation by way of a marketing strategy is certainly an acceptable tool in the marketplace. For example, if there was a cereal which was high in its wheat grain context, it is a legitimate right of the manufacturer of that cereal to say what is the grain content of the cereal. He could even go further and seek to draw some comparison between the benefit of that cereal and the use of wheat and grain in the fight to avoid cancer, for example.

Where the problem arises, however, is where representation by way of the advertising of a product or service is made so as to distort the market and to lead the consumer, often at his detriment to invest in a product or service in which otherwise, he would not have invested and now finds himself being placed in a disadvantaged or detrimental position.

Sir, we can take any number of examples where this happens in Barbados. That is why there is this crying need for Government to intervene by way of a legislative tool in order to rectify that disadvantage to the consumer. Again, as we are always saying the philosophical fuel that is driving this legislation must be the long-term benefit to the consumer. Therefore, I have to part company briefly with Senator McClean because it is not just a question of Government doing that which it has to do but rather it must be seen in the context of an analysis of the weaknesses in the marketplace, a recognition of the disadvantages which exist to the consumer, bearing in mind that the consumer is the same poor black man that others would just nakedly and emptily speak about. Therefore, having identified the weaknesses, then we identify the way to rectify the situation to place those persons on a better footing.

If we use, for argument's sake, bottle water, there is a large market in this country. In fact, one can find bottled water in any supermarket. However, there are realities which we have to take into consideration, that water which is packaged or bottled, though labelled and purported to be mineral water, might not necessarily always come from a source which is a spring; might not necessarily have the requisite degree of mineral contents as set by the World Trade Organisation Codex Classification; might not actually even come from a source other than a public main, in which case it cannot properly be called mineral or spring water. That is but one example of the way in which consumers, for better or for worse are hood-winked and misled. Consumers pay their money, expecting to receive a product of a high standard and definition but because we are still labouring in an antediluvian way of doing things, we believe we do not have to comply with that set standard.

These points can be collected under one umbrella and that is, there is a clear need for us to see and recognise that Section 61 of this Act is perhaps the most important empowering section. It is under that Section that regulations can be made by the Commission, with the support of the Minister for giving effect and meaning to those requirements and prohibitions as contained in the Act.

It is pointless having requirements and not having the regulations to enforce them. It is equally pointless, in my view, in having prohibitions and the regulations are not being there. Sir, on that point, I support Senator McClean. I think he is correct in saying that though he supports the legislation, it was difficult for him to pluck congratulatory words from within his breast. It had to be couched in an antagonistic way. I believe it is unfortunate and I am sure he would find, in due course, a panacea for it.

Sir, the question of the regulations is very important because they impact on the legislation in such a way as to give effect to it. If we speak to the question of consumer

safety, we will find that the Consumer Protection Act makes extensive provision for the safety of the consumer. We have seen several products which have an expiry date but the reality is that in today's marketplace, there is a market for anything, including goods which are about to be of no use. What people often have done is to take them in large bulk and sell them more cheaply because there are some persons who are not so concerned about dotting the "i's", crossing the "t's" and double-checking things when getting the product cheaply. Sometimes we have to protect the man from himself because in an effort to save a penny he might end up having to spend a pound.

Effectively, that is what the legislation is seeking to do. It goes further by empowering the Minister that under circumstances where the need arises, products which have proven to be defective could be recalled. It was not so long ago that we would have had a situation across the world where a large tyre-producing company had a number of very bad tyres which caused many accidents in the United States of America. Those tyres were also on vehicles in Barbados. 12.40 p.m.

Perhaps we do not drive as fast as they do. This is a situation where there is a dire need for the protection of the public interest and well-being and, by way of a recall, the Act empowers the Commission to intervene and notify about the specific defect in the goods.

Sir, in protecting the public safety one has to remember those giants called insurance companies who lurk in the background. Very often a person may have a warehouse full of goods which are recalled but the insurance companies do not want to honour payment. The legislation speaks to this eventuality to ensure that a person does not have his insurance policy and his right to recover compromised because he opted, in the interest of compliance with the legislation, to share vital information that ultimately led to the goods being taken off his shelves. Therefore, insurance contracts must be honoured.

Sir, this legislation, once passed, is going to have the effect of changing fundamentally the way in which we will do business in future in Barbados but there is no single piece of legislation which will ever remove from the back of the consumer the burden to discharge due care, prudence and caution.

It is only too easy to hold up the legislation and say it is the cure-all for everything but I do not believe it can be. I honestly believe that the consumer has to bear in mind the reputation of the place he is doing business with and the service provider whom he is going to contract to perform a service. He has to look at the person's track record and his ability to provide that which is to be provided. Having done that, he has been provided now with the social safety net

which is an imperative development and liberating tool in the economy of Barbados.

Sir, I want to speak to the question of consumer awareness. I do not think that people are fair to the consumer protection organisation in Barbados when they speak in disparaging terms. It has been a toothless organisation for a long time because it does not have the capital that gives it the strength which other organisations have in other parts of the world nor, sadly speaking, it has not been embraced willingly by the private sector in this sector.

The consumer organisation in Barbados is about the welfare of Barbadians because, without exception, we are all consumers and rather than getting into whimsical debates about mystical companies which do not exist, I think a more substantial contribution to public life might be the question of education. Sir, every political party has a youth arm, a women's league and several divisions and consumer education can be one of the programmes adopted by political parties in this country. It demonstrates a commitment on the part of the practising politician to invest time and energy in the educational process of the consumer.

Sir, Senator McClean stumbled across the point that the consumer at the end of the day happens to be the beneficiary of this legislation and we have to give every opportunity to the consumer to benefit. In so doing, all machinery at our social disposal should be placed to the benefit of that educational process.

With those few words, I support the legislation.

SENATOR D. L. HAYNES: Mr. President, I rise to support this Consumer Protection Bill, 2000. Before I make this small contribution I would like to let Honourable Members know that the West Indies have won a one-day series in India, our batting seems to be coming back and we only need the bowlers to produce the goods in the same way that the batsmen have been doing.

It is ironic that this Bill should come at this time when we are preparing for the Xmas season and the New Year and I would like to offer my congratulation to the Minister and all those persons involved in bringing this very important piece of legislation.

There have been numerous complaints from consumers about the poor quality of goods offered for sale or inadequate service being provided by service providers including professionals and this Bill seeks to take steps to ensure that the interests of consumers are being adequately looked at.

Mr. President, I would like to continue where Senator Symmonds ended about the provision of education for

consumers concerning their rights. Sir, we must educate our people so that they can shop smart. A few weeks ago there was much talk about hire purchase in Barbados and I want to say that many of our companies depend on hire purchase for their sustenance. Also, a lot of poor people have been assisted by hire purchase as well and businesses like the Barbados Lumber Company have been helping poor people to own their homes through charge account and hire purchase.

There is a situation at Crusher Site Road where a lady, Mrs. Turney, whose house was burnt down and she will certainly need hire purchase in order to replace that house. Many gentlemen from Holder's Hill have benefitted through hire purchase because they were able to obtain sporting goods so it is a fact that hire purchase has done a lot for poor people in Barbados.

Sir, I am worried because when people find themselves in financial difficulties the company can put you in court, still come back for the item and claim the entire amount even though a portion of the monies would have been paid already for that item. Sir, even though you would have gone to court, the company will still allow you to have hire purchase again with them.
12.50 p.m.

Mr. President, this Bill will ensure that if companies sell you any inferior items and they go bad, you can get a refund or the items replaced.

Sir, I urge shoppers to keep their receipts because when you take back items to stores, the people in the stores pretend that they do not know you.

Mr. President, amidst all the talk of consumerism, there must be a continuous education campaign mooted by Government, such as the GIS, to inform consumers of their rights and responsibilities. I am sure that a vibrant consumer body will merge as a result of this piece of legislation which is forward-looking and bring Barbados in line with other countries in and out of the region.

I would also urge consumers to arm themselves with the relevant information since they will be first in line in policing this Act. This Act must not be seen, and I must stress that this Act must not be seen as an attack on suppliers or business persons but is seeking to give consumers value for money. As Senator Symmonds said, we all are consumers and this Act will be helping everybody.

Mr. President, the consumers must not abuse this Act, especially if they are looking for ways out of paying certain bills in bringing frivolous and unnecessary complaints to the Fair Trading Commission, which was alluded to by Senator Goddard last week in the Senate.

Mr. President, even though this Act has provisions for the consumers, I would like to plead with consumers to follow the age old rule when transactions are made to read the fine print or ask questions. As Senator Symmonds, again, alluded to, *caveat emptor*, let the buyer beware.

Mr. President, in closing, I was at a church service on Sunday where Senator Rock conducted the sermon for the fishermen of Paynes Bay. I listened to the sermon with great interest. The learned Senator said that you should give thanks. He asked the congregation how many of them looked at their wives and said 'thank you for the relationship'?

Asides.

SENATOR D. L. HAYNES: Sir, coming at this time, I would like to say that from that sermon, I would like to give thanks to the Barbados Government for showing interest in everybody, even the poor consumers.

I was also impressed with Senator Rock when he said that there is a lot that has been done. We agree that more will be done. I am saying that this is a period of giving thanks. Senator Rock also mentioned that we wait until there is a birthday or anniversary but this is the Christmas period and I want to say that this is a period in which we should give thanks to the Barbados Labour Party. I am happy to be part of a party who thinks about the people.

I thank you.

Asides.

SENATOR THE HON. Dame PATRICIA SYMMONDS: Mr. President, this Bill is timely and innovative. It comes at a time when Barbadians are traveling more, they have gained more exposure to practices in other parts of the world, they are more media-aware and more conscious of their rights.

In the past Barbadians have always have a reputation, real or imagined, for placidity. We tend not to be belligerent and consequently we are embarrassed very often about questioning errors or defects, which we perceive, hence we are reluctant, do not want to make a 'fuss' or, in the opinion of many, especially people of my generation, do not want to make a 'scene'. They do not want to carry back the goods even when there is something wrong with them.

There are times, and other Senators have spoken, where people are overcharged. They complain to one another or to a friend but they certainly are not going to go back to the supplier and make a 'fuss'. Attitudes will have to change and there has to be the kind of education which will sensitise Barbadians from a very early age.

Sir, no one will be surprised when I speak particularly about educating people. From the age of five and a child

goes to the village shop and buys sweets for instance, he or she must be aware of his rights. I remember years ago when I was a child, there was something for 'nothing' and it cost one cent. When the price was raised to a penny, a friend of mine complained that the 'nothing' did not taste as good now that the price had been raised, of course, that was psychological.

Asides.

SENATOR Dame PATRICIA SYMMONDS: Sir, there was that instinct that she had a right to complain. Sir, from very early children must learn to be aware of their rights and if necessary stand up for them, to be assertive without being aggressive or unpleasant.
1.00 p.m.

Senator Goddard spoke about consumer education in schools and he is right up to a point that in food and nutrition classes or home economics, children are taught, nowadays, to be more aware of consumer rights. In the upper levels of the school, food and nutrition is an optional subject and, therefore, we cannot leave it only to the schools. Sir, many things have been left to teachers and, therefore, much more public education is necessary. I am glad to hear and see that the days of no refunds and no exchanges will soon be gone.

Mr. President, in some of the larger developed countries, you see people taking back gifts the day after Christmas for exchanges. Senator Brome talked about this week of Thanksgiving. I refer now to the season of goodwill and in the United States of America which, as everybody knows, is a very consumer driven country, taking back gifts the day after Christmas is widely practised. The more upscaled stores will even give you back the money.

Interestingly too, in the United States of America, some of the larger stores are even making special provisions, such as by giving a slip with the bar coding, so that you can put it in your gift to make it easier to accommodate returns and exchanges. One would hope that the stores here will soon adopt this practice, even if they cannot adopt it for this Christmas and, maybe, some of the more energetic ones might be able to adopt this system.

I am also pleased to see the legislation which ensures consumer safety. I mentioned before in this Honourable Chamber that there have been foods, which have a label in a foreign language and no corresponding English instructions and I hope that will no longer be practised or allowed.

With those few words, Mr. President, I want to say that I fully support the Bill. I am very happy that this legislation has been brought at this time and the Minister of Consumer Affairs is to be greatly congratulated, along with the Ministry

and the Government of Barbados for, as usual, having the foresight to bring this important legislation which is for the good of Barbadians.

I thank you, Mr. President.

HIS HONOUR SENATOR C. L. BOLDEN: Mr. President, I rise to support the legislation. I would not be very long because I do not want to rehash statements that were made previously. What I do want to say is that I view this legislation as an extension of the Sale of Goods Act which we have had in Barbados from time immemorial.

I do regret that in my view, there are certain other factors which should or could have been incorporated into this legislation. One of the major things that bothers me is the lack of any specific clause dealing with the truth in advertising. I think it is about time in this society that we look at the truth in advertising as a necessary ingredient to our development.

Sir, why I raise the question in advertising is that one can see all over the place or read in places of closing down sales. It seems to me that closing down sales go on and on and never stop, and that is a certain method of inducing the unsuspected consumer to purchase from that particular establishment which, obviously, would be part of unfair trading. I have perused the Act and I can see nothing specific to deal with advertising.

Another point is that we should have looked at what lawyers call, invitation to treat. In the English system, you can put any object in a showcase with a price attached to it and then when you get inside, you can find similar objects of different prices. The law has held in England that it is an invitation to treat, that is, to get you to come into the store to buy other goods in the store.

If we are going to look at consumer legislation, we have to bear in mind that many of our consumers do not understand what it is all about and although we had several of the provisions which are in this Act recited in the Sale of Goods Act, I think Caribbean people as a whole, never liked to contest matters against the suppliers. Sir, because of the smallness of our society, you are branded an upstart, a trouble maker or problematic, if you seek to exercise your rights.

Mr. President, I also want to look at section 24 of the Act which seems not to have any definition for what is called, making an entry in a directory. I have looked at this over and over again, from section 24 down to section 26 and I wonder if this is looking at bailiffs and those kinds of persons who turn up at your door and demand money, *et cetera*, but there is no definition of what is a directory.

