
THE SENATE DEBATES

(OFFICIAL REPORT)

FIRST SESSION 2003 – 2008

THE SENATE

Wednesday, October 29, 2003

The Senate met in the Senate Chamber, Parliament Buildings on Wednesday, 29th October, 2003, at 10.15 a.m.

PRESENT

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

Her Honour Senator Dame Patricia SYMMONDS,
D.B.E., G.C.M., B.A. (Hons.) (P.G.C.E.), J.P. (Deputy
President)

Senator the Hon. E. R. GRIFFITH, G.C.M., J.P.
(Minister of Agriculture and Rural Development) (Leader of
the Senate)

Senator T. E. BARKER, B.A. (Hons.), M.A. (Econ.),
J.P. (Parliamentary Secretary in the Ministry of Finance and
Economic Affairs)

Senator the Hon. J. E. D. WILLIAMS, B.Sc. (Hons.),
M.Sc., M.B.A., J.P. (Minister of State in the Prime
Minister's Office and the Ministry of the Civil Service)

Senator Sir ROY TROTMAN, K.A., M.A.

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

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

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.

Senator R. W. GRANT, B.A. (Econ.), G.Dip., M.A.
(Parliamentary Secretary in the Ministry of Tourism and
International Transport)

Senator the Hon. Miss L. V. EASTMOND, LL.B.
(Hons.), LL.M. (Minister of Commerce, Consumer Affairs
and Business Development)

Senator I. St. C. LINTON

Senator G. P. B. NICHOLLS, B.Sc. (Hons.), LL.B.
(Hons.)

Senator Miss P. E. PARRIS, J.P.

Senator G. P. I. GOODING-EDGHILL

Senator Miss. S. C. V. HUSBANDS, B.A. (Hons.)

Senator F. J. STUART, B.A., LL.M.

Senator Dr. D. S. LOWE, Ph.D., Dip. Theology, B.A.,
MED, ED.D.

Senator the Very Reverend H. E. CRICHLow,
G.C.M., B.A. (Hons.) (Dunelm)

Senator Dr. F. L. CHANDLER, Ph.D., B.Sc. (Hons.)

Senator A. C. FIELDS

Prayers were led by Father Errington Massiah.

Mr. PRESIDENT: This Senate is in session.

MOTIONS RELATING TO THE BUSINESS OR SITTING OF THE SENATE AND MOVED BY A MINISTER

SENATOR THE HON. E. R. GRIFFITH: Mr.
President, I beg to move that Standing Order No. 45 (2) be
suspended for the remainder of today's Sitting.

The question was put to the Senate and agreed to.

ANNOUNCEMENTS BY HIS HONOUR THE PRESIDENT

Mr. President announced that he received and read the
Report of the Committee of Selection which recommended
the appointment of SENATOR THE HON. E. R. Griffith,
SENATOR THE HON. Miss L. V. Eastmond, SENATOR
G. P. B. Nicholls, SENATOR B. R. Collymore, SENATOR
Sir John Stanley Goddard, SENATOR F. J. Stuart, as
members of the Joint Committee of Public Accounts.

The Senate concurred in the recommendation.

PRESENTATION OF PAPERS

SENATOR THE HON. E. R. GRIFFITH: Mr. President, I beg to move that the following documents be laid:

- a. Report on the Public Enterprise Investment Fund for the quarter ended June 30, 2003.
- b. Report on the Social Investment Fund for the quarter ended June 30, 2003; and
- c. Recommendation on the International Labour Conference concerning the promotion of Cooperatives.

PUBLIC BUSINESS

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

ORDER NO. 1 – SECOND READING OF THE
OCCUPATIONAL PENSION BENEFITS
BILL, 2003

SENATOR THE HON. E. R. GRIFFITH: Mr. President, the Occupational Pensions Bill which is now before us is the result of extensive consultation with interested parties over a prolonged period of time. It is also part of the reform of the entire pension system in Barbados. 11.10 a.m.

Discussions on this matter started as far back as 1989 when a committee was established. It was given the mandate to engage in extensive consultations with private sector fund managers, so that the broadest possible range of interest would be captured during that exercise.

At an early stage in the Committee's work, it was recognised that much of its focus would have to be directed towards insurance companies, since they manage a great part of the pension business in Barbados. Firstly, through various investment vehicles which they provide and secondly, by keeping a careful watch on the benefits offered by those schemes to ensure a continued solvency.

Until now, Mr. President, the Department of Inland Revenue has performed the function of registering retirement plans, superannuation funds, retirement plans based on annuity contracts and provident funds, all of which are covered under the 1969 Income Tax regulations.

However, it is accepted that while those regulations were well conceived, they make no provision for the general

day-to-day management or administration of the individual funds. Thus, it was not surprising that from time to time there have been some contentious issues such as vesting distribution of surpluses, *et cetera*, that the legislation did not adequately address, also, how those matters should be conducted.

Mr. President, one of the significant benefits of our high standard of health care, and of the revolution which has taken place in medical care, globally, is that persons are living longer. We in Barbados are now experiencing a situation where there are more pensioners than there are persons in the workforce.

Sir, this is why you would recall that not so long ago, the Government found it necessary to engage in a number of national consultations on the future of the National Insurance Scheme (NIS). Sir, coming out of those consultations, you will also recall that a number of measures were identified and have been put in train to secure the future of that Scheme.

Sir, that part of the reform has taken place, and we will have to turn our attention to the management of the private schemes, and this is the essence of the Bill before us today. As would be expected, therefore, one of the objectives of this piece of legislation is to identify and implement the proposals necessary for the reform of the private pension system, with a view to reducing dependence on the National Insurance Fund.

However, Mr. President, there are other equally important, if not more important objectives which this Bill seeks to achieve. Among them are the following:

- to expand voluntary employment pension coverage, in order to provide the citizens of Barbados with long-term security of their retirement income;
- to protect employees pension benefits;
- to establish an effective modern administrative environment, which reflects equitable and clear employment pension standards;
- to facilitate the development of an international pension industry within our country, thus providing employment and increased opportunities for Barbadians to put their technical and financial skills to use;
- to establish minimum standards governing the vesting, funding, locking in and investment of pension plan benefits and assets.

Mr. President, in keeping with the philosophy of entering into broad consultations on such important and serious matters, the Committee which was established in 1989 was subsequently expanded to include representatives of the trade unions, the private sector agencies, various fund managers and interested parties.

As part of its work, the Committee did a review of pension legislation which exists in various jurisdictions across the globe and eventually came up with a set of proposals which it thought were suitable and appropriate to meet the needs of the Barbadian society.

The existing pension system that we have in Barbados is a mixture of mandatory and voluntary arrangements which apportioned the responsibility for the provision of retirement income between Government, the corporate sector and individuals. Thus, there are several private pension vehicles now available to individuals and families. These include registered retirement savings plans, and employer-sponsored savings plans which provide an important source of retirement income for former employees.

However, the earnings and stability of the companies will, of necessity, effect and determine the sponsorship of pension plans. As a consequence, the coverage will vary from sector to sector. It is accepted that in the public sector and in large businesses, the coverage is wide and broad but it is not so in some other businesses.

In addition, Mr. President, it is recognised that the future growth of the voluntary employment pension system will depend on the ability of such a system to respond and adapt to the changing social and economic circumstances, and to the changing needs of employers and employees.

Mr. President, in order for such a system to succeed and grow, it must take place within the context of a sound fiscal and economic environment, a sound administrative framework, and voluntary employment pension plans must be fostered and allowed to expand, over time.

The Bill before us, Mr. President, as I indicated earlier, has a number of objectives in mind. These include protection of benefits, the effective administrative framework, equitable and modern standards and maintenance and expansion of the voluntary employment pension system.

As far as the protection of benefits go, Mr. President, the Bill seeks to provide protection of benefits, because it is acknowledged that security of pensions is fundamental to the overall strength and integrity of the employment system. There is also an effort to reduce potential financial hardship by protecting the purchasing power of pensions from erosion.

11.20 a.m.

Sir, of equal significance is the objective to ensure adequate and appropriate funding of promised benefits particularly those that could be jeopardised by employers' insolvency. Therefore, an effective and administrative framework was absolutely necessary, so the position of supervisor of pensions was created.

There are minimum standards for vesting, funding and the investment of funds. The benefits are locked in to ensure safety and availability of retirement income and minimum standards are established for survivors' benefits.

Equitable and modern standards form a key objective of the Bill which seeks to establish standards of pension regulation to permit the system to respond to the changing social and economic realities such as increasing mobility of labour and the principle of equality under the law.

Mr. President, the current and future growth of the voluntary employment pension system depends on the ability of such a system to respond to the changing needs of employers and employees. This includes the objective of providing benefits for plan members, appropriate funding and administrative flexibility for the plan's sponsors.

Mr. President, the Bill before us is divided into 17 sections which are as follows:

1. Application;
2. Establishment and Administration;
3. Administration of Pension Plan;
4. Disclosure of Information;
5. Membership;
6. Retirement and Vesting;
7. Benefits;
8. Funding and Contributions;
9. Locking In;
10. Winding-Up;
11. Surplus;
12. Establishment of New Pension Plans and Transfers;
13. Directions and Orders;
14. Appeal;

- 15. Supervisor of Pensions;
- 16. Investigation by Supervisor; and
- 17. Miscellaneous.

Part 1 which deals with Application applies to:

- “(a) every pension plan and every registered retirement savings plan that is established by an employer for persons employed in Barbados.
- (b) a pension plan that is established for persons employed outside of Barbados that has a substantial connection with Barbados.”

Substantial connection in the Bill in relation to Barbados is at 2(a) which states as follows:

- “(i) part or all of the benefits payable under the pension plan are payable in Barbados; or
- (ii) the Administrator of the plan or the custodian of the assets of a pension fund related to a pension plan is incorporated or registered in Barbados; or
- (iii) the plan has been established for the benefit of employees of
 - (A) a corporation; or
 - (B) a subsidiary corporation or holding corporation of a corporation registered under the Companies Act.”

Mr. President, this Part is to allow those employees of companies incorporated in Barbados that have branches outside of Barbados to benefit from employment outside of Barbados.

Part II which deals with “Establishment and Administration” sets out the requirements for registration or qualifications of the administrator, the documents accompanying registration and the information that shall be contained in the document establishing the pension plan and fund. It also contains the registration of amendments to the plan and the circumstances under which the Supervisor may refuse to register a plan and the remedies available to the administrator of a plan that was refused by the Supervisor. Mr. President, you will see in a short while why we consider it necessary to have these provisions.

Part III deals with the “Administration of the Pension Plan.” There are requirements for filing annual returns with the Supervisor in the form approved by the Supervisor for

the filing of the valuation of the pension plan within six months of the end of the third fiscal year and after every succeeding triennial. The annual return shall contain the financial statements of the pension fund and an initial valuation of the pension plan prepared and certified by an actuary. The duties of the administrator are detailed. This Part imposes duty of care on the administrator. That duty of care requires the administrator to exercise care, diligence and skill in the administration of the pension plan and the investment of the pension fund.

In addition Clause 17(1) states that the administrator:

- “(b) shall administer the plan and invest the assets of the pension fund using all relevant knowledge and skill that the administrator possesses or, by reason of the responsibilities and duties to be discharged by the administrator, he ought to possess.”

What that means, Mr. President, is that someone cannot come holding himself forth as an administrator if he does not have the appropriate skills that are required for the duties.

There is a provision for the administrator to receive only fees and expenses related to the administration of the plan.

The Bill imposes fiduciary responsibility on administrators and their agents to ensure that benefits and contributions are provided and protected for their members and retired members who are covered by the pension plan. To achieve this objective, they need to place a high duty of care, diligence and skill on the administrator and his agents.

Part V deals with “Disclosure of Information”. Under the present system there is no requirement for the type of disclosure of information which is considered here. As I mentioned a while ago, issues such as distribution of surpluses and vesting rights resort are not adequately covered under the existing regime.

Mr. President, persons who are familiar with the management of these funds will remember the case where an individual not knowing what his rights were under the particular plan retired after nine years and 11 months only then to discovered to his grief that he was short of the ten-year period by one month and that all he could get was a refund of his contributions.

11.30 a.m.

Mr. President, it is issues such as these that have informed the preparation of this Bill.

Sir, we all know of the case not so long ago in the United Kingdom when the empire of Mr. Robert Maxwell failed and persons who were covered under a pension plan that was developed by that empire suffered severely. In fact, not so long ago there was a big hustle and bustle in the United Kingdom when it was discovered that a number of pension plans had failed and that people had lost heavily.

Therefore, the department responsible for works and pensions has now gone to the point where it has proposed the implementation of a pension fund by 2006, from which there would be payments in the form of compensations to those persons who have suffered from that experience.

Sir, we have chosen to do it differently. In other words, we do not want to wait until the horse has bolted from the stable then to look for money to try to rectify the problem. What we have chosen to do is to put in place an appropriate system for the management of such funds that we will avert and avoid situations such as those now occurring in the United Kingdom.

“PART IV

DISCLOSURE OF INFORMATION

20. The administrator shall provide in writing to each person who is or will be eligible, to become a member of the pension plan,
- (a) an explanation of the provisions of the plan that apply to the person;
 - (b) an explanation of the person's rights and obligations in respect of the pension plan; and
 - (c) any other information prescribed by the regulations.
21. Within 4 months of the commencement of each fiscal year, the administrator shall provide to each member of the plan a written statement containing the prescribed information in respect of the pension plan and the member's entitlement at the end of the fiscal year.
22. (1) Where a member of a pension plan terminates employment with the employer or otherwise ceases to be a member in accordance with the employer or otherwise ceases to be a member in accordance with section 31, the

administrator shall give to the member, or to any other person who by virtue of that member becomes entitled to a payment under the pension plan, a written statement, in a form approved by the Supervisor, which sets out:

- (a) in the case of a defined benefit plan, the member's expected benefits at the normal retirement date, and the commuted value of the expected benefits as determined by an actuary.
 - (b) in the case of a defined contribution plan, the amount of money standing to the member's account.
- Subsection (1) applies in respect of a multi-employer pension plan where a member ceases to be a member in accordance with section 31, but does not apply where a member terminates employment with an employer but continues to be a member of the plan.
23. (1) The administrator of a pension plan shall make available for inspection, without charge, the prescribed documents and information in respect of the pension plan and the related pension fund on the written request of:
- (a) a member;
 - (b) a deferred or retired member;
 - (c) the spouse of a member or deferred or retired member;
 - (d) a claimant;
 - (e) a representative of a trade union that represents members of the pension plan;
 - (f) an employer;
 - (g) a person required to make contributions under the pension plan on behalf of an employer;
 - (h) a former or successor administrator;
 - (i) an agent of a person described in any of (a) to (h) who is authorised in writing to act on that person's behalf; or
 - (j) such other person as may have an interest in the plan.

(2) A person mentioned in subsection (1) shall be permitted to make extracts from or copy such documents or information, without charge.

(3) The administrator may, before making available the requested documents or information, require the person to provide information establishing his entitlement to see such documents or information.

(4) Notwithstanding subsection (1), the administrator shall not make available personal information that relates to another member without the consent of that member, or the member's agent or legal representative.

(5) Notwithstanding subsection (4) the administrator, for the sole purpose of enabling the sharing of the surplus in a plan, shall make available personal information that relates to any member, deferred or retired member or claimant of the plan, to an Attorney-at-Law authorised to practice law in Barbados if such attorney-at-law represents persons mentioned in subsections (1)(a) to (f).

(6) An Attorney-at-Law and his clients shall not disclose any personal information obtained under subsection (5).

- The persons mentioned in subsection (1) of section 23 are entitled to inspect at the offices of the Supervisor, during business hours of the Supervisor, the documents that comprise the pension plan and the related pension fund, and such other prescribed documents as are filed in respect of the pension plan and the related pension fund, and to receive copies of the documents upon payment of the prescribed fee.

Mr. President, as I mentioned, this is done so that we would avoid those situations that have taken place in the United Kingdom and elsewhere.

Mr. President, Part V relates to membership.

“25. (1) Subject to subsection (2), every employee of a class of employees for whom a pension plan is established shall be eligible to be a member of the pension plan.

(2) Except as otherwise provided by this Act or the Regulations, an employee shall be eligible for membership of a pension plan if the employee has completed 1000 hours or

more hours of employment with the employer, to whom the pension plan relates, in the fiscal year immediately before the year in which the employee applies for membership.

(3) Subject to the provisions of this Act, where the employee has satisfied subsection (2), unless he objects to becoming a member, his membership shall commence and shall continue until he has attained the normal retirement age.

(4) A multi-employer pension plan may require no more than 1000 hours of employment with one or more participating employers in the fiscal year immediately before the year in which the employee becomes a member of the plan.

(5) A member of a pension plan does not cease to be a member by reason only that he has been employed for fewer than 1000 hours in a fiscal year.”

Mr. President, at present, companies could require a longer eligibility period for new employees before permitting them to join the plan. The minimum requirement of 1000 hours is to ensure that substantially all employed Barbadians, including both part-time and casual, could receive some form of pension coverage, which is very important.

