
THE SENATE DEBATES

(UNOFFICIAL REPORT)

PARLIAMENT 2008 – 2013

THE SENATE

Wednesday, December 15, 2010

The Senate met in the Senate Chamber, Parliament Building on Wednesday, the 15th day of December 2010, at 11.00 a.m.

PRESENT

His Honour SENATOR Dr. Branford M. Taitt, B.A. (Hons.), M.P.A., LL.B. (Hons.), D.H.L. (Hon.) (President)

Her Honour SENATOR Miss K. F. IFILL, B.Sc. (Hons.) M.B.A. (Deputy President)

SENATOR the Hon. Miss M. P. O. McCLEAN, M.A., B.Sc (Hons.) M.B.A. (Minister of Foreign Affairs and Foreign Trade) (Leader of the Senate)

SENATOR the Hon. H. LaV. BENN, E.M.B.A. (Marketing), J.P.

(Minister of Commerce and Trade)

SENATOR the Hon. D. W. BOYCE, B.Sc. (Econ.), M.B.A. (Fin.), CMA, F.C.A. (Minister in the Office of the Prime Minister with responsibility for Energy, Immigration, Telecommunications and Invest Barbados)

SENATOR Mrs. V. I. SANDIFORD-GARNER, CIM, Dip. Mng., M.B.A. (Parliamentary Secretary, Ministry of Health)

SENATOR J. INCE, J.P., BB.A., M.B.A, Dip (Mgmt.)

(Parliamentary Secretary, Ministry of Finance and Economic Affairs)

SENATOR H. A. HUSBANDS, M.L.I.R., B.Sc.

(Public Administration) (Hons.), Ed. Cert. (U.W.I.) (Parliamentary Secretary, Prime Minister's Office)

SENATOR P. W. B. GILKES

SENATOR R. A. HUNTE, J.P.

SENATOR Rev. Dr. D. L. DURANT, D.D. (Hon.)

SENATOR A. R. WORRELL, B.A. (Hons.)

SENATOR K. D. SYMMONDS, B.A., LL.B.

SENATOR the Hon. Prof. V. E. NEWTON, S.C.M., B.A.

(Spec. Hons.) M.A., LL.M. (Hons.) (U.W.I.), F.L.A. (Gt. Brit.), L.E.C.

SENATOR the Very Reverend H. E. CRICHLow, G.C.M.,

B.A. (Hons.) Dunelm

SENATOR R. O. MARVILLE, B.A. (Hons.), M.A. African Studies, M.B.A.

SENATOR R. G. CAVE, CBE, B.C.H.

Prayers were led by Rev. Father Errington Massiah.

Mr. PRESIDENT: This Senate is in session.

ANNOUNCEMENTS BY HIS HONOUR THE PRESIDENT

Mr. PRESIDENT: I am in receipt of a letter from Senator Sir Roy Trotman, in which he writes:

"I write seeking to be excused from my duties of the Senate including Sittings of the Chamber for the period 13th December to 19th December, 2010.

This request is occasioned by my having to travel to Santiago, Chile to attend the 17th American Regional Meeting of the International Labour Organisation 14th to 17th December.

Many thanks for your gracious entertainment of my request."

Sir Roy Trotman.

I am also in receipt of an excuse from Senator J. O. Bradshaw.

PRESENTATION OF PAPERS

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, I am commanded to lay the following:

1. Annual Report of the Securities Commission for the year ended March 31, 2010;
2. Securities (Amendment) Regulations, 2010;
3. Annual Reports of the Sugar Workers' Provident Fund for the years 2007 and 2008;
4. Annual Report of the Chief Medical Officer for the period 2004-2006;
5. Financial Statements of the Child Care Board for the year ended March 31, 2009; and
6. Customs Tariff (Amendment) (No. 3) Order, 2010.

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

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, I beg to move that Standing Orders Nos. 22 (1) and 45 (2) be suspended for the remainder of the day's Sitting.

The question was put to the Senate and agreed to.

INTRODUCTION OF BILLS

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, I beg to move that the following Bills be read a first time:

1. National Insurance Commissioner (Validation) Bill, 2010;
2. Guarantee of Loans (Companies) (Amendment) Bill, 2010; and
3. Financial Services Commission Bill, 2010.

The question was put to the Senate and agreed to.

CONGRATULATORY SPEECHES

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, before we begin Public Business for today, I want to take this opportunity to extend congratulations to you, Sir. You may notice that I am a little hesitant but this is so because I need to choose my words very carefully as I seek, in my presentation perhaps, in some way to emulate the person of whom I will speak.

Sir, it is indeed my distinct honour and pleasure to rise, as Leader of Government Business on this occasion, December 15, 2010, to congratulate you on your recent elevation. As I said, I hesitate, I hope my choice of words are correct.

Senate A38 Sequence 1

11.23 a.m.

Wednesday, December 15, 2010

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, this year you were awarded Barbados' top award, the Knight of St. Andrew, on our Independence Day Honours' List. My regret, Sir, however is that I was out of Barbados on that occasion, away on Government business, something pretty common given the schedule at this time of the day and I missed the celebrations, which I trust you were able to enjoy to the maximum.

It is an honour which is befitting of you, and as I read in the media, I learned some things about you. I learned of your actual age, and that throughout your 72 years you were able to make substantial contributions to this country, in several capacities.

Mr. President, you have been honoured for your distinguished career, outstanding service and contribution to Barbados, and to public life. I am happy to say that while I am your junior, certainly over my days growing up from childhood to now, I have been able to observe and indeed benefit from your several contributions to this country. Mr. President, like me, you came from that wonderful place called Black Rock.

I noticed you went to Wesley Hall Boys' School and so you would have missed out the St. Stephen's experience, but my brother would probably have said your having gone to Combermere School would probably have compensated for your missing out on the St. Stephen's experience. Sir, I must tell my colleagues that you still relate to St. Stephen's. I know that at least one day a year you still go to my Church and that we do share the same denomination.

Sir, I suppose the convention is to speak to the President, but since I am speaking about the President, I do not know if I have the luxury of speaking to my colleagues and to all who listen. Mr. President, your formative years would have been very much those typical of most of us working-class Barbadians. You grew up at a time when the working-class Barbadian put great store in educational achievement. You certainly have done your parents, your relatives and that generation of Barbadians who would not have been the beneficiaries of what my generation got, which is a free secondary education. Sir, you would have had to achieve that through some other means perhaps, scholarships, et cetera.

Mr. President, as was indicated, your formative years would have been typically Wesley Hall Boys' School, then Combermere School. You would have worked in the private sector. I believe you are happy to see here with us persons you might have known from your days at Cable and Wireless. You moved through the educational system

and travelled overseas, where you studied in New York, an area where, like other Barbadians, you sought greener pastures in London, New York, Toronto, et cetera. Again, like many in your generation, you were able to do that and do that successfully.

Mr. President, having earned a Masters in Public Administration from New York University, we have something in common as my first degree was in Public Administration. You would have studied at Cave Hill in the Faculty of Law, where you are known to have been and I believe still is a very successful visiting Senior Lecturer in the Law Faculty.

In public life or in political life, it is known that you served in several capacities in our Foreign Service and later in Ministries of Government, for example, in the Ministry of Trade, Industry and Commerce, from 1971 to 1976. At that time, I was just getting ready to move through the middle to upper secondary school and then on to university.

Sir, I remember the excellent debates on matters relating to trade and on issues which surfaced on several occasions. We would have had discussions in the 1970s on matters relating to price controls and things of that nature and at the heart of that and as a policymaker and political director, you would have led the Ministry of Industry and Commerce.

Sir, you later became, from 1986 to 1987, the Minister of Tourism and Industry, again two critical areas in our economic sphere. Mr. President, based on what I would consider the achievements in your third Ministry, that being the Ministry of Health, you becoming one of the most outstanding, if not the most outstanding Minister of Health in Barbados to date. Clearly, the development and expansion of the Queen Elizabeth Hospital is testimony to that, including other areas of development within the health sector.

Mr. President, prior to serving as a Minister, you would have sat in this distinguished Senate Chamber as an Honourable Senator, now you preside over this Honourable Senate.

Mr. President, I am a little nervous speaking of you in your presence. You might be surprised, but I can become nervous, especially when I stand in such close proximity to you. I hope that what I am saying meets your approval. I would say nothing that cannot be broadcast.

Asides.

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, in January 2008, as this Administration took office, you were appointed President of this Honourable Senate. I can tell you, in this capacity which I hold, I have

learned quite a bit from you about the processes, about the ways in which we handle debates and issues. I have observed your management of the process of adjudicating proceedings in this Honourable Senate Chamber.

Mr. President, as I began, I indicated that the recognition is one that is truly deserving, it is one that provides for the clear acknowledgment of the substantial contributions that you have made to Barbados and indeed the Region and beyond. Sir, I am sure in your capacity as Minister in the several Ministries, you would have participated in a range of fora in which you would have represented not only Barbados' position but the position of developing countries like ours, whether on matters relating to health, trade and industry or tourism.

Overall, as a diplomat, before becoming an Honourable Member of Parliament and Minister of Government, you also would have been part of that large tradition of excellent representation by our Foreign Service representatives, a situation which continues today and one in which you would have had a hand in shaping.