It speaks of:

“24. (2) A person shall not, in trade or commerce as a supplier, assert a right to payment from another person of a charge for the making in a directory of an entry relating to that other person...”

Sir, I cannot connect it anywhere. I might not be in tune, but section 24. (8) seeks to make some clarification.

“24. (8) In this section “making”, in relation to an entry in a directory, means including or arranging for the inclusion of the entry.”

Sir, it does not explain what this directory is about. I would hope that at some time, we have an entry or amendment to explain what this section really deals with because I cannot see what it deals with at this minute.

Mr. President, that is my contribution. There are many other issues which other Honourable Senators have mentioned. I have looked at certain other aspects of the Act, but I would not detain the Chamber from going to lunch but I do hope that the Minister in his reply can tell us about the directory.

Mr. President, I thank you.

SUSPENSION OF SITTING

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that this Sitting be now suspended until 2.14 p.m.

The question that this Sitting be now suspended until 2.14 p.m. was put to the Senate and agreed to and Mr. PRESIDENT suspended the Sitting accordingly.
1.12 p.m.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

SENATOR C. K. LAURIE: I want to address the question of food safety because I spent two days sitting in a meeting put on by the Inter-American Institute for Cooperation on Agriculture (IICA) on national agricultural health and food safety.

Mr. President, as you know the Government of Barbados has agreed to the creation of a national agricultural health and food safety authority which will take over the control of food safety from the Ministry of Health and the Ministry of Agriculture which will now come under one authority.

This Act has me a little concerned. If a farmer produces a sheep or a pig and it goes to an abattoir to be slaughtered, then it goes to a butcher to be cut up and then it goes to a supermarket where it is sold and it is proven to contain some bacteria such as salmonella, as was mentioned by Senator McClean, where does the blame lie when somebody buys it because you will not know at which stage it got contaminated which is going to be somewhat very difficult to prove. So I am concerned as to whom exactly is to take the blame and the litigation that will fall from this.

There are a number of different types of salmonella that are found in Barbados. Senator McClean talks about it as if it is something new but salmonella has been around here for many years. If you cook things properly, it is not a problem. It is not one of those things that produces a toxin. It is an active bacterium that is killed by cooking. We were told yesterday about raw eggs. When you see these very nice looking meringue things that are put on top of desserts, you should stay far back from them because they are normally raw and they are likely to be severe contaminants. There was such a case in Trinidad and Tobago at a certain hotel where they had a graduation ceremony and they served this dessert afterwards and about 60 people were hospitalised after eating it. Fortunately, nobody died but people were sick for quite a while. Yesterday I heard a lot about the problems of Listeriosis and of a whole series of other things that one can get from food. However, it appears that the Ministry is concerned and is proposing to do something about it. I had the privilege of going to Belize a few months ago. They have established an institution called the Belize Agricultural Health Authority which has been doing an absolutely great job where they have been able to export their foods to Europe and the United States of America which is certified by them as being free of these problems.

There are other aspects of contamination like antibiotics. Right now we have laboratory facilities to measure the level of antibiotics but there are other things like hormones and genetically modified foods. The present laboratory capabilities are not there so this looks like it would have to be done on a regional basis because we cannot afford to set up a laboratory in Barbados just to do things for Barbados. I think there is a proposal for an institution to be called the Caribbean Agricultural Health and Safety Agency (CAHSA) which is supposed to bring together all these National Agricultural Health and Food Safety Agencies (NAHFSA) under one operating body. So the future for food safety looks very good.

I thank you.

SENATOR THE HON. G. S. H. MURRAY: Sir, I have great pleasure in joining the debate on what I consider to be one of the most important measures to come before this Chamber in recent times.

Before I really get into the meat of the matter so to speak, I want to deal with a number of assertions made by Senator McClean. I am sorry he is not in his seat but I am sure he is listening and he will have a fair chance to respond at an appropriate time.

Senator McClean indulged in what I consider to be a classic case of damming with fake praise in that while he was supportive of the legislation, he was very weak in his praise and he went through various means to diminish that praise and the importance of the legislation. He made some sweeping charges like Government only doing what is necessary, the legislation is extremely late and thank God for small mercies.

Sir, I went through the Manifesto of the Democratic Labour Party for 1999 and I did not see the words consumerism or consumer protection mentioned anywhere in that 31-page Manifesto. On the other hand, the Barbados Labour Party on page 44 of its 1994 Manifesto talks about its plan where consumer legislation is concerned and then again in its 1999 Manifesto at page 42 where it made reference to the whole question of consumer protection. The Democratic Labour Party has been in Government for 23 years but never did anything about it. If one were to follow whatever logic there is in Senator McClean's comments they would see that his whole approach is like saying that when the Democratic Labour Party made the historic move to make Barbados independent or that when they extended free secondary education which was started by the Barbados Labour Party, they did what was necessary and there is no big thing about it. So you have to judge that on its merit and on its values to the society.

Senator McClean also charged that persons cannot speak or complain freely but it is interesting to note that while he was saying that, he was speaking and complaining freely and doing so with impunity. What I feel he was really complaining about is that he did not get a pick at the public meeting on Sunday night where he could complain. If he really complained in that I think his complaint was to his party that he was not chosen to be among the select few to address that mammoth crowd of 250 in Independence Square.

Senator McClean made a charge against metrologists, those persons who calibrate scales. Sir, a check was made and it is found that there are three metrologists working in the Ministry who carry out such checks. As recently as last week they conducted a number of unannounced checks at gas stations and one gas station operator was reported to have objected to not being told ahead of time that they were coming to conduct the checks. I am making that point to show that the system is working and policing itself and that the consumers of Barbados are not being left to the mercy of the providers of these goods and services.

Sir, Senator McClean also questioned whether there was a proper agency to carry out these checks regarding weights and measures. That unit is being actively reconfigured because the ball game so to speak has changed and more and different things are being required of it than in the past. So the Ministry is in the process of reviewing the Control of Standards Act, the Weights and Measures Act and the Miscellaneous Controls Act. The Division is to be restructured to move it from its current focus on price controls and the issuing of import licences to a broader focus on commerce as well as consumer affairs. So, a new role is being carved out for that unit to operate in the new regime and the new environment that is being put in place, the details of which are contained in this legislation.

Sir, Senator McClean tried to make light work of the very important activities being done by the current consumer body, the Barbados Consumer Research Organisation Incorporated which is headed by Mr. Malcolm Taitt. While it may not be a perfect institution, at least it is trying. Mr. Malcolm Taitt is the lone voice crying in the wilderness for consumer protection for a long time and rather than Senator McClean deriding and decrying the attempts of a well-meaning person who obviously needs assistance, by saying that there are only two or three members, he should have joined the organisation and make it four and make a contribution to it.
2.25 p.m.

I think we are now moving in the direction where that assistance could come from the consuming public and not through the private sector.

The Barbados Consumer Research Organisation Incorporated, the patron of that organisation is none other than the illustrious member Sir Frederick G. Smith, Q.C. Therefore, I do not understand why the Honourable Senator should decry the whole process of consumer legislation. I think where consumers are concerned the Honourable Senator should not be complaining about Malcolm Taitt but about another Taitt who, when he had the chance, had affected consumers very adversely by the harsh and frequent imposition of price control to the point where some 500 small shops in Barbados went out of business.

Sir, as to the measures before us, there are occasions when clichés, no matter how tired, overused or seemingly useless they might be, are still the best means of capturing a particular event or occasion. Clichés such as: the ushering of a new era; a watershed moment; a red letter day. These are some of the clichés that can be said about the Consumer Protection Bill.

When all is said and done, objective observers would have to conclude that in the commercial, social life and

history of Barbados, the Consumer Protection Bill, in essence, equates with the enacting of such legislation, ushering in adult suffrage in 1951, giving the right to vote. These are rights of the same calibre that were given through this legislation, the Consumer Protection Bill. I have no doubt it will make a great deal to the quality of life to the country.

As has been said, we are all consumers. Therefore, this legislation will empower Barbadian consumers in a way that has never before been done. This legislation gives us rights where either none existed before or if they had, were so weak, fragile and tenuous that they were ineffective and were badly in need of being strengthened and updated. This is what this legislation seeks to do with the number of measures that governed consumerism before.

Mr. President, this legislation, now in a much more comprehensive and meaningful manner, brings to us what the Malcolm Taitts and his predecessors of this world have dreamt of before but has now seen the light of day. The reality is that we are now entering a new regime of activities from which consumers could only benefit.

As has been said and I am quite supportive of that, is that along with these rights would also have to come commensurate responsibility on the part of the consumer, the responsibility of being well informed about transactions, about the goods being scrutinised to make sure that people are in a position to help protect themselves.

Mr. President, what this means is that this now brings Barbadian consumers in line with the rights and privileges which, for a long time, we have seen, heard and read about as being obtained in other more developed societies. There is no longer a privileged set in the developed world but these are things which have now become a way of life for us too.

I am, therefore, convinced that this legislation represents the continuation of the process of removing a time lag that has existed between what was happening in the economy, the political sphere and socially. For consumers, the area of consumerism is now catching up with other areas of the society that have been more upgraded in previous times while this had lagged somewhat behind.

Sir, there is no doubt that we could not have come this far without giving due credit to the Honourable Minister Toppin, who took what many people thought was a meaningless activity and has, by hard work over a period of time, given it meaning, substance and form to which we must all give credit and from which we all would benefit.

Sir, this is a case of "No Stopping Toppin". He has not indulged in any wild goose chase. This is the work of substance and I say that I now understand the meaning of that slogan "No Stopping Toppin", because of the hard work

which he has done, for which future generations would come to credit him. If this was in the United States, Congress would have called it the Toppin Consumers Protection Bill, or the Toppin Fair Trading Bill.

I think that as an individual, he has championed the call and has given meaning to an area which has, for a long time been neglected and which time has come at the right possible time.

Sir, we also have to praise the pioneers of the consumer movement. I remember the late Rabbi Curtis Hinds who soldiered on, very reminiscent of Malcolm Taitt, with scarcely any support. The work he was doing then was important work and people never came forward to give him any support. At that time he had to depend on a newspaper column to agitate on behalf of the consumers. He has laid a noble foundation and people like him should be remembered.

I believe there was another like him, Wendell McClean, who specialised in being a major advocate for the consumers of Barbados. I believe that these persons should be remembered in a tangible manner. We should not only speak of them on these occasions but I would like to submit that in the office of the Fair Trading Commission, there could be a room named after them so that we could perpetuate the work of these stalwarts of this very important movement.

I also think that there are many reasons why it has taken so long for persons to want to make a contribution to a movement which affects them all in a way that only perhaps the universality of religion, education or politics could affect them. It would be interesting to find out why they have been so slow in responding.

Sir, maybe future students at the Barbados Community College or the University of the West Indies could spend some time in researching and in examining this area in a well-researched and well-written objective manner to write the history of the consumer movement in Barbados.

These are important areas which we have to document for posterity. There are too many areas of our heritage which are being lost because persons who have been involved in the various struggles and causes have not been taking the time to research or to document them. I think that with the multiplicity of activities in the social studies areas at the Community College or the University of the West Indies, this could be a very useful area. This legislation will not go away but will only get bigger and stronger.

2.35 p.m.

Sir, perhaps it is a question of nothing happening before its time and I am proud to be part of a Government that has worked hard to make this a reality.

This legislation cannot be said to be part of a knee-jerk reaction to anything in Barbados. If one goes back to the Manifestoes of 1994 and 1999, one will see that there is a clear path being charted by the Government over a period of time and a systematic, comprehensive manner of moving towards the particular objective of strengthening the cause of consumers and giving them certain rights they did not have before. This cannot be seen as an election gimmick but is part of a well-structured, cohesive and coordinated plan by Government to give further meaning to the whole question of consumerism in Barbados.

Therefore, I am supportive of this measure and I want to say that we have to pay attention to whatever we obtain as consumers particularly in this hi-tech environment where a lot of information is besieging us every day from every angle and we do not take the time off to examine it.

We have a responsibility to ourselves to make sure we are in the best position to enjoy our rights by being militant, aggressive and well-informed and to put to rest the notion that Barbadian consumers are at the mercy of providers of goods and services because there is no legislation in place.

Sir, I submit that this legislation will create a whole new culture of consumers in Barbados. It will change the way we see ourselves as consumers as well as change the outlook of those who provide goods and services to us because there is now protection in a way that was never done before.

This Bill has had the benefit of extensive consultation. There was an advisory committee set up by Cabinet. There were consultations with the public and wherever possible the views of the public were taken into account in the preparation of the Bill. The Bill has had five drafts before it has seen the light of day. It has taken long but it was necessary work because we are entering a whole new realm of activity and we sought wherever possible to get it right.

Sir, there is never perfect legislation and because life and the society are dynamic by the time the legislation is in place the scenario might have changed and the legislation can become outdated but there is nothing that precludes future Governments from making amendments to the legislation in order to make it compatible and consistent with what obtains in the society.

Sir, Minister Toppin and his Ministry have done an excellent job of which they can all be proud and we look forward to seeing the consumers enforcing their rights and the providers of goods and services living up to their responsibilities.

Sir, I give this Bill my fullest support.

SENATOR Miss J. C. ODLE: Mr. President, I rise to give my fullest support to this Bill.

I was concerned at first that with the necessary education taking place that the Commission would be inundated with requests for settling fairness and safety issues. I am satisfied that the Commission is able to cope with any item that may come before it and that it is ably staffed to deal with these matters.

Sir, I was comforted when the Minister said that the Commission would be like a people's court which would deal with things in a speedy way. The whole issue of the Consumer Claims Tribunal is critical because people will be able to have their concerns aired and resolved. I understand that this Tribunal will be represented by persons from the private sector, consumer groups, the public sector and the trade unions. This will be desirable because it will ensure that all sectors have an opportunity to hear the cases put before them.

The Opposition made the point that this legislation was late in coming and that it was ten years too late. Sir, the Opposition served in Government for 23 years and they had ample opportunity to bring the legislation but this is what can be expected of an organisation that has no foresight to resolve or deal with critical issues. They are not part of any solution but are also crying crocodile tears. I want to suggest that this is timely.