“PART VI

RETIREMENT AND VESTING

28. Every pension plan registered after the commencement date of this Act shall provide for the full vesting of accrued benefits in each of its members within a period which does not exceed 36 months after the commencement of membership in the plan.

29. (1) The normal retirement age under a pension plan submitted for registration after the commencement date of this Act shall not be earlier than 55 years of age and not later than the year in which the member attains the retirement age specified for the member in the National Insurance Scheme and Social Security Act.

- (5) A pension plan may provide that a person entitled to a pension is entitled, before or on the date of retirement, to elect to receive up to 25 per cent of the commuted value of his pension by way of a single lump sum payment.

30. A member of a pension plan
25. who terminates membership in the plan prior to the normal retirement age under the plan; and
- (b) who has been a member of the plan for a continuous period of over 36 months shall be entitled to a deferred pension benefit equal to the member's accrued benefits.

Mr. President, full vesting occurs after 36 months' of membership in a pension plan. Vesting refers to the rule that defines when pension plan members earn an absolute right to employers' contribution and benefit earned in a pension plan.

Sir, you will remember the case which was cited a while ago, of an individual who had worked for over nine months, and not knowing what his rights were, had left his place of employment, only to discover that he was entitled to only a refund of his contributions but not of the employer's contributions. That is the issue that we are taking care of here.

The purpose of defining an early retirement age is to provide members with the specific date when they would be entitled to acquire payment of their accrued pensions.

"PART VII

BENEFITS

32. (1) Subject to this section, a member is entitled, at the date of termination of membership in the plan, to payment of a pension of an amount that is the highest of:
- (a) the commuted value of vested benefits accrued in respect of the employment of the member;
- (b) the actuarial present value of the vested benefits accrued in respect of the employment of the member; and
3. the value of the contributions the member was required to make under the pension plan, plus earnings thereon to the date of payment.
32. (4) A member's contributions to a pension plan made on or after the commencement date of this Act, and the earnings thereon to the date of termination of employment, shall not be used to provide more than 50 per cent of

the lower of the commuted value and the actuarial present value, on the date of termination, of the contributory benefits accrued after the commencement date of this Act to which the member is entitled under the pension plan on termination of employment."

11.40 a.m.

Sir, provisions for the following ancillary benefits only may be made under the pension plan. Disability benefits, death benefits in the case of pre-retirement death; interim benefits; supplemental benefits other than interim benefits payable for a temporary period of time; early retirement options and benefits in excess of those provided under early retirement and postponed retirement option benefits in excess of regular benefits.

Sir, I think I should go back to the issue of the 25 per cent where it says that a pension plan may provide that a person entitled to a pension is entitled on or before the date of retirement to elect to receive up to 25 per cent of the commuted value of his pension by way of a single lump sum payment.

Mr. President, I have gone back to that because I remember hearing some discussion on it, somewhere outside of this Chamber by persons who took the view that it was too restricted and that individuals should be allowed to take out of the plan according to that person's wishes. The danger in that approach is that a person would soon discover that he would have no retirement income to see him through his future. In this day and age when persons are living very long, he would find himself faced with severe difficulties down the road. That is the thought behind this provision.

Sir, Part VIII deals with funding and contributions. Section 47 states:

"An employer required to make contributions under a pension plan on behalf of an employee shall make the contributions in the prescribed manner and in accordance with the prescribed requirements for funding."

Sir, contributions are to be paid promptly into the fund. Section 49 (1) states:

"Where an employer who receives money from an employee under an arrangement that the employer will pay the money into the pension fund, the employer shall be deemed to hold the money in trust for the employee until the employer pays the money into the pension fund."

- (3) An employer who is required to pay contributions to a pension fund and who has failed to pay such contributions into the fund is deemed to hold in trust for the beneficiaries of the pension plan an amount of money equal to the employer's contributions due and not paid into the pension fund."

50. (1) "Payments that an employer is required to make into a pension fund accrues on a daily basis.

- (2) Earnings on outstanding contributions shall be calculated and credited at rates not less than the prescribed rates and in accordance with prescribed requirements."

There are also provisions that allow the administrator to commence proceedings in a court of competent jurisdiction to recover contributions due under the pension plan, unless a court of competent jurisdiction declares that the employer is insolvent or bankrupt.

Also, every person who receives contributions to the pension fund or who administers or invests the pension fund should be bonded in an amount required by the administrator or in the prescribed amount.

Mr. President, all investments shall be selected in accordance with the criteria set out in the Act or prescribed by regulations. All pensionable earnings on which the rate will be based, include all income other than gratuities and employees' benefits. Generally the income on which payroll tax is based, results in low administration and reporting costs by employers.

The safety and scrutiny of the pension assets including protection from creditors of the employer and employees can be accomplished by transferring physical custody and legal ownership of the pension plan assets to an independent third party that is a custodian. Sir, for custodian purposes the custodian must be resident in Barbados.

Sir, Part IX deals with the "Locking-In" provision. Generally a member of a pension plan is not entitled to a refund from the pension fund of contributions made on any earnings on such contributions. The exceptions are:

2. (a) additional voluntary contribution and earnings thereon to a member or deferred member;
 - a contribution to a pension plan made by a member, together with earnings thereon, if the member terminates employment and is not entitled to a pension or a deferred

pension under the provisions of the pension plan or the Act;

However, overpayments by an employer into a pension fund are repayable to the employer provided that applications are made to the Supervisor within 90 days of the end of the fiscal period to which the Government relates and the Supervisor approves the refund.

Assignment, charges or the offering of security of funds payable under the pension plan are void except assignments of an interest in money payable under a pension plan or money payable as a result of a purchase or transfer under the Act by an order under the Family Law Act.

Sir, the following are exempt from execution, seizure or attachment:

- (a) money payable under a pension plan;
- (b) money to be transferred from a pension plan to a reciprocating pension fund or prescribed registered savings plan or for the purchase of an annuity, or to be paid from an annuity that was purchased with or a prescribed retirement pension scheme.

Mr. President, it is essential that contributions and benefits be locked in until retirement and not available for any other purposes in order to achieve overall objective of providing retirement income to members in the future.

Furthermore, protection is afforded by the Bill to ensure that money payable or transferred from a pension fund is exempt from execution, seizure and attachment by creditors.

However, there are certain exemptions including divorce, maintenance of dependants, spouses and children.

Sir, Part X deals with Winding-up. This part provides the conditions under which a pension plan may be wound-up in whole or in part.

Sir, Part XI deals with Surplus. The Act provides for the repayment of a surplus under a number of circumstances, that is, if an actuarial report certifies that there is a surplus in the pension plan.

Mr. President, Part XII deals with the establishment of new pension plans and transfers and it sets out the conditions within which they may take place.

Sir, Part XIII deals with the directions and orders from the Supervisor to the administrator.

Part XIV provides an opportunity for an appeal and Part XV sets out the responsibility of the Supervisor of Pensions.

Mr. President, this Bill covers all of the essential and critical issues for the proper and successful management of pension schemes in the private sector. As I indicated at the beginning of my presentation, it is the result of extensive consultation with all of the social partners who have an interest in the matter.
11.50 a.m.

In my view, it is a worthy piece of legislation since it seeks to do a number of things. It seeks to avoid situations such as those which have taken place in other countries. It seeks to ensure that all persons when they reach retirement age have access to a sustained income during their retirement without placing undue strain and dependence on the National Insurance scheme. It seeks to ensure that those persons charged with the responsibility of managing those funds do so in a diligent manner and that they be properly equipped to discharge their duties.

I would find it difficult, having considered in some detail the various provisions of the Bill before us, to understand why any members of the Senate present here today would have an objection to this piece of legislation.

Mr. President, I commend this piece of legislation to fellow Senators. I am obliged to you.

SENATOR F. J. STUART: Mr. President, I believe it was Benjamin Disraeli who some time in the 19th century expressed the view that youth is a blunder, manhood a struggle and old age a regret. To the extent that there is any merit in Mr. Disraeli's view, successive Governments of Barbados have tried to reduce the scope for blunder in our youth by the provision and expansion of opportunities which are educational, recreational and occupational in the hope that our young people could make more productive and creative use of their lives.

Mr. President, generally speaking, I think that success in this area has not been without merit and we have done reasonably well in this area although we must not rest on our laurels. Manhood has continued to be a struggle. I can bear witness to that but even though that is so, the sterling efforts of an enlightened state, organised labour and more recently the sterling efforts of owners of capital have sought to ameliorate the asperities of life for all our citizens.

As the Leader of Government Business said, improved living conditions and access to health care have resulted in lengthened life expectancies so that we now have a rapidly aging population, and when you put alongside that the fact

that fertility rates are in decline, the question that must confront a country like Barbados, as it has confronted countries in the north Atlantic, is how do we ensure that old age does not become a regret? Sir, this is the rationale for the discussion we are having here today and it is also the rationale for the existence of this Bill.

Of course, the context within which this discussion takes place as well as the fact that we have lengthened life expectancies and falling fertility rates in Barbados threatens to impose undue burdens on the social security system which has been in existence in this country since 1967, thanks to the insight and foresight of the Democratic Labour Party. Unfortunately, we may have been able to take these issues more lightly if in 1982 a previous Barbados Labour Party Government had not invaded the National Insurance Fund by placing on the shoulders of the Fund the burden of paying non contributory old age pensions.

Sir, a contributory scheme for 1982 was called upon to pay non contributory pensions. There has been much comment on this and informed commentators have said and I have not heard them successfully contradicted that had that invasion not occurred, the National Insurance Fund would have been about \$1.2 billion stronger than it is today.

The discussion we are having takes place within that context and within the context of the fact that today's workers pay today's pensioners. What is called the "pay-as-you-go system" is under threat because of lengthened life expectancy and falling fertility rates. The challenge facing Barbados today is how to get people of working age to make proper provision for their retirement years. How can we get people to use their earning years to provide for their yearning years?

Mr. President, I think I should begin by making a few brief observations about this Bill in light of the comments made by the Honourable Minister and Leader of Government Business. The Minister made a point but I want to make it in a slightly different way and for a different reason. He made the point that the scheme is a voluntary one and that there is nothing mandatory about it so we do not know today nor can we ever know that as a result of introducing this legislation we are going to solve the problem which we hope this legislation would solve because it is voluntary.

There is no provision in this Bill that requires every employer in Barbados to establish a pension scheme. It is optional and, therefore, it can be confidently predicted that thousands of workers in Barbados will still be left outside the scope of what this legislation contemplates. Sir, we have to face the fact that this is optional. I also want to make the point that it is an employer/employee piece of legislation.

12 noon

The second point I want to make is this. It is an employer/employee piece of legislation. It contemplates a relationship between the employer and the employee. Therefore those businesses that get into these pension schemes will be setting out to cater to persons employed with them.

The present Chairman of the National Insurance Board has, for years, lamented the fact that there are large numbers of people in Barbados of working age who are in fact working, who do not contribute to the NIS and of course, do not make private provision for their own retirement, that large category of the self employed.

I believe that sometime in 1978, a previous Barbados Labour Party Government, in an attempt to ferret out people in this category for the purpose of getting them to contribute more to the tax revenue, passed the Professions, Trades and Business Registration Act, and large categories of employees were identified in that legislation.

I have the Schedule here before me and a few examples, Mr. President, would go like this: advertising agents, chiropractors, embalmers, interior decorators, freelance journalists, psychologists, physiotherapists and podiatrists. These categories, along with people like jewellers, landscape artists and measurers were identified. Among them, large numbers of others, such as antique art or handicraft dealers, commercial artists, dressmakers, tailors, designers and driving instructors. All of these were identified in the Professions, Trades and Business Registration Act, as persons who should register and should be put in a position where they would be forced to contribute to the tax revenue.

It is conceivable that they may be contributing to the tax revenue, but making no further provision for their retirement. In many cases, since there has never been a report card on the efficacy of this legislation, one does not know how many registrations have taken place and if these people have been hauled within the net which was woven for them.

Sir, that large category of the unemployed, the wayside mechanic included, who works and earns but sometimes pays no Income Tax, certainly pays no National Insurance, finds himself, again, outside the catchment area of this Bill.

Mr. President, what we are dealing here with is a piece of legislation that relies, or will be relying on suasion to get people to cash in to these private pension plans. Of course, small businesses are also contemplated by the legislation. There are many small businesses that do not belong to the Small Business Association, and may not necessarily be caught within the ambit of this piece of legislation.

Sir, it seems to me that the first task facing the Government, if this legislation is to be successful in the achievement of its objectives, would be to look at the right

incentives to get people, in their own interest to involve themselves, if they are employers, in the establishment of pension schemes and if they are self-employed, involved in retirement planning of some kind.

I do not think that the previous techniques of making these categories of persons believe that you are trying to hunt them down and get at them, to get them to pay taxes or National Insurance should be used. These programmes have to be sold to these categories of persons with the highlighting of their interest very much at the forefront of the strategies. They must see what is in it for them. This must become a national crusade to get people to prepare themselves seriously for their retirement.

Mr. President, I need to say also that the Bill before us is not all that there will be on this question. Clause 94 of the Bill gives the Minister the power to make regulations and those powers are fairly extensive. For example, most Honourable Senators would be interested in what investment policies would inform those persons who are custodians of pension funds, those persons who administer pension funds, but we have to wait until the Minister makes regulations, if Clause 94 is anything to go by.

Sir, there is nothing wrong with that, but I am just making the point that what we see in the Bill does not tell the full story. We have to wait until we are in receipt of the actual regulations to be able to see the total picture. In the words of St. Paul:

“For now we see through a glass dark,
but only then, face to face”.

Mr. President, that is the kind of context and background within which the discussion of this Bill has to take place. Of course, it must be made clear having regard to the fact that before this Bill, there was no regulatory framework in place for the management and control of private pension schemes.

It would be unwise of the Democratic Labour Party for the Opposition to oppose it, because it fills a breach that needs to be filled. Sir, what we are here trying to do today, is to basically just look for those areas where the Bill might be strengthened or, if this Bill cannot be strengthened by the highlight of those areas and other areas that we must look at as policymakers in order to ensure that the objective of getting people to use their earning years wisely, is achieved.

Sir, having said that, I come to the Bill itself, and I ask myself, what would a forward-looking employee, or an employee who wanted to get involved in a pension scheme, who wanted to make sensible use of his earning years, expect to see, in a Bill that invites him to participate? Unless

we frame the question in that way, we are not likely to appreciate all the work that has gone into the Bill and the objectives which the Bill has achieved, certainly in terms of the clauses that have made their way to the Bill.
12.10 p.m.

I would think that the very first thing an employee would want to establish is that the pension plan is easily accessible. The Bill gets full marks on that issue because in order to become a member of a pension plan under this Bill the only requirement which an employee has to satisfy is to have worked for 1 000 hours, the equivalent of 25 weeks I am told.

I do not think that the Bill could have done better than that in terms of making the benefits it offers easily accessible to employees. However, this is going to have to be backed up by much promotion and much canvassing of the public. Therefore, one hopes that people of working age will see the wisdom of cashing in on these pension plans so that they can make proper provision for their retirement.

In addition to the accessibility of the plan, the next criteria I think a worker would want to see satisfied is the availability of the benefits of the plan. I put it that way because I am aware, having seen quite a few private pension plans myself, that members of these plans have generally been totally dissatisfied with the fact that in many cases they had to wait for as many as 10 years before their entitlement vest. I know that this would have to have been a hard-fought battle to get the vesting period reduced from those ten and seven-year time frames to the very, in my view, fair time frame of three years as is indicated at Clause 28 of the Bill.

I think there is a certain logic to all of this. If employers in Barbados lecture workers daily about the volatility of the labour market and how the job one starts one's life with is not the job one would end with, and the many changes that are taking place in the world of work, it stands to reason that employers cannot have it that way and then say to the same workers that if they want to participate in my pension plan they have to wait ten years for it to vest when the employee does not know whether they will be at that workplace for the ten-year period upon which the employer or the plan is insisting.

I think the framers of the legislation have to be applauded for getting this vesting period reduced from ten years to three years. I am in total support of that and I hope there will be no dispute on this question because, in my view, it does justice both to the employer in terms of the employer's logic and to the employee in terms of employee needs.

The third requirement I want to draw attention to in terms of the desirability of participating in a plan would be the issue of the portability of benefits as contemplated by

Clause 35 of the Bill. Clause 35, if I may direct your Honour's attention to it, indicates that:

- “35 (1) A member of a pension plan who terminates employment or ceases to be a member of the pension plan in accordance with section 31 shall be entitled to require the administrator to pay an amount equal to the higher of the commuted value or the actuarial present value of the benefits in the case of a defined benefit plan, or the account balance in the case of a defined contribution plan;
- (a) to the pension fund of a new employer;
 - (b) into a prescribed registered retirement savings plan;
 - (c) to purchase from an insurance company an annuity for the member or deferred member under which payments will not commence before the earliest date on which the member or deferred member would have been entitled to receive payment of benefits under the pension plan.”