Overall, I believe this is truly a fitting honour and rather than repeat myself, I will now say that I want to congratulate you once again and in doing so, I want to acknowledge the thoughts of many Barbadians who would have, I am sure over the immediate period after the announcement of your receiving this top award, signalled their many congratulatory messages.

I just want to reiterate that personally I believe that this is a very deserving recognition. I want to congratulate you and wish you well and to say that I will take pride in referring to you, not as "Sir" in the normal scheme of our debates, but as "Sir", Sir. Sir Branford, once again, congratulations and may you have many days to bask in the glory of this recognition. I thank you.

Mr. PRESIDENT: Senator Symmonds.

SENATOR K. D. SYMMONDS: Mr. President, I think it goes without saying that I take a great sense of personal pride, delight and satisfaction in being able to be here in this august Chamber, at this very auspicious time and on this very auspicious occasion, to echo the sentiments so graciously articulated by the Leader of Government Business and to place my own remarks alongside of hers.

Mr. President, on behalf of my colleague, Senator Bradshaw who, unfortunately, is ill and cannot be with us today, I want to say that from the very first day of her entering this Honourable Chamber, she remarked on that which has become very customary around Barbados and for those who know you well, they understand it to be part of your persona.

She remarked about the warmth, the spirit of congeniality and collegiality which you extended and the ready inclination to offer guidance. Mr. President, as you know, I myself have benefitted from all of those wonderful characteristics which you possess. Sir, for me it is an accolade whose time has come, an elevation which is well and worthily recommended and richly deserved, in my judgment.

11.43 a.m.

Wednesday, December 15, 2010

SENATOR K. D. SYMMONDS: Mr. President, I do not know if I were the first but, certainly, my mind goes back to that very first evening that the Throne Speech for this Administration was delivered right here in this august Chamber, and I met you in the corridor. I am sure you will recall that I pointed out then, as I do now, that I look forward to the day where I could greet you as Sir Branford.

It should be said for the record that in your customary manner you brushed it off and suggested that was not something to which one should aspire and you gave me a lecture about those things which are, perhaps, more important than this type of accolade. Sir, to know you and to know of your contribution to the development of Barbadian society, Barbados political activity and political thinking and, indeed, your contribution to the development of legislation in Barbados, and it is a point to which I think I should speak as well, to know those things is to know that you toiled long and hard in the vineyards and should be recognised for having done so.

Mr. President, I remember well when you would have been one of the leading lights in the Other Place. I, myself, was a mere lad and a debate took place on that which is now, perhaps, seen as the most revolutionary pieces of legislation in Barbados, the Administration of Justice Act.

Sir, it was a debate that I followed because those are the early days in which I took an interest in matters of this nature and even then, I had the aspiration of becoming an attorney and practising at the Bar.

Sir, I marvelled at the fact that there were, among those who offered a view, a certain clarity of thought that came across that made even the layman understand the urgency and necessity of embracing concepts such as judicial review and the deduction of legitimate expectations, the principles of natural justice, things which we have brought into every day parlance in Barbados but which, at that time, I daresay, were strange concepts, certainly, esoteric and difficult to understand for the uninitiated among us but which, when one reads the speech of Branford Taitt in that debate one Member for St.

Michael West, I believe at the time, you would recognise that even then I think your contribution foreshadowed events to come.

Mr. President, it stands out in my mind as one of the richest debates that I have read and listened to, and I can assure you, Sir, I have gone back to it repeatedly because I think it is one of the most interesting periods of time in our legislative development. My friend, the Leader of Government Business makes reference to the fact that you are 72 years of age. She would be forgiven if she had added on, but you have the spirit of a 27-year-old. Sir, I think that characteristics to which I alluded to earlier and which I would want to reflect upon on a personal level, if I may, are some of those characteristics which I think stand out.

Mr. President, there are very few young people in politics in Barbados who could have done better, I think, than to have enjoyed the privilege of a little tutelage from Sir Branford Taitt. I remember well, as part of the youth arm of the Party, which now serves in Government that you would have been in a position where you could recount, to almost all who cared to pause and listen, the instances in which you had assisted in the development of some of the champions of the Democratic Labour Party and, by extension, Barbadian political development and political evolution.

Sir, it is true to say that you would have brought the former and deceased Prime Minister under your wing and offered him guidance at a very early stage and in many ways that which he became is perfectly and completely attributable to you, though I do not know if you always take full credit for that.

Similarly, Sir, the current Prime Minister, I believe it is correct to say that you would have brought him as well under your wing and helped to shape him into that which he has become today. Sir, obviously, taking myself out of the situation, you have only been able to score successes.

Mr. President, I make the point though that in a more specific way I think it has been useful to be able to sit at your feet and gain guidance in some of the finer points of this practice because it is not only about the contention between political parties but it is really about schooling yourself to deal, in a disciplined way, with a myriad of issues which come before you.

I think that the Leader of Government Business said quite well and quite eloquently that you have commanded the respect of the country when you held a number of Ministries and, as will be the case with all politicians, you have not done so without your fair share of criticism.

Let me say as well that even the great Barack Obama is meeting now his fair share of criticism and all of us who

choose to carry this mantle of representative of the people, in one form or another, will be asked, at one point or another in the democratic process that we enjoy and in the very hospitable climate of political discourse to deal with slings and arrows of outrageous fortune. Sir, that has its place and you have gone through those storms.

Mr. President, I think it is also true to say that you have done so with some distinction. The Minister of Foreign Affairs of which I had the pleasure to be a part, its officers reflect very highly on your tenure there. I am made to understand that the same is said with respect to the Ministry of Trade, Commerce and Industry, or the Ministries now because they have been separated and clearly the same is said with regard to the Ministry of Tourism.

Sir, the point is that whether you serve as a foreign service officer in this Chamber, as a Senator, in your formative political years for the decade and a half for which you were a member of Parliament for St. Michael West, and that in itself is an achievement because I believe you may have been one of the longest serving Members of the Other Place in the St. Michael Constituency and anybody who has a passing knowledge of Barbadian politics knows that the St. Michael constituencies are, perhaps, the most difficult constituencies to keep satisfied and, Sir, that does not reflect negatively on the people of St. Michael. It may just reflect on the fact that you stood tall among those who represented people in St. Michael.

Mr. President, the reality is that if it is in the position of a Cabinet member, certainly, the President of the Senate, I think you have been faced with a number of challenges. You have been called to service at a number of levels and in each case you have discharged the responsibility of service with a certain personal flair, a certain personal sparkle for which you have become characteristic but also with a certain savvy, that which the French would refer to as “je ne sais quoi”, that almost intangible aspect of the personality which allows it to all mesh and gel together.

Sir, therefore, I feel very, very honoured and privileged at this point, as I have said before, to be able to share in this accolade with you. There is much more that, perhaps, I could say but not like Senator Benn, I would not risk saying the improper thing for it to be carried over the airwaves.

S/A38/11:57 Sequence 3

Tuesday, December 15, 2010

Mr. PRESIDENT: Senator Crichtlow.

SENATOR the Very Reverend H. E. CRICHLLOW: Mr. President, I think that I am the person that knows you

the longest in this Chamber. I knew you from the days you were in Prep. In those days I think you were in Prep when you were about 9 or 10 years old.

Asides.

SENATOR the Very Reverend H. E. CRICHLLOW: Anyhow he always remembers, and he has told many people that I was his first Form Prefect.

Asides.

SENATOR the Very Reverend H. E. CRICHLLOW: I speak on behalf of the Independent Senators when I say you are very deserving of the highest award. We are very proud of you. The Leader of Government Business has already given a full account of your service. I thought that the Senator ought to know how much you did in the Anglican Church as well.

For many years you were elected to the Senate, which is the governing body of the Anglican Church, the Parliament of the Anglican Church. You have given excellent service in that field. Your presence from the Synod has often been missed, not only in our own Synod in Barbados, but in the Providence of the West Indies. You were elected on several occasions to represent Barbados at the Provincial level, the Provincial Senate, and you did that with distinction. We in the Anglican Church are very indebted to you for the contribution you have made at the church life here.

Sir, your musical skill, you are known to have an excellent voice.

Asides.

SENATOR the Very Reverend H. E. CRICHLLOW: Right now I am shouting.

Sir, I remember from those very early days how you sang in the school choir which was conducted by Mr. Darnley Pilgrim, in those days. You also went on to win your place in the St. Michael Cathedral Choir, under Mr. Gerald Hutson. So you are well-known as a singer. You do not let people hear you sing in this Chamber but you can sing.

Mr. President, your contribution to public life is very well-known and the Honourable Minister of Foreign Affairs and Foreign Trade has already given us that account, but I personally think that you were very courageous in public life.

As Senator Symmonds reminded you, you need this in political life. I would say that you rose above all the destructive criticism and this award was not unexpected.

As President of the Senate you were expected to be a Knight, and you have lived up to that expectation. It was not an unexpected promotion, and you deserve every bit of it.