The Opposition also said that we were conforming with agreements as we had an obligation to bring it under the CARICOM Single Market and Economy but we must recognise that Barbados is leading the way even in the establishment of the CARICOM Single Market and Economy.
2.45 p.m.

Sir, Barbados is leading the way, even in that body. The leader of this nation is ensuring that Barbados is in advance of several other nations in bringing this particular legislation to bear.

For example, the Senator on the Other Side spoke to Barbados changing the Women's Bureau to the Bureau of Gender Affairs. That was not just a name change. It was conforming to an agreement that Barbados had signed on to. Once again Barbados has advanced and is leading the way in several different areas.

Sir, I understand that protection of consumers had little standing from the Sale of Goods Act in 1896, which I gather was exceedingly cumbersome and created an artificial distinction between the merchant and the seller. I was concerned about the difference between the two or if this piece of legislation constituted one and the same. I understand that the merchant who imported and then sold to the consumer should have been more liable. I just want to clear the air that they are all the same now and whether you are a seller or importer, you are liable to the same extent as far as the consumer protection goes.

Sir, years ago these Bills did not refer to the rendering of services. When we think about services, we have to think about the contact services that are issued. Trivial as they may sound, there are many services rendered in Barbados now which have a great deal of contact with an individual offering hands-on services.

I am concerned that the issue of licensing of persons to operate in certain divisions is not on the front burner. It is something that I believe we should revisit particularly if we are setting up shop signs which say that we are professionals in whatever the disciplines are, for example, hairdressers.

Asides.

SENATOR Miss J. C. ODLE: Sir, I do not have to advertise because the experience and the work speak for themselves, hence 25 years of a successful business and no lawsuits.

Asides.

SENATOR Miss J. C. ODLE: Sir, not to trivialise it, massage therapists: The Senator on the Other Side who would have a more intimate contact with respect to health and health issues, the issue of massage therapists, when it comes to the care, protection and security of the consumers purchasing such a service, driving instructors, architects and counselors are just a few. If we are going to talk about the consumer protection, the lawyers may be better able to say whether you are registered or licensed, whether you are equally liable. Sir, that is an area that I would like some attention to be given to.

Sir, I believe that this is an area where the Barbados National Standards Institute (BNSI) could play a significant role as a lead agency and coordinating a ministerial division that, perhaps, looks at how they qualify to practice in Barbados. I know that certain professions have it and I think that if we are in a globalised world, we will have people rendering and buying services. Therefore, we want to make sure that in Barbados we are on top of the situation and not trying to close the gate after the horse got out.

I am concerned about the quality of goods coming into Barbados. Recently I was talking to a wholesale importer and they shared with me that a colleague, in another CARICOM state, who had imported a set of fans into that country, when the fans arrived they were rejected as being substandard and they were looking to see if Barbados would take them.

Sir, I want us to be satisfied that under this legislation, through the BNSI, the quality and standard of goods coming into this country are of an optimum quality. Though the price may be cheap, Barbados will not succumb to poor quality goods.

Sir, speaking about poor quality goods, I want to talk about goods that are often manufactured under licence from some first world country. Very often there are the Third World countries which are used to produce a cheaper quality. We as consumers know that these items do not last very long. This is a call for us to look for quality and to recognise that other Third World countries that are producing such goods, do so at the exploitation of the people.

For example, cheap electronic items are manufactured in Third World countries and brought to Barbados and the exploitation of the people is woeful. I am satisfied that they do not have the same level of trade unionism that Barbados has. A large number of women work in substandard conditions with very poor wages and we must be careful that we are not caught in this trap. Today may be one country and tomorrow it may be us. That is why I am satisfied that our 'watchdog' bodies and the high level of education of the Barbadian citizens are such that we are not going to allow ourselves to be pulled down into that kind of sluice.

Some Senators spoke about food safety but I want to focus on Part VI (c) of the Act which talks about "the existence of any means by which it would have been reasonable for the goods to have been made safer."

Sir, when I think about that, as a consumer and a homemaker, I notice that several items are lacking certain protective seals. For example, ice cream, butter, juices and certain skin and body care products. I am thinking about how this situation exists with locally manufactured goods. If we are looking to export our goods, then we have to meet certain international criteria.

Sir, I hope that the manufacturers take into consideration the safety and security element because we are concerned about goods coming into Barbados but we have to make sure that we are competitive in terms of goods going out of Barbados if our consumers are to be protected. If we are protected, we can generate more revenue.

Sir, I want to see a reawakening of what is historically the Barbadian value and moral. I say this against a background, in this Bill, where we are going to be able to return items for a number of reasons. I am aware that there are practices elsewhere, particularly in the United States of America, where people bought dresses, wore them and took them back to the store the next day. Sir, I do not expect that the historic high value that Barbadians put on sharing with each other will allow this to happen.

Mr. President, I am concerned about what I call the human face of legislation, whether it is on the side of the consumer or supplier. Last week I spoke briefly about disadvantaged groups. I want to speak on the issue of the settlement of disputes where the consumer has a concern,

whether it is over building or refunds. There are many companies that take a long time to offer refunds and your money is not gaining any interest. In terms of consumer rights and protection, we want to make sure that on the human side, we should take the suppliers and the consumers into consideration.

Sir, very often at the point of sale you may not be savvy about a particular item and you ask a question of the salesperson. Very often you are just as far out to sea because the salesperson does not know anything about the product. I think that it is imperative that persons who are going to be trading directly with the consumer, are in a position to inform the consumer of goods which are for sale. I think this would then reduce the possibility for the return of goods and, therefore, less hassle for the consumer.

Sir, I support this piece of legislation and to highlight that this is no knee-jerk, which the Senator spoke about, of this legislation.

2.55 p.m.

Sir, I am going to read part of a January 1999 document which, I believe, is already a document of this Senate. This is a document that spoke to the report of the 1994-1999 Manifesto of the Barbados Labour Party. Page 46, under the heading Consumer Protection, refers to having created thirty additional standards which were legally made, and which brought the total of mandatory standards in Barbados to forty-two. Further, Sir, additional inspectors of standards were appointed to help inspect containers at the Bridgetown Port, goods, factories, supermarkets and bottling plants.

Also, Sir, the Price Control Division has been monitoring the price of a basic basket of goods at supermarkets, shops and other retail establishments across the country. Price control inspectors have been responding and resolving complaints from consumers about price discrepancies.

Sir, this legislation thus far, enables the Administration and the consumers to live in greater harmony. I see that as a good opportunity for the stakeholders who are the nation, the managers and the Government of the day, to continue the relationship, unbroken.

I support this legislation and commend it to all Honourable Senators.

I thank you, Sir.

SENATOR Mrs. P. E. RICKINSON: Mr. President, I rise to support this legislation. However, I would like to speak about a few issues but I am glad that it has reached this stage and I sincerely hope that it would not be very difficult to implement.

Several of my colleagues have spoken about the need for consumer education and I am not going to go over that because we know that unless people are educated, they will not know exactly what to do when they have a problem. I think that in addition to education, they will need quite a lot of help and guidance, regarding how to go about making complaints, what to do, and what not to do, and this is going to take some time because we have not been accustomed to this sort of legislation. It is something new. It is a new beginning and several people have said so, for which I am very grateful but by the same token, one has to educate both the implementers and the users of the legislation, in order for us to get somewhere.

Mention was made of a people's court which I feel is one way of implementing this legislation. I think that Barbadians will be willing to go before a people's court and put their cases regarding bad consumer practices, much faster than going to a different type of court. If you could go and put your own case without the aid of a lawyer, I think that would help quite a lot.

Mention had been made of a tribunal. I sincerely hope that this is going to be a different type of tribunal. Sir, I am speaking from experience. I have been before the Town and Country Planning Tribunal, where I put a case and then when the decision was given, nothing was mentioned of the Tribunal.

Sir, there is no point having a tribunal when they can come back and tell you that your patio should be ten metres from under the cliff, when no house is ten metres from under the cliff. You would not be able to build a house in the first place or you would not be able to do anything there, so if you are talking about a tribunal, you need to look in terms of what a tribunal does, and how you are going to set it up. There is no point letting people go before a tribunal and then there is no mention about a tribunal when a decision is made because, Sir, that is not good enough.

Sir, another area of consumer education is false advertising. This is long overdue. There are several products that appear on our televisions and radios that promise all sorts of things that they really cannot deliver. I spoke about this many years ago because in some other countries, they have to prove what they say they can do. I am not only talking about medicines. I am talking about herbal products as well. They claim to have all these various properties and when you go to use them, you do not really benefit because these products are not really forthcoming. I am glad about that part of advertising that will come and I sincerely hope that the hammer will come down heavy on these advertisers. An example is cigarette smoking where they are going to take you places and you are going to get a boyfriend, marry and all sorts of things.

Asides.

SENATOR Mrs. P. E. RICKINSON: Yes, they tell you that smoking cigarettes and drinking alcohol cause all sorts of things to happen and these things really do not happen. This is just to entice the consumer to buy the products. Sir, I would like to see this part of the legislation implemented, particularly with health foods, drugs, alcohol, cigarettes, *et cetera*. Let them prove what these things can do, exactly.

I do not know if this consumers' legislation covers any form of pollution, like the Light and Power Company at Batts Rock that emits black smoke which makes you sick and have you popping pills all the time. As soon as you get better, you are sick again. I do not know if we can use this legislation to make these people put on filters to clean the air. If they are delivering a product, they must deliver a proper product that is healthy and does not make the consumer sick. I sincerely hope that we will be able to extend that product.

Another thing is that I do not know if it applies to decisions made by the Government. I do not know if you can complain in this consumers' legislation because there are areas, for example, the same as the Town and Country Planning, where you will see your neighbour build out over a cliff and you build out over a cliff but you are wrong. You must take yours down but the neighbour does not have to take down theirs. Why? Because the Minister can override the decision of whomever is in charge of the Town and Country Planning, and they can do that because it is their legal right. Legally, it is right but as far as I am concerned, morally it is wrong.

I sincerely hope that this legislation does not work that way because people can see these things. I hope that the Minister cannot override any decision made, the same as with the Town and Country Planning. Whoever is in charge signs off on the wealthy people and, therefore, leave the poor people to suffer. Sir, that is what is happening in this country and I have proof because I have suffered from this practice. They sign off on the wealthy people but the poor Bajan, must suffer. I sincerely hope that this legislation will bring some form of satisfaction to us Bajans here, because that is like comparing the mighty people who own the supermarkets with little people like us, who go and buy. I hope that this matter can be addressed because it is not fair and it is not right.

Sir, another area is hire purchasing. We will have to explain to our people about hire purchasing. I know that the majority of us cannot get refrigerators or stoves unless we take them up on hire purchase, simply because the salaries are not high enough in order to enjoy these goods and services. Therefore, we have to resort to hire purchase, even though we are paying for the item ten and twelve times over. 3.05 p.m.

We need to explain to our people that if they are going to use hire purchase, they have to use it wisely and they

should not go and get new things every Christmas. This is Christmastime and you can see the lorries with the fridges, the stoves and the suites. It seems as though people have to change their furniture every year at Christmas. We have to explain to people that is not a wise practice because when the manufacturers come and remove the goods and services they do not have much of a complaint. I am talking about the responsibility of the consumer. The manufacturers have their rights but so too does the consumer because we know exactly what happens at Christmastime. I do not know if it is the Christmas music, the lights in Bridgetown or what it is that goes to their heads but for some unknown reason people seem to believe that they must have everything brand new for Christmas otherwise it would not be Christmas. I do not understand it. We have to do some brainwashing to get them to understand that that is not necessary. They can spruce up by cleaning some of what they already have.

When you go into a contract with these people you should be able to keep the contract. A lot of these people cannot maintain the contract that they signed and because they did not read the fine print, the people go back for their items in January or February and they end up with nothing until about Easter when they then go to another store and get another hire purchase agreement. We need to let our people know that the time is going to come when people are going to sell you things by credit and you are going to have to be creditworthy in order to get items. So we have to educate the consumers and let them know that there is nothing wrong with that, it only means a bit of responsibility on their part. If you go to a store and take out an item, you have to pay for it in order to become creditworthy, if not, you are going to be blackballed as is happening in the other countries overseas.

The Bill has come at a time when prices are rising and we are unable to make ends meet. I am not so sure how this Bill will help us to bring the prices down because within the last three to four months you cannot make ends meet suddenly because everything seems to have gone through the roof and I am not sure what has happened. How would this Bill help us as consumers to bring down these prices, I do not know, so I will await the guidance of people like Mr. Taitt and others who are out there in the forefront about consumer protection.

While I am on my feet, I want to congratulate Mr. Taitt for the work he is doing. I also want to say a few words about forming organisations. It is very difficult to form an organisation and people must understand that. The reason why Mr. Taitt's voice is the only voice in the organisation is because he is the leader. Sometimes you will have an executive of eight, 10 or 15 people but when you look around there are only one or two persons who are doing all of the work. So if you only hear one person's voice, it is

because an organisation like that should have a public relations officer so that you can type what you want to say and give it to the public relations officer so that his voice could be heard and your voice would not be heard on its own. To start any organisation is a very difficult proposition and starting a consumer organisation is equally difficult because of the culture we have in Barbados.

In other countries of the world, people would join these organisations and when they are told to boycott certain products, the consumers would not buy them and the producers would have to bring down the prices. That is how it works in other countries but that would be very difficult to do in Barbados. We would have to start educating our children from the nursery school stage about what to do and what not to do in order to get to that stage but unless we can get ourselves together as consumers and decide to boycott certain products, it is going to be very difficult to effect change in Barbados because it is very difficult to mobilise people. To mobilise people is an art that takes time. Of course, I am speaking to the converted because you are political people and you are in the hustings out there overlooking your constituents...

Mr. PRESIDENT: Senator, when you say you, just make it clear that you are not referring to the Chair.

Asides.