Properly construed, Clause 35 does not bind a member of a pension plan to the workplace at which he got into the pension plan. If he decides of his own volition to change employers, once his entitlement has vest after the 36 months period, he is entitled to carry those benefits with him wherever else he is going or to have them invested as he requires.

I have a particular interest in this because recently the Court of Appeal of Barbados pronounced on the whole issue of severance under the Severance Payment Act and made the point that the payment of severance is really a payment for services rendered, the contribution which the worker made to the business and its progress.

Under the Severance Payment Act, entitlement to severance is vested after two years. However, there is no corresponding portability of severance under the Severance Payment Act for the very simple reason that whereas in respect of portability under this legislation either the employer or the employee could decide to terminate the relationship without any disadvantage coming to the employee.

Under the Severance Payment Act, severance by its very nature is an act of the employer. If a worker is severed, there is no portability of his severance anywhere. This seems to me to be a lacuna in law. I note that his Lordship, the

Chief Justice, did call for certain amendments to be made to the Severance Payment Act and other issues.

I think that Act has to be revisited because this piece of legislation is a pathfinder in respect of which or in the context of how I think severance payments might usefully be treated. It might call for a broadening of the definition of severance under the Act so that employees who may not be enjoying what they are doing with the existing employer and see better opportunities can make those decisions and in the same way they can carry their pensions they should also be able to carry their severance. That is a matter which I think should engage the attention of the policymakers in light of Clause 35 of this Bill.

In addition to that, I think that a forward-looking and an insightful employee trying to get into a pension plan would want to think that there is a certain amount of security in the plan.

12.20 p.m.

Mr. President, I note from the legislation that the Supervisor of Pensions is given vast and comprehensive powers at every level, such as the level of establishment, the level of management of the plan while it is going on, the level of winding up in respect of the payment, *et cetera*. He is even given vast powers of entry and search if it is thought that employers are withholding information which is necessary for the proper administration of the plan.

Mr. President, I think the Bill covers that area quite adequately in terms of the security which it promises to persons who are participating in these plans.

The Supervisor of Pensions, of course, cannot function like that of an autocrat. If he makes decisions that persons find unfavourable or questionable, those persons would have recourse to a judge in Chambers, to have those decisions revisited but, generally speaking, his powers are vast, comprehensive and, in my view, would go a long way in protecting the integrity of these plans and funds where they exist.

Sir, the Honourable Minister did not say this, so I believe I must have heard it in the Other Place. I heard that in the short-term there would not be an appointed independent Supervisor of Pensions but that the Supervisor of the National Insurance Pension Scheme would perform the function of Supervisor of Pensions, in addition to his own functions.

I hope this does not prove too burdensome on the Supervisor of National Insurance and that it would not, therefore, frustrate the objectives of the Bill. One hopes that in the very near future a Supervisor of Pensions would be appointed so that genuine oversight of these plans could take place. Therefore, a forward-looking worker who wants to

make proper provision for his future would be interested in the transparency of the plan.

Again, I was quite intrigued in the legislation to note that the administrator of the plan is fixed with several obligations which relate to the passing of information to members of these plans. One of the criticisms that one has heard repeatedly, is that one does not know what goes on with any of these plans. Workers complain they do not know anything about them because information is very sparingly disseminated and, therefore, a lot of the contributions are necessarily shrouded in much doubt.

Mr. President, when this Bill is passed, it seems to me that the obligations insofar as they relate to disclosure and the sharing of information, which devolve on the shoulders of the administrator, would make these plans more transparent and would make for an ease of relationship between the members, the administrators, the employers or whomever.

Mr. President, with the few short-comings to which I referred earlier, that is, the mechanisms that we have at our disposal to get persons to participate, I think the Bill is a laudable effort on the part of Government to confront this issue of taking pressure off the social security system, imperiled as it is by the factors to which I earlier referred, and trying to get persons to make provision for their own retirement.

Mr. President, if one wants to bring an action under this Bill, Clause 92 states:

“No proceeding under this Act shall be commenced after 5 years after the date when the matter in the proceeding occurred or is alleged to have occurred.”

Mr. President, I wondered about this because when I was in the Other Place, an attempt was made to codify the law relating to limitation of actions under the 1997 legislation, which was basically divided into what action that could have been brought within three years and those that could have been brought within six years. Sir, now to introduce a five-year limitation in this piece of legislation, in my view, causes the legislation to break free of the attempts at codifying the law of limitation.

What was hoped then was that whenever one had to bring an action, one would not have to go scurrying all over the place, trying to find out what was the limitation period. One would simply go to the Limitation Act, determine whether it was contract, tort, personal injury or fatal, *et cetera*, and find out what the limitation period would have been.

Mr. President, to create a limitation period now, in my view, is a bit off-key and I would respectfully submit that since pension plans are in the nature of a contract, the statutory period of six years applicable to contracts should apply here instead of the five years.

There is also a minor concern, not a criticism, which I have with Clause 40 of the Bill, which deals with variation of payment of benefits to disabled persons. I was capable to have discussed this with a number of persons in the insurance industry.

40. (1) A pension plan should be deemed to permit variation in the terms of payment of a pension or deferred pension of a member where;
- (a) the life expectancy is likely to be shortened considerably by the mental or physical disability of the member or deferred member;
 - (b) such circumstances respecting the shortened life expectancy, as prescribed, exist and the prescribed conditions for the variation are satisfied; and
 - (c) the variation is approved by the Supervisor.

Sir, this is a compassionate provision that allows for the variation of the terms of payment, notwithstanding the very strict provisions as contained in the Bill.
12.30 p.m.

This is a compassionate provision that allows for the variation of the terms of payment, notwithstanding the very strict provisions contained in the Bill. I am given to understand that in the life insurance industry there is a phrase used called "terminally ill" which means that on medical advice a person is given no more than one year to live.

The question is, does Clause 40 cover that contingency? Sir, there are people in the insurance industry who feel that it does not cover that contingency. I draw it to the Senate's attention because it might help to strengthen the provisions of Clause 40 if specific provision is made for persons who are terminally ill as the term is understood in the life insurance industry, having not more than one year to live. It is not the same thing as the blanket term of shortened life expectancy because that means something completely different.

Mr. President, I think that, generally speaking, the Bill fills a void which existed in the pension arrangements and Laws of Barbados. There are many features of the Bill which recommend themselves to me. One is, for example, that

spouses of members are entitled to benefit. This, of course, is also true under the National Insurance Scheme although less generously under that Act than under this legislation.

I am pleased that the definition of spouse embraces the definition of spouse found in the Succession Act which, therefore, recognises the existence of common law marriages in Barbados and reflects social reality in the legislation.

Clause 39(6) states that, "for the purposes of this Section, a spouse who on the death of a member, has been living separate and apart from the member shall not qualify for the payment of a benefit as a spouse unless that person can satisfy the administrator."

Sir, I draw attention to this because that provision moves some distance away from the provisions of the Succession Act to which I earlier referred. Under the Succession Act, the spouse of a deceased person is not entitled to share in his estate if it is established that they were living separate and apart for five years immediately preceding the date of the death. This Bill brings that figure down from five years to one year and I think that in the interest of statutory consistence, it might be useful for that subsection to be revisited with a view to respecting a certain measure of continuity in the Law.

Apart from that, Mr. President, this Bill represents a start, although I am concerned about the fact that self-employed persons are beyond the reach of the social security system as it stands, whether we speak about private pension plans or the National Insurance Scheme. I hope that the public relations to be done in promoting this Bill will specially target and appeal to that category of persons because if they do not make proper provisions for themselves now in their earning years in their yearning years they would become a burden on the National Insurance Scheme and all the objectives we are trying to achieve here would have been undermined.

Mr. President, the Bill will have our support on this Side and I hope that its objectives are achieved.

I am obliged to you, Sir.

SENATOR I. St. C. LINTON: Mr. President, I rise to give solid support to the Bill that is before us in this Senate today. I want to speak to the Bill, particular in relation to the bottom end of occupation in this country of Barbados. As a former public servant, at that level I think my experience and knowledge will demonstrate the import of this Bill before us today.

I commend Senator Stuart for his presentation today and I want to reflect on a point made by him. The point he made about the old-age pension being attached to the National Insurance in 1982 but I want to recall to him that between 1986 and 1994 they took more out of the National Insurance Scheme for old-age pension than any Barbados Labour Party Administration, and that the present Administration has restored and took it out of National Insurance and put it back into the public purse.

Mr. President, we must speak against a background of an economy in Barbados that was at the time agriculture. A man could have worked for a firm for 30 years and because he became a Seventh Day Adventist had to give up his job without a penny. He is at an age today in which he would like to have a benefit at this time.

In addition, generally speaking, workers in the public service at the lower end of the economy, especially casual workers, work six months in the year for the State and in agriculture the other six months. There was no proper social security system for persons at that time.
12.40 p.m.

Sir, it was a Barbados Labour Party Administration between the attainment of ministerial status and the attainment of a free internal self-government that made the first step towards establishing a social security scheme and pensions for casual workers and those at the bottom of the occupational system.

Mr. President, a gentleman named Professor Richardson was brought to Barbados to look at and to recommend a Social Security Scheme for Barbados. At the same time the Government introduced a 10-year Casual Workers' Scheme in this country of which I benefited from at my retirement. Sir, persons must know that if you come under a statute in this country under any provision, no future provision can deny you your benefits under such a statute.

In 1964 the Government of the day, the Democratic Labour Party, set up a committee which looked at a social security scheme but in 1967 the Democratic Labour Party brought into law the National Insurance Scheme.

The National Insurance Scheme was about five years of a 30-year period in which it became matured. It started on June 5, 1967 and would have matured in 1997. In 1971 the then Administration, the Democratic Labour Party, did a hatchet piece of work on the Casual Workers' Pension Scheme. They removed pension benefits for casual workers in the public service.

Mr. President, I recalled a lady who worked for 19 years and when she reached retirement age she was denied any benefits. Sir, politicians must remember that whether you

are a 'B' or 'D' we are friends. Sir, at that time persons, through a Cabinet provision, could have got their benefits. She was advised of such a provision and she got her benefits.

However, less than two years ago the Accountant General stopped her pension. However, they instructed her that since provision was made by the Cabinet that pursued that case her pension was restored.

Sir, I think it was in 1997, under this Administration, all persons working in State boards have been given the status of being public servants. In addition to that, the system on which their pension was set was changed. When I was medically retired, I received a paltry sum of money after working in the service for 26 years, less than \$7 000 as gratuity and a pension of \$155 a month.

Sir, my brother retired last year, after working at a statutory corporation for 24 years of service and he received \$24 000 as gratuity and a pension equal to what I am getting today. This was a result of a Barbados Labour Party Administration, in these times, that brings to the fore benefits to those at the lower end of the occupational scale.

Mr. President, this landmark piece of legislation today, I am not speaking for the private pension schemes, gives workers in the public service the benefit of social security which is higher than what I benefited from approximately 25 years ago.

Sir, I want to speak to another side of the hatchet. Could you imagine that a National Insurance Scheme five years old in which a person would have to work for ten years or makes 500 contributions to earn a pension under the National Insurance Scheme? However, a person who makes 499 contributions could not receive a National Insurance pension and it is still so today. I think that this is an impediment and some provision should be put in place a person who only needs to make only one more contribution should be allowed to do that and thus qualify for a pension.

In 1975, Senator Collymore should remember this very well, because I think that he was my CEO at the time when they introduced a pension scheme which allowed only workers who joined the public service from September 1, 1975 to be eligible for one pension, whichever is the greater, and it would be topped up by either National Insurance or whatever.

Asides.

SENATOR I. St. C. LINTON: Sir, I stood up and said, "Sir, this matter does not apply to casual workers." I think that it was Senator Collymore who said, "You are right."

Sir, the point that I am making here is, that with a National Insurance Scheme in its infancy stage, at nine years old where nobody could benefit, there was an introduction of a one-pension. I could understand what was behind it, but the fact is that the National Insurance Scheme was too young to be able to carry any provision such as this. It has been proven that in spite of the fact the National Insurance Security Scheme became matured in 1997, within five years with actuarial studies, it was discovered that it was in serious trouble and that provisions had to be made to shore it up so that it would be viable for at least 30 or 40 years down the road. Mr. President, that was part of the shortsightedness of the attempt at a one-pension scheme in Barbados. 12.50 p.m.

I want to also bring on the point that those in the public service, as well as those who could not qualify for National Insurance pensions in 1976, because you only qualify from about 1977, that the public servant out there now who is still alive is eating out an existence on a meagre pension. I believe, Senator Collymore, this is something that your organisation should take up with the strongest voice, in regard to such persons who are still alive and drawing but a pittance for their service in this country.

In addition to that, those who did not qualify, even if they had in 499 contributions, just needing one more, must exist on Old Aged Pension. This historic perspective demonstrates the import of this Bill that is before us today.

There is one other area which I would like to reflect on, and that is persons with disabilities in this country. Yesterday, I spoke to an official in the Ministry of Social Transformation about a guy who is 28 years old. He was the last of a number of children to his Mom and his Dad who are still alive, but in spite of the fact that he looks physical, he is a mongol. You can speak to him and tell him things and he would repeat them but if you turn away for five minutes and come back and ask him about it, he does not know.

Do you know what he gets for any sustenance, as a person with disability in this country? Fifty-eight dollars every two weeks. You would understand that if his Mom and his Dad go to the great beyond within a short time, what position would this guy be in.

I know of another case where a youngster was well and good until he was 11 years old. His mother and his father are still alive. Do you know of the days when the doctors used to use forceps? He got brain damaged in that exercise. He was a strong fellow who was going to school and doing very well and suddenly, he is there, in and out of the Psychiatric Hospital. His parents are trying their best.

Sir, I cite these two examples to show that something must happen in this country for persons who cannot support themselves because of being mentally challenged. They must

have a greater support from the State. I remember at the Constitution Review Commission that I even was pushing for a Bill of Rights. I did not get it but I am still looking to get it, because let me say to you, Honourable Senators and Mr. President, any one of us could father a son or a daughter with a disability in these times.

I am asking here that some instrument be applied to the Social Security Scheme of Barbados where one born with a disability, or even in circumstances become disabled, should be provided sustenance by the State, in which the taxpayers of this country must support such people. Sir, \$58 in some cases, \$32 a week, I stand here today as an example of what persons that are challenged can do in this country.

Sir, it is time that we look at a Bill of Rights in Barbados for persons with disabilities. The able must support the disabled in this country and some mechanism must, hitherto, come to these people, not tomorrow, but yesterday. I am calling again, in making a call from this Senate, that the Government and powers in this country today, look with immediacy at the plight of persons, and the support of persons with disabilities in this country, not only in sustenance but there must be opportunities for education and jobs. They must be brought alive. Those who have a disability but also have abilities must come on the front burner in the development of Barbados as a first world country.

Mr. President, I want to close by saying in this Honourable Chamber that we cannot renege, one iota, from our responsibilities for persons with disabilities.

With such I sit, in full support of this Bill that is before us.

SUSPENSION

SENATOR THE HON. E. R. GRIFFITH: Mr. President, I beg to move that this Sitting be now suspended until 2.00 p.m. today.

The question that the Sitting be now suspended until 2.00 p.m. today was put to the Senate and agreed to and Mr. PRESIDENT suspended the Sitting accordingly. 12.58 p.m.

RESUMPTION

Mr. PRESIDENT: This Sitting is resumed.

SENATOR Miss. S. C. V. HUSBANDS: Mr. President, I rise to support this Occupational Pension Bill. I see this as a very powerful piece of social legislation and a very timely

one. When I look at what Government is seeking to do in relation to the re-birthing and the repositioning of the society to meet the needs of the population, I find that this piece of legislation is worthy of congratulations. I want to explain why I say that.

To properly understand the value of this pension legislation, it is important to understand the environment from which it is being shaped and to understand the history that has led to it. Barbados is a society that is in transition. When one looks at what has happened to us over the past 40 years, one would see that we are moving from an agricultural society to a light manufacturing and a tourism society and we are moving from relative poverty into being a relatively affluent society. Our society has also changed in terms of its composition. Not only are we not producing as much as we used to, but our families are small nuclear families and our people, I find, are not as astute as they need to be when it comes to things like retirement planning.

If we go back in time, we would see how our society sought previously to provide for itself. It was a very simple methodology that was used by the old people to take care of their old age. They had a lot of children. They made sure their children went to school. They told them to try and get good jobs, but they always identified one child within the group whom they did not encourage to get an education or to have relationships because the idea was that that child would stay home with their parents and take care of them while the others who got the good jobs would send the money to take care of them. That is how the old people took care of old age. That is how they created their own pensions.

As time went on, those structures began to change, so we had a situation where people were beginning to have fewer children and the children were moving on and living in other parts of the world. Therefore, old people found themselves in situations where it was not enough to care for them.

That is why I have great problems with what Senator Stuart said today in terms of suggesting that it was not a good thing to have non-contributory pension. Mr. President, I think about women who work all their lives. I think about women who did not have an income and did not have a method of supporting themselves. Therefore, I felt that it was important that we have a non-contributory pension in order to provide for the needs of these people because we do not want to condemn them to poverty.