Sir, I must say that I congratulated you at the Parade. I left home before "Meeting The Press" and I did not hear any news on the radio. The minute before I congratulated you I heard from former Senator Maizie Welch of the appointment, and I came right over and congratulated you and your fine Lady, Lady Taitt. I saw the joy that was on many of those faces as I came to congratulate you.

Sir, we in this section of the Senate are very happy indeed, that you have been so rewarded for your contribution to public life and wish every blessing and every success.

I thank you very much.

Mr. PRESIDENT: Senator Benn.

SENATOR the Hon. H. LaV. BENN: Mr. President, I just wish to bring the joy in congratulating you on your promotion. If the Knight of St. Andrew is an award given for extraordinary and outstanding achievement and merit of service to Barbados, or to humanity at large, than you, Sir, have been given this for your distinguished career, outstanding service and contribution to Barbados and public life.

I heard the previous speaker seek to justify the reason why you qualified. I said to myself, I was following for many years and I always recognised that seasoned practice and discipline always lead to mastering, and you have always been a disciplined person in much of your political career.

I followed your political career and you always gained respect from those persons around you. I have always indicated that the surest way to gain respect is to earn it by your conduct and you surely have gained the respect by the way you have conducted yourself. I wish that you will continue to do that.

S A38- PART 1 Sequence 4

Wednesday, December 15, 2010

SENATE A38-PART 1, sequence 05, 12:03 P.m.

SENATOR the Hon. H. LaV. BENN: I was overseas as well when the announcement was made and I inquired and then I heard that the Honourable Senator, Dr. Branford Mayhew Taitt, had been given that wonderful Knighthood. I said Sir Branford and Lady Taitt and the Lady Taitt thing sounds better to me.

Asides.

SENATOR the Hon. H. LaV. BENN: It has a better ring to it so I am encouraging you to always have the Lady Taitt with you, so that when we say, Sir Branford and Lady, it sounds better. Sir Branford sounds a little bit ordinary.

Seriously, I want to say congratulations to you and you know you have always lived a good life, one that your autograph has always been...I have always said to myself, always live a life that your autograph is sought after more so than your fingerprint.

Asides.

SENATOR the Hon. H. LaV. BENN: I want to say to you to continue to live that life where people continue to look up to you. Congratulations and please convey my best wishes to your wife as well, on behalf of myself, my wife and my family.

Asides.

Mr. PRESIDENT: Senator Mrs. Sandiford-Garner.

SENATOR Mrs. V.I. SANDIFORD-GARNER: Sir, from one St. Andrew person to another...

Asides.

SENATOR Mrs. V.I. SANDIFORD-GARNER: No, he has his roots in St. Andrew. Many of you do not know that he has his roots in St. Andrew. I was debating whether or not I would get up to say anything and I saw his look and I sensed his daughters' urges and I said, let me do it on behalf of my colleagues, meaning his daughters.

Many of you do not know that Sir Branford Mayhew Taitt is still a very quietly powerful individual in Barbadian politics and I will tell you why. In 2006, I think I would have mentioned this a couple of months ago, along with some of the other calls I received, which I did not pay much attention to, but this was one I paid attention to. Sir Branford called my home and he said to me, in his deep voice when he is giving an instruction which you cannot refuse to follow, "If you receive a call say, yes." I will not say here what I said to Sir Branford at the time but I will say that I gave him my word, and I knew it best to keep my word and I am here today as a politician, partly because of that call from Sir Branford.

Asides.

SENATOR Mrs. V.I. SANDIFORD-GARNER: I also saw that influence and power articulated in George Street, a long time after Sir Branford had demitted office as

a politician, he would have attended certain events there. One day at lunch I went under a certain table that was in the tent reserved for St. Michael West constituents, to get a drink which I thought they had forgotten.

I was sharply reprimanded by the lady who controlled the tent, who told me straight, "That is Mr. Taitt's drink, put it back." I put it back and I will not tell you what the drink was, but I was soundly chastised for stepping out of bounds. I realised that this man is very powerful, indeed. She said, "Put it back now". I will not call her name either but I know Sir Branford knows who she is and his representation of those people of St. Michael West is legendary.

I think that most of us know and have heard about Sir Branford's service to the people of St. Michael West. His children will tell you about his service because as children of a politician, they suffered greatly as a result of their Dad's absences and I will say this here, that he put service to country and constituency sometimes above service to family and some will tell you that is the hallmark of a committed, dedicated and sincere politician. I know that they are incredibly proud of you, just as I am. I know also that your service as Minister of Trade was exemplary. I was a little girl when you were the Minister of Trade but my mother was a farmer and I remember my mother saying, she even said it two Sundays ago, you were the best Minister of Trade that she has ever had, Sir, in the House of Assembly.

Asides.

SENATOR Mrs. V. I. SANDIFORD-GARNER: Your relationships also I must mention. The fact that you have the uncanny ability to bridge divides, form friendships and keep those friendships current to this day and I will give an example.

I tried to reach you when you were awarded the Knighthood, could not get through and was heard complaining bitterly at work that I could not get through to Sir Branford Taitt. A secretary in the Ministry of Health piped up and said to me, you need to call him at such and such a time because he goes to the beach, he does this and that, so "x" time is the time you should call him.

She would have served with you more than two decades ago and she said she got through to you to congratulate you, along with some other persons. I marvelled at the fact that relationship seemed as fresh as when you probably first started it with her two decades ago, Sir, and I admire you for that.

As I said, I am familiar with the daughters, more so than your son, two women of exemplary character and integrity, personable human beings, some of those qualities

which I will attribute to you because I know it could not have been you alone who would have imbued those qualities in those young ladies, so I give you some of the credit for that.

Sir, I would say on ending that you have had a career marked by excellence, dedication to the task at hand, a career which I am sure will go down in history books as one of the better careers of politicians in Barbados, a career that some of us would do well to emulate, your style, your camass, your way with words, your noble carriage, Sir, serve well with those of us who would wish to be like you to emulate and I am very pleased. I think you deserve it. I think it is also fitting that it is the Knight of St. Andrew designation that you have received as a man from St. Andrew.

I would wish to say, Sir, on behalf of your family in St. Andrew, as well as my family and my colleagues who are not present, congratulations.

Asides.

Mr. PRESIDENT: Senator Newton.

SENATOR the Hon. Prof. V. E. NEWTON: Sir Branford, I rise to speak on behalf of the University of the West Indies Cave Hill, I am sure the Principal would not mind, to congratulate you on your award. As the Leader of Government Business would have said, you had many years of association with the University of the West Indies' Cave Hill, especially with the Faculty of Law of which I am the Dean.

Not only did you do your LL.B. there and yours was a time of great excitement, I remember you standing tall, literally and figuratively among your colleagues, debating and arguing about this and that, but you also produced an outstanding thesis for your Law in Society Course, which over the years, has been consulted extensively by students and by policymakers in the Region and for which we were very grateful and pleased.

Asides.

SENATOR the Hon. Prof. V. E. NEWTON: I will also say that you taught me Criminal Law and I think some International Law as well but in the Criminal Law classes, I remember you as very entertaining and you managed to make the more tricky areas of the Law simple for students who could not understand in real life examples, not that you committed crime or anything.

Asides.

SENATOR the Hon. Prof. V. E. NEWTON: Sir, you were able to paint a simple and clear picture, which led to the edification of us all.

SENATE A38-PART 1, sequence 05, 12:30:50

Wednesday, December 15, 2010

SENATOR the Hon. Prof. V. E. NEWTON: That was not the end of your association with the University of the West Indies. For many years, and until last year I believe, you tutored there in various capacities in Administrative Law, Constitutional Law, the said Criminal Law and International Law. Hundreds of students, I believe, I would speak for them here, were indebted to the dedication which you paid to the subjects that you were teaching and again to your congeniality and this inimitable style of yours for being able to make things clear and lucid.

We thank you very much for the contribution you have made to the Faculty of Law and to the University of the West Indies. I wish you and Lady Taitt many, many happy years.

SENATOR Rev. Dr. D. L. DURANT: Sir Branford, I just want to extend congratulations to you as well on your knighthood, I think it is well deserved. From my knowledge of you, I think you are one of the most bruised political figures in this island. You carry a lot of hurt and you bore on your body the marks of your political stewardship, but what I admire is your humility and yet the tenacity and the resilience to always bounce back and to still carry that smile that you have even now, and also your humour in spite of being hurt so often.

I want to really congratulate you and also Lady Taitt, and say that this honouring is well-deserved. I just want to give a quote from Voltaire, which says, and I quote:

“Each player must accept the cards life deals him or her: but once they are in hand, he or she alone must decide how to play the cards in order to win the game.”

You have played your cards well, Sir Branford, and the success now is left for all to see. I really want to thank you for your service to this nation, for your commitment and for your leadership. Many young people are still able to look back and see a legacy that you have left and are able to emulate it. Thanks for the legacy you have left with us.

Mr. PRESIDENT: Senator Hunte.

SENATOR R. A. HUNTE: Mr. President, I want to make a very short contribution since I would have had a longer association with you, politically speaking, in our

Party than anybody else in here. I think it would be remiss of me if I did not say something.

When you first came back to Barbados in 1971, it was a real attraction to have had you among the Democratic Labour Party members. The style which you brought, not only as a platform speaker, but as a Minister created some controversy, there is no question about that.