SENATOR Mrs. P. E. RICKINSON: Sorry, Mr. President, I would not refer to you as being in the hustings. My colleagues would understand that it is very difficult to mobilise people, as one would understand in the hustings, to form a consumer organisation because there is not very much you can promise them other than if they come together they will help to bring down the prices. If you are a politician, you can promise them that when your party gets in to Government, you would do A, B or C even if you do not do it because you have five years to think about doing it but a consumer organisation is there all the time and you are up front and you have to look as though you are doing something even if you are not doing much.

So I would like to thank Mr. Taitt for the work he is doing and we should all make an attempt to join the organisation to help him in his efforts. I would also like to thank the technocrats, the civil servants, who did the hard work to make up this Consumer Protection legislation. The Minister gave guidance but the civil servants sat down and did the work.

SENATOR Miss J. C. ODLE: On a point of elucidation. The civil servants...

Mr. PRESIDENT: Senator, if you are elucidating something made in your own speech, you may?

Asides.

SENATOR Mrs. P. E. RICKINSON: I would like to thank the technocrats who sat down and drafted this legislation so that it could come to fruition. The Minister gave leadership which is what Ministers are supposed to do. We should teach the consumers that they do not have to go to the Minister for everything because consumers are being taught that they have to contact the Minister for everything as though the Minister is the end all and be all of everything. 3.15 p.m.

Aside.

SENATOR Mrs. P. E. RICKINSON: When a minister goes before a Tribunal and gives a decision, he does not even mention anything about the Tribunal and say that one's house should be 10 metres from the underside of a cliff and therefore, permission is refused, which means that the whole house would virtually have to be knocked down. That is the nonsense that goes on. It needs to stop. Therefore, we cannot get anywhere with consumer education if that is what is going to happen.

I sincerely hope that it is not like that because it is not fair. It is legally right but morally wrong. The same thing is happening with some consumers. A lady called me and said that she has 8 000 square feet of land and had asked for it to be subdivided. She was refused because she was told that it was agricultural land. This land is situated in the middle of areas that have other lands. These things are wrong. I think it is time we have to get up and do something about it and become more outspoken about these wrongs which are going to cause all manner of unrest in society.

Mr. President, I do support this Bill and I wish it all the best.

SENATOR Sir JOHN STANLEY GODDARD: Thank you, Mr. President. It is worth repeating that everyone is a consumer and therefore, everyone has a need for protection.

In earlier times, the law of contract afforded greater protection to the supplier of goods and services. The dictum of *caveat emptor* ruled supreme and was vigorously upheld by Parliaments and the courts. However, we have all witnessed a social revolution and that coupled with advances in information and communication technology have swung the pendulum of the law of contract very much in favour of consumers which, in itself, is a good thing.

In former times the focus of Parliaments and the courts was the rights of the contracting parties. Those rights are important and will always be but more emphasis is now being placed on the duties, responsibilities and obligations of the respective parties to contracts, especially on those of the suppliers of goods and services.

Mr. President, it is well known that business persons are often blamed for the high cost of living. That is universal. Can consumers be partially blamed for the cost of their higher standards of living? To illustrate what I mean, the Barbados Economic and Social Report, 2001, Appendix 4, shows that the per capita GDP at factor cost increased from BDS\$10.300 in 1992 to \$15.7 000 in 2001. If nothing else, this increase certainly reflects an improved quality of life for Barbadians generally and that is to be welcomed.

It should also be noted that the rate of price inflation has remained relatively low at approximately 3 per cent annually in recent years but I hasten to add that no housewife ever believes that figure.

There is another element of cost that we have to take into account which is so often overlooked. That is the rising cost of Government. This has a significant effect on the prices of goods and services that have to be paid by the consumer. The approved Estimates 2002-2003, indicates that Government's total Capital and Recurrent Expenditure has risen from \$1.243 billion in 1991-1992, to an estimated total of \$2.29 billion in 2002-2003, an increase of 84 per cent in nine years.

Approved Estimates of Expenditure of \$2.29 billion includes: \$330 million for the Ministry of Health; \$420 million for the Ministry of Education, Youth Affairs and Sports and \$118 million for the Ministry of Public Works and Transport. These three Ministries account for 38 per cent of Government's total Expenditure, Recurrent and Capital.

These statistics are quoted to show that the consumers demand for improved Government's service has risen rapidly and that, Government has moved to meet those demands. However, those services have to be paid for out of Government's tax revenue. The approved estimated tax revenue for 2002-2003 is \$1.795 billion that includes \$801 million from goods and services. In other words, the taxes from goods and services provide 44.6 per cent of total Government's revenue.

The Government collects taxes on goods and services mainly through customs duty, excise tax and value added tax. These are all costs to businesses. Such costs can only be recovered by businesses when they are passed onto consumers in the prices that are charged to them.

The legislation before us is designed to protect consumers generally, especially against unfair trading practices, consequently as a result of the higher prices that those unfair practices often cause. However, this legislation cannot protect consumers against higher prices that are the

result of Government's taxation policies. Taxation and prices cannot be looked at separately, they are linked.

Government is to be commended for introducing this legislation but it now has the responsibility to ensure that it is implemented and administered effectively and fairly.

As has already been mentioned today, responsible business persons and their business organisations welcome the Fair Trading Commission; the Consumer Protection Act; the Consumer Guarantees Act; the Fair Trading Act and the Consumer Guarantees Bill, which we would be looking at shortly. They have all been designed to strengthen consumer protection through fair competition that is both legally and socially desirable.

Before closing, Mr. President, I would like to make reference to one particular item. As was mentioned earlier, we are all consumers and have need for protection. While this Bill deals with the protection against unfair business practices, we also have need for other forms of protection. I will single out one thing, that is protection against noise pollution.

More and more often I listen to callers on call-in programmes complaining about their inability to sleep at night because of the noises coming from karaoke bars, ZR vans and public service vehicles.

I do not know what the law stipulates but the consumers of this country have a right to be protected against that kind of environmental pollution. I hope the relevant authorities would take the necessary steps to see that people are not being inconvenienced in their homes when they try to sleep or when the school children travel on public service vehicles to and from the schools.

I support this legislation. I thank you.

SENATOR the Rev. L. W. B. ROCK: Mr. President, I thank you for the privilege and the opportunity to make my contribution to this Debate.

Like other Senators, I welcome the legislation. I am sure that consumers across Barbados would likewise welcome this legislation. I believe it could have the effect of reducing the level of utility which many consumers have felt and thus have made their complaints behind closed doors or have not had the confidence to approach business places with their complaints because they have felt that it was pointless to do so.
3.25 p.m.

This legislation now gives us the confidence that we can do something when there is need for redress when our rights as consumers are violated.

It is important that consumers come to recognise the powers they have because there is a powerlessness which we have succumbed to and this has led many of us not to make public our concerns. This legislation can give to consumers an awareness and consciousness of the powers we have and what we can do.

I believe the confidence that something can be done by way of legislation will only be effected if there is a mass programme of education in which people become aware of their rights. Sir, legislation is good but people need to know what it is about and how they can access the facilities to receive redress for wrong. The onus is not only on the consumer organisation or the Fair Trading Commission but Government has to raise the consciousness of people so that they know their rights as given by the legislation.

Sir, the level of red tape that people have to go through should be as minimal as possible for them to access the facilities to represent their case. I hope the legislation will also deal with the question of advertising because people are prone to advertise and make certain claims about their products. Perhaps the Minister can tell us what are the requirements of such persons before they can make such claims.

In addition to the legislation Government should set the example, through the public service, by improving the quality of service that is being given to the public. Senator Murray constantly refers to public sector reform and Government should take the lead with regards to the quality of service offered to consumers.

Sir, I lend my support to the Bill.

SENATOR B. R. COLLYMORE: Mr. President, some time ago we discussed the Fair Trading Bill and it was unanimously agreed that this Consumer Protection Bill was the logical follow-up and that the two Bills should be done simultaneously.

Sir, there can be no argument that this is a necessary piece of legislation as it deals with a host of matters affecting the consumers, safety of goods, unfair trading practices, contracts, quality, pricing *et cetera*.

I have to join with those who said that enacting a law is only half of what is required in an activity like consumer protection. I am not repeating what was said before but I believe that consumer education is as important as the enactment of the legislation itself. Sir, in some countries people are very much aware of their rights and they do not require any law but use the power of the human being, as a group, to cause changes in prices and other activity in the commercial world.

I hope that there will be the mechanism to facilitate the formation of consumer groups which will provide the watchdog requirement for the consumer body as a whole.
3.35 p.m.

Sir, one thing that I would hope to see is the standardising of pricing practices. In some outlets you see goods with VAT included in the price and in others when you get to the cashier, you would see something added to the bill which says VAT 'X' per cent. There are others that would identify the goods that are vatatable, then it is left to the consumer to compute what his VAT should be. If there are six vatatable items, he has to do his own computation. Sir, I would like to see a standardised pricing method rather than anything that suits the supplier. If possible, the VAT charge should be indicated separately.

I think that some people have had great difficulty ...

SENATOR P. C. GODDARD: Mr. President, on a point of order. The current VAT legislation specifies that the VAT inclusive price must be given. That is the current legislation as it stands under the VAT legislation.

SENATOR B. R. COLLYMORE: Sir, I think that is where we need the inspection. There are differences from that and that is what I mean by standardised pricing.

Mr. President, the other thing that I would like to see as a matter of course and, indeed, I feel that there are aspects of this legislation which are not sufficiently explicit to people like me. Therefore, I hope in the winding up the Minister or somebody can answer a few questions which have come to mind in examining the Bill.

Clause 18 states that if you have more than one price, the price that must be offered is that which is the lowest of all the prices. How would this affect the offer of discounts and concessions to particular groups of persons? If a supplier indicates that persons 60 years or more can get a 10 per cent discount that is an easy calculated discount. Is that the lowest price in offering? The draft Bill says that a person shall not in trade or commerce as a supplier, supply goods to which more than one price is appended at a price that is greater than the lower or lowest of the prices in question. All I am asking for is an explanation, Sir.

Sir, the other thing that struck me as being difficult to understand is Clause 20 – referrals. I think that requires a bit of explanation. If you read it, it would affect concessions and discounts, that is how it seems to me.

Suppose an insurance agent comes to sell me a policy and I buy the policy. Then he says to me that if you can get two more referrals for me I will give something. Would he be punishable under this clause? This is what happens now

and I think it is considered fair practice that you get insurance policies for a salesman and he gives you a discount. Whether the discount is on your policy or on the new policy is another matter. I would like to think that these things will not be severely affected by this new legislation.

Part IV, Clause 27 refers to distance selling. It says that: "the Minister without prejudice to the generality of subsection (1)..." and it gives a number of provisions.

Sir, we have a system of distance selling in Barbados where organisations like Amway and Stanley Products have people who are their agents. They may not supply the goods the next day or month but they may have a warehouse in Puerto Rico where the order is placed and the goods would be sent to your house. The person who you ordered the goods through would have transmitted to Puerto Rico. Who is liable in such circumstances? Is it the agent who did the actual selling to you?

Similarly, there are other means of ordering goods, the internet. Where is the liability? To whom will it apply and how enforceable will it be if you ordered directly from overseas?

Clause 38(1) says that the Minister may make regulations on safety. And it lists, thereafter, specific provisions that may be made which include health. I am sure that there are provisions in the Health Services Act or appropriate regulations relating to health safety. Subsection (4) says "Safety regulations shall not provide for any contravention of the regulations to be an offence." That seems to me to be useless, to make regulations and there is no sanction.

I think that if there is some other way in showing that breach of these regulations that are made by the Minister can lead to the imposition of some sanctions, then it seems incomplete to say that the Minister can make regulations and then a breach of those regulations cannot provide for an offence of that contravention.

These are the sorts of small matters, which as a layman and reading the law, I think require an explanation. Whether it can be done today or otherwise, may be we should be told here something about what those things mean.

Sir, I am one for consumer education. I feel that it is paramount to the success of any consumer legislation. For that reason, an organisation, to which I belong which has 7 500 members, proposes to convene a consumers committee within that organisation to provide the continuing and ongoing examination and inspection of prices and other services. We hope that in doing so, we will be able to render our members another very good service.

Thank you, Mr. President.

SENATOR THE HON. J. X. WALCOTT: Mr. President, I want to say in response to the Honourable Senator, who just spoke, that these matters are matters of legal interpretation which I will ask the office of the Attorney General to provide an explanation to the Senator in due course. However, I beg to move 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. J. X. WALCOTT, the Senate resolved itself into Committee on the Bill, SENATOR Dame PATRICIA SYMMONDS in the Chair.
3.45 p.m.

COMMITTEE

MADAM CHAIRMAN: The Senate is now in Committee.

Part I was called and passed.

Part II, Clauses 3 to 11, were called and passed.

Part III, Clauses 12 to 26, were called and passed.

Part IV, Clause 27 was called and passed.

Part V, Clauses 28 to 35, were called and passed.

Part VI, Clauses 36 to 39, were called.

SENATOR B. R. COLLYMORE: It is at Part VI, Safety Regulations that I raise the last point, which is that it seems to me, needs some explanation before one can safely say that passing it is the right thing. Sir, while I accept the promise made by the Leader of the Senate that he will have it checked out, I will find it difficult to support the Resolution.

I will read it out for them, Madam Chairman.

"38. (1) The Minister may, after consulting the Barbados National Standards Institute, by regulations under this section, "safety regulations," make such provisions as he considers appropriate for the purposes of section 37(3) and for the purpose of securing..."

Sir, it lists a host of provisions which may be put in those regulations and at No. (4) it says,

"(4) Safety regulations shall not provide for any contravention of the regulations to be an offence."

MADAM CHAIRMAN: Senator Collymore, are you moving an amendment?

SENATOR B. R. COLLYMORE: If I may move an amendment but I want to make sure that the law is right. I am saying that, 'shall not provide', maybe the 'not' should be out. That will not be right because it says shall not for 'any'.

Asides.

SENATOR B. R. COLLYMORE: I think I need to emphasise that there seems to be something wrong.

Asides.

MADAM CHAIRMAN: Are there any more contributions to this section? Senator Marshall, I take it you wish to say something.