When we look at the provisions within this Bill I think they are excellent. Those provisions were well represented by the various speakers, Senator Griffith and Senator Stuart, in terms of the vesting, the portability and all the various elements of the Bill. I must support the view that there is a need for broad-based education. That has started in part

because not only do we have the corporate pensions and the national insurance pensions in Barbados, but we also have the registered retirement savings plans which are being advocated by the insurance companies and the credit unions. A number of them have those types of plans with them and what they have been doing as a part of their work in promoting their plans and being good corporate citizens is seeking to teach the population the importance of providing for their old age because we no longer have the support systems we are accustomed to, to take care of us when we are old, so the whole education process has commenced, but it cannot stop there, it has to go further.

I have grave concerns about our population because, despite a visionary Government putting in place this far-reaching piece of legislation, our people lag behind in their understanding of the necessity for investment and savings. For example, our people are still at the stage where they feel the acquisition of liabilities takes precedence over the building of assets.

Barbadians are eager to go after cars, homes, dresses and all kinds of consumer durables which take priority over putting aside a little security blanket for their retirement and looking at their long-term needs. So it is imperative that accompanying the legislation is that kind of education to encourage Barbadians to put asset building first before they look to acquire those liabilities. This requires training people in money management and financial management from as early as at school so that they can begin to make the transition to live in this new modern age.

Some people have expressed some concerns about the situation of small businesses. This is laudable because small businesses cannot afford to provide corporate pensions, it is simply too expensive. It is not just a matter of contributing to the pension. It is the administration and management of that pension and the actuarial studies that have to be done, that puts it outside the reach of small businesses to even begin to think about offering that type of pension benefit to their staff. There are options open to small businesses to be able to provide for their staff.

One would ask the question, why would an employer seek to establish a pension fund? Is it because he is charitable? Is it because he is kind? Is it because he is thinking he really wants to do something for his employees? In some cases, Mr. President, that is so, but primarily the reason many businesses put pension plans in place for their staff is because it makes a company more attractive as a potential employer and it allows a company to be able to keep good qualified staff for the long haul.

Therefore, it is good business for a company to seek to put in place a pension plan that they can retain that person

otherwise the alternative is that you would have to increase the salary that you pay to people in order to allow them to do it for themselves. It makes better business sense to do it via a pension plan.

Our question is how would small businesses be able to do the same thing. The registered retirement savings plan presents a very viable option for small businesses. In this new legislation, part of the requirement is that the employer must be able to contribute at least 50 per cent of the contribution to that plan. Small businesses cannot do that. However, if an employee has a registered retirement savings plan, a small business employer can make a contribution to it as part of the employee's salary. The employee is able to put it into their plan and get the exemption from tax.
2.10 p.m.

Mr. President, the employer still gains the benefit because it represents an expense to him so that he is still able to make some contribution to a pension plan for his staff members by contributing to their Registered Retirement Savings Plan.

Sir, the main challenge is how are we going to persuade people that there is need to take this initiative and to build the discipline to put aside that money consistently to provide for their old age. Presently, where persons not contributing to the National Insurance Pensions Scheme will not be able to get non contributory pension, my information said that since that legislation has been passed by Government, a number of self-employed persons have taken it upon themselves to make sure that they start to pay National Insurance and this is, I think, laudable on small businesses.

Another thing that would be of assistance in helping people to be able to think about putting together a retirement savings plan is the recognition that if a man or woman has children, given today's environment, it is literally impossible for them to support those children, while still taking care of themselves and their current families. Therefore, more people are aware of the fact that they must start putting aside income for their old age.

Sir, we are hoping that this situation would cause more and more persons to realise that they cannot leave it until they reach their late 40's and 50's to get started but to do it now.

Mr. President, small businesses have an excellent opportunity to get started on a retirement savings plan with their employees, until they can grow to the stage where they are able to develop their own pension plan.

Sir, going back to the legislation and looking at some of the things that represent a tremendous benefit to people and the effort to create the type of protection, one of the

things that I really love is the part regarding the lump sum payment not being able to exceed 25 per cent, and I will tell you why.

As Barbadians, we are eager for material gains. As Barbadians, somewhere in the back of our minds, we feel that somebody would take care of us. We say things like, "The Lord don't come but he will send." If we do not protect people from their own optimism, we would find ourselves with a large ageing population which is destitute. We would see a tremendous increase in homelessness, social disorder, disease, *et cetera*. Therefore, any responsible Government would have to take the necessary steps to ensure that we protect people from themselves, to ensure that they can only get a portion of that, maybe to invest in another opportunity but that we safeguard the bulk of it to protect and to provide for them in their old age.

Mr. President, another element of the Bill which I consider worthy is the requirement for persons to qualify to become part of corporate pension plans. When we state that persons have to work for at least 1000 hours in any one calendar year and can qualify, I believe that is excellent and must be applauded.

Sir, it goes further than that. It does not only say 1000 hours in any one year but subsequent to that qualifying year and a worker's hours falls below that required 1000 hour, the worker continues to remain eligible.

In the years to come, we will see the value of this wisdom in terms of those persons who are at the sensitive end of the spectrum, those persons who are most vulnerable who, because of this piece of legislation, would find themselves able to look forward to a pension when they reach their old age.

Sir, I think that legislation like this is going to enable our people to look forward to a brighter future. This legislation must be looked at within the context of all the other things that are happening around it. That is why I am proud of what work is being done.

Sir, not only are we looking at a pension bill to help to protect the rights of persons who are contributing to pensions but too, if one looks at what has happened in terms of the reformation of the National Insurance Pension Scheme, to ensure there is something for everyone as we get older.

Added to that, there are other things that might not have come to the attention of this Chamber but there are other things that are being done to assist this ageing population. One of the things is that now, within the Ministry of Health, there is assistance being made available to persons who

provide home care for senior citizens and also within the Ministry of Social Transformation, there is the provision of home-care services to destitute persons, most of whom are our senior citizens.

Mr. President, if we look at this Bill within the totality of Government's efforts to prepare and to create a society that could cope with the changes, I think that an excellent job is being done at this time.

Sir, as a Barbadian citizen, I would just like to say that I would love to see Barbadians being more engaged in their society at this time. Our society is changing and it requires every person to get on board to speak to those changes and to bring suggestions to the fore as to things that we could do. The Pension Bill is just one of those items. There are other things that we need to keep doing in order to keep readying this society but what I think is critical, if we are not able to motivate or to stimulate the population, we could make all the provisions in the world and it would not have all the required benefits unless we are able to influence people to take a more responsible look at the management of their lives and look to see what it is they need to do.

I know the Government is making a tremendous effort, not only in bringing this legislation but also in seeking to put incentives in place to persuade people to become involved in preparing for their retirement. I think, for example, of the tax credits that people receive when they invest in Mutual Funds or a Registered Retirement Saving Plan. Those incentives exist to encourage those persons to prepare themselves but I feel that as Barbadians we have to move from that dependent feeling that over the years we have been thinking, and to begin engaging to build our lives in a very deliberate fashion, looking at our lives in a long-term way and doing systematic planning and exercising the necessary discipline to begin to take care of ourselves.

Mr. President, my great concern is that our people feel that someone else is going to take care of them. That is not true, because a time will come when the economic conditions that exist around us would make it difficult for us to do the things we are accustomed doing. Therefore, I want to urge everyone who has the ability to influence others to understand the importance and urgency of this time. We need to educate and influence each other about the importance of this. We must get up, take responsibility and engage ourselves more forcibly in terms of planning for ourselves and we need to engage in taking advantage of every single thing that is put before us, so that we can maximise these benefits.

Mr. President, I thank you and I want to commend this Bill to this Chamber as a piece of legislation whose time has come, which would bring tremendous benefit to the nation of Barbados.

SENATOR A. C. FIELDS: Mr. President, I rise to support this long overdue and very important piece of legislation. The objectives of this Act, as I understand it, is to provide a framework in an environment where there are no disincentives or barriers to bringing these plans to fruition and to protect employees by ensuring that they understand that what they had been promised, they receive. 2.20 p.m.

Mr. President, the weak legislation that previously governed pension plans under the Income Tax Act led to uncertainty in the application of the Law so much so that I have had personal experience of inability to merge two existing pension plans of over eight years old. Hopefully, this Act will take the discretion out of the decision-making process and put in place a law which will dictate the requirements for registration.

Mr. President, it is a comprehensive piece of social welfare legislation that among other points seeks to encourage the provision of private pension plans to supplement the national pension plan and to generally help individuals to be more self-efficient and less dependent on the State for their upkeep after retirement.

The plan also seeks to ensure that part-time employees will be allowed to participate in the benefits of the pension plans, even those who only work 20 hours a week. This reference to part-time employees is particularly important, Mr. President, because with the advent of the Shops legislation defining the work week is five days, this now means that there has been a substantial increase in the number of part-time employees who are finding employment with the private sector in Barbados. This legislation, among other things, will seek to address the equity with respect to the rights of part-time employees in pension plans.

The legislation also provides for members to take greater interest in the affairs of their pension plans and employers will be required to ensure that biannual statements of accrued benefits are given to the employees. This is especially critical now with the advent of time contribution scheme. It is to be noted that a number of companies in Barbados are moving away from defined benefit scheme toward defined contribution scheme.

A lot has been said here today about shortening the vesting period to 36 months. While I totally support a decrease in the vesting period, it must be recognised that if this Act is going to try to encourage companies who do not have pension plans to put them in place, one has to recognise that the cost to the company to put these pension plans in place has to be carefully considered.

Mr. President, over 80 per cent of all employees have their full earnings covered by the National Insurance

Scheme which provides 75 per cent of their pension. This benefit follows them from employer to employer so in terms of the Act, they are always vested. This reduces the need to impose such a stringent protection of the occupational pension which brings with it a very high cost to the employers.

Mr. President, no one has spoken about gender neutrality today. While I support the idea of non-sex discrimination, we also, at the same time, support the concept of not reducing the rights under which persons were employed. Many pensions allow females to retire at an earlier age than males and ironically, this was an advantage to females in an era when discrimination acted against them. Mr. President, every first degree honour graduate coming out of the university this year was female. The days that we need to protect females are long gone and while we need to support gender neutrality, I ask you to look at the problem that exists in this plan.

There are only two ways to achieve gender neutrality and at the same time protect the rights of persons registered under the plan and, perhaps, the rights of females who have this discriminatory benefit will have to be reduced or taken away. There are two problems. It is awkward since the accrued benefits would be preserved at the original retirement age and the new benefits would accrue at the revised retirement age.

On the other hand, the right to retire at an earlier age needs to be extended to males in the same category. If this were done, it would be an extremely expensive proposition since the earlier ages are out of synch with the National Insurance retirement age and amongst these older employees there are far more males than females because back in the 80's males were the breadwinners.

I propose the Act be amended to permit sex discriminatory retirement ages for persons employed before the effective date of the Act so long as these rights existed at the effective date of the Act or there will be serious legal problems interpreting how we can deal with this aspect of the Act.

Mr. President, inasmuch as the legislation is seeking to ensure that more Barbadians become participants in pension plans, then every effort must be made to ensure that companies do not find the cost of implementing these plans to be too burdensome or the cost of compliance is greater than they can afford. Senator Husbands pointed out that the whole impact of a plan in a company is to keep employees, but with the shorter vesting period and portability of pension that no longer is a facet that would make a company put a pension plan in place.

Sir, an expert in pension administration suggested to me that less than 20 000 persons are currently enrolled in private pension plans. If this is so, then every effort should be made to ensure greater participation. We have not seen and will not get the opportunity to debate the Resolutions that this Act speaks to in this Honourable House and I wish to emphasise that when these supporting regulations are developed that things like registration cost, yearly fees and regulation for solvency in these plans are looked at very carefully to encourage and not to discourage companies from starting private plans.

The proposed regulations have already made companies shift their focus from defined benefit pension plans to defined contribution plans. Let us ensure that we make it as easy, cost effective and attractive as possible to encourage employers to implement these plans.

Mr. President, in closing, it is noted that this Act does not bind the Crown but it is hoped that the same high standards being imposed on the private sector will also be opted by the Crown for public sector employers.

Mr. President, I support the Act. I am obliged to you.

HER HONOUR SENATOR Dame PATRICIA SYMMONDS: Mr. President, the history of pensions is an interesting and ancient one. As early as 1670 the philosopher Benedict Spinoza in his theologic-political treatise wrote these words:

“Men will find that they can prepare with mutual aid far more easily what they need and avoid far more easily the perils which we set them on all sides by united forces.”

Over the centuries Harry White in his book, *“The Pension Promise”* pointed out that there are application, practice and conceptual bases which have varied widely and change considerably.

2.30 p.m.

Sir, in the early stages, they consisted entirely on charitable maternalistic payments but today pensions, fortunately, have become a right.

In Barbados, with the formation of the Mutual in 1840, now Sagicor, the idea of life insurance began and spread to other parts of the Caribbean. In turn the concept of providing pensions would have grown out of the idea of insurance.

The pension scheme would have also got a fillip from the Income Tax law which allows people to make deductions on their pension. I speak about the law with a little timidity, as a legal luminary made a very good presentation earlier. I do not think that we have much crossing of swords over

anything that he said today. Sir, until now there has only been a minimum of legislation, as our Leader ably pointed out, regulating the amount of pension funds.

Indeed, the statutory law was very limited, as was contained in the Income Tax Act and there was very little legislation governing the pension scheme. The Law that governed it was the Law of Contract and the Law of Trust.

Mr. President, people had to go to the general law if there was malfeasance. This is the first major regulation of private pension schemes. It would protect people's pensions against the devastation of inflation and the terrifying results of mismanagement. I do not have to go into its history because we all know what I could refer to that happened in Barbados in the past but would not do so.

Sir, there is another section of this legislation that is very praiseworthy and that is that after working for 1 000 hours, workers will be eligible to join any pension plan their employer might have in place. This is very important because they cannot now be divested.

The Bill allows for portability and that is something that pleased me considerably. As we move towards the implementation of the Caribbean Single Market and Economy and the movement of labour, this will be another means of protecting benefits.

Mr. President, the appointment of a Supervisor of Pensions, other Senators have noted, is extremely important. This would ensure that trustees comply with their duties in law and this one has gone beyond just recognising and registering a pension plan to ascertaining that they operate within the best principles of transparencies and accountability.

Mr. President, equally important is the disclosure of information. Senator Griffith went into that in detail so I would not go over it again.

Sir, I wish to say that in addition, perhaps, the time has come for some dynamic person in Barbados to form a pre-retirement association. I hope that this would not incur the wrath of the Senator on my left, especially as I am a member of the Barbados Association of Retired Persons (BARP) and, perhaps, a recalcitrant member.

Asides.

HER HONOUR SENATOR Dame PATRICIA SYMMONDS: I do not think that there needs to be any conflict where that is concerned. There are such associations in the United States of America, Britain and France.

I think that an association of this kind would help people prepare for retirement, not only financially, which is, of course, the purpose of this but psychologically and emotionally which, I think, often affects people. Sir, it may not be generally known, but many people suffer most emotionally when their circumstances change than they do through financial reduction or degradation.

Sir, I would like to mention a few of the rules of these associations. These associations help their members to attain goals at remaining financially independent; set the age at which they wish to retire; help them to maintain their present lifestyle or at least a similar standard because that too can be a problem with retirees. I am not always speaking from experience when I say these things. It also helps them to develop special hobbies and interests, provide protection for medical expenses and there is support for spouses. It also helps people to maintain membership in religious and social organisations and to keep inflation in mind.

Mr. President, pension schemes provide a tremendous pool of savings which, wisely invested, contribute to the country's development and economic growth. It is for this reason that a Bill like this is so very important to the people of Barbados. I should like to congratulate the Minister of Finance and Economic Affairs and the Government of Barbados on bringing this Bill. I am very pleased, indeed, to give it my full support.

Thank you, Mr. President.

SENATOR B. R. COLLYMORE: Mr. President, this Bill would have no opposition from anybody in this Chamber. I think that the principles of the Bill and what it seeks to cover cannot be faulted. However, I believe that while it is long overdue, it has come at a time when the subject of pensions has taken on a completely new face. Given the present world and regional situation, for instance, as one speaker said, a worker can no longer expect to work for all his life with one employer.

Secondly, with the establishment of mechanisms like the Caribbean Single Market and Economy and the facility that would be extended to Caribbean nationals who have certain skills to move from one country to another, the question of pensions has to be addressed in that context.

I know that there is reference in the Bill of the CARICOM community but that is only in passing. I think that in the area of pension there is need not only from the point of view of this Occupational Pension legislation but also from National Insurance, which I believe has taken off in terms of trying to encourage portability with other Caribbean countries,

but also in Government pensions which are now under review, that there must be some element of preparation for the requirements of our regional effort under the Caribbean Single Market and Economy (CSME).

2.40 p.m.