As nice as you were, you were a very controversial one and that did not create all friends for you. It created some enemies as well, but you overcame that, and I thought that you did extremely well in your performance as a Minister.

It surprised a lot of people, I must say that, when you were named in that Cabinet of 1971. I remember being in a shop in Howells Cross Road making my rounds when I heard the announcement of that Cabinet and you were named among that group. Of course, a lot of people were very surprised to hear the name of the then Branford Taitt in the camp. Of course, you performed well. It led to a lot of fall-out in terms of the business community and so on because, interestingly enough, what we are talking about now is what we started then, that is, you were regulating prices and so on in the marketplace in Barbados and that brought some controversy with it. Let us face it, consumers were taken advantage of in this country for a long, long time.

Of course, I must say that at your first outing at the Elections we lost the Government, but you won your seat. I do not know how to balance that, and of course you went on to become a campaign manager for the Democratic Labour Party in subsequent Elections and successfully so. You did lost a few, but you won some as well.

Before I sit I want to say something that a lot of people in Barbados do not know. You were able to influence the then leader of the Democratic Labour Party and Prime Minister of Barbados, Mr. Errol Barrow, into inviting back to Barbados a gentleman by the name of Courtney Blackman who became the first Governor of the about to be established Central Bank of Barbados. No matter what anybody says of him, he did an extremely good job.

The Central Bank of Barbados is one of the entities today that Barbadians can feel extremely proud of no matter which Government or Party is in power. If an honour is for what people have contributed to their society, I say that is one of the hallmarks for which you have been able to recommend in Barbados and that has turned out to be an extremely great success for the country.

With those few words, I wish to say congratulations to you, Sir, and I hope that you would be around us for a long time to come.

I thank you very much.

Mr. PRESIDENT: Senator Ince.

SENATOR J. INCE: Sir Branford Taitt, President of the Senate, I rise to congratulate you on being awarded the Knight of St. Andrew. I will begin by saying in biblical terms:

“The steps of a good man are ordered by the Lord: and he delighted in his way. Though he fall, he shall not be utterly - or bitterly or otherwise - cast down: for the Lord upholdeth him with his hand.”

The reason I made that comment is because my mind goes back to the By-election of 1974 where, as a young man in St. Philip, you managed that campaign. I was around 14 or 15 years old. At that time, two things happened; the Democratic Labour Party lost the By-election and we were also in a very hostile environment in the form of an oil crisis.

There are some instances that would stand out as far as your leadership is concerned. In 1974, as a young man in the Democratic Labour Party in the capacity of Minister of Trade and Industry, at that time there was no commerce, we called it trade, you had to make some decisions about carrying this country forward, decisions that were not favourable with the merchant class.

Senate A38 Sequence 6

12.23 p.m.

Friday, December 15, 2010

SENATOR J. INCE: Mr. President, as I said, I was very young at the time but I followed the political happenings in Barbados. Sir, with the increase in oil prices, it was felt that Barbados was under threat. Sir, you made a number of decisions. Although those decisions were not favourable, they were beneficial to the economy and those decisions helped stabilised this economy and took Barbados out of what we termed turbulent waters. That was one occasion.

Mr. President, you took us into a General Election in 1976 that is still debatable today, whether or not we should have lost that General Election. I have my opinions on it because I saw that at the time, all the parameters were set, the economy was stabilised and everything was there for a comfortable general election.

Mr. President, Senator Symmonds made comments about your guidance, and there were times when you took many of us young men in the Democratic Labour Party at George Street, what I term Saturday morning classes. We had Saturday morning classes under the now Sir Branford Taitt. Those classes were based on the use of English on political systems, on your political heights. When I reflect on those Saturday morning classes, many of us looked forward to going to the Democratic Labour Party Headquarters because we knew we were going to get help with Literature, sentence structures and research.

Sir, the one thing that stands out today, as far as I am concerned, is that you have always said to us that whenever you are going to make a public speech, or are going to represent an agency, you must be prepared.

Mr. President, I am not surprised at this honour, you have done well. I have watched you within the walls of the Democratic Labour Party, in some very hostile times, bringing Party members together, or bringing about a level of stability. Mr. President, in public life you have served with distinction, you have served both in the public sector, as well as in the private sector and your political skills are unmatched.

Sir, that is a demonstration of many of the young persons in this Parliament today. We are in this Parliament because of Sir Branford Taitt and the way he saw us as far as political life is concerned. Sir, I am an example of that. Senator Symmonds has spoken about it earlier that he is also an example of that, and there are other persons who we can mention, who are examples of having the benefit of sitting at the feet of Sir Branford Taitt.

Mr. President, I want to extend God's Blessings to you, that you, Lady Taitt, your son and your daughters would enjoy this Honour and may God continue to bless you with good health and strength.

Mr. President, I thank you.

Mr. PRESIDENT: Senator Husbands.

SENATOR H. A. HUSBANDS: Mr. President, like my colleagues, I rise to offer my sincerest congratulations to you on this very well-deserved Honour. Sir, I speak, though, as the self-appointed representative of the people from Fairfield, Black Rock, Eagle Hall, Richmond Gap, President Kennedy Drive, all areas within the parish of St. Michael, Barbados.

Sir, despite earlier comments from one Honourable Senator that you have your roots in St. Andrew, I know you not only to be a proud political representative but as a resident and a young man arriving from this part of Barbados. I am also of this background, I am also from

these areas and as a person born and raised in this part of Bridgetown, I am especially pleased that one of us could rise to such an honour.

Mr. President, I also speak on behalf of those many boys and girls who would have attended Wesley Hall Junior School. Sir, I daresay too, because of the occasion, I am speaking on behalf of all those who would have attended Combermere School, to congratulate you, to offer all the very best wishes to you and to say to you that this is an honour very well-deserved.

Mr. President, personally-speaking, the best honour I could pay to you would come in the form of an apology. Sir, Honourable Senators have spoken about your distinguished career and about the various capacities in which you served, but I do not know if you could remember. Sir, when you were a Minister of Health and I was an official of a certain union, we had a dispute at a certain school. The nature of this dispute occurred at a school in the area I have outlined, of which we are all familiar.

Mr. President, let us remember that at that time I was only General Secretary. I was following the leadership of the President, who now happens to be the Minister of Education, to think of it. Sir, I want to apologise because I was misled into taking action which, I am sure, would have contributed to your receding hairline, to the fact that you have a few more grey hairs than you might have normally had at the time. Sir, as you well-know, we had to do what was in the interest of the people whom we were representing. I do not think that incident and those affairs at that time have diminished our relationship in anyway, I still hold you in the highest regard.

Mr. President, as a matter of fact, as I remember, at that time, you took all of the correct decisions as the Minister of Health ought to have taken, both in the interest of Barbados and in the interest of the people who were complaining of the various problems.

Sir, in closing, let me congratulate you and say this is an Honour that is truly well-deserved. I thank you.

Mr. PRESIDENT: Honourable Senators, it is very rare for a person, who has not died, to hear what may be said or could be said of that person, and I want to thank all of you for the very kind remarks which each of you have made this morning concerning the very gracious action by, for want of a better term, the powers that be, in conferring on me that most distinguished Order of the Knight of St. Andrew.

Honourable Senators, so that there is no doubt, let me single out Senator the Honourable Sandiford-Garner and explain to other Honourable Senators that she was not

speaking out of turn when she indicated that I am a product of St. Andrew, because all of my ancestors, on my mother's side, are buried in the churchyard of the Anglican Church of St. Andrew.

12.33 p.m.

Wednesday, December 15, 2010

Mr. PRESIDENT: My mother was born in St. Andrew and, therefore, I had always said that if any honour is going to come to me, I wish it to be something from St. Andrew. I am more than grateful to the Prime Minister for his choice of award and I am truly satisfied that it has been the Knight of St. Andrew.

You must forgive me if I single out individuals who have spoken because I think I have indicated that I am pleased with all the remarks that have been made, but I am in the habit of saying that one of the persons who helped to take my character and must take responsibility for all of my shortcomings is my prefect.

He was my prefect at Combermere. He was my first prefect ever and he was prefect of my form. I am speaking of Senator Crichlow in case anybody does not understand what I am saying. Senator Crichlow knows that he is responsible for some of the characteristics which I have demonstrated over time.

Let me say that each of you in your own way and in your own capacity has contributed to my success, whatever success there has been. I want, therefore, to believe that this Honour is one which can be shared by the entire Senate. This is an honour which has come to me because, it is in this Senate that I first embarked on a political career a fairly long time ago.

I notice that some Senators cannot resist the temptation to mention that I am 72 years old, but I am grateful to that Senator who happily indicated that I have the mentality of a 27-year-old. I did not know exactly to what he spoke but I know from my experience that he is best qualified to mention my prowess in the area of politics.

I would like him to convey to his family, especially that person in his family whom I have committed on some occasion to him, is the finest member of his family, without reference to him. She is arguably the finest member of his family and I would wish him to convey to her my sincere thanks, not only for producing him, but for all that has happened in the past.