SENATOR D. D. MARSHALL: Madam Chairman, to the extent that I can be of any use to the Honourable Chamber, having looked at the section, I do not see any particular difficulty with it. These Regulations, from my own perspective are safety regulations and the matter of a safety regulation is one which could hardly be seen as being a thing written in stone. There are numerous things that are made because of various changes in technology and so on, which allow particular safety regulations to be relaxed from time to time.

It does not seem to me that to the extent a safety regulation is provided for under this section, that it has necessarily to be subject to a penalty. There is a very wide-ranging penalty clause found between sections 61 and 62.

"62. (1) A person who is guilty of an offence under this Act is liable on summary conviction

(A) in the case of an individual to a fine of \$10 000 or to imprisonment for a term of 2 years, or to both; or

(B) in the case of a person other than an individual, to a fine of \$100 000."

Therefore, it is clearly intended by the legislature that breaches of the Act would be an offence. The only distinction that I would want to make between breaches of the Act or offences under the Act and safety regulations are exactly as I mentioned before.

A safety regulation is something which may be changed from time to time. These regulations are made by the Minister, subject to amending the Resolution so that the Minister, on signing off on the Resolution, knows that these regulations will become law but may be changed by him at any time. So given the almost subjective nature of a safety regulation and the fact that changes in technology may cause our position to change from time to time, it seems perfectly

reasonable to me that this particular breach need not be criminalised.

Madam Chairman, that is the extent of the contribution I wish to make.
3.55 p.m.

On the separate motions of SENATOR THE HON. J. X. WALCOTT, Madam CHAIRMAN reported progress to HIS HONOUR the PRESIDENT and asked for leave to sit again.

SUSPENSION OF SITTING

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that this Sitting be suspended for ten minutes so that I may speak with the substantive Minister and the Attorney General's office on this matter.

The question that the Sitting be suspended for ten minutes was put to the Senate and agreed to. Mr. PRESIDENT suspended the Sitting accordingly.
4.00 p.m.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

COMMITTEE (RESUMED)

On the separate motions of SENATOR THE HON. J. X. WALCOTT, the Senate resolved itself into Committee for further consideration on the Bill, Madam CHAIRMAN in the Chair.

Part 6 was called.

SENATOR B. R. COLLYMORE: Madam Chairman, I was wondering if my query on Clause 38 subsection 4 has been resolved in a way that might be satisfactory to me.

SENATOR THE HON. J. X. WALCOTT: I have been in discussion with the Attorney General and the Minister of Consumer Affairs, the Honourable Mr. Toppin, and was told that the safety regulations are not providing for any offences and that the offences are being provided for within the Act itself.

MADAM CHAIRMAN: Senator Collymore is that explanation satisfactory to you?

SENATOR B. R. COLLYMORE: I will let it pass.

MADAM CHAIRMAN: Very well.

The question that Part 6 stand part was put and resolved in the affirmative without division.

Parts 7 – 10, inclusive, were called and passed.

The Schedule was called and passed.

On the separate motions of SENATOR THE HON. J. X. WALCOTT, Madam 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. J. X. WALCOTT, the Bill was read a third time and passed and cited as the Consumer Protection Act, 2002.

4.20 p.m.

ORDER NO. 4 – TO MOVE THE SECOND READING OF THE CONSUMER GUARANTEES BILL, 2002

SENATOR THE HON. J. X. WALCOTT: This Bill is part of a series of Bills which have now passed this Honourable Chamber. Therefore, many of the points have been covered and it would certainly not be necessary for me to make an extensive speech. I am sure this is the general view of all Honourable Senators.

This Bill seeks to replace the existing Sale of Goods Act, enacted in 1896, which made provisions for the sale and supply of goods. In the drafting of that Act, it was felt that there was equality in the bargaining power between the supplier and the purchaser and we know that this is not true. In addition, that Act does not cover contracts for the supply of services.

This present Bill seeks to set out the rights of the consumer in respect of goods which were supplied to them in respect of services which they may purchase. This Bill would cover businesses such as professional parties, for example, lawyers and doctors. It will also cover skilled persons such as mechanics, hairdressers, *et cetera*. It will cover all types of goods and services which might be acquired for personal, domestic or household use.

With respect to goods, there may be a number of guarantees. Whenever a purchase is being made, there may be the understanding that the supplier would be given the guarantee; that he has a right to transfer ownership of the goods to the purchaser; that the good is not in danger of being repossessed; that the good is of acceptable quality for normal use; that the good is unused, unless the purchaser has been otherwise informed; that the good is free from defects; that it will perform as stated by the supplier; that the good would be identical to any samples provided prior to the purchase. In addition, spare parts would be reasonably available – this certainly is a problem in Barbados – and that any expressed guarantees given would be honoured.

With respect to services, there will be the understanding that the supplier will guarantee that service would be carried out with reasonable care and skill; that the service would be fit for the purpose to which it has been purchased. Service is expected to be provided within a period of time and when there is no prior agreement regarding price, the purchaser would not have to pay anymore than what can be considered reasonable for the service.

There are other services covered by the Bill. In the case of the equipment malfunctioning, if the supplier fails to offer assistance in respect to having the defect corrected, the consumer is then entitled to have the fault corrected by another party and to have the supplier meet the cost of so doing. Other provisions include the fact that the legislation also applies to gifts. This means that persons receiving gifts will benefit from the provisions of the Bill, as though they themselves had purchased the goods or service.

In addition, a supplier would be able to exclude the provision of the legislation. Hence, signs in stores such as “no refund on goods”, “goods left for repair at owners risk”, would be rendered meaningless by this proposed Bill.

In addition, there is provision for the consumer to utilise the services of Public Counsel to have disputes resolved.

With these few remarks, I beg that this Bill be now read a second time.

The question that the Bill be read a second time was put and agreed to.

SENATOR THE HON. Mrs. V. E. NEWTON: Mr. President, I rise to give my support to this Bill which has been a long time in coming, as most other Senators have already said, in relation to the three pieces of legislation which would have come before us last Wednesday and today.

Mr. President, I do believe this is the most important of the trilogy being, so to speak, a Bill of Rights for consumers.

Mr. President, there are two aspects of the legislation on which I would like to focus, the provision of Public Counsel which is a new feature in any legislation that we have in Barbados. In fact, the concept of Public Counsel is one which many of us have not heard of until a series of Town Hall meetings were held when it was first brought to the public.

I remember, contrary to a number of statements I heard earlier, that Minister Toppin was very vocal and much involved at those meetings. I gather that has been the case since then.

Mr. President, I also wish to acknowledge the presence of the first Public Counsel in Barbados, in the person of Mr. Barry Carrington, who is sitting in the Visitors Chamber. He is a person who is well known to me and I am sure that consumers in Barbados will benefit considerably from his counsel and his capacity for hard work and getting the job done.

I do wish to say that I am wondering if the Public Counsel's Office, with one Attorney other than the Public Counsel and an investigator, would be able to effectively do the job. I know that often when new offices are being introduced, the practice is to first see how things evolve and then to give the amount of assistance that is needed, depending on the amount of work.

I hope that, in this case, the Government would keep faith because introducing consumers legislation is one thing but enforcing it is another. If citizens are going to expect that they now have a Bill of Rights in relation to consumer purchases of goods and services and then to find that they are being turned back when they want to have cases investigated, that would not be a good thing.

The Public Counsel, as far as I would have read from the legislation, has duties under the Fair Trading Commissions Act in relation to complaints or rate hearings. The Public Counsel would also be representing consumers when they bring complaints under this Act. If the sum of the complaints is under \$10 000 he will assist complainants in presenting their cases.

There is another novel piece of the legislation called a Complainant's Tribunal. I hope that the Public Counsel would be able to effectively do his job by being given the staff and cooperation that he needs, both from the public and the Government of Barbados.

I am sure that once the Public Counsel gets started there would be plenty to keep him busy because, in many call-in programmes, we have heard the myriads of problems that people have. One such problem would be with the Barbados Water Authority. We fully expect that his hands would be full. I just hope that he would have the assistance he needs in order to effectively do the job.

This brings us to the question of staffing. I have had the opportunity in recent times to be associated with a board that has been trying to hire legal and other staff and the question was whether the Government could pay the wages necessary to attract officers of the calibre needed in a Public Counsel's Office to assist the Public Counsel. I was wondering if maybe a very serious look should not be paid very soon to setting up some kind of mechanism for Government to have legal officers on attachment from the Attorney General's division or from the Ministry of Finance

who could be used to assist in servicing statutory corporations, either on a consultancy basis or on secondment.

Mr. President, when the provisions of this Bill and the education and other roles provided for by the Fair Trading Commission under the Fair Competition Act are taken into account, consumers will have a better deal than many of their counterparts in other Caribbean islands, with the exception perhaps of Jamaica, where a Fair Competition Act, passed in 1993 on Consumer Protection legislation made provisions that are similar to the Act which is before us today.

The Act in Jamaica has been fairly active. They have taken the equivalent of the Public Counsel and have been able to have persons who, for instance, bought a 1993 car model when he was told that it was a 1994. He was then able to get the difference between the cost of the two. There was another case where someone purchased a town house which was supposed to have a swimming pool and other amenities but did not. That person was also able, through the office of the Consumer Protection Office, to have a refund on the cost paid.

I think the Public Counsel's Office is going to be an extremely important one. I think it would also be flooded. With respect to educating consumers as to how to approach the Public Counsel's Office and how to make sure that they make the best of the rights that are guaranteed them in this legislation, I think Government would have to do something.

I note the question of public education falls under the aegis of the Fair Trading Commission. I am also aware that Commission was promised a Director of Consumer Affairs who would be responsible for that department. At present, I do not think that department has the capacity for any consumer protection. While I know the practice is to see how the job evolves and see what is necessary, I am still skeptical when we set up administrative structures and either do not provide a reasonable level of staffing from the beginning or it seems as though we might not be able to afford the staffing that is necessary or we cannot obtain them because the right persons are not available.

Mr. President, I wish to say that this legislation, though long overdue, is a step in the right direction. It benefits from some of the better drafted legislation in the area from around the Commonwealth. I think this particular piece of legislation can be found coming out of New Zealand.
4.30 p.m.

There is case law available for the public counsel to consult and also for others involved in enforcing the legislation.

Sir, I hope consumers in Barbados will have a better deal than they have had in the past.

Mr. PRESIDENT: I would like to advise Honourable Senators that the Leader of the Senate had to leave to attend to an urgent matter. He is expected to return before we adjourn and in the interim Senator Murray will perform the functions of the Leader of the Senate.

SENATOR D. D. MARSHALL: Mr. President, I am pleased, after speaking on the Fair Competition Act last week, to speak in support of another innovative piece of legislation and I believe that in future we may refer to these as the trilogy of consumer legislation in Barbados. Sir, it is tremendous pleasure for me to speak in support of the Consumers Protection Bill.

All political parties agree that consumer protection is a good thing. There are three central questions that we may want to ask. Firstly, why protect the consumer? Secondly, protect the consumer against what? Thirdly, towards what goal? In considering these three questions, the answer to the first one probably rests in what we have traditionally called the inequality of bargaining power.

I am well aware, through personal experience in times past and through the experience of other people that a lone consumer struggling against a person who has already taken his money will not be able to obtain any kind of redress. It is that inequality of bargaining power that has left consumers in Barbados with the feeling that they have been run roughshod over by one merchant or another.

This brings us to the question of compensation because most of the commodities that are bought by persons and are found to be defective are not the kind of things that it makes sense going to the High Court to pursue against a merchant because of today's high legal cost.

The answer to the question towards what goal is that every consumer in Barbados should be able to walk away from each transaction with the feeling that he has received what he paid for.

Sir, there is a legislative definition but the best definition I have found of consumer is 'Everybody all the time'. This definition appeals to me because whether it is a small or big business, an individual who is wealthy or poor, we are all consumers at one point in time or another.

Sir, there is a fundamental difference between consumers because a large company that buys a shipment of goods from another company or individual can decide to impose sanctions and force the supplier to take back the consignment of goods but the same does not hold true for you and I, Mr. President.

The definition of 'consumer' in this Act is very interesting because it means 'an individual' but under the

Interpretation Act 'an individual' means a human being and not a firm so we begin in this definition by excluding all the corporate entities, the charity firms and so on and here we speak of individuals like ourselves.

Another limitation is the definition of 'consumer' which says:

"Consumer" means an individual who

(a) acquires from a supplier goods or a service of a kind ordinarily acquired for personal, domestic or household use or consumption."

We must be cognisant of this because an individual who sets up a small business and buys a computer for use in that business is not covered by this section.

The fundamental distinction that this legislation seeks to make is that an individual engaged in a commercial enterprise is different to an individual who buys something for their domestic use and consumption at home.

Mr. President, this is our first foray into any kind of consumer legislation since the 1950s and legislation directed to every consumer in Barbados has not been tackled until now. Until this legislation, the rule 'let the buyer beware' prevailed. Under this rule the consumer had to use his own judgement when purchasing goods but such a rule is harsh application today because in centuries past, a buyer was able to examine the product physically but given the kinds of technological advances, we are not always in a position to examine the item physically and even if, for example, we can examine it we might not be able to tell if the computer chip that made up the particular device is of a useful kind so over the years the rule of 'let the buyer beware' had to go. 4.40 p.m.

Sir, today's environment requires that consumers have confidence, born not out of their ability to examine equipment and to make a judgement on it but born out of a commitment by the person who supplies the goods that this particular commodity is what it is supposed to be and works as well as it should.

Sir, the need for consumer protection, therefore, is great because the consumer is no longer in a position to rely on his own judgement. It is also the question on the role of the mass media. I believe that one of the Senators who spoke earlier talked about advertising and when you see the advertisement you feel as if smoking a particular cigarette will whisk you away to a magical island to live a life of romance and not cancer of the lungs.

In real terms, there are many claims that are made in advertisements which will easily influence a consumer in

making a judgement on whether something is good or not. Under the existing law a consumer is left to no redress at all.

In today's environment where the expectations of the educated Barbadians have grown over the last 50 years, they are now ready to put pressure on businesses to provide better goods and services tailored to their needs and at competitive prices.