I think that as one Senator said, 80 per cent of the workers of Barbados do not earn \$3 100 a month, which is the maximum insurable earnings under the National Insurance Scheme (NIS). The payroll cost to employers and the compulsory deductions for employees are such now, that it would not be easy for employees and certainly employers in the new context of employment, to have additional payroll deductions.

I am not thinking of the 20 000 workers who already have pension schemes. I am thinking about the newer people, in the context of small business, as the means of the economic development of our country, not only at our country, but it is what has been pushed at 70 per cent of the American businesses which are now small businesses. Therefore, we have to be concerned about the ability of small businesses to enter into any additional payroll costs, which they now do not have.

Sir, it is possible, within the legislation that speaks of multi employer schemes for small businesses in a cooperative way, to participate in a scheme that covers a number of them. This has to be developed with good public relations and a perfect understanding of the whole area of pensions, and their new legislation which we are now debating.

It is not going to be easy for many new businesses or businesses that are existing which do not have pension schemes, to develop a new pension scheme pension plan. The whole question of employees' contribution, is something that has to be taken very seriously. Health and safety, as Senator Trotman will say, are very important aspects of provisions by employers for their employees.

Health schemes have been going through horrors in recent times, and if you have to make deductions for health and safety, and if you have to make deductions at present for the employees, as much as 8 per cent of the gross income, and as I said, this means the gross income of 80 per cent of the workers in Barbados, it would not be easy to make any further deductions.

While I am happy to see that the legislation encompasses existing pension plans, we must recognise that the mere implementation of this legislation will mean additional costs. There are no less than one dozen references for the need, in the legislation, to have actuarial assessments. Actuaries do not come cheap.

Therefore, this is going to be an extra cost on the administration of the Scheme. It therefore is not for us to feel that the mere passing of this legislation is going to make the access to an occupational pension a ready facility for our workers. We have to take into account, the implications of legislation.

The legislation itself is quite complex and in some respects, difficult to understand. Their PR job has to be done for employers and for employees. I am concerned that the regulations which will be the basis for administering the Scheme, have not been drawn finally and submitted to the various partners for them to examine, because those regulations are going to touch on matters which should be opened to public debate. I would hope – the Law does not say it, this Bill does not say it – that the regulations to be drawn under the Scheme will be subject to affirmative resolution, in which case, they would come before the Houses of Parliament and they will be in the public domain quite easily.

It is too important a matter, on matters like investment, for instance, on matters like portability and on other aspects of the Scheme – some 15 aspects that the regulations would deal with – for them to be subject to negative resolution, where the Minister just signs and it is published in the Gazette. I would hope that this aspect of it, is not allowed to go without more participation in the discussions by interested parties.

Apart from the costs involved, I think there has to be certain skills now available for the management of this new venture. The supervisors or supervisor and his staff – I believe this is intended to be the Supervisor of Insurance in the first instance and not the National Insurance – will have to be retrained and be brought up-to-date on all the requirements of the legislation. Employers and employees alike will have to be involved and for sometime yet. It may be difficult for existing pension plans to be fully absorbed within the ambit of the new legislation. I do not believe that many of them would have the facility for managing these requirements which have been imposed on them in a hurry.

Sir, the debate has extended far and wide, and National Insurance for one thing, is brought into the discussion, inevitably. I hope that people are not, those listening to the debate, will not feel that the National Insurance Scheme is about to collapse.

The National Insurance Scheme is robust. Sir, even before the proposed amendments were agreed to, the National Insurance Scheme has in its fund, five times the annual present outlay. Therefore, there is enough money, that if there were no more coming in, could cover five years of outlays. The objective of the review is to ensure that position does not drop back.

The review is not doing a lot of major things but at least the anticipation of the call on the Scheme, resulting from the numbers of people who are living longer, and resulting from the fact that the people who are workers, who are going to be putting money into the Scheme, we will not have a lot of them lining up to get work, since the population is not what it used to be, in terms of new people coming on the population and the cross-fertilisation, if I can call it that, within a newer Caribbean community, and so we cannot wait until these things happen to review the NIS. I think the review of the NIS was done in a timely manner, and not because the NIS was really threatened to be busted.

Reference was made to the NIS provision of 1971 and again in 1975 to avoid duplication of pensions. I think that was an action that any Government would have taken, given the cost of pensions which today, is \$120 million in the public sector.
2.50 p.m.

Sir, even with these provisions and given the cost of pensions, it would be necessary, as most employers did, to take into account the question of National Insurance pensions. National Insurance pensions were payable from 1972, not 10 years after. Any person who was a contributor to the fund but reached the age of retirement before they had done the 1 000 contributions, once they had done 150 actual contributions, was credited with enough contributions to make him eligible for a pension or some payment from the National Insurance Scheme. If you could work long enough to put in the requisite 500 contributions, then you would have to work and contribute in order to get any payment from the scheme. It is not that people did not get pensions until they put in 500 contributions. Exceptions were taken at the time.

The provision in 1985 for extending the age of retirement for public officials to 65 was a step to let the Public Service Pension Scheme coincide with the National Insurance Scheme. Therefore, when a person retires, he goes immediately into his National Insurance payment. He may not be entitled to receive a pension from the Treasury until he gets his National Insurance pension. At present 80 per cent of the employees in this country, including public servants, are in that position where the only real pension they will get whether they are holders of established posts or otherwise is the National Insurance pension. That is as it has to be because no employer, including the Government, can afford to provide pensions, especially non-contributory pensions as the public service has and, at the same time, contribute as part of their payroll cost to a National Insurance Scheme that is providing pensions.

I do not want us to go away with the impression that this matter is one that invites political divide. This matter is too important to everyone, including us, to allow it to

become a matter for political divide. It is a historical fact what has happened in 1971 and in 1975, what happened in 1985 under a different Government and what will happen when the review of the public service pensions which is now under consideration comes out.

I am happy to be the Barbados Association of Retired Persons (BARP) representative on that Committee because it is a dynamic subject. You cannot go on getting things like they used to be. I warn however, that within the Public Service Pension Scheme there is a constitutional provision which I see is repeated in a different language in this new Occupational Pension Bill, where the rights of a person who is entitled to a certain condition of pensions cannot be varied willy-nilly. That is a borrow from Section 1 or 2 of the Constitution that provides that protection for public officers.

The Scheme, as envisaged by this legislation, has nearly everything to recommend it, but I think there is some mystique about the computation which should be simplified especially for simple souls like us.

As I said earlier, the whole question of regulation should become the subject of wider discussion and should be subject to parliamentary approval. If this is not done, then it will not be as widely observed by those persons who have an interest in these matters and it will probably lead to errors being made which could be difficult to correct.

In Barbados today every employee has to make a contribution to the National Insurance Scheme and can expect, with varying levels of payment, some form of payment from the National Insurance Scheme which will provide their basic pension.

Reference was made to the non-contributory scheme which the National Insurance Scheme was administering since 1982. I warn and I draw attention to the fact that the extension of the National Insurance payment to non-contributory was done by a specific impost on the workers and employers which is two per cent from the employer and two per cent from the employee. It was not taken from what was then the Fund collected by the National Insurance Board. A special fund in the form of an additional impost on employers and employees was made by the payment.

Now that we have reviewed it, some of the people involved in the review process felt, because the Government has now decided that the payment of any new non-contributory payment should be made from the Treasury again from the year 2000, that it would not be equitable to increase the National Insurance contributions to the normal worker who had been paying 2 per cent of his earnings and the employers who had been paying 2 per cent on their

payroll towards the non-contributory pensions. Whether it is done through the National Insurance Board or from the Treasury, a taxpayer has had to meet and will continue to meet non-contributory payments.

I support that view that perhaps we should have gone slowly on increasing contributions to the National Insurance Scheme given that 4 per cent will now go into the normal fund. I think that the desirability for the Fund to remain forever viable at five times the annual outlay might have dictated that the decision was taken to increase contributions over time.

These matters are not as simple as they may sound. They are very complex. For a little while I sat on the Committee that looked at this Occupational Pension Bill. I am a member of the Pension Review Committee of the National Insurance Scheme which is still sitting and I am BARP's representative on the Public Service Review Committee.

Reference was made to the fact that many Government pensioners are below the breadline and that BARP should be making representation for them. For four years BARP has been making representation on the basis of informed information that half of the Government pensioners which at the time represented 3 800 were getting less than \$500 per month. There are probably not many that are doing much better. The reason for this is that pensions are based on one's retirement salary.

There are members of BARP who have retired for 36 years and having retired for 36 years at a salary that was probably \$80 per month, one can imagine what their pension is, even though there have been substantial additions, relatively speaking, to their pension over time. The Barbados Association of Retired Persons continues to make this representation and while other representations of BARP get prominence, this one never gets any. The other representation is based on sound logic.
3.00 p.m.

Mr. President, contributors to the Registered Retirement Savings Pension Plan get their contributions free of tax. Contributors to other contributory pension plans get their contributions free of tax. Employers who make these inclusions do not have to account for that as part of their corporation taxes. Why is National Insurance Scheme payments that produce a pension taxable?

If one cannot relieve the National Insurance Scheme contribution of taxes, then relieve the pension received of that taxation. It is more costly to go the other way and say that one will not tax contributions paid to the National Insurance Scheme, then everybody is covered with that, but

that is not the main point which we have tried to make over the last four years.

The main point is that there is a substantial number of Government pensioners whose pensions are still a pittance and are far below the national poverty level which the international agencies have attributed to Barbados. Sir, I would like that to be taken up, rather than any quarrel about rich pensioners, *et cetera*.

Mr. President, I fully endorse the legislation and am thankful for the opportunity to have made a number of explanations that I hope will go down well.

SENATOR J. E. D. WILLIAMS: Thank you, Mr. President. Unfortunately I will not be able to speak to any length on this Bill because time does not permit, but it would be remiss of me as a person who has worked with the management of pension funds, one in particular, not to have registered my support to this very important piece of legislation.

Mr. President, it is the continuation of a process of financial engineering that has been started with this Administration. Much talk was given to the work that has been done so far with respect to the National Insurance Scheme and the changes that were proposed and were made. Sir, the part of the Occupational Pension Bill, 2003, that we are now dealing with, is a follow-on from that, and that is why I am particularly delighted to be able to speak to this Bill.

Sir, before making my point, I wish to deal with a number of points that were made by both Senators Stuart and Collymore. I am happy that at least one person from the Democratic Labour Party has read the Bill in its entirety, and has been able to identify the benchmarks that he would have used to have assessed and to have evaluated the efficacy of the Bill, and whether or not it would have been appealing to someone who would have wanted to say that they are or are not going to join a pension plan based on the Bill as presented.

What is also true is that the Honourable Senator has identified five benchmarks and then proceeded to compliment Government to say that the five benchmarks have met total acceptance with him. I believe that is a historic thing today in this Honourable Chamber where good judgment, rational thinking and a proper assessment could have been brought to bear on a Bill before this Honourable Chamber.

Mr. President, there are two points, nonetheless, that I would want to speak to coming out of his presentation. One has to do with the Honourable Senator's suggestion that there should be portability in relation to severance. As I

understand it, the payment of severance is the responsibility of the company for which the employee was working. Therefore, if the individual parts with a company, that company would have an obligation to pay severance. For us to say that the individual can take that severance entitlement into another company and place that burden and responsibility onto that next company, to my mind, would be wrong. I know that the Honourable Senator has lauded the Bill which spoke about portability in terms of pension, which I agreed with, but I cannot support portability of severance.

Sir, the other point that the Honourable Senator made where he had some discomfort with, is when he said the Bill does not encourage employers to want to offer pension plans to new employees. While that might be true, the Bill as presented seeks to address the short-comings or difficulties that we have experienced over the years with the running of existing pension plans. In other words, what he is seeing is that there are other pension plans in operation and not all of them are run and managed properly. This new Act seeks to ensure that is the case, that there is proper accounting, proper accountability and administration of pension plans.

Mr. President, I want to comment with respect to the point made by Senator Collymore who has asked why should National Insurance Scheme payments be taxable. I believe in his contribution he made reference to suggest that as high as 80 per cent of workers do not reach the \$3 100 threshold.

If that is the case, it means, therefore, that the existing allowance that Government offers to pensioners clearly guarantees that as high as 80 per cent and, indeed, it is probably higher, of persons who do not pay taxes on their pensions. Mr. President, I think Senator Collymore understands the point I am making. Presently the large amount of persons earning pensions do not pay taxes on those pensions.

SENATOR B. R. COLLYMORE: On a point of clarification, Mr. President. People who receive National Insurance Scheme pensions, that pension is taxable but the contributions that everybody makes is not free of tax. Therefore, persons pay on the contribution and on the receipt of pensions, which, in my view, is double taxation.

Mr. PRESIDENT: We will treat that as a point of explanation.

SENATOR J. E. D. WILLIAMS: Mr. President, the point I am making is that the large majority of persons who are receiving pensions, do not have to pay taxes on them. It is only a minority of persons who would go over that threshold. I think that any attempt to suggest that Government is not treating this matter fairly is, indeed, wrong.

What we are saying is that if we have to look after the majority of the population and when we are doing our social engineering, that is what we have to do...
3.10 p.m.

This has made sure that the large majority of pensioners in this country do not have to pay taxes on their pension.

Mr. President, there are a few matters I want to speak to briefly. One has to do with the seriousness which employees attach to pension. I am familiar with situations where some companies have sought to change pension arrangements or to suggest that rather than have a pension scheme for employees simply to decide what percentage increase to give in terms of salary equivalent to buying out the pension as a condition of services.

Sir, a lot of companies see pensions as extra cost. Senator Fields alluded earlier to the fact that people are moving away from defined benefits to defined contributions and they are seeking to buy out pensions by offering employees an extra 5 or 10 per cent increase in salary. By doing this, a company can know what its costs will be because things like pensions may be perceived as onerous.

Sir, it is interesting that when workers are asked to comment on the priority they attach to pension and certain other conditions of service, the availability of pension schemes were high in the pecking order. They were saying that pensions were integral and important to them.

Mr. President, I am also familiar with the situation where people try to attract people with good skills into their organisation and one of the things that people place great value on is a pension arrangement.

Sir, we are talking today about something that is fundamental to employees by ensuring that when people move into retirement that there is a steady stream of income.

On that note, may I comment on the point raised vicariously by the last Senator who spoke. He spoke about the need to ensure that we explain the computation of lump sums. I understood him because there is still a feeling by some that an individual should be entitled to all of his pension if he chose to take it at the point of retirement. The fact of the matter is that a pension cannot be all things to all people. It is simply a financial instrument which ensures that the person receiving the pension can get steady streams of income particularly in his senior years.

Sir, I am also aware that in instances where people received gratuity and *ex gratia* payments and so on in a lump sum, you are requiring the individual to become his or

her own investor because that money has to earn the person streams of income in the future. If the individual makes a few bad decisions in terms of investment, then if the employer subsequently sees the individual, he would say that x or y is in a bad state and nobody would know that the employee was given a lump sum but, unfortunately, the lump sum was not managed in the best manner and the person becomes the responsibility of someone else.

Sir, individuals can use other instruments to gain the lump sums they are looking for beyond that of a pension. They can buy bonds, shares, mutual funds, endowment plans and fixed deposits because these are all mechanisms where an individual, if he or she so chooses, can make the investment now to be able to have a lump sum payment if he desires along with a pension but a pension was not intended to be all things for all purposes. This has to be understood.

Sir, Senator Stuart made the point that Section 94 made provision for the Minister to make regulations to govern the Act and when he spoke about investments, it cast my mind back to the early 90's. I will explain why we cannot treat pensions in any flippant manner. I would like to see regulations ensuring that any Government in future does not encourage insurance companies nor investment entities to return investments which are earning good returns back to a country that might have been invested in other jurisdictions simply because you are going through financial difficulty and foreign exchange problems in order to shore up your foreign exchange position.

3.20 p.m.

Sir, we had a situation between 1991/1992 where the returns that people were getting from their investments in the external markets were doing well. In order for insurance companies and the administrators of funds to be able to manage their portfolio they have to spread between local and overseas. Basically what they are doing is making sure that you are able to pay your pensioners in the future.

It is about taking money from the employees and the contributions from the employers and investing it wisely, so you look for markets and places to invest that money. Insurance companies and other companies had invested pension funds outside of Barbados. I think that at that time they had the opportunity to invest up to 20 per cent of their portfolio but they had to bring them back to Barbados in order to get the total sum required to shore up the foreign exchange to make them look good. Sir, I agree with what Senator Stuart said. I believe that the regulations should speak to these matters because it should never happen again.

Sir, we all spoke of vesting after three years. I heard Senator Fields, probably, suggesting that it should be five years. Let me say that it is true that no one today as an employee is guaranteed a job for life. Companies are moving

towards contractual labour and Senator Sir Roy would agree on that. If that is a case where a person has a one-year tenure with company "X" and another two years with company "Y", if we seek to extend vesting beyond the proposed 36 months, in this new dispensation, a person might never work long enough at any institution to be able to benefit from what we are discussing in here today.