I would not wish to end without making some reference to Senator Newton's contribution. I have been privileged to be a part of the Faculty of Law of the University of the West Indies and I want to tell you that

one of the finest things I have received since this accolade is a letter from the Principal, Pro Vice Chancellor of the University, Sir Hilary Beckles. It is the finest comment I have received and it is one which I shall cherish.

If you hear me saying “I”, it is because I am in the Senate and my wife is not in the Senate and, therefore, is not entitled to the benefits of the Senate. However, as in keeping with our pattern, as set out in the Rules of the Senate and the Other Place, “he” embraces “she” and, therefore, any comment which is made...

Asides.

Mr. PRESIDENT: You look perplexed, Senator when I said, “He embraces she”. You will come to understand it but I wish to confirm that in this Senate, and I now speak with authority on the matter, “he” embraces “she” always, especially in this Senate.

Asides.

Mr. PRESIDENT: Well, it seems as though there is going to be a division in the matter. If “he” wishes to embrace “her”, I will not stand in the way, but suffice it to say, as the Rules so indicated...

Asides.

Mr. PRESIDENT: I am reminded that the Rules state that “he” includes “she”. My language patterns have always been different, as Senators have said today, and I prefer to regard the Rule as meaning that “he” embraces “she” but if there is any Senator who does not wish to embrace “she”, I have no quarrel with that.

You must forgive me if I wax a little warm on this occasion and go outside the ambit of the remit which has been bestowed upon me because sometimes in these matters, we can get carried away.

I should take this opportunity also to thank the distinguished Senator, who on behalf of a whole company, a whole group, wrote me a letter in his capacity and because that Senator has not spoken, it does not mean...

Asides.

Mr. PRESIDENT: I am being reminded that he is a man of few words, but in his letter Senator Cave wrote to me a beautiful appreciation and congratulatory note and, therefore, I wish to thank him publicly, his staff and his group for the sentiments displayed.

I have already touched on the influence which Senator Crichtlow has had on my life and I am going to thank Senator Durant and Senator Hunte who, in their own

way have had influence on my life as well. Senator Hunte, more than any other Senator, can share in this Honour which has been bestowed on me because Senator Hunte was among those who helped me to understand my political role in Barbados.

I must confess that sitting at this particular point in the Senate and hearing everybody referring to me when they were young, is a very painful exercise because 72 is not old, as I am sure the other Independent Senators could explain that to them.

Asides.

Mr. PRESIDENT: Let it not be said that I was ungracious in my acceptance of your very kind remarks. I want to thank each of you, individually and separately for the kind way in which you have contributed to my well-being and the well-being of my family and to this particular Honour which has been bestowed upon me.

S/A38/12:47 Sequence 8

Wednesday, December 15, 2010

Mr. PRESIDENT: As I said last night, in another place, the little country in the whole universe. I wish everybody in Barbados well. Let those who are listening on the radio and wonder if I had forgotten the people of St. Michael West, the answer is, I have never and never can forget the people of St. Michael West who have contributed. I said this in Church on Sunday. They have contributed in no small manner to whatever has become of me. This Honour is more an honour to the people of St. Michael West, than it is to Branford Taft.

I want to thank them as I thank you, and I want to wish everybody God’s speed as they work towards life everlasting. You noticed I have said nothing about the Anglican Church. I would not want the Leader of Government Business to feel that my failure to mention the Anglican Church was in anyway reflective of the fact that she and I once worked together on some business for the Anglican Church.

This is a denomination and I do not wish it to seem as though I have taken the opportunity of the Presidency of the Senate to extol the virtues, high as they are, of any one denomination.

Sir, I am proud to be an Anglican and I hope that all those Anglicans who are within the hearing of my voice can accept that I am grateful to God and I am grateful to those who helped to shape me.

Thank you all again.

PUBLIC BUSINESS

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, before we get into the debates, the Deputy President has had to leave the Senate for a period of time and I therefore propose that we appoint a temporary Chairman of Committees. I propose Senator the Very Reverend Harold Crichlow.

The question was put to the Senate and agreed to.

Mr. PRESIDENT: Sir, you have been appointed, not for the first time.

ORDER NO. 1 – NATIONAL INSURANCE COMMISSIONER
(VALIDATION) BILL, 2010

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, I rise to speak to the National Insurance Commissioner (Validation) Bill, 2010. I believe that I will be making a very brief statement in relation to it, given the nature of the Validation Bill. Basically, in terms of the purpose, the National Insurance Commissioner (Validation) Bill, 2010, is to validate the decisions and actions of the National Insurance Commissioner, during the period in which the Commissioner was not officially appointed. That is a period from January 1, 2004 to September, 2010.

Sir, as a background, Regulation 14 of the National Insurance and Social Security Determination of Claims and Questions, Regulation 1967 provides for the Governor-General to appoint a National Insurance Commissioner from among attorneys-at-law of not less than 10 years standing. Customary, however, the position was held by the Chief Justice.

In December 1988 the Cabinet appointed as Commissioner, the then Chief Justice of Barbados, Sir Denys Williams, K.C.M.G, G.C.M, and this appointment was renewed for subsequent occasions, in 1992, 1995, 1999 and 2000. As a result the last appointment would have expired on December 31, 2003. On the retirement of Sir Denys, the new Chief Justice recommended that Sir Denys continue to act.

Sir, this decision, unfortunately, was not followed up with the issuing of a new instrument of appointment. This fact became known to the management of the National Insurance Scheme only in 2010. Sir, Cabinet was therefore asked to reappoint the National Insurance Commissioner, Sir Denys, for the period January 1, 2004 to December 31, 2010, more important, to validate decisions made by the Commissioner during the period, thus, the need for this amendment to the legislation relating to the appointment of the National Insurance Commissioner.

Sir, the Bill then is intended to validate decisions of the Commissioner and taken by the Commissioner during the period for which the Commissioner was not officially appointed. Therefore, this amendment is critical to ensure that the proper legal procedures are followed and any decisions taken in that interim period for which there was no formal appointment be validated to ensure that there are no difficulties arising.

Sir, as I said, it is a matter which is intended to tidy up a situation, and with that explanation as to the purpose of the amendment and to the context of the background of the amendment.

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

The question was put to the Senate and agreed to.

On the motion of SENATOR the Hon. Miss M. P. O. McCLEAN, the Senate resolved itself into Committee, SENATOR the Very Reverend H. E. CRICHLOW in the Chair.

Clauses 1 to 2 were called and passed.

SA38 - PART 1 12:53 Sequence 9

Wednesday, December 15, 2010

SENATE A38-PART 1, sequence 10, 12.53 p.m.

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

On the separate motions of SENATOR the Hon. Miss M. P. O. McCLEAN, the Bill was read a third time and passed and cited as the National Insurance Commissioner (Validation) Act, 2010.

SUSPENSION OF SITTING

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, I beg to move that this Sitting be suspended until 2.00 p.m. today.

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

SENATE A38-PART 1, sequence 10, 12:55:12

Wednesday, December 15, 2010

RESUMPTION

Mr. PRESIDENT: The Senate is resumed.

ORDER No. 2

GUARANTEE OF LOANS (COMPANIES)
(AMENDMENT)
BILL, 2010

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, the Guarantee of Loans (Companies) (Amendment) Bill, 2010 speaks to the matter of Government's requirement to guarantee loans to entities in which it has specific interest.

As you would know, Sir, the administration or the operation of Government includes entities outside of central Government and therefore periodically, Government has to facilitate the operations of those entities in a way that allows those entities to continue to do business. This often comes in the form of guaranteeing financial arrangements, specifically loans.

In essence, in situations where the Government holds at least 50 per cent of the ordinary share capital, this is done. A number of entities would come to mind, the Grantley Adams International Airport Inc., the Caves of Barbados, the Barbados Port Inc. which used to be called the Barbados Port Authority, and the National Housing Corporation.

Over the years, a number of these transactions would have been entered into where Government would have guaranteed several loans granted by a cross section of commercial banks and, therefore, it has been deemed necessary to change the level of guarantee. The existing Companies Act provides for the establishment of a limit in relation to the amounts that Government can guarantee. This figure previously stood at \$345 million and the proposal is to move the figure to \$850 million.

Asides.

SENATOR the Hon. Miss M. P. O. McCLEAN: Let me verify that. It is to increase the limit. I need to check my notes to verify that is in fact the figure.

Asides.

SENATOR the Hon. Miss M. P. O. McCLEAN: Sir, the figure is \$850 million. That is the information that I have before me, Sir.

Asides.

SENATOR the Hon. Miss M. P. O. McCLEAN: Sir, let me consult the file that was signed in Parliament and I will verify the figure for you because my reading of it is that it is \$850 million. I have the file here. This is the file that was sent to me that would have been signed in Parliament. It says to increase the limit under the Guarantee of Loans to \$850 million. There seems to be an error in some of the documents that I have, so in terms of what I see on the file and what...

Asides.