I want to reiterate something that I said last week. This kind of legislative innovation is not inimical to the interest of the business sector. A prosperous company is a company with satisfied customers.

Mr. President, this is what I would call a revolution. A revolution in favour of the consumer aided by a caring Government. Before I look at the specifics of the legislation, I would like to make a point. My learned colleague and friend, Senator Newton, referred to the work of the Jamaica Public Counsel. I would not want Barbadians to go away with the idea that the same thing that applies to Jamaica applies to Barbados. Senator Newton referred to a situation where an individual bought a townhouse. That is a case which is specific to the Jamaican legislature and I know that Senator Newton is aware of that. Legislation in Barbados defines goods and it says specifically that it does not include land or buildings attached to land. I just want to make that clarification so that we do not have a situation where people buy a piece of land and find that the foundation is bad and try to bring a claim to the Public Counsel under the Consumer Guarantee legislation.

Mr. President, I believe that one of the most critical features of any legislation which seeks to protect the consumer must be the availability of redress. Redress must be meaningful redress. It is all well and good to say that people have recourse to the courts but in real terms, recourse to the courts is a long drawn out process and it can be very expensive. While it is there and available, it is not something that the average consumer will be able to avail themselves of. So, consumer protection legislation must provide meaningful redress and to be meaningful it must be easily accessible, cost effective and must have a swift result.

Sir, this piece of legislation provides several guarantees to the consumer and I would like to touch on a few of them. Guarantee as to fitness is found in Section 8 of the Act. This section says that this guarantee, in essence, that the goods are reasonably fit for any particular purpose that the consumer makes known, expressly on verification to the supplier as the purpose for which the goods are being acquired by a consumer.

I am aware that this particular section has caused many merchants considerable distress. It has caused merchants distress because they have mistakenly formed the view that

an individual will come to their premises and buy a VCR, take it home and bring it back two weeks later and say that it does not work. Sir, the VCR did not last long enough so the supplier would have to replace it. That is true in limited cases.

Certainly, some of our clients have expressed a concern that they have a case where they may sell a weed wacker or a lawn mower for a relatively inexpensive price and an individual who would be unknown to them is engaged in a gardening business and uses the weed wacker or lawn mower gardening 20 gardens a week. After four or five weeks the engine burns out and the individual returns to the supplier and says that he bought this lawn mower or weed wacker six weeks ago and now it is not working. Where is the guarantee to fix it?

I have been very careful to explain to those clients who have raised this issue, that a consumer who purchases goods, even if he tells you that he intends to use it to mow other peoples' lawns will not be able to avail himself of the benefits of this legislation. If we will harken back to the definition which I referred to at the beginning of my presentation, a consumer is an individual who purchases these goods for domestic, personal or household use.

Sir, a person can take one of several views on that but the fundamental point is, this legislation is not at all designed to deal with an individual who may go and buy a VCR for \$150 and then use it daily to dub tapes for their video rental operation.

Mr. President, the one concern that I would want to concede that I have over this particular approach is, in some respects, leaves out what we have always called the small businessman. I am aware of a situation where a man bought a particular motorised drill and he purchased this power tool to be used in the course of his work and it did not last very long.

The fact is, this legislation would not assist such an individual. This legislation would only assist domestic, personal and household use. An individual who buys a sander or something like that, for a small business at home is not protected by this piece of legislation. I would like to think that, as Senator Goddard mentioned last week, there is no good law that does not admit a modification from time to time. The time may come when we may feel the need to make this adjustment.

It certainly seems to be that it may cause a little hardship because many individuals will buy pieces of equipment from time to time, particularly, power tools and they may do an odd job for somebody else and because it is not domestic or household consumption, they will find themselves stuck.

The point here is, the businessman need not fear that individuals will be able to just bring back goods, having misused them because there is an element of reasonableness. An individual whom you can prove has been using his equipment for commercial purposes will simply not be able to benefit from these guarantees.

Sir, one concern that a client has expressed to me is, if he sells a man a VCR cost \$150 and he brings it back, it will cost him \$120 to get the technician to look at it to see exactly what the problem is. In real terms, at the end of the day, it is the consumer whose protection in this situation is paramount.

I would also like to mention the guarantee as to repairs and spare parts. This particular guarantee is to be found in Section 13. This guarantee is expressed in Section 13 to apply to the manufacturer. Many people will ask what happens if the manufacturer is General Electric.

I want to make the point here that legislation was so skillfully crafted, that where a manufacturer is not in Barbados, the manufacturer will include the supplier. Even though the individual who is supplying the goods in Barbados may not be the manufacturer, the supplier still has to take reasonable action to ensure that there are facilities for repairing the commodities.

It is an often heard complaint that people buy goods from various companies in Barbados, after a while the devices stop working and there is nothing that they can do about it for the simple reason that the guarantee that would have come with a product out of the United States of America, would not extend to Barbados. The opportunity to have the device repaired is often lost. Sir, under this particular section, the supplier or the manufacturer has to ensure that there are reasonable facilities available for repair and a reasonable supply of parts.

Mr. President, I would like to point out in this legislation that there is a particular relevance at Christmas time. In fact, this entire piece of legislation is particularly relevant at Christmas given the amount of trade that happens in commodities. Sections 54 and 25, I think are usefully considered together. Section 25 deals with a situation where a gift is given to an individual, it does not work, nobody keeps the receipt, the price tag is off and then you have to figure out how to deal with this. If it is a big vehicle, you will go to a poor lawyer like me who will have to tell you that you did not buy the item.

Asides.

SENATOR D. D. MARSHALL: Sir, you did not buy it. It was a gift. All you can do is to get upset with the individual who gave it to you but you have no recourse to the

supplier. The point here is, this section gets rid of that particular difficulty.
4.50 p.m.

Section 25 says that where a consumer acquires goods from a supplier and gives them to another person as a gift, that other person may, subject to any defense, exercise any rights or remedies that would have been available to the person who purchased the goods.

And so at Christmas time, while I am not going to encourage a mass return of goods just because you do not like the colour, it is important to know that redress is available to a person to whom a thing is given, in much the same way as the person who purchased the goods.

The other section which I said should be read in consort with section 25 is section 54, which deals with a matter of privity of contract. Now, I am not going to try to explain to the Honourable Senators here what is privity of a contract but to draw a simple example, if a supplier sells something to a middle man, who then sells it to me, I am, under the currently existing legal situation, unable to have any recourse to the supplier because he has no contract with me. I can only have recourse against the individual who sold it to me. That individual would, in turn, have to have recourse to the person who sold it to him.

Under this Consumer Guarantee legislation that doctrine of privity of a contract is softened, tremendously, so that any individual along the consumer chain is able to have recourse under this legislation. In fact, the legislation is so strong that it says that consideration shall be conclusively presumed to have been given. I think these are two modern approaches.

Perhaps the final thing that I would want to talk about in this legislation on the question of redress, is Consumer Claims Tribunal. This is the first time, Mr. President, that we are seeing something of this kind. I cannot stress enough the importance of this Tribunal. The reference to the Tribunal, I believe, is found from section 41 and onwards. This Consumer Claims Tribunal contemplates a tribunal which will see over disputes or over claims. The Tribunal is made up of five people but for the purpose of determining an issue, three people will sit.

Let me make it clear that this Tribunal is not one that is expected to have multiple visits from out of work lawyers. This Tribunal is designed so that the average man on the street can go to the Tribunal and present his or her case and have the Tribunal rule on it but there are several important things to consider. The first is that the legislation says specifically, in Rule 13 in the First Schedule, no technical rules are to be followed by the Tribunal and, particularly, it is not to be bound by the provisions of the Evidence Act.

This gives this Tribunal tremendous flexibility over let us say, the Magistrate's Court, where in its beginning, the process was designed to be easy, cheap and effective. This Tribunal will probably replace the Magistrate's Court in many areas. Little or no legal costs should be incurred. You do not need to feel that you are at a disadvantage because you do not know rules of evidence or rules of procedure. There are no forms to be followed. You simply have to go to the Tribunal and present your case.

Sir, it is not only the consumer who has access to the Tribunal but the supplier also has access to the Tribunal. I would want to say to the business people in Barbados that this is an important vision for them because an individual who comes to them to return a commodity or to complain about a service, the supplier is equally able to say, I am carrying this matter to the Tribunal. I believe it is going to come as a surprise to many people, that the supplier has access, as well, to this easy, effective and straightforward process.

The limit of this Tribunal will be \$10 000 which is the same limit, exactly, as the Magistrate's Court at this point in time. While there is provision for the assistance of the public counsel, that is not required. You can ask for the public counsel's assistance and if he agrees, he would do so but you do not need to have the public counsel's assistance to go to this Tribunal.

Sir, two other important features of this Tribunal are as follows: The decision of the Tribunal has the same weight and standing as the Magistrate's Court decision. What that means is that this Tribunal having decided, their decision will have the force of a judgment of the Magistrates Court and can, therefore, be in force in exactly the same way as any other Magistrates Court order or judgement would be, so that you can levy on the individual's goods if an order is made. The company should repay and if he does not repay, you can levy on the goods using the court marshals and so on.

The other salutary feature is that you can only apply to the Courts of Appeal on points of law. So a company that feels particularly vindictive and feels that it has a particularly deep pocket, will find that it cannot go beyond this Tribunal process. Sometimes you do that in litigation. You try to bury the other side and, as awkward as it might be, sometimes you might appeal and appeal again. If you can, you bury the other side in litigation to stave off an eventual decision. That is not going to be allowed in this case. You can only apply to the court of appeal and only on points of law.

Sir, with those few comments, I would like to say that the legislation is extremely well thought out. I would urge merchants not to develop an instant panic. The legislation is not designed to be anti-merchant. It is certainly pro-consumer but in every case where the guarantees are going

to be relied on, there is a measure of reasonableness. An individual is not allowed to go to the Tribunal except he has first tried to mediate his claim. So it is not a case where I have a dispute or I carry back something and I move over to the Tribunal and say I have a claim against Joe Blow and his company. It is not at all like that, because you must first use some kind of mediation approach. You must first try to settle your claim before you can come to the Tribunal to have them adjudicate on the matter.

The legislation is modern. I am pleased with the use of the term used earlier in the debate - A Consumers Bill of Rights. It is something that has been lacking for far too long and I think that it will achieve the needs that it is intended to achieve by the Minister, and the Ministry who have been responsible for this preparation. Sir, except for the slight reservation I have in relation to the situation where, for instance, a carpenter or a plumber buys some tools for use in his business which as I said, is something that we can certainly look at in due course, I believe that the legislation is timely and more than meets the Bill and, therefore, I have no reservation supporting this Resolution.

SENATOR C. K. LAURIE: Mr. President, I just want to raise a point here. This Resolution seems to say that consumers from now on are going to really benefit. I have not heard anybody talk about the social cost of this legislation, because it is very difficult to ignore that point. I think it is obvious that the cost of doing business, overall, is going to go up, and the cost of doing business by the small entrepreneur is going to go up even more, because he now has to cover the risk that is involved.

Senator Marshall was saying the small entrepreneur cannot sue a supplier because he is a businessman, even though he is a small entrepreneur, but he can be sued by a consumer, so he is caught in the middle of this legislation. He can be sued by the consumer and he cannot sue the person he bought it from, because he is the businessman. Sir, on the question about going on and passing back, the small entrepreneur may be one of many small guys supplying materials to a large company. He, as a small entrepreneur is still at risk. If the company gets sued, they can pass it on to him.

Sir, we looked at this the other day when we were talking about improving food safety. There is no doubt that this will come with a cost. The guy who, under the old food safety regulations, did things like having an open tray and sitting at the side of the road, and all that is finished. He is out of business because this sort of business is prevented by the new regulations. Even right now we see a lot of health regulations that are waived by people ignoring them. The health inspectors just pass by and say, well he is a small man trying to make a buck. Strictly, if the law says no, he cannot do that and the laws should be enforced.

5.00 p.m.

At one time, we applied for permission to erect a restaurant at the old Barbados Agricultural Society (BAS) Headquarters and the Ministry of Health came in and said that the restaurant would be within 100 yards of a road and therefore they could not grant us a licence because dust could come down because it was not enclosed but within weeks of that there was somebody on the edge of the road selling food from the back of a van. This is all on the plus side but there are some negative aspects and I just thought I should lay that on the table.

SENATOR LeR. H. McCLEAN: Mr. President, I find myself in a position again where I can do nothing other than to support this legislation. However, I do not regret being able to do so because as has been mentioned before it is something which is desirable and has been long in coming.

However, Mr. President, it is expected of me to raise any concerns which I may have with respect to the legislation. Section 7 states the meaning of acceptable quality.

“Goods are of an acceptable quality for the purpose of section 6 (1) if they are as

(a) fit for all the purposes for which goods of the type in question are commonly supplied”.

Sir, I am sure that the lawyers know how to deal with this kind of language but it seems somewhat vague to the average layman like me. What is the criteria to be used to determine the fitness of a particular commodity. That is why I made reference earlier to the need for the Barbados National Standards Institute to be equipped in terms of legislative power and resources to deal with matters of this nature so that we can have clearly defined parameters when we are dealing with particular goods so we know exactly what we are speaking of. I know it is impossible to be very specific in every regard and therefore much would be left to the discretion of those persons who have to make a judgement call on this matter.

In that regard, Sir, when I look at the tribunal I am most wary when there is the common practice to say that the Minister shall do this and do that with the terms of appointments. However, I am not as uncomfortable with this one because the members of the tribunal would be viewed, as was pointed out earlier, almost like officers of a court and given the fact that they are going to be ruling on matters which affect consumers, I believe that with the tradition of our judiciary to act with integrity, we can rely on our tribunal to act in the interest of the consumers because those persons, I am sure, would want to protect their own integrity and would not allow other factors to get in the way of their judgment. So I have no difficulty in supporting the way in which the tribunal is going to be set up.