I believe that it is a good thing. I must say that I had the very good fortune of being part of a number of consultations and discussions in another capacity at a different point in time on this Bill when it was in draft form, Sir. I know that this Bill reflects the thinking of all the stakeholders. Yes, it may be true, with respect to administration, that there may be some extra costs associated with it, but I think that at the end of the day it is going to be to the credit of the Fund to make sure that it is properly managed and administered. Workers can feel justified that when money is taken out of their salaries there is a system for full accountability. I am happy to see that provision is made in this Bill for proper information sharing.

Sir, workers will be given frequent updates in terms of what their contributions are and how the Fund is being administered. However, that is not the case in some pension funds. Some workers never knew what the situation was and even left the organisation when they were still in doubt. Sir, when this Act comes into operation, it would ensure that is a thing of the past.

Mr. President, I now refer to the distribution of surplus. Sir, that can become a very difficult thing because unless you have full disclosure, an employee may or may not know that, after an actuarial report, it had proven that the Fund is in surplus and how that surplus is treated. Is it treated so that the employer can have a grace period, within which they do not have to make any contribution, or that the employees' contributions are reduced? These are matters that can be addressed with respect to what we are discussing here today.

Sir, I refer to the portability of pensions. To be able to move your pension from company "X" to company "Y" is something that we have been asking for many years. I know that this is something that would please the trade unions and by extension the workers of this country. Time does not permit me to deal with this area in detail.

However, I believe that this Bill demonstrates that if stakeholders and all the parties sit and discuss fully the implications they want to achieve, there is a possibility of getting there in a way that would have caused us to hear the contribution of Senator Stuart, where he would have given full marks to the Bill, to be able to say that here is an administration that has presented a very good piece of legislation.

I thank you, Sir.

Mr. PRESIDENT: The Deputy President would take the Chair at this time.

SENATOR Dame PATRICIA SYMMONDS, Deputy President, in the Chair.

SENATOR Sir Roy TROTMAN: Madam Deputy President, I hope that you would permit me at the very top of my errand on your behalf and on behalf of my colleagues as well to offer sincere congratulations to Senator the Honourable Professor Velma Newton. I hope that she is not leaving the room, on her preferment in the recent university exercises. It is great that we could have our Professor in this Chamber.

Asides.

SENATOR Sir Roy TROTMAN: Madam, this Act seeks to provide social protection for the people of Barbados, those who are unionised and those who are not. I, therefore, want to make the point that I am not being tied down to union membership. I think it is important that there are several areas where this need for social protection is very much in demand, especially in these very trying times.

For example, without digression, of someone working very near to a previous mansion of the Bishop, near another church, in the auditing field who works for 27 years without any adverse report and who is satisfactory but, after 27 years being told by his employer his services are no longer required and to find immediately after that the job is advertised overseas. Surely, there is need for protection in those areas and the Immigration should be part of that kind of protection.

Sir, we have many similar examples where you work all you like and you believe...that you are contributing and somebody comes along, so-called change of ownership and you suddenly find that the conditions that are being trust upon you, significantly different from those you enjoyed previously, and if you make the error of challenging, then you find yourself looking in, as you challenge.
3.30 p.m.

Social protection is very important, and I believe that this Act is consistent with the position taken by the Governments of Barbados in what they call the CARICOM Declaration of Labour and Industrial Relations principles. Although it might be slightly different, I want to point out that this Declaration says, among other things, that the worker has property rights in his or her job and that adequate social security provisions should be made on regular actuarial evaluations.

Sir, that is to say, put in other words, that every attempt should be made to ensure that the worker at a workplace, is able to have protection in his or her job, but that job also provides the wherewithal for sustenance during work and after work. Such legislation and such provisions, I think are particularly important to us, in the circumstances in which Barbados prepares itself to enter into a Caribbean Single Market and Economy (CSME).

Our concern as a Senate should no doubt be the requirement for struggles of reciprocity, because it is good and right for Barbados to take these positions. It is equally good and sound for us to endeavour to make sure, that when we extend benefits to people who come to our shores, that we can look forward to similar treatment when our citizens enter the shores of other contributors.

I now address the matter of the details of the Bill before us. I start with section 6 subclause (d) to note that there should be no reduction in benefits because a member is, or will be entitled to a payment under the Severance Payment Act, and to say that this is highly to be commended.

Previously, there has been much argument and many attempts for pension schemes to have sought to change the benefit schedule purely because people were entitled to severance payment provisions. It is very comforting to know that because the job is considered to be property that this Act, when it has been passed and proclaimed, will so treat the years of service and the property entitlement will not be reduced, because a person may receive the severance payment provisions which are yet to be adjusted, consistent with the Manifesto pledges.

I would like to look as well at section 12(1) of the Bill before us and to take note of some suggestions involved here, for example:

“12. (1) The Supervisor may

- (a) refuse to register a pension plan that does not comply with this Act and the regulations;
- (b) direct that a plan be modified to comply with the Act and re-submitted to the Supervisor by a stipulated date;
- (d) revoke the registration....”

I think it is timely for us to make the observation that some pension plans are in place, not because of any desire on the part of the employer to put them into place, but rather they are in place because of the strong collective bargaining positions, taken by the trade union movement. Those

collective bargaining stances have been taken, and employers have brought some plans, reluctantly, into fruition. I do not wish to name any employers because the intention of my presentation is not to hold up any company to ridicule, but rather to make what I consider to be a very important point.

The point I would wish to make when we look at sections (a), (b) and (d) of 12 (1) where it speaks to the Supervisor taking this action, the point has to be made that the revoking of plans will not hurt an employer who has entered into a plan against his or her better wishes. It will not be that the employer will be disadvantaged by it. Rather, it is the worker who would be disadvantaged, as a result.

It is therefore important, in my view, that any imperfections which there are within this Act, and there are some imperfections – I do not join with those who believe that the Act and that all Acts, because they are passed by a particular Government has to be correct in every respect – there are imperfections in the Act.

It is important that those imperfections be recognised and addressed, and I would suggest by a tripartite social series of dialogue, under study of the regulations. I do not believe that we are going to be able to do as much as people might suggest here, in seeking to change such a comprehensive piece of legislation. Indeed, the imperfections cannot be considered by anyone to be so major, as to cause us to wish to rewrite the Act.

There are elements within the regulation which, if not properly addressed, could lead those imperfections into becoming the highways for exploitation, either by an unthinking Minister – I am sure we do not have any in Barbados – or by unscrupulous employers. I would suggest, therefore, that those regulations be subject to full discussion. I am sure if that becomes so, then we would have the wherewithal to provide for the shoring up of the Act, by the provisions within regulations.

Take, for example, 16 (1) (b) and (c) which speak to the matter of defining contribution plans and posits that the defined contribution plan should not need to have the reporting or valuation formalities required in other plans. At least that is how it comes through as reading.

Labour considers that the reporting exercise and the valuation exercise, or formalities are part of the probity that the Government is looking for in national pension plans within the private sector, and I have no doubt within the public sector when they come to do the public sector pension. If we are concerned about probity, why would we wish to excuse a defined contribution plan for valuations and reporting exercises? In fact, it should be required, as a condition, whether it is private, defined plan, defined contribution plan, or defined benefits plan. I would wish to

suggest that the regulations might better be able to address that matter as well.

Take section 19 where it speaks to National Insurance and Social Security provisions:

“The Director of the National Insurance and Social Security Scheme shall provide to an administrator any information with respect to a member, deferred member or retired member of the plan required by the administrator, in sufficient time to enable the administrator to comply with the terms of the plan, this Act or the regulations.”

This requires that the National Insurance should advise the administrator regarding information on social security. The moment that we begin to recognise the connect... it would seem only fair and proper that we would equally well recognise that there could as well be a connect in regard to the times that are set down for retirement within the National Insurance Scheme and the fact that the National Insurance Scheme is now going to be providing for a sliding scale for retirement between age 60 and 70. So it would seem to us that there needs to be some flexibility regarding the provisions for retirement within the Scheme. I would come back to this more fully in a minute or two but I would wish to flag that concern as one which the Scheme needs to look at as part of the imperfections of which I spoke.
3.40 p.m.

Perhaps I should move to it immediately to say that if we were to turn the pages of the Bill and look at section 29 where it speaks to the normal retirement age, we will notice that that normal retirement age speaks very fully to age 55 and not later. Age 55 might allow for provisions as a minimal retirement age that might need to apply at some time in the future, but surely this Honourable Chamber is aware that there are some parties which have in good faith entered into individual contracts with their staff or entered into collective bargaining arrangements with their staff to the effect that they have now got pension arrangements which are going to be in breach of this legislation.

There must be enough evidence in this country to have brought that matter to the attention of the framers, so what are we going to do. Are we going to go back to section 12 and revoke those pension arrangements and punish the people for doing it? Is it in the best interest of the workers who after all are the beneficiaries that the Act want to speak to? We have to be able to recognise that there cannot be the position of inflexibility that the Law calls for in this regard.

Indeed, there are some cases in which some workers have opted to accept retirement packages from their

employers, who have done so before knowledge of this Bill became known and have done so in good faith and at ages of less than 50 years of age. They are relying on the severance payments package plus the pension entitlement so that they can invest their money and become young entrepreneurs in a class of entrepreneurs that Barbados is trying to develop as part of the way forward in the new Barbados into what Senator Linton called the first world or the developed world that is going to be part of Barbados' stride.

What are we going to do with these people? Are we going to say to them that they must go back to the employers and seek now to be re-engaged when the employer wanted to reduce numbers but may have done so by a seniority arrangement had it not been for the fact that these people who saw themselves as being able to contribute to the future of Barbados by becoming entrepreneurs sought to go the route of this arrangement which we are now told put them in breach of the Law?

Surely there has to be a way by which we do not frustrate these young entrepreneurs of Barbados. The way I would see us being able to do that is going the route of a transitional arrangement and providing some time through which we move from what is to what we want to have the Pension Scheme provide for the people. If this is done, we can meet the four letters of the Law provided by the regulations without doing violence to the people we really wish to protect. In this regard, I would step back a little and ask us to visit section 27. Notice that section 27 says that:

"An employer may not establish or maintain a separate pension plan for employees employed in part-time continuous employment if the employer maintains a pension plan for employees of the same class employed in full-time continuous employment."

I make reference to this to commend it significantly because it addresses the subject of part-time workers and re-establishes the need for us in this country to ensure that the same conditions of employment which relate to full-time workers will relate to part-time workers without there being any change except the prorating that would come from moving from full-time to part-time employment.

This is going to be very important as a provision especially in the fast foods industry, in the supermarkets and in some of the hotels. The commendation I have for that might, in fact, spring selfishly from the fact that I helped at the International Labour Organisation to engineer the part-time convention through the International Labour Organisation Conference. Beyond that I think it is an important piece of social engineering.

I think we need to go a little further, but we can only do that if the regulation at Section 27 is touched on a little more to address the discrimination in benefits which there are at several establishments where there are different pension

plans for the Medes and the Persians and where there are some management pension plans that have benefit structures that we could be proud of and benefit plans which are less than satisfactory for those who are not management people.

I am not saying that there are at one and the same time the same pension plan. I am saying that at one and the same time they are the same companies and there should be one pension plan that should cover everybody because the difference comes in any event at the level of earnings which people are getting so they do not need to have a secondary level of discrimination.

I know these are times when the clock goes very quickly whenever I get up to speak so let me just quickly go to two or three other matters within the Bill and to say that I would wish publicly to give my support to section 37 (5) which deals with the protection of pensions where it says that:

"A deduction made under subsection (4) shall not exceed one-third of the amount that the person would normally have received..."

I think that is very good because it speaks to the protection of the earnings of individuals and the Government should be complimented for it.

In his maiden presentation in this Chamber, Senator Fields struck a chord dealing with the question of what do we do about the matter of gender which we should have to look at most carefully because inadvertently, we have taken this matter of gender and have addressed it in such a manner that we cannot win in the process. Either we are going to discriminate in favour of women and then we are going to come around with the men who are seeking to protect themselves against discrimination by the women or we are going to find ourselves discriminating against women and we cannot any longer continue doing that, so we have a real problem.

3.50 p.m.

Madam Deputy President, it seems to me, as I believe Senator Fields might have been saying, that what we need is to move into phrasing in this part of the legislation in such a way that nobody gets hurt in the process, and that together we would bring everybody to the same starting block but that we realise that at this moment, that is not possible.

Madam Deputy President, it can be done because a regulation can allow for it, providing the regulation is not set in its total absolute wisdom by the Minister but that the Minister would open the door for tripartite social consultation.

Madam Deputy President, one other important issue is the question of deficit, an issue with which I happen to be very close. It has been my responsibility very recently to have introduced a pensions scheme in my own establishment. We had talked about it before but did not have it.

Madam Deputy President, in very good faith, we established this pension scheme and undertook to back-fund payment for everybody but we have persons in our establishment with more than 30 years of service and we have to back-fund that. How can we back-fund that in five years? Madam Deputy President, I have no doubt that if we say this for our small and poor organisation, there are going to be others, perhaps smaller, but which would be equally poor.

We understand the sound intention that we want to be able to ensure that we deal with the deficit in funding in such a way that the worker does not suffer. Madam Chairman, if we force any organisation to have to fund within a five-year period, then that organisation has another choice and that is not to back-fund the total number of years because the employer might still wish to be given a pension. The employer might know that he cannot meet the regulation and, therefore, the worker gets less than the total benefit which otherwise he would have been entitled to, had we allowed for a different arrangement.

Madam Chairman, it is an imperfection in the system but not an insurmountable one, which can very well be addressed by the regulatory discussion that needs to be put in place. If we were to do that, I am sure that we have the intelligence and the goodwill to arrive at an arrangement which would give, as many as possible, the levels of benefits that we are looking for.

Let me say in closing Madam Chairman, that Government is legislating to guide employers and to guide their staff. Since Government cannot impose but is simply seeking to guide, then it has to do so in such a way that we are able to encourage more pension plans in more companies, rather than our attempting to effect something which the intention is good but because we have not thought it through carefully enough, we achieve the very reversed conclusion to what we had intended.

This is surely not what the Government intended and I am sure that the Minister would say that in his summary. Therefore, we ask not that the Act be changed but that the regulation be discussed in such a manner that these ideas that were put forward by other Honourable colleagues be given very careful weight and be brought into the body of regulations which would come before us.

Madam Deputy President, I thank you.

SENATOR Dr. D. S. LOWE: Thank you, Madam

Chairman. I rise this afternoon to lend my voice to this debate and to join my Honourable colleagues on this Side in indicating that without reservation, we acknowledge this Bill to be a very sound effort on the part of Government, to ensure that it fulfills its mandate relative to the social protection of the society.

Madam Deputy President, as I contemplated my contribution, I thought that whenever Government seeks to introduce a piece of legislation, that effort should be guided by a careful consideration of what is best for the people.

Madam Deputy President, in like manner the Opposition has a bounded duty to ensure that when it lends its voice to any discussions in this country, it asks itself the same question. Madam Chairman, as long as we are in concert in advancing any effort that would take the country in a direction to ensure the social protection of its people, then without reluctance we will do so.

Madam Deputy President, in this case, it is our view that the proposed legislation answers some critical questions and closes a very significant gap in the social protection network. That is why I so very much endorsed the contribution by Senator Sir Roy Trotman on the notion of social protection. Social protection conveys a set of thoughts that seeks to guarantee a very wide and secured social-care programme that ensures economic stability, not only on the part of the Government and the country but at the micro level of the society. It also ensures education, health and wellness and that equal opportunity and equal access for all.

Therefore, what this legislation is saying to us on this Side, as I am sure it is saying to you, is how well could we move this country forward to ensure that, at the end of the day, there are no loops or cracks in the social care system that would cause anyone to suffer injury, especially in the latter days of their retirement lives.

Madam Deputy President, pensions not only include what happens to a person during his working years but it impacts on every phase of that person's life cycle because those who work have others who depend on them, particularly those who are non-workers. On the other hand, those who have worked now depend upon those who are working. Therefore, it is our view that when we look at this legislation, we want to cap it within the context of the human face and, therefore, we ask ourselves how well engineered is this process and how sealed is it, relative to closing any gaps relating to how people work, how they earn, how their earnings are being protected, and what would they enjoy after concluding their working years.

Therefore, for us, we have sought to engage our own thinking on the human element and are satisfied that the

legislation takes into full account many of the concepts we would have advanced. It takes into account those issues and areas that would allay some of the fears now confronting many workers in this country.

Madam Deputy President, my learned colleague on this Side has done a tremendous job in outlining some benchmarks against which the legislation has been examined and was very pleased to have indicated that the legislation has met the burden of proof on those benchmarks.
4.00 p.m.

I want to add a couple more in the same vein. Legislation is of no use if it passes through the hands and minds of policymakers and at the end of the process there is not the fullest guarantee that those who are responsible for implementing that legislation do the kind of job to ensure that its efficacy makes contact with the people it intends to serve.

Therefore, I would want to ask myself if I were the average man working in a corporation what happens after the legislation has passed, what guarantees do I walk with from this hallowed Chamber knowing that the thoughts and suggestions we have given to the Leader of Government Business that these thoughts would be reflected in the regulations that would be assembled.