Mr. PRESIDENT: If it can be of any help to you, Ma'am, the Bill which has been put before the President for consideration by this Honourable Senate says:

"The Bill would amend the Guarantee of Loans (Companies) Act, Cap 96 to provide for an increase in the aggregate amount of all borrowings by Companies to which the Act applies." and the Bill reads:

"A Bill entitled an Act to amend the Guarantee of Loans (Companies) Act, enacted by the Parliament of Barbados as follows:

1. This Act may be cited as the Guarantee of Loans (Companies) (Amendment) Act, 2010.
2. Section 4 of the Guarantee of Loans (Companies) Act, is amended in subsection (1) by deleting the words "\$345,000,000" and substituting the words "\$1,000,000, 000".

Asides.

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, I beg your permission to have a confirmation of this because I am looking at this file sent...

Asides.

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, I will leave that figure and I will revisit it as soon as I get the Minutes from the House because we seem to have documents which read slightly differently in terms of the information so rather than speak to the figure in the short term, I will present the explanation and I will confirm what the figure is based on the Minutes of the House.

As I was indicating, Mr. President, the Guarantee of Loans Bill is intended to provide the support of Government to these entities as they seek to engage in business. These are a range of entities in which Government has at least 50 per cent of the ordinary share capital.

As I indicated as well, Sir, over the last several years a number of guarantees have been issued or given and these

have therefore pushed the figures above what was the existing limit. To illustrate, Sir, I will provide some details. Under this Act, the Government has guaranteed loans to the Barbados Tourism Investment Inc. in 2003.

Senate A38 Sequence 11

2.27 p.m.

Wednesday 15th December, 2010

SENATOR the Hon. Miss M. P. O. McCLEAN: It was the first Special Development Bond issue of \$25 million. These were guaranteed in 2003.

Secondly, we have the Grantley Adams International Airport Inc. This was a European Investment Bank loan of \$18.8 million and \$15 million from the National Insurance Board. This was intended to assist in the financing of the Grantley Adams Airport Expansion Project. This has a total outstanding balance of approximately \$31.34 million.

Sir, it has been confirmed that the information on this file is incorrect. We are therefore for the record speaking of an increase to \$1 billion. Sir, once again, for the record, it is to move the limit from \$345 million to \$1 billion.

Mr. President, as we can see, in 2003, we had a guarantee of \$25 million to the Barbados Tourism Investment Inc. We had a guarantee with a balance of \$31.34 million. These loans were contracted in 2001 and 2004 for the Grantley Adams International Inc. We would have had a number of loans signed over a number of years in relation to Needham's Point Holdings. This would have been a loan of US\$10.613 million between 2003 and 2006. The total outstanding balance of this loan is \$92.5 million.

We also had the Caves of Barbados. As you know, that would have undergone significant renovation, being completed earlier this year. That was a loan signed in February 2007 for \$34.4 million from the Caribbean Development Bank.

Another example for which guarantees were given, for which the figure has to reflect this Government's commitment, is the Barbados Port Authority, now Barbados Port Inc., a loan was guaranteed in 2008 for \$50 million. We would have had a number of guarantees which are probably in the process of being completed.

Sir, I want to pause and explain what I mean when I talk about guarantees being in the process of being completed. Sir, in negotiating loans, entities such as those to which I previously referred, in requiring Government's support in the form of a guarantee, would initially issue a letter of comfort to the lending agency and then the process

of finalising the guarantee, doing all the necessary legal and other administrative work would follow. Unfortunately, what is clear in looking at some of these is that the lead time between negotiating the loan and completing that loan is sometimes quite long, and this is an example.

We had, for example, a previous loan negotiated by the Barbados National Terminal Company Limited, started under a previous administration, for \$120 million. That is now an outstanding matter which this Administration is trying to complete. Those funds were used to assist the Barbados Petroleum Distribution Project.

In recent times, this Administration has had to guarantee a loan to the Barbados National Oil Company Ltd. in the tune of \$160 million. That was to clean up the debt situation at the BNOC, as would have been inherited at the early days of this Administration. Sir, I could go through several of them.

Mr. President, in addition to what I would call old guarantees, you would have been aware that under this Administration, in recent times, we would have debated some guarantees, one such guarantee being the Barbados Conference Services Limited, a guarantee of \$58.1 million. Most recently in the public sphere, there would have been a discussion of Government assisting the principals of the Four Seasons Project. Therefore, Government has agreed to provide a guarantee to Claywater Bay Ltd. of \$120 million. This was a loan made by ANSA Merchant Bank Ltd to the Paradise Group.

What that guarantee sought to do or what those funds sought to do, aided by Government's guarantee, would be to provide funds to settle outstanding debts, in a manner that would facilitate the resumption of that particular project.

Overall, when we look at all of these things, we are talking about substantial amounts of funds being guaranteed by Government and it is important that the total level of commitment by Government in this form is known and that there is adequate legal provision, which is the critical point in terms of this amendment, under this particular piece of legislation.

Mr. President, in essence, what this is seeking to do, is to recognise what has been happening in the financial arrangements of Government, as it facilitates the operation of its companies and what has, therefore, been deemed necessary by this Administration, given the existing levels of guarantees that are in place or which are finally being provided for.

Mr. President, it is absolutely necessary that this is done within the four corners of the Law, the major

requirement here being the need to ensure that what is legally provided for, in terms of a ceiling or a maximum level, is adequate. Therefore, this has given rise to the increase of the limit to \$1 billion.

As was indicated, this is necessary to ensure that proper legal provision is made for what is in place and at the same time, providing some elbow room to Government, as it seeks to facilitate the engaging of business by its several companies or business activities in which Government has an interest.

Therefore, it is an important amendment, simple but critical, to the good operation and most important, to the good governance arrangements that are in place, as central Government seeks to support its statutory corporations and other companies in which it has an interest.

Mr. President, with those few words, I beg to move that this Guarantee of Loans (Companies)(Amendment) Bill, 2010, be read a second time.

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

On the motion of SENATOR the Hon. Miss M. P. O. McCLEAN, the Senate resolved itself into Committee of Supply on the Bill. SENATOR The Very Reverend H. E. CRICHLow, Acting Chairman, in the Chair.

COMMITTEE

Mr. CHAIRMAN: This Honourable Senate is now in Committee.

Clauses 1 and 2 were called and passed.

On the motion of SENATOR the Hon. Miss M. P. O. McCLEAN, Mr. CHAIRMAN, reported to His Honour the PRESIDENT, the passing of one Bill in Committee of Supply, and His Honour, the PRESIDENT resumed the Chair and reported accordingly.

S:No:38(12)2.37 p.m.

Wednesday, December 15, 2010

ORDER NO. 3 – FINANCIAL SERVICES COMMISSION BILL, 2010

SENATOR the Hon. Miss. M. P. O. McCLEAN: Mr. President, the Financial Services Commission Bill is, indeed, a critical piece of legislation which is intended to enhance the regulation, oversight and ultimately build and strengthen the competitiveness of our financial services sector.

Sir, currently, as we seek to consolidate and strengthen the regulatory framework of the financial services sector, we have several pieces of legislation which seek to do that. Let me emphasise that this is intended to consolidate the regulation of a broad category of financial services, more specifically, the non-banking financial sector. Therefore, we are talking, for example, about the trading of securities, the insurance industry and, very importantly, from my perspective, given my deep philosophical grounding and involvement in the Credit Union Movement.

Overall, when we contextualise this legislation, we are talking first, if we look at the local or internal context, the context of financial regulation in Barbados, at a mix of legislation and institutions which have pretty much served this country very well, but where it has become clear that as the delivery and development of financial services is increasingly growing in complexity, we are also clear that as these institutions and services often become more complex, there is the need to ensure that we have not only regulation in name but regulation in substance. Sir, we do not only talk about the form, we also want to talk about the substance.

Mr. President, in the 2009 Financial Statement and Budgetary Proposals, the late Prime Minister and Minister of Finance indicated the need to try to get this piece of legislation through. Let me say very early that this legislation has been some time in coming. Sir, that in itself is no problem because I believe that the complexity of it and the nature of what it seeks to do is of such grave importance that the legislation had to be thoroughly examined, discussed, reviewed, et cetera.

I must say that on that note the draft legislation was widely circulated for comment to a cross section of critical stakeholders. The Social Partnership, the Barbados International Business Association, the Coalition of Service Industries, the Credit Union League, which would have circulated this draft to its credit unions, which I think would have included approximately 35 such institutions.

Sir, overall Barbados has had a chance to review this legislation and I think that it is very important that we have this in place. Sir, the intention is not just to amalgamate or to bring together individual agencies. We have right now the Supervisor of Insurance and Pensions, we have the Registrar of Co-operatives, we have the Securities Commission regulating the Barbados Stock Exchange and, of course, the commercial banking sector is regulated by the Central Bank of Barbados.

I must hasten to add that, in addition to the role of the Registrar of Co-operatives, for some years now the Central Bank of Barbados has been paying attention to the activities of large credit unions, and know that credit unions play a very vital role.

Mr. President, I believe that as we have watched the financial crisis unfold, not only internationally, but we have seen the impact of a downturn and we see the contagion that results from the inter-connectedness of financial institutions within Barbados and outside of Barbados. We have seen AIG, for example, in the United States, one of the largest entities in insurance go through some very difficult times resulting with very negative impacts on the people who had an interest in that business.