Mr. President, there has been a problem in Barbados, as was mentioned by previous speakers, on the matter of spare parts and the servicing of items that are supplied. We have situations where individuals may go overseas and buy a particular electronic device, they will come back here and may sell it to somebody. Obviously, you cannot expect that person to provide spare parts and services. We also have a situation where large reputable companies would bring in a particular commodity and within a short period of time they will tell you that they have discontinued carrying that commodity and therefore they do not have any spare parts for it nor do they service it. I am happy that consumers will now receive some measure of protection from persons who operate in that way because this has been a problem for a long time. I have seen a case where a person bought a television set from a company and a knob broke on the set, the company told him, and this was within a year of buying the set, that they do not carry that line anymore and do not have any parts for it. I think this is something that needs to be dealt with and I am happy that the legislation would address this kind of situation.

It is unfortunate, however, that in bringing legislation for the protection of consumers that we have so far not yet dealt with a very important matter. This is something that recently has been identified by one of the persons involved with poverty alleviation. I saw recently where it was said that accommodation was probably the greatest problem faced by those persons who are dealing with poverty alleviation. Even the Minister of Social Transformation has spoken from time to time about the unscrupulous behaviour of some of these landlords. Unfortunately, this legislation does not deal with matters of that nature. So when we consider that shelter is probably one of the most important things that an individual, and an individual now being a consumer, would require, it is unfortunate that we do not yet have a body of legislation that deals adequately with matters arising with respect to landlords and tenants and that we still have to resort to common law especially in situations where persons are incapable of getting any satisfaction because they do not have the means, as was pointed out, to challenge certain things.

5.10 p.m.

There are also situations where people rent accommodation and have to be subjected to very poor conditions in some cases, simply because they cannot do any better because of the shortage of housing accommodation that is within a certain price range.

I would hope that, very soon, Government would take the step to introduce legislation which would deal with the relationship between landlords and tenants.

I am not speaking of a rent control board. I do not like the idea of a rent control. I have seen what kind of situation that has led to in Jamaica. It must be a situation that would

establish a kind of legal relationship where the landlord has easy redress in the case where the tenant defaults and similarly, where the tenant has easy redress where the landlord defaults. This should be something which would be better than what we now have because there is a large amount of abuse to people at this time because of circumstances and the fact that people very often are desperately in need of housing accommodation.

As it has been clearly pointed out, this matter cannot be addressed by this legislation, therefore, I am only issuing a call for Government to look at it. I can certainly assure you that probably by the next term, the Government with which I will be associated, will introduce these kinds of measures. If it is not done by this present Government, certainly, I would be taking steps to do so.

Asides.

SENATOR LeR. H. McCLEAN: Mr. President, I do not speak loosely. On my assumption of this Office, I promised you that I would listen well and would speak when necessary. Therefore, whenever I speak, I know of what I am speaking.

Mr. President, in principle, the legislation is good for the consumers of this country but I hope that Government would address those concerns which I have mentioned, not only in relation to this but also in relation to consumer protection.

Senator Newton has also made the point that we need to have mechanisms to ensure that the legislation can, in fact, be effective.

Mr. President, when I made reference to the role of the Public Counsel, I hope it was not being interpreted that I was saying anything against the Public Counsel, either the Office or the person.

I simply wanted to reiterate that we want to be sure when we do things, that they are done within the particular parameters of the framework which has been established.

Mr. President, I give full support to this legislation and do hope that those mechanisms would be put in place which would ensure that the legislation is effective. I thank you.

SENATOR K. D. SYMMONDS: Sir, I was moved to rise to express some degree of explanation after hearing Senator Laurie. Senator Laurie has raised the issue of cost in this matter. I think we not only need to create a sense of clarity but to restore a certain sense of balance.

Essentially this legislation should be seen as setting out a number of minimum standards. Perhaps it could be called

best practices which should be followed, not only in the sphere of providing goods for sale but also in providing services.

Mr. President, starting from that point of departure, it is perhaps fair to say that most of the things that are required, should already be in place. I do not think the legislation is asking the provider of a good to do something which, reasonably speaking, one would not have expected to have taken place for sometime before. Therefore, that in itself should not automatically lead us to be speaking about an additional cost burden.

Sir, the question of remedies being made available, as I understand the legislation, is seeking to vest consumers with certain rights where in law, they did not necessarily exist before. It must be remembered that everything does not concern the necessary rejection of the good. For argument sake, there could have been a situation where one would be reasonably concerned about a cost, if the only solution to a complaint was in law that one receives compensation in damages. That is not necessarily the case because, in my view, there is sufficiency of argument for consumers to have goods repaired; to have defects in items cured or to have goods replaced by alternatives of a satisfactorily equal description. Essentially, what this Bill is trying to do is to put a consumer, who has been placed on the wrong footing, back on a proper footing again.

I do not think in any of those scenarios in regards to the procuring of title, if goods are sold and there is no right to sell the goods because of the fact that there is a question of ownership or a lien over the property... very often, persons in the second-hand car market purport to be able to sell a car when, in truth and in fact, there might be a judgement against the vehicle or a lien being held by a bank. When this happens, the consumer is not being put to greater expense but is asked to exercise greater prudence.

In addition, insofar as the right against a manufacturer is concerned, Section 27 at some significant length, answers Senator Laurie's concern. The redress there is not necessarily a cost factor redress.

Clause 26(a) speaks to:

- (i) "a cause independent of human control occurring after the goods left the control of the manufacturer; or
- (ii) the price charged by the supplier being higher than the manufacturer's recommended retail price or the average retail price."

This is an area in which the consumer would have to establish that the manufacturer was in breach. It is therefore,

not automatic that every time one goes before a Tribunal or brings a complaint to the Public Counsel, there is going to follow logically a legitimate claim or if that claim is legitimate, it is going to necessarily be one which is couched in terms of creating an additional expense to the business in question.

Therefore, at 27(b)

- (ii) "an act or default or omission of a person other than the manufacturer or a servant or agent of the manufacturer or,
- (iii) a cause independent of human control occurring after the goods left the control of the manufacture."

This does not necessarily lead one to paying a penalty in cost. Even after that, there is an additional *caveat* in which the legislation strikes a balance between the consumer and the merchant who also have rights under this Act. I rose particularly to make this point because this Bill has been treated primarily as a bill of rights for the consumer. It is to be remembered that at all times the service provider also has rights and, therefore, where one claims that one wishes to reject a good but before making that claim, one claims to have lost the good; disposed of it; damaged it; otherwise have consumed it, then essentially one is not empowered to carry that claim to its logical conclusion.

Therefore, the vested rights of the service provider are protected by ensuring that the legislation builds in that *caveat* so as to ensure that persons do not automatically come and put the service provider to greater expense.
5.20 p.m.

Sir, that was the point of clarification I wanted to make. I hope it was effectively and adequately made.

I want to speak more generally to the Fair Trading Commission itself. While I appreciate the ease and flexibility in which an average person can go before the Tribunal, I hope it will be able to respond speedily. I do not think the Tribunal should limit itself to that level of jurisprudence because I believe that there is a growing body of jurisprudence coming out of New Zealand and the United Kingdom on these trade matters and I think that whenever significant issues arise, as best as possible, with the resources available the Committee should reduce their findings into writing and give reasons so that they are able to develop a worthwhile body of jurisprudence and ensure consistency in this country. Sir, this applies across the board as far as I am concerned with the judiciary in Barbados but I particularly raise this issue in this matter.

Sir, this piece of legislation specifically binds the Crown. Last week we heard a lot of lamentation about the absence of the Crown being bound by the legislation. Today,

we are dealing with a piece of legislation which touches the consumers in the most direct way of all the three pieces of legislation discussed and it also binds the Crown but we have not heard anyone say anything. Sir, there is silence on this matter.

This is important because there are a number providers like National Housing Corporation and Caribbean Broadcasting Corporation and the fact that it binds the Crown should be an issue to which even the likes of Senator McClean should want to engage in.

Sir, I want to congratulate the Minister and his staff and associate myself with this Bill.

SENATOR P. C. GODDARD: Mr. President, I rise to talk on one practical aspect of this Bill. This is in reply to the issue raised by Senator Laurie about social cost. My practical experience over a long period of time is that whenever standards are raised and improvements are made in the commercial sector, the knee-jerk reaction is that it is going to increase cost to the consumer.

Senator Laurie asked about social costs but as we raise the bar and improve standards we reduce the social costs because there are many other collateral things that add to social costs other than not directly investing in improving the business environment. I talk about food distribution specifically, the health factors that relate to poor food distribution and the health burden this can put on the society.

This relates to distribution of water and basic food items. By improving the quality and sanitation of food we reduce the impact of food-borne and water-borne diseases. While Barbados is generally a healthy society, we can see the evidence of poor food and water distribution in other countries which results in parasitic and debilitating diseases and which add a tremendous social cost and burden to the society. As we improve health and safety standards we are reducing the overall social cost. Sir, I want to ask, what is the cost of a human life? Because, if we can prevent the loss of life, the cost becomes relatively immaterial.

Therefore, we cannot take a narrow view of cost but we have to look at the overall cost to the society and the benefits that this type of legislation brings to all Barbadians. It is in that context I would say that legislation will reduce the social cost rather than increase it.

Mr. President, with those few words, I support the passage of this Bill.

SENATOR THE HON. G. S. H. MURRAY: Mr. President, I conclude this debate by replying to some points made by a few Senators. I wanted to deal with the question of the perceived cost mentioned by Senator Laurie but

my colleagues Senator Symmonds and Senator Marshall dealt adequately with it.

I would say that legislation will open other areas of business expertise and I am sure that someone will devise insurance for these new areas so that persons will be covered by insurance for this area that does not presently exist.

I want to deal with the charge made by Senator Laurie that he had seen health regulations ignored. I hope he does not refer to the personnel from the Ministry of Health who do inspection because I know from personal experience that these inspectors are very vigilant. They train persons in restaurants in food handling and this is why you can go to any restaurant without fear of food poisoning. You can also go to Cropover where thousands of people buy food and there are no outbreaks of disease because the health personnel go from stall to stall and insist that the standards of running water and other requirements are met.

Sir, this is not accidental but a deliberate consistent policy on the part of the Ministry of Health who do a tremendous job and we are the beneficiaries of it because we do not have the outbreaks of food poisoning that we hear about in other countries because of the vigilance with which the Ministry of Health exercise their duty.

Senator McClean asked what are acceptable qualities and Section 7(1) of the Bill speaks to this. It says:

7. (1) Goods are of acceptable quality for the purposes of section 6(1) if they are as

- (a) fit for all the purposes for which goods of the type in question are commonly supplied; and
- (b) acceptable in appearance and finish;
- (c) free from minor defects;
- (d) safe; and
- (e) durable

5.30 p.m.

Sir, the Bill goes on to say:

“as a reasonable consumer fully acquainted with the state and condition of the goods, including any hidden defects, would regard as acceptable...”

In other words, the whole principle of reasonableness shall then prevail in this respect.

I also want to point out that not only this piece of legislation but the other pieces of related legislation are so

important that, I think that for them to be properly enforced and policed, members of the public should have a responsibility to make sure that they have actual legislation in their hands and they should become fully acquainted with the details of the legislation for themselves so they do not have to depend on the filtered interpretation or reporting of the media on these matters but they should have details in their possession to which they can refer from time to time.

Therefore, I think this Bill and all the other related Bills should be made readily available to the public at a reasonable price. I will give my commitment that I will insist that the Government Printery has enough copies available at a very reasonable price, and we will promote it, so that they can become the ‘bibles’ of the consumers in Barbados. These three pieces of legislation will constitute the ‘three books of the bible’ of Barbadian consumers and therefore, increase their ability to ensure that their rights are protected and guaranteed.

Sir, this brings into focus the fact that a new day has dawned for the consumer in Barbados. It will ensure a level of morality in the operations both on the part of the suppliers and consumers of the goods and services and there will no longer be a case of the consumer seeing themselves as the ‘David’ fighting against the ‘Goliath’ of a business, no matter how small he is. There would be the question of people who have in the past called for these things being seen as the fable ‘Don Quixote’. There are realistic objects and benefits that can be achieved from these persons by insisting that their rights are met and respected.

Sir, with those words, I beg to move that the Bill be read a second time.

The question that the Resolution do now pass was put to the Senate and agreed to.

On the motion of SENATOR THE HON. G. S. H. MURRAY the Senate resolved itself into Committee, SENATOR THE HON Dame PATRICIA SYMMONDS in the Chair.

COMMITTEE

SENATOR THE HON. Dame PATRICIA SYMMONDS: The Senate is now in Committee.

Part 1 (Clauses 1 to 4) were called and passed.

Part 11 (Clauses 5 to 16) were called and passed.

Part 111 (Clauses 17 to 25) were called and passed.

Part 1V (Clauses 26 to 28) were called and passed.

Part V (Clauses 29 to 32) were called and passed.

Part V1 (Clauses 33 to 40) were called and passed.

Part V11 (Clauses 41 to 48) were called and passed.

Part V111 (Clauses 49 to 61) were called and passed.

SENATOR THE HON. G. S. H. MURRAY: I beg to move that the First Schedule be the Schedule to the Bill.

The question was put and agreed to.

SENATOR THE HON. G. S. H. MURRAY: I beg to move that the Second Schedule be the Schedule to the Bill.

The question was put and agreed to.

On the motion of SENATOR THE HON. G. S. H. MURRAY, Madam CHAIRMAN reported to HIS HONOUR The PRESIDENT the passing of one Bill in Committee. Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. G. S. H. MURRAY the Bill was read a third time, passed and cited as The Consumers Guarantees Act, 2002.

ORDER NO. 5 – MUTUAL FUND BILL, 2002

SENATOR T. E. BARKER: Sir, this Bill seeks to make more comprehensive provisions for the regulation of mutual funds and it is also to repeal and replace the Mutual Fund Act, 1988.

Sir, the provision of instruments for savings is a very important part of Government's overall economic policy. As we seek to develop our economy, we have to mobilise the savings of our people and make sure that they are channeled into productive avenues so as to build national income and increase the rate of growth of our economy.

Traditionally, Barbadians have saved basically in commercial banks. Since 1981 they were encouraged to use the credit unions by the introduction of regulations to use such savings as income tax deductible incentives. During the 1980s, the Barbados Stock Exchange was conceptualised and launched in 1986 and provided another avenue for savings.