May I suggest to the Honourable Leader of Government Business to let those who are responsible for creating that network of expertise know that we have given our souls to contemplating this Bill, that we have agreed that it gives the kind of teeth to the system that is needed and we are, therefore, asking that people involved must be made to understand that in order for this to carry its fullest value to the lives of the citizens of this country, it must be managed effectively and implemented with the level of passion that we heard in this Chamber today.

We want to ensure that at the end of the day when we have gone back to our respective homes in our communities and talked to people that we can assure them that the thoughts, views and advice aired in this hallowed Chamber will be taken to heart and that the crux of the matter not only rests in the hands of the administrators of this particular piece of legislation, but that Government will remain the watchdog to ensure that all that is provided in this Bill remain in the bosom of those who are most impacted by the Bill.

When we talk about social protection and care, it does not only pertain to persons who are working but to those who are yet to enter the workforce. Madam Chairman, I want to make the point that it also pertains to those persons who suffer disability in this country. We are not satisfied that enough is being done to give them a guarantee under a

proactive and progressive social protection plan.

I am offering the view that as we look at regulation and study the spirit of this legislation, it is my hope that it would reach its ultimate goal and the State will ensure that when we have reached those years where we must now go back to some of our infantile practices that we will be protected by this legislation.

In Clause 17(a) the legislation speaks about exercising the care, diligence and skills in the administration of the pension plan and, it is my view, that the real benefit of this legislation will be seen across time as persons bring the competencies and attributes to deal with not only the financial aspect of the legislation but to deal with the people management element of it. Very often we have great technocrats who understand the different element of their craft but when it comes to dealing with people, they do not understand how to bridge the gap between their expertise and the need to manage people's interest effectively.

Madam Chairman, the process of choice is outside of the purview of this Chamber but please let the message be given that we expect to have persons involved who have mastery at dealing with people because retirement brings along anxiety and an education programme has to be put in place to ensure that persons affected by this legislation get a first-hand understanding of what is obtained in it.

Therefore, as part of the public relations of the legislation, I want to suggest that the other standard we would apply to this legislation is what kind of educational programme we could put in place to ensure that all sections of the society, at the pre-employment or post-employment stage, should get a good grasp of what obtains in the legislation.

Madam Chairman, I could go on but I know that other Senators are waiting to make their contribution and I will conclude by saying that political sides cannot dictate the embrace of this legislation because it will impact upon my life at some stage. Therefore, the wisdom of the Opposition is to assist the Government that this legislation finds itself where it belongs.

Madam Chairman, I am grateful to be part of this discussion. I am much obliged.

SENATOR G. P. I. GOODING-EDGHILL: Madam Deputy President, I too would like to join with other Honourable Senators in supporting the Occupational Pension Benefit Bill. The Bill has created awareness in our society and I am confident that employers, trade unions and the Government will publicise these pension arrangements and that there will be more participation in pension plans in

Barbados. It will certainly also assist in shifting the burden from the Government in allowing individuals to be less reliant upon the State.

Trade unions for some time have been lobbying employers to provide pension benefits. I recall six years ago hotel workers putting the case to their employers for pension benefits. It has worked to the advantage of the workers in that sector particularly those who earn \$280 or \$300 weekly in supplementing their retirement income. I am sure it will go a long way, when you combine both the contributory old age pension with the National Insurance Fund and those from the private pension fund. Certainly, it will increase the disposable income of those persons when they retire.
4.10 p.m.

There are some critical benefits proposed under the legislation and Honourable Members have spoken to them before, but I would go through them quickly. Under Section 25 there is now provision for membership in a pension plan for those who have worked at least 1 000 hours. It also provides some measure of protection for workers who fall below the 1 000-hour plan, especially when businesses are realigning their staffing arrangements.

Under Section 17, the duty of care and the conflict of interest, I think it is very timely that this aspect has been introduced into the legislation because I am a firm believer that not only should we look to the people's side in terms of the management of a portfolio, but we should also look at the staffing requirements of the administrator of pension plans in Barbados.

I believe we should have investment managers and portfolio managers. I will explain why I am making this point here. We should have qualified professionals managing pension programmes in Barbados. We have a Certified Financial Analysis Association in Barbados and it is absolutely necessary that these persons be brought into the framework. It is very important that we are managing retirement funds of individuals and it is absolutely necessary that we have the highest level within the administration of plans in Barbados.

Madam Deputy President, I refer to the vesting arrangement. This is a substantial change from the current practice which typically was to be vested after 10 years. We now have a situation where a worker must be fully vested after 36 months of membership. Again, the Government must be congratulated for the wisdom in bringing this new arrangement in the form of the Bill.

Madam Deputy President, members may elect to retire within ten years of the normal retirement and receive an actuarially reduced pension. In most pension plans, this is currently discretionary and available only to active

employees. This would include individuals who retired early due to medical reasons, *et cetera*.

The portability of pension is a substantial benefit. A terminated employee may require the value of his benefits to be transferred to a pension fund of a new employer or a registered retirement savings plan or to purchase an annuity.

There is a mandatory provision for spouses in this legislation. We must congratulate the framers of the legislation. A member who has a spouse, died on the date of the first instalment of his pension, the spouse must receive a pension which constitutes 60 per cent of the benefit.

Section 38 refers to death before retirement. The spouse, on the date of the member's death, must receive a lump sum payment equal to the present value of the vested deferred entitlement. Again, this is a significant improvement in the benefits.

Section 47 deals with contributions. Madam Deputy President, it speaks to the fact that contributions should be paid promptly. I would hope that, perhaps, the regulations to follow, we would follow the same basis as set out when employers have to pay National Insurance and PAYE, that contributions should be paid no later than the 15th day of the following month for the previous month. I think it is important because we are dealing with pension funds and it is important that we have no undue delay in getting funds paid into the fund.

I want to say the legislation creates an exciting opportunity, accelerates the capital market and the investment climate in Barbados. Significant pension inflows could give rise to the creation of a source of funds for business entities. Sir, equity funds vs. commercial bank loans at higher interest rates would allow companies to have more equity and certainly would address issues relating to profitability. For example, the hotel sector, where this could be a substantial benefit. It is necessary that we recognise that pension funds could lead to the creation of wealth through stock markets. Stock markets could create additional business expansion in Barbados. Obviously, it would require sound management practices and transparency.

I am aware of one hotel company in Barbados that uses external pension funds to make a substantial investment in Barbados. If others can do this, I think we should also take a leaf out of their book and follow suit.

Madam Deputy President, strategic partnerships to provide positive impact on economic and commercial activity in Barbados – investment of pension funds in the external

markets would lead to a *non sequitur* of foreign reserves whereby firms are required to repatriate funds on request and business ventures could enhance and build our foreign earning capacity.

It also creates investment opportunities by the creation, for example, of a pension investment management company, additional business entities generating more employment. There is no secret that there is an abundance of talent in Barbados with respect to investment management. Recently, I spoke to the Barbados Chapter of Investment Professionals and here lies the opportunities for these individuals to pool their talents and resources and become fund and capital managers. Again, there are several examples outside of Barbados and I am sure that this is an area that professionals would want to seek out and go in that direction. Capital and trust companies could enter joint ventures with Government, for example, a variety of projects which are currently financed outside of Barbados. Again, this is an opportunity for expansion in the capital market in Barbados.

Madam Deputy President, I want to say in closing that the annual actuarial valuation at the end of the financial year would be a standard regulation to the legislation as proposed and I know that Section 16 deals with it. I also hope that there is going to be a restriction of pension investment in sponsorship or empowering companies to, perhaps, a maximum of 5 or 10 per cent. This is very necessary to protect the portfolio from employer shams. We all know about the Enron situation where they invested 100 per cent of the funds into the sponsored company and we have to be guardians and protect the pension funds.

Section 54 states:

“Every person engaged in selecting an investment to be made with the assets of a pension fund shall ensure that the investment is selected in accordance with the criteria set out in this Act and prescribed by the regulations.”

I would hope that when the regulations are executed by the relevant Minister, that this point will be taken into consideration because it can very well create significant problems if it is not addressed.

Madam Chairman assets regulation is also an important consideration. There is a need for a divorced portfolio and it is absolutely necessary when you are managing pension funds.

I want to join other Honourable Senators in this Chamber in supporting the Bill because I am confident that it would result in less reliance on Government for a pension. It would also encourage a spurt of investment opportunities and create, at the same time, employment benefits for

Barbadians through the creation of pension fund management companies and other such entities which can broaden the base of investment in Barbados and financing in certain select commercial entities as a viable financing alternative.

Madam Deputy President, I am obliged.

SENATOR G. P. B. NICHOLLS: Madam Deputy President, this Bill before the Honourable Senate is a response by this Government to the concerns and challenges of an ageing society.
4.20 p.m.

I join with many of the Honourable Senators who have spoken, and to them I give credit for this point, that as a result of the social infrastructure and engineering which has been ongoing in this country for the last 30 or 40 years, we have reached the point and stage by which we might sometimes find some dis-benefit, as a result of the good work that we do.

As a result of all of the technology that is available today, in respect of the innovations in the medical field, as a result of the way in which we learn more about how we can preserve ourselves, as we embark upon our working careers, we find that there will be an aging population and that presents a particular challenge to small developing countries.

I am heartened to be part of a Government, Madam Deputy President, that has brought this piece of legislation, a year or two after it dealt with the significant challenges that met the National Insurance Scheme (NIS). This Occupational Pension Bill, also presents a comprehensive scheme by which the pension industry in Barbados, which is now in its infant stages, can now grow and flourish and play its part to enhance, not only the domestic savings of the country, but to provide for the elderly as they go into their sunset years.

My analysis of this Bill has been able to identify two fundamental objectives in the Occupational Pension Bill. The first is to ensure, as I said, that those who worked to build this country, retire in the dignity in which they deserve and financial security, by creating a pension industry in this country, with the necessary administrative frameworks and controls that are effective, efficient, secure and progressive.

The second major objective of this piece of legislation, and the Government claims all the credit for it, is that it presents an opportunity for the domestic financial services sector in this country, bearing in mind the rights conferred upon citizens, not only in Barbados but within the wider aspect of CARICOM, to establish their business and to move their capital too and fro. It presents an opportunity for

persons in the financial services sector to invest in a wider range of financial instruments. This is something that we sometimes tend to overlook, but the Honourable Senator who spoke before me, touched on it briefly and that is a point upon which I would want to expand.

The Bill itself, Madam Deputy President, is based upon the Ontario Pensions Act. It comes at a time after it went through the 14-year gestation period from 1989. This Government has sought to put it high on its agenda in this term of office, just like we have done with the commitments we made in 1989, in relation to the Caribbean Single Market and Economy, in that same year.

Madam Chairman, you will see from the legislation coming before this Honourable Senate in the coming weeks, that we are bringing a whole comprehensive broad-based legislative scheme to deal with the issues of how this country is going to relate as a financial services sector, in the Eastern Caribbean of first choice. This Bill comes not only to help those persons who retire, but comes at a time when we are expanding the scope of our financial services sector.

Many of the Honourable Senators, Madam Deputy President, spoke about the objectives of the legislation and I do not purport to go into them now. I would want to highlight, Madam Deputy President, that the debate about the restriction on the 25 per cent must be placed in its proper context and I must thank the Honourable Senators who made contributions to this Chamber today.

When we heard the debate in the Other Place, those of us who listened, would get the point that all of the Honourable Members who spoke on the Other Side, in the Opposition did not go through the Bill with the thoroughness that it deserved. I must compliment the two Honourable Senators from the Opposition for giving a solid contribution upon this Bill and pointing out some of the particular things and pitfalls we might encounter.

I speak specifically to the issue in which a spouse, who may have been separated upon the conferment of benefits for a one-year period, whereas in the Succession Act, that separation should be for five years. I echo the call for some sort of consistency because you would not want to have people electing which benefit they might take at the death of a person. We would not want a piece of legislation which comes to give a benefit in a situation where another piece of legislation has clearly defined that the person ought not to benefit.

It has not been said that the reason why this Government has determined the 25 per cent restriction on the payment of retirement benefits, which some people call the lump sum, comes out of sound actuarial principles, looking at the population, the age, size, life expectancy and the

quality of life in the society which we are dealing with, and we also must ensure that the Fund is protected from collapse.

There cannot be a situation where people retire at age 55 and everybody comes knocking at the door of the Pension Fund, saying, "give me all of what I have put in when I have worked". We must ensure that the Fund presents a steady stream of income for all of those persons when they have retired on a monthly basis. It is not based upon a system of endowments.

The Honourable Senators who have spoken before, have suggested many financial instruments through which persons who when they retire, can seek to get that grand endowment upon retirement. A pension system is predicated upon a collective basis, in terms of all of the persons who make contribution to the Pension Fund. Therefore, it would be foolhardy to suggest, at this stage in the infancy of our pension industry, that the 25 per cent should be increased so that persons can take out bigger contributions when they retire.

I also applaud the provisions which deal with the segregation of corporate funds, as distinct from pension funds, and this is part of the administrative framework of this Bill that I applaud. Employees can now feel secure that in the day-to-day management of their company's business, the companies for which they work, that there would be no attempt by the company to take or mix the funds from the pension contributions to that of its day-to-day corporate accounts.

The legislation speaks specifically to this, and when we have the opportunity to peruse the rules and the subsidiary legislation that would accompany this Bill, we would see how that manifests itself in the form of rules, regulations and penalties.

Madam Deputy President, the investment of pension funds present a particular opportunity for Barbadian companies – and the Honourable Senator who spoke before me was making the point and I would like to, with the greatest respect, to expand on it – that it presents an opportunity where equity funding, which is something that is not part of the usual corporate culture in this country, where companies can use the equity financing as a means to fund the day-to-day corporate activities. We have a situation where we hear of the excess liquidity in our banking system.

We also have a situation in this country where the credit unions complain about a non-performing portfolio in excess of 20 per cent in this country. Madam Chairman, what this Government has done by bringing this legislation is to recognise, immediately, that with the excess liquidity

situation in the financial services sector in Barbados, and with the serious lag behind the offshore financial services sector, there is a need to bring a hedge between the domestic and the offshore financial services sectors in this country.
4.30 p.m.

One way of doing that is to liberalise the exchange control restrictions currently imposed by the Central Bank on capital transactions. Therefore, the pension funds can now utilise the liberalisation of that particular restriction on exchange control to take advantage of the opening up of markets within CARICOM.

Madam Deputy President, one of the advantages I boast of having is being educated at a regional institution in which one can have enduring friendships. A colleague of mine who is a merchant banker, a very talented young economist in Trinidad, has long been making the point to me and to others, when we travel to Trinidad or when he comes to Barbados, that Barbados is being left behind in terms of the pace at which we are seeking to liberalise our financial services sector. He is a merchant banker with the Royal Bank of Trinidad and Tobago and he travels up and down the Eastern Caribbean selling bonds as a merchant banker for governments and companies in the Eastern Caribbean.

He has made the point that the St. Lucian National Insurance Scheme which faces a similar problem like the one we are facing in relation to our aging population and the depletions from the Fund, has been able through the liberalisation of the St. Lucia Financial Services sector to list the National Insurance Scheme of St. Lucia on the Stock Exchange of Barbados. By so doing, that has freed up that Fund in St. Lucia to garner the investment and provide opportunities for the St. Lucian Government so that they feel secure in relation to how they can manage their national insurance issues in the future.

So very soon one should see the liberalisation of the financial services sector because it is very important in an emerging economy like Barbados. We boast no competitive advantage in the traditional sectors of agriculture and manufacturing. I must admit that the tourism industry, which is the backbone of the present Barbadian economy and which pays our bills, has been able to marry itself with the financial services. However, there is a significant lag between what obtains in our domestic financial sector and that which obtains in our offshore sector.

Madam Chairman, I want to close by making the point that a financial services sector in Barbados plays an important role in the growth of the Barbadian economy. Not only because we can begin to feel good about contemplating how we can operate within the context of the Caribbean Single Market and Economy, but it encourages savings, takes advantage of a pool of national savings and converts the financial savings into real savings by being able to reallocate the resources and the surplus funds of those who save to

reach those persons who have the most productive and the most profitable economic opportunity. That in itself would lead to economic growth.

Therefore, the development of a sophisticated, transparent and secure pensions industry is a way by which our domestic financial services sector can achieve the objective of enhancing economic growth in this country by producing a whole new regime by which the investment and the procurement of future investment can lead to the development of our economy.

I therefore applaud the Government for bringing this comprehensive piece of legislation to Parliament. I am looking forward to the day when this Honourable Senate would be able to debate a Bill dealing with the removal of restrictions on the movement of capital that has long been promised by the Honourable Minister of Finance.

Madam Deputy President, I am obliged to you, Sir.

SENATOR R. W. GRANT: Madam Deputy President, it is indeed a pleasure for me to join with all the other Honourable Senators who have spoken in this debate to give support to this Bill. It was very refreshing to hear the contributions which came from the Honourable Senators on the Other Side and to recognise that they are giving the Government extremely high marks for the work that has been done in bringing this Bill to this Chamber.