Sir, one of the things that was highlighted when you read about that AIG situation, for example, is that the insurance aspects of that entity would have been regulated according to the United States system of regulation. However, what you also saw was that there was a holding company of which that was a part, which was not a regulated entity because it was not a financial services entity.

Sir, in other words, you had a company having interest or owning and controlling a major insurance entity but that parent company, for want of a better word, did not undergo the same level of scrutiny because of the nature of business in which it was involved and so, there are several examples.

We in Barbados know of what has happened in terms of the CLICO Group which has been, for several decades, very successful and would have had significant business interests across the Caribbean. We know that in Barbados it is a company that is asset rich but cash poor and it would have been made more so by some of the decisions of management, et cetera and, therefore, the question is, given the level of oversight and the quality of oversight ...

Asides.

SENATOR the Hon. Miss M.P.O. McCLEAN: I say that because I have mentioned the growing complexity of entities.

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SENATOR the Hon. Miss M. P. O. McCLEAN: Therefore, the question is, given the level of oversight and the quality of oversight, I say that because I mentioned the growing complexity of entities and the need to have Government agencies parallel what is happening in those

companies providing or, at least, keeping pace with those entities as they become more complex, and that we have in place the calibre of regulators, the systems of regulations, et cetera, that would allow the individual entities to be properly regulated.

We have seen the need for greater regulation and more efficient regulation. We have seen also, in the case of our institutions, by and large, the benefits of good regulation.

Sir, I would say quickly a couple words on the different sectors. I mentioned something about insurance. Our commercial banks fortunately were not, by and large, the victims of the serious fallouts that we saw taking place across the developed world, particularly in North America, USA, specifically, and Europe. I must hasten to say that Canada to date, its banking sector has feared substantially better than its counterpart further South, that is the US banks, where in fact this whole illness started, or this catastrophe and this crisis began.

Of course, we saw what happened in Europe, and we would have had an opportunity in previous debates to talk about, because of the interconnectedness, because of the purchase of some of the assets of US banks and so on by European interest, and then those assets became toxic. It clearly made the holders of those things very ill.

Sir, Canadian banks on the other hand, I think, would have gone through some strengthening in terms of regulation prior to this period, but they also would have been operating with more conservative approaches to business.

I think, when we look at the Barbadian landscape, the bulk of our commercial banks are Canadian, or in part Canadian. Therefore the management policies and so on would also would have been here, so in a sense while we complain sometimes of the conservative nature of some of our institutions, we also recognise that conservatism also has its positives. In our banking regulations we have been identified as a country to be lauded, and in fact may be emulated based on what we have done.

In terms of insurance, we do have very large insurance companies. We have seen, in fact, the consolidation of the sector with the acquisition, for example, Life of Barbados was acquired by Barbados Mutual, now Sagicor, so it means we have seen some very large entities relative to our gross domestic product.

For example, when we look at the value of their assets in relation to GDP we will see we are talking about substantial companies. Therefore, with those things come the potential of systemic risk, should they find themselves having difficulties when we would have much to worry about.

Again, I think that with this legislation, some of the weaknesses that are being identified would, in fact, be addressed.

Sir, as you know I have had reason to dedicate a significant portion of my life as a volunteer in what I see to, perhaps, be of the critical components, even though it may not be big, relative to some of these financial institutions, that is the Credit Union Movement. It certainly has grown in the last 25 years, almost 26 years now, since I became involved directly as a member of a credit union and as a volunteer for quarter of a century, it is one in which there is a lot of misinformation given, a lack of understanding and even sometimes a lack of understanding in places that should know better.

I think, perhaps, I can give you a sense of what I am talking about. When we look at the Credit Union Movement, for example, the Annual Report 2010 of the Barbados Co-operative Credit Union League, which is the umbrella body for the credit unions, would indicate that at June 30, 2010, the total deposits in the Credit Union Movement stood at \$949 814 520. This figure represents funds contributed, according to the same Report, of 133 855 members. In fact you can compare that with another figure. I think it is important to put some statistics on the table.

Sir, the Report of the Central Bank of Barbados, Economic and Financial Statistics June 2010, speaks about saving deposits by depositors, and it gives you by category. For private individuals, there is a provisional figure. What I should probably do is give you the 2009 figure which would have been actual. In October 2009 the figure for individuals stood at \$3 637 416 000, and the provision figure for April 2010 for the same category of private individuals would have been \$6 683 372. Then we could look at total domestic deposits for that period which was over \$4 billion.

Sir, the point I am making by putting those numbers there is to suggest that when we talk about the financial sector, we are talking in the case of credit unions, of a body of persons, and we know the number and we know how many those are. This body represents a significant percentage of our adult population, or work as that is typically that. We do have some young savers, et cetera.

The point I am making is, it is growing but it is still a relatively small percentage of our domestic deposits, so to

speak. It certainly is less than one-third when we look at this. Sir, it is growing and if you compare the numbers you will see that over the years there has been tremendous growth.

Sir, in recent times this Administration, given the difficulties, had to make a decision about the incentives that it gives in the form of tax credits, et cetera. Sir, while I benefitted, and I certainly will take advantage of it this year, I want to say very quickly that I take issue with those persons who seek to speak on behalf of the Credit Union Movement when they try to give the impression that the removal of those temporary, in the first instance, because that is what it most likely is, but again it depends on the performance of the economy and so, will do significant harm to the credit union.

Sir, I mentioned membership and so on. I want to put these on the table because these are the things that regulators will look at.

For example, I mentioned the total numbers in the Credit Union Movement. If you look at the two largest credit unions in Barbados...

Asides.

SENATOR the Hon. Miss M. P. O. McCLEAN: It is easier to say it the other way, but, Mr. President, I stand corrected. Of those public workers, according to the Statistical Information as at June 30, 2010, according to the Leeds Report, which said that the public workers had 55 285 members.

SA 38 PART 2 2:57:20 Sequence 14

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SENATE A38-PART 1, sequence 15, 4.37 p.m.

SENATOR the Hon. Miss M. P. O. McCLEAN: In doing my research I was told that of those 55 000 persons, probably 3 000 persons are the beneficiaries or would have claimed tax credits. The point I am making with this is that it has worked, but it has not been the reason why the Movement has grown because people are giving the impression that if this tax is removed, that these credit unions would fall down. I say "No" as a person who has served in my credit union, which is the second one, and I will give you my credit union's statistics:

The City of Bridgetown, which has 48 335 members and, I must say it has deposits of \$186 000, which is substantially below and I have some concerns about that, but that is another story for another place and time. Again, this is a large credit union and in checking, I understand

from the statistics that I requested that since the inception of the tax credits, 2 433 persons have benefitted.

The point that I making again, Sir, is that when we look at these things as regulators and policymakers, we need to put things in proper context. A tax credit benefits significantly those - and I believe in it but where hardships are to be born across the board, all of us have to bear some share of those hardships.

One of the things that this whole issue raises in the context - and I want to tie that now into the context of regulation - is that people who regulate and people who manage financial institutions - especially the one of which I speak - a financial cooperative like the credit union, must understand the philosophy and the fundamental underpinnings of those institutions.

One of the principles that guides the credit unions, Sir, is something called, education of the members. If you look at the credit unions, you would see that one of the things they tell you is that we should educate our members and that is important because, as we educate our members, we educate them to the benefits of thrift, of saving and borrowing judiciously.

Sir, the growth of the credit union came out of the hard work and I take a bow now, even though that may be considered conceited, but it came out of the hard work and comes out of the hard work of people like myself, who volunteer and go and run training sessions and orientation sessions about managing money and understanding the benefits of membership.

To my mind, the tax credit is important, but it is like icing on a cake, and anybody who seeks to project that this will cause significant damage, needs to go back and analyse those figures.

One of the things that I trust regulators will do and encourage as we put these things in place, and as they examine credit unions, is to say to members, what are you doing about all of those people who perhaps, maybe taking the tax credit and do not participate beyond that, or people who join the credit union and do not see the wisdom of full participation.

My concern here that I felt I needed to flag in the context of this discussion is that tax credit is good while it lasts, but members have to understand the benefits of participation in a membership organisation, which is a financial institution of a special type.

I want, Sir, as we talk about regulation, to say something else about the issue of regulation because I believe that as we put systems in place, we also have to employ persons in that Financial Services Commission,

who understand the institutions that they regulate. I will speak about the institution I know, insurance, as a consumer but I do not know insurance as a business. I can speak to credit unions to illustrate the point I am making about the need to recruit persons who understand.

Mr. President, as the credit unions have grown, there are many detractors, including the competition who would want to suggest that there are no longer credit unions. I challenge anybody, including prospective regulators, to appreciate that what makes a credit union different, is not the services it offers to members, but it is the method by which it offers those services, the underlying objective in offering those services.

A credit union, as I said, is a financial co-operative and it is member-driven and any person who understands basic marketing would recognise that an institution, if it is member-driven has to respond to the needs of its members. Therefore, I am a person who joined the City of Bridgetown in 1983/84, in the first three or four months when it was formed. I am proud to say this and I always say this that I am the 122nd member of a 40 000 plus membership Organisation.

Sir, that tells us two things. One, I believed in it when it was started and I have grown with it and I still believe in it now because I am still there. The important thing is to recognise that, yes, as I grow older, my financial needs are changing. Therefore, as the institution matures with its members' membership, it has to do several things.