In 1996, this Government, in order to provide more instruments and to increase the rate of savings, sought to bring on stream more instruments, for example, mutual funds and retirement savings plans. All of these are instruments through which Barbadians can channel their savings.

5.40 p.m.

Sir, the decision to save or to consume is very important and we always like our citizens to be very

judicious in exercising this choice. Obviously, we would want to save in order to provide for a rainy day, but at the same time, we want to ensure that there is enough capital there for businesses to use to finance their expansions.

Sir, the provision of mutual funds is not necessarily to encourage people to save as opposed to consuming, but rather to channel their savings in another way. Obviously, Sir, as I said before, traditionally Barbadians save in the traditional banks. The banks will then undertake to lend that money but we know, Sir, the difficulties associated with people accessing money from the commercial banks. In some cases there is a legitimate fear in accessing money through the commercial banks because the banks have not always been known to be appreciative of the culture of the community. Since most of them, in any case, had their head offices in other countries, I should say, they did not fully appreciate the nuances of the Barbadian society and the Barbadian economy, so there is always this ambivalence towards the commercial banks, expressed by the citizens of the country.

The Mutual Fund is another way of handling the savings of the people along certain lines. By mutual it means that my funds, your funds and everybody's funds and all those funds are pooled together and an administrator takes all of this money – hopefully, the person is well trained in the art of investment – and tries to invest it in different areas of activity, in order to achieve a greater rate of return. We know, Sir, that for obvious reasons, the banks cannot pay too high an interest charge.

Sir, I heard talk in this Honourable Chamber that the savings rate is too low. This may very well be so, but the point is that there is a one to one correspondence between the savings rate and the loans rate. If we have too high a savings rate, it would manifest itself in a higher loan rate which is a deterrent to business activity.

Sir, for obvious reasons, we have to ensure that the savings rate does not get too much out of hand, but, Sir, at a savings rate which is very close to the rate of inflation, it means that the real value of the money, over time, is not really increasing, whenever the savings rate is either below or close to the retail price index. The point I want to make is that this is not, in itself, a great incentive to save, so the provision of these other instruments would seek to mobilise even more so because the use of the Mutual Fund concept could, and would result in the realisation of a higher rate of return. You could invest the money in activities which would yield a higher return, than you would get from the traditional commercial banks, in terms of the interest rate.

Sir, when a mutual fund manager has \$10 million to invest, he looks at the best prospects there are available. He would hardly put all of the money in one activity or in one business and he would look for those for which there is the

greatest advantage, and judiciously allocate funds to what he considers to be the highest yielding investment.

Now, he knows that in order to get a high rate of return, there is an element of risk but the fact that he does not put all of the money in one source means that the risk is shared, so that if per chance one investment fails, it would not seriously affect the sum total. That is why, Sir, it is extremely important that the manager of this fund is well trained, is skillful and he is knowledgeable because, otherwise, we know what can result.

Sir, that is why this Bill we are discussing has, as one of its objectives, a comprehensive set of procedures and regulations to ensure that the fund is, as far as humanly possible, successful and that the benefit to the ordinary investor is realised.

Then, Sir, it is extremely important that since this is an avenue for which there has been tremendous growth, because we are told that in 1998 there was something like \$38 million in mutual funds, by the middle of this year, over \$200 million of the people's money was invested in mutual funds. It is a very fast-growing instrument and hence, there is an even more urgent need to ensure that it is properly regulated. Sir, we are talking about \$200 million and we all know the tremendous effect this would have on the economy, if something were to go wrong.

Sir, it is important that the Government puts in place, a set of regulations which will ensure that the operators and managers of these funds do what is right. It is for the same reason that the credit unions, which have over \$100 million in savings are so properly regulated. We cannot afford to have foolishness happening with either the credit unions or the mutual fund business because the effect on the economy is so great.

Sir, that is why it is imperative that every credit union in this country follows the regulations laid down by the Minister of Cooperatives and do not go outside of these regulations. This is very important and anybody who seeks to disobey the regulations, one has to worry about them because they are there to protect the individuals. In a similar fashion, we have to ensure that the mutual fund is properly regulated with a set of controls and regulations because, Sir, in the final analysis, it is your money and it is my money. Do not forget, Sir, that the reason for the tremendous growth in mutual funds, is primarily because the Government in 1996, allowed investors tax protection to the amount of \$10 000.

Sir, I am sure there are some of us in this Honourable Chamber who would have taken advantage of that concession. If the Government were to give a concession, just as they did with the credit unions which accelerated their rate of growth, tremendously, the same Government has the

responsibility to ensure that if you are encouraging me to put money in a particular venture, then you have to make sure that the public is properly protected and supervised and, Sir, that is why we are seeking to ensure that this happens.

Now, in the case of mutual funds, when the Bill was passed in 1996, there were no regulations at that point in time, so the Government immediately set up a committee, headed by the then Director of Finance and Economic Affairs, Mr. Erskine Griffith, and included people from the private sector and the public sector. They looked at the legislation of various jurisdictions, such as the Bahamas, the Cayman Islands and the British Virgin Islands which had mutual funds in operation.

5.50 p.m.

The draft Bill in 1997 was the result of the work of the Committee along with the input from the then operators of the mutual funds. This Bill has been exposed to scrutiny and there were certain concerns which were expressed. So later in September of that year they came up with a revised draft Bill which was based on the Bahamas Act. This Bill was reviewed and the Committee made all the relevant comments. This Bill went through certain organisations such as the chartered accountants of Barbados which commented and gave their inputs. After that, in August of 1998 Cabinet approved the Bill and it was introduced in the House in that same month and later through this Chamber. The Governor-General assented by the end of December 1998 and by 1999 this Bill came into operation. Sir, this Honourable Chamber had a chance to examine this Bill in detail, to comment on it and to do what was necessary.

However, there were some problems with this Bill. This Bill was silent on some major issues such as the issuing of fees for licences and mutual fund practitioners. The Bill also provided limited direction with regard to the treatment of exempt mutual funds and there were some technical difficulties. This Bill was to be overseen by the Barbados Stock Exchange which did not have the regulatory power so the Barbados Stock Exchange subsequently came under the aegis of the Securities Commission. At that time the Bill specified that the regulation of the mutual fund was the preserve of the Stock Exchange which was not practical nor legal as such.

The Act that was passed was found to be a bit deficient, so we have to get the practitioners now to become involved. Therefore, a Committee was set up made up of some of the operators of the mutual funds such as the Fortress Caribbean Growth Fund, the Fortress Property Fund, the Roybar Fund, the Barbados National Bank Fund and the Mutual Global Balance Fund as well as people from the Ministry of Finance. They all looked at the Bill and came to the conclusion that in order to make it do what it should

do, the revisions would have been so drastic and so radical that it was safer and wiser to repeal the old Bill and bring a completely new Bill.

Sir, we have to remember that at the time when the first Bill was brought into play we were more or less on a fresh wicket as it were. We were introducing something which we did not know about and we did not anticipate a lot of the things that happened. That first Bill was brought in after wide and varied consultations, so it was not a case of Government haphazardly doing things but like with everything else sometimes you only recognised the deficiencies after it is put in operation.

The mutual fund took off and within a few years the amount of money invested in the fund reached \$2 million, but licences were not going to be issued because the legal mechanism was not in place. So the funds were doing what they were supposed to be doing. This was an attractive avenue for Barbadians to save but the legal framework in which they operate was a little bit dicey so hence this Bill. So we make no apologies for that. These things happened. However, when you find that there are deficiencies, you do not sweep them under the carpet, rather you seek to correct those deficiencies after taking wide and wise consultations.

What are the major changes? As we have said, the powers of the Securities Commission became extremely important. It is no longer the Stock Exchange of Barbados but rather the Securities Commission which has the regulatory and oversight responsibility.

Sir, if you compare the old Act with this Act that we are now discussing you would see that the powers and the functions of the Securities Commission far exceed that which was proposed under the old Act when it was the Barbados Stock Exchange. So the expanded powers given to the Securities Commission are vital given the fact that the Government has to ensure that the public is protected. Our overarching concern is to properly protect the investing public so that when they put their money in the mutual fund, they will know that there is an agency which is out there ensuring that proper standards and rules are obeyed at all times. So the Securities Commission is given very important powers under this new Act to protect the public.

Other changes relate to the shareholders where the shareholders now have specific voting rights including the right to elect directors. There are also changes to the investment contract which has now to be approved by the shareholders and any changes in the investment objective or investment policies must now have shareholders' approval which means that the shareholders now have a greater say in the actual management of the fund.

The responsibilities of the directors are also set out clearly in this new Bill. The investment advisors are the

people whose responsibility it would be to select the portfolio investments which are consistent with the objection of policies as stated in the Prospectus and their functions and their actions are properly put out in this new Bill. The responsibilities of the administrators of the fund are set out in this new legislation as well.

There are also capital requirements which are established for the management companies, which is new. 6.00 p.m.

Mr. President, importantly the Securities Commission now has the right under law and without notice, to carry out surprise inspections or to supervise the funds. These systems are there to protect the public.

Sir, we on this Side believe that this new Act being discussed this afternoon, better provides for the supervision of this important instrument. As was said before, \$200 million of the Barbadian savings is invested in this mandate to protecting the people.

This is just another act of ensuring that we do not leave out the ordinary man who we have encouraged to save but that we make sure that along with the incentives to save, there is also the security mechanisms in place that one's hard-earned money would be properly protected.

Mr. President, I, therefore, ask that this Bill be read a second time.

SENATOR LeR. H. McCLEAN: Thank you, Mr. President. Certainly one would welcome any regulatory mechanism with respect to investments in this country, given what has happened in other parts of the world.

Sir, the main concern that I have in respect to this legislation is the equity for capital requirement. I would like some clarification on this particular point.

Sir, when one looks at the requirement for licensing for mutual funds, the legislation speaks of the qualities that are required of a person.

Section 19:

"The Securities Commission may not grant a license unless it is satisfied that

- (ii) the applicant has sufficient expertise and capabilities to administer mutual funds.
- (b) it is of sound reputation.
- (ii) given in invitation in writing that it will administer the mutual funds of which it is responsible, in a proper manner."

Certainly, we have no difficulty with that. Given the nature of the mutual fund, which simply is taking funds from individuals, pooling and investing them, then spreading those investments across a number of other companies so that the risk is being reduced, instead of one investing funds in a bank. Therefore, I am wondering why is it necessary that a person who has met those qualifications in 1991 must now have a further requirement of having equity capital of \$1 million. This requirement obviously reduces the ability of several persons who would want to get involved in mutual funds.

It seems to me that an environment is now being created in which only certain entities would be able to get involved in investment activities in this country. Therefore, I am wondering what are the requirements in other countries.

Certainly one can understand if there is this requirement for \$1 million, even though someone might have all the other qualities, since the mutual fund is not like an insurance company which is required to have a reserve of a certain quantity because it would be called upon, from time to time, to pay out claims or in the event of any difficulties, must be able to demonstrate that it can. The mutual fund will not have to make the same kinds of payment as an insurance company and, therefore, I wonder why the requirement for equity.

For example, if there were a lawyer, an accountant and a third party who had the knowledge, character and ability to try to administer a mutual fund, this requirement for \$1 million obviously would be a hindrance. In addition, if those persons form themselves into a company, they would need a further \$1 million of insurance cover. Therefore, I wonder if the \$1 million is not too excessive for the issuing of a license to administer the mutual funds and if, in fact, it is not to create an exclusive kind of situation where only people with certain access to funds would be able to become involved.

Mr. President, my intervention is only to get an explanation as to why the requirement for the \$1 million equity. I thank you.

SENATOR T. E. BARKER: Mr. President, perhaps the Honourable Member should read page 8 of the Bill. It is important that we understand who is the administrator. Under Preliminary it says:

“Mutual funds administrator or administrator means a person who conducts mutual funds administration in or from Barbados and includes,

- (a) a company incorporated under the Companies Act,
- (b) an external company registered under the Companies Act,

- (c) a partnership,
- (d) an international business company within the meaning of the International Business Companies Act to the extent that the conduct of the administration is within section 6 of the Act; or
- (e) a society.”

Therefore, this Act goes beyond the concept of an individual.

Sir, one also has to be very careful because the administrator of the mutual fund has so much power that he could affect the fortunes of a number of persons. The applicant must have a proven track record in the administration of such matters. He must be of sound reputation and has given an undertaking that he will undertake the mutual funds in a proper manner.
6.10 p.m.

Sir, I agree that the firm should have equity capital of at least \$1 million so that we do not have to worry about the ability of that firm to handle such a large portfolio.

Sir, the Opposition spokesman raised this matter and it is reasonable to expect that the Government should ensure that people who manage such large portfolios should have a proven record and that the company must have equity capital of \$1 million.

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. J. X. WALCOTT, the Senate resolved itself into Committee on the Bill, SENATOR THE HON. Dame PATRICIA SYMMONDS in the Chair.

COMMITTEE

Madam CHAIRMAN: The Senate is in Committee.

Clauses 1 – 2 were called and passed.

Part 1, Clauses 3 – 15 were called and passed.

Part 2, Clauses 16 – 22 were called and passed.

Part 3, Clause 30 was called and passed.

Part 4, Clauses 31 – 38 were called and passed.

Part 5, Clauses 19 – 47 were called and passed.

Part 6, Clauses 48 – 59 were called and passed.

On the motion of SENATOR THE HON. J. X. WALCOTT, Madam CHAIRMAN reported the passing of one Bill in Committee and Mr. PRESIDENT resumed the Chair and reported accordingly.

On the separate motions of SENATOR THE HON. J. X. WALCOTT the Bill was read a third time and passed and cited as Mutual Fund Act, 2002.

ADJOURNMENT

SENATOR THE HON. J. X. WALCOTT: Mr. President, I beg to move that this Sitting be adjourned *sine die*.

The question that the Senate do now adjourn sine die was put to the Senate and agreed to and Mr. PRESIDENT adjourned the Senate accordingly.
6.18 p.m.

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