Madam Chairman President, pension policies and pension schemes represent a subject matter that is important to all Barbadians whether they are young or old. In fact, I would argue that pension policies and pension schemes are even important to Barbadians yet unborn. That is so because if we fail to provide adequately for our elderly and if workers fail to have adequate retirement provisions, then future generations will be forced to bear the cost of providing for the elderly.

Madam Chairman, pensions, as have been identified by other Honourable Senators, represent a form of income on retirement. That income is provided when a person either retires or becomes disabled and, in the case of this Bill, if a member to a pension plan dies, the spouse becomes eligible for payment of the pension proceeds.

Madam Chairman, this Bill ensures that more Barbadians will have the opportunity to be covered by pension plans. That facility is very important because it has political, economic and social implications for our country. It is very important that we provide the necessary infrastructure which ensures that we do not only safeguard today but that we are able to properly safeguard the standard of living for people growing old and living longer into the future as well.

Madam Deputy President, Honourable Senators spoke about the National Insurance contributions. Madam Chairman, there are many Barbadian workers who are of the opinion that the National Insurance money which they will receive when they retire will be adequate to maintain the standard of living they now possess. Madam Chairman, I think it is very important for us to inform Barbadians that it is necessary and very important for them to plan for their future. I think it is very important that we ensure that workers, whether they are young, middle-age or coming close to retirement, do not recognise at a very late stage the reality that their retirement income will be significantly lower than it is at present.

4.40 p.m.

Madam Chairman, I think this Bill provides the opportunity for more Barbadian workers to participate in pension plans so that they could have the benefit of greater coverage. Madam Chairman, the Bill provides for pension plans to be more accessible, which is very important.

Madam Chairman, I believe this issue is not one which could be treated in a political manner and that is why I am happy that the Opposition has given their support and high marks to the Government for the presentation of this Bill.

Madam Deputy President, pension policies and pension schemes are important for Government, private sectors and trade unions. I say that the time must come when every employee must not only have the opportunity but could participate in pension plans and, therefore, retirement benefits must become part of the employer's/employee's contract.

Madam Chairman, there are many workers in the tourism sector who are part of a pension plan. We speak of tourism as being a critical part of our country's development. One Honourable Senator would have indicated that it is the major foreign exchange earner. The tourism sector is the main engine of economic growth and yet many workers in the tourism sector do not have adequate pension plans. I say to you that a pension plan for workers is very essential.

Madam Deputy President, some Honourable Senators have spoken to the fact that the concept of a "job-for-life" is no longer relevant. In 1998, after working for over 40 years in the Civil Service, my mother has retired. Madam Deputy President, I have been either working or studying for over 19 years. I have worked in a family business, at a commercial bank, with an insurance company, as a management consultant privately, as a consultant with the Government of Barbados and now I function in another capacity.

Madam Deputy President, the point I wish to make is that the reality of the fact to which Honourable Senators have alluded, that is the concept of a "job-for-life", is no

longer relevant and is already taking place along with the ability of being able to utilise portability rights if employment is terminated or if a member ceases to be in a pension plan in accordance with Section 31. Therefore, any progressive pension legislation must include a provision for portability rights because in a changing economic environment, workers in their working lives, would function in a number of different jobs.

Madam Chairman, I would also want to say that it is very important that workers become multi-skilled because in the new changing economic environment, that is going to be very critical and important.

Madam Chairman, the Bill at Section 36, establishes the principle for pensions to be payable to persons with a spouse at the time the payment of the pension commences.

"36. (1) Where a member or deferred member of a pension plan has a spouse, on the date that the payment of the first instalment of the pension is due, the pension payable to that member or deferred member shall be a joint and survivor pension."

Madam Chairman, because pension is retirement income, if it is terminated at the death of the surviving spouse, then that spouse would have no support. Surviving pension benefits are a standard part of occupational pension plans and the common practices that survivors' pension benefits in the form of widow or widower's pension, as the Bill provides, are payable for life unless the beneficiary remarries. That is where this Bill differs. It provides at Clause 38:

"The surviving spouse of a retired member of a pension plan who is receiving a pension under the plan remains entitled to the pension, despite his or her subsequent remarriage.

39. (1) If a member or deferred member dies before payment of his pension benefit is due to commence, the person who is the spouse of the member or deferred member on the date of the member's or deferred member's death shall receive a lump sum payment equal to the aggregate of,

(a) the value of the member's or deferred member's vested defined contribution account balance, including accumulated additional voluntary contributions, if any."

Therefore, the Bill does not allow a survivor to be imposed with a penalty because that person has remarried, neither does it deny a survivor the opportunity to continue to enjoy the comfort of a partner.

Madam Chairman, I am sure that all Honourable Senators, those married and those soon-to-be-married, would be extremely happy to know that if they were to depart this earth before their spouses, I am sure that they would rest more comfortably in their graves, knowing that their spouses would not be denied the opportunity of continuing to receive pension, if that person decides to remarry.

Mr. Deputy President, the provision is made in this Bill to safeguard the contributions of members to the Fund by the employer with respect to any financial impropriety. The Bill requires that the administrator or his agent promptly pays contribution to the pension plan. It further requires that the Supervisor of Pensions must be notified if contributions are not paid when due.

Madam Chairman, this represents an exception with regard to annual reporting. If one relies on annual reporting, it can take some 16 months or more before the Supervisor of Pensions would be aware that there are problems regarding funding.

Madam Chairman, at Section 49, the Bill established a deemed trust for employee contributions collected by an employer until they are paid into the pension fund or to the insurance company that guarantees the benefits to the fund.

“49. (1) Where an employer receives money from an employee under an arrangement that the employer will pay the money into a pension fund as the employee’s contribution under the pension plan, the employer shall be deemed to hold the money in Barbados National Trust for the employee until the employer pays the money into the pension fund.”

Madam Chairman, the Trust is deemed to be in existence where the contributions are not kept separate and apart from other monies and properties of the employers. The deemed Trust is enforceable through a lien and a charge on the employer’s assets.

“49. (2) Money withheld by an employer for the purposes of subsection (1) whether by payroll deduction or otherwise, from money payable to an employee shall be deemed to be money received by the employer from the employee.

(3) An employee who is required to pay contributions to a pension fund and who has failed to pay such contributions shall be deemed to hold in Barbados National Trust for the beneficiaries of the pension plan an amount of money equal to the employer’s

contributions due and not paid into the pension fund.”

4.50 p.m.

This Bill seeks to safeguard the contributions which employees will make.

Madam Chairman, this Bill broadens the category of workers eligible for income coverage at retirement. Government, the private sector and trade unions have a responsibility to educate Barbadians about the need to contribute to a pension plan.

Senator Stuart spoke about the wayside workers who are not, in his view, specifically captured in this Bill. I think that education must play an important role and that persons must take responsibility to ensure that they prioritise and safeguard themselves for their future retirement.

Madam Deputy President, if we went outside of this Chamber and asked a young person of 25 about retirement and whether they have plans for a pension plan, I do not think they would have placed any emphasis on it. Pension schemes are very important and we have the responsibility to ensure that more education is provided but the workers also have a responsibility and duty to themselves to ensure that they safeguard their future in their retirement years.

This Bill seeks to provide the opportunity to ensure that there is no mismatch between the expectation which a person has and the reality of the money they receive when they retire. We have to educate workers at an early stage or else the cost of providing for the elderly will be a burden to future generations.

Madam Deputy President, the Bill not only broadens the category of workers but seeks to ensure that pensions in Barbados are socially and financially sustainable in the future as more persons will be depending on pension incomes for longer periods than at present. This is why it is imperative that there is greater participation in pension schemes by workers, sustained by economic growth and by improved productivity of labour because this has an important role to play.

Madam Deputy President, Honourable Senators spoke about the cost to the company. It is true there will be some minor cost but in seeking to deal with the future, we have as well to provide adequately for retirement and we must increase our level of productivity. Sir, this is extremely important because the responsibility for preparing for the future is the responsibility of all.

Madam Deputy President, I am extremely happy to give my support to this Bill.

I thank you, Madam Deputy President.

SENATOR THE HON. E. R. GRIFFITH: Madam Deputy President, we have had a full and constructive debate during which many important issues were raised. Although, in my view, they are not fundamental enough to warrant any alteration to the Bill, they are important enough to be considered during the preparation of the Regulations and I will certainly draw them to the attention of the Ministry of Finance which has responsibility for the matter.

Madam Deputy President, while I am not involved in the preparation of these matters but when I consider that leading up to the development of this Bill, the Government was at pains to involve all of the social partners and to have the widest possible consultation, I therefore, have no doubt that in the preparation of the Regulations, a similar exercise will be undertaken. Therefore, there is no reason for Honourable Senators to feel they would not have an opportunity to make an input into the development of those Regulations.

Madam Deputy President, all of us agreed that the Bill is a very comprehensive one and that it takes into account all of the crucial issues necessary for the proper management of a private pension system. Therefore, I see no reason for us to prolong the debate and I beg to move that this Bill be read a second time.

The question was put to the Senate and agreed to.

On the motion of SENATOR THE HON. E. R. GRIFFITH, 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 and 2 were called and passed.

Part I, Clause 3 was called.

5.00 p.m.

Part I,

“3 (a) every pension plan and every registered retirement savings plan that is established by an employer for persons employed in Barbados or in respect of which an employee makes contributions for his employees.”

I think that “employee” should be “employer”.

Madam CHAIRMAN: Senator Stuart, thank you for drawing it to our attention.

Parts II – III were called and passed.

Part IV was called.

SENATOR THE HON. E. R. GRIFFITH: Madam Chairman, may I draw to your attention that Part IV, Clause 23 (5) in the second last line, change the word “practice” to “practise”.

The question that Part IV stand part as amended was put to the Senate and agreed to.

Parts V – IX were called and passed.

SENATOR THE HON. Mrs. V. E. NEWTON: Madam Chairman, I wish to draw to your attention Clause 3 (a), the word “winding-up” should be deleted and insert “wind-up”.

Madam CHAIRMAN: Honourable Senators, please take note of these changes, which appear to be typographical errors.

The question that Part X stand part as amended was put to the Senate and agreed to.

Parts XI – XVII were called and passed.

5.10 p.m.

The Schedule became the Schedule to the Bill.

On the motion of SENATOR THE HON. E. R. GRIFFITH, 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. E. R. GRIFFITH, the Bill was read a third time and passed and cited as the Occupational Pension Benefits Act, 2003.

ORDER NO. 2 – RESOLUTION TO APPROVE
THE RESCISSION OF RESOLUTION NO. 7/1998
WHICH APPROVE THE SALE OF LAND SITUATE
AT

VILLA NOVA IN THE PARISH OF SAINT JOHN
IN THIS ISLAND TO HORIZON RESORTS
LIMITED AND TO APPROVE THE SALE
OF THE SAID PARCEL OF LAND SITU-
ATE AT VILLA NOVA IN THE PARISH
OF SAINT JOHN IN THIS ISLAND
TO HORIZON RESORTS
(BARBADOS) LIMITED

SENATOR THE HON. E. R. GRIFFITH: Mr. President, by Resolution 7/1998, it was agreed by Parliament that this parcel of land should be sold to the Horizon Resorts

Limited. However, subsequent to that, the legal counsel for Horizon Resorts Limited, advised the Ministry of Housing and Lands that Horizon Resorts Limited, a foreign registered company, had conveyed the property at Villa Nova to a local company, Horizon Resorts (Barbados) Limited, and hence, they had no further interest in the property.

As a result of that transaction, Mr. President, it made it impossible for the Ministry of Housing and Lands to continue with the Resolution 7/1998. This is the reason why the matter is before us, seeking approval for the land to be sold to Horizon Resorts (Barbados) Limited instead of Horizon Resorts Limited.

It seems to me to be a very non-controversial matter and, therefore, I beg to move that this Resolution do now pass.

SENATOR Sir ROY TROTMAN: Mr. President, from the moment I read this Bill, I had one major concern. I thought that the decision had been taken by a previous House and that we, therefore, could not reflect on it but if I am hearing correctly now, it is not yet resolved and it is before us, and the real concern I have is regarding the quantum in the sale. It is \$7 000 and from what I have seen in the Resolution before us, it is a significant portion of land. I would like to be able to have that amount of land for that price. I wonder if there is an explanation to this Chamber, regarding that kind of mathematics and the cents per square foot that would be involved.

SENATOR THE HON. E. R. GRIFFITH: Mr. President, on that matter, this is a transaction that took place in 1995. The price of \$7 000 at the time, compared favourably with the evaluation which had been given of \$4 000. Sir, while in the year 2003, it may appear to be less than it should be, at the time, 1995, everyone was satisfied that it was a reasonable price. Sir, that is as far as I can explain the matter.

Mr. President, unless there are any further concerns, I move that this Resolution do now pass.

The question was put to the Senate and agreed to.

ORDER NO. 3 – RESOLUTION TO APPROVE IN ACCORDANCE WITH SECTION 5 OF THE CROWN LANDS (VESTING AND DISPOSAL) ACT, CAP. 225, THE VESTING IN THE NATIONAL HOUSING CORPORATION OF PARCELS OF LAND, THE PROPERTY OF THE CROWN SITUATE AT WORKHALL, HOPELAND AND MARCHFIELD IN THE PARISH OF SAINT PHILIP IN THIS ISLAND FOR THE PURPOSE OF HOUSING DEVELOPMENT

SENATOR THE HON. E. R. GRIFFITH: These three parcels of land in the Resolution before us, are the properties of the Crown, and the Resolution seeks approval for the

vesting of them into the National Housing Corporation (NHC) for the purposes of developing lots for housing at Workhall, Hopeland and Marchfield in the parish of St. Philip.

As all of us know there is a huge demand for land for housing purposes and, I think, the effort here to provide three parcels of land in the parish of St. Philip for housing purposes is a commendable one and, therefore, I beg to move that this Resolution do now pass.

SENATOR F. J. STUART: Mr. President, I should be very brief on this, but I rise to speak on it because the three parcels of land being vested in the Crown are all parts of the constituency of St. Philip South which I represented between 1994 and 1999.

In fact, Marchfield is the village in which I grew up so I know the parcels of land very well. I am also aware of the sense of urgency among the people of St. Philip South and now more recently, St. Philip West, where Marchfield has been redrawn to be included for house spots.

Sir, sometime in 1996, I believe it was, I communicated with the Ministry of Housing and Lands on the issue of acquiring land for house spots in the constituency of St. Philip South, as it was then. I actually identified the parcel of land, owned by Mr. Carol Fields, which he consented to sell into the Government, if the Government would buy it, and which would have provided more than 100 house spots.

5.20 p.m.

The correspondence went in and the then Minister of Housing and Lands, the Member of Parliament for St. Andrew, very politely informed me that he had got the correspondence but that I was a very harsh critic of the Government and that I could be assured that as long as he was Minister no further action was going to be taken on that request. To be fair to him, he is an honourable man. He kept his word and nothing was done.

I am pleased that the encumbrance has been removed and that the people of Marchfield, Workhall and Hopeland in St. Philip can now get the houses and the house spots which they so richly deserve. I am very glad that they do not have to suffer anymore and can benefit from my absence.

I support the Resolution, Sir.

SENATOR Miss L. V. EASTMOND: Mr. President, I too would like to support this Resolution for the vesting of these lands in the National Housing Corporation.

I, like the Honourable Senator who spoke before me, am very pleased that we have an opportunity for additional housing solutions in the parish of St. Philip and I am very pleased that the Honourable Senator has not relinquished his interest in St. Philip South. The people of St. Philip West are very pleased with this development especially the people of Marchfield and the surrounding areas that would also have an interest in housing solutions in St. Philip.

As you know, the people of St. Philip are usually accused of being rather clannish and so they do not wish to leave St. Philip. Many of the residents of St. Philip who seek housing solutions seek them in St. Philip because they do not wish to leave the parish. I know there are many Honourable Senators who would wish to have the privilege of living in St. Philip, so maybe they can consider some of these housing solutions as well.

This acquisition of land is part of the Government's comprehensive programme for housing solutions in Barbados. We use every single avenue possible to ensure that we deal with one of the most critical issues in Barbados which is housing.

Mr. President, as you have heard on numerous occasions, in the Press and elsewhere, Government has embarked on a programme where it is selling many of its

terraced units which is part of the housing solution. This acquisition of land to be divided into house lots is part of that solution as well. Therefore, I certainly support this Resolution.

Thank you.

SENATOR THE HON. E. R. GRIFFITH: Mr. President, I beg to move that this Resolution do now pass.

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

ADJOURNMENT

SENATOR THE HON. E. R. GRIFFITH: Mr. President, as you are aware it is unlikely that the Senate will meet next week because the Other Place is still considering a number of items which will come to us eventually. Therefore, I beg to move that the Senate do now adjourn *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.

5.24 p.m.

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STUART, Senator F. J.
SYMMONDS, Her Honour Senator Dame Patricia
TROTMAN, Senator Sir Roy
WILLIAMS, Senator the Hon. J. E. D.