It has to provide services for the younger members who may come on board, but it also has to cater to the needs of people, as they move through their family life cycle or their chronological life cycle, whatever the case may be. Therefore, to suggest that as an organisation such as a financial institution, the credit union gets more sophisticated in its operations, in other words you cannot, as one of those two large ones sit and collect deposits on a weekly basis in a location. You set up systems that will accommodate the management of the data, the management of the resources, et cetera.

Sir, because you look physically like another institution, you have a storefront, for want of a better word, that parallels a commercial bank or a successful insurance company does not say that you are not a member driven organisation, or should be motivated by service to members. This means that the credit unions should not be preoccupied with high fees, charging the highest interest rate possible on loans but, on the other hand, it should seek to pay the best returns.

The notion that as you become more complex and more diverse in your service offerings, you are no longer a credit union, is a myth that has to be debunked. Anybody

who seeks to regulate that institution with that mind set, would be probably seeking to do damage to the institution.

It is one of those institutions, Sir, which - again regulators need to recognise this - has had at its core, what we call a democratic structure and democratic control. I participate in the services of a bank but unless I have shares in that bank, I have absolutely no say in what goes on in an annual general meeting.

On the other hand, credit unions are member-driven and I can tell you, having served on the Board of public companies and the credit union's Board, there is a significant difference between them. Members go and they represent their interest in that way.

For example, I remember as President of my credit union, chairing an Annual General Meeting which began at 3.00 p.m. and had to be adjourned about 11:30 in the night to come back another day. Sir, that is because the members are saying this is our organisation. We need answers. We need to have inputs.

The key thing in looking at these institutions is that while you bring together a single institution to regulate them, the regulators and, Government, certainly as the entity establishing the institution, need to recognise that the nuances of these institutions, the differences between these institutions have to be reflected in the resources that they brought to the Commission as it regulates credit unions, insurance companies, et cetera, and that is a very important consideration.

In looking at the whole issue of regulation, again I want to say something about the comments made over time, in relation to credit unions, and their role in national development.

SENATE A38-PART 1, sequence 15, 3:07:16

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SENATOR the Hon. Miss M. P. O. McCLEAN: I listen to many people who sometimes appear to know what they are talking about and they make all demands, credit unions should invest in X and Y forgetting, of course, that in the process, any investment must never compromise the fact that a credit union is a financial institution and caretaker and has a fiduciary responsibility to members. It is the caretaker of people's money and, therefore, any decision taken about what happened must not jeopardise that.

Mr. President, let me hasten to say, nevertheless, that it should be the catalyst of development in areas outside of its core business. This is something that regulators also need to bear in mind. I will give you an example of what I

am talking about. Currently, Government has a housing programme and it seeks to enter partnerships with persons who have financial resources. Some credit unions have large membership bases and many credit unions offer mortgages. With a membership of over 130 000 members, those are the very people who would buy houses. Sir, one of the questions I have been asking the persons who seek to complain about the loss of a tax credit is, "Why do you not create a vehicle and go to Government and say we can set up an entity where we are able to encourage members to invest in that entity which in turn can invest or partner with an agency such as the National Housing Corporation to build houses to be bought by the very people who invest in the entity in the first place, and provide the capital in that housing arrangement?"

Mr. President, it is not the credit unions doing it, it is the credit unions creating an entity or facilitating the creation of an entity owned by its members. In other words, you are a savings and lending institution at heart, but because of the amount of money you are able to mobilise, you are now creating a situation where you are offering your members a new opportunity for productive investments and, in a way, you are also creating business for yourself because if your members invest, you then give the mortgages so the members benefit in substantial ways. Sir, I can go on and on about that, but I will not.

The key thing to recognise in looking at this legislation is that we need to ensure that we have legislation which addresses a number of fundamental issues. If we actually look now at the content of the legislation, as I move away from the discussion of the entities to be regulated, a perusal of sections of the legislation speak clearly to the role and function of the Commission.

As I said, it is intended to regulate and oversee the sound and proper administration and operation of non-bank financial institutions. A critical requirement in that piece of legislation has to do with the submission of information and it is very clear how that works.

Sir, I want to illustrate using the credit unions again because persons, in looking at what has unfolded in the world and even in the Region with these banks and non-bank financial institutions, have questioned why is it that the existing regulators did not see certain kinds of trends, et cetera. One of the things I can tell you is that it perhaps has to do with the requirements in relation to the submission of information.

I will speak again of the institutions that I know where requirements are made in terms of quarterly and other reporting and the appointment of auditors. Those are standard operating requirements. I can tell you that in the

context of the Credit Union Movement, this has been an ongoing requirement.

I can also suggest or, at least, state that in most instances within four to five months of the close of the financial year, credit unions have begun to report. That is not quite as stringent as what obtains for public companies which tend to report earlier, or are required to seek leave of the Securities Commission to vary that.

Credit unions are required to provide information. Their annual reports are public information. The legal reports are easily available and so the requirement of submission of information is one that really and truly should not be difficult for organisations, but it is important. Again, the quality of the information is critical.

There are also provisions made for actions against those institutions failing to meet those kinds of requirements. The provisions in relation to the members of the Commission are also clearly spelt out.

Overall, Sir, I believe that when we look at this Bill, we have been able to come up with a number of recommendations which - and I will just emphasise this - with the proper selection and staffing of the Commission, should allow for the strengthening of regulation. Sir, I emphasise strengthening of regulations.

As I said before, all of the institutions here have been regulated in the past with a general level of success. There are some areas of weaknesses, whether it be in all instance or in some instances a lack of numbers. It may also be a case where as things become more complex... We do not have the level of capacity in terms of technical competence as we probably should but overall I believe that with this piece of legislation, we should see better regulation of our financial institutions.

Mr. President, this, therefore, is a Bill that has been some time in coming. As I said, opportunity has been provided for inputs from a cross section of stakeholders. With the passage of the legislation, the actual establishment of the institution should serve to be a landmark in the whole context of the regulation of financial services in Barbados.

With those words, Sir, I beg to move that the Financial Services Commission Bill be read a second time.

Mr. PRESIDENT: Senator Symmonds, you have the Floor.

SENATOR K. D. SYMMONDS: I am obliged, Mr. President. Mr. President, let me say at the outset that there is no objection with respect to the substance of this legislation, one would not wish to object for the sake of

objecting. It is entirely accurate to say that there has been a wide cross-fertilisation of ideas commencing, I think, from as far back as 1997 or 1998 on this matter and clearly it is a question of introducing a new tier to the governance structure in Barbados.

It would fundamentally alter the arrangements as we have become accustomed to understanding them with respect to certain sacrosanct or new offices previously viewed as being almost sacrosanct such as that of the Supervisor of Insurance, et cetera.

Sir, even as I say that there should be no objection for the sake of objection, I must reinforce a point made in the Other Place that it would, in my judgment and I would daresay it would be in the judgment of the Barbados Labour Party, be a good thing if we pause to reflect a little bit on the content of the legislation.

It is, as I had indicated to Senator Boyce at lunch, a most useful piece of legislation, but it is so important that every effort, in my judgment respectfully, should be made to try to get it as close to right as we can so that we do not do disservice to all the hard work that has gone into it throughout, quite frankly, the last decade or so.

Mr. President, I will in due course elaborate a little bit on the concerns I have in that regard but clearly the Bill, while having some limitations, must be seen in the context of the time. There is, in the language of Dr. Martin Luther King, a fierce urgency of now, even if "now" is defined as today, but in the very possible time. Sir, that urgency comes from the context in which we find ourselves caught, not through any failing of our own but for the most part in the vortex of one of the most difficult and turbulent financial crisis the world has ever faced.

Senate A38 Sequence 16

3.17 p.m.

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SENATOR K. D. SYMMONDS: Mr. President, the vocabulary of the international financial architecture is now marked by the world crisis and clearly there are no two crises which have been identical, certainly not in terms of their scope, resolution or evolution, but we have to deal with that which we have before us.

Mr. President, this crisis jumps out at the global society because of its very compelling features. You had what was either the third or fourth largest investment bank, Leyman Brothers, two years ago collapsing. That was unprecedented. You had Bernstein Investment Bank, which would certainly have been next in line, having to receive a US\$29 billion bailout. This was again unprecedented, and

arising out of a very questionable form of complex and high-risk financial practice known as the sub-prime mortgage market.

Mr. President, the crisis does not begin here and the Leader of Government Business was quite right when she said it is happening to us, because a lot of our domestic banking structure is connected to the Canadian banks, and we all know the history of that. What used to be the Canadian Imperial Bank of Commerce is now First Caribbean, then there is the Bank of Nova Scotia and Royal Bank of Canada. Sir, because we have been so structured, we perhaps have been better insulated than many others. The contagion is unprecedented across Europe and virtually no Member State of the European Union has been spared the effects of the fallout.

Mr. President, if there is a lesson to be learned, I think it is that the global financial crisis has taught us that wealth creation, and quite frankly wealth preservation, is likely to be substantially compromised, in circumstances in which there is less than adequate or less than satisfactory regulatory oversight. That, I think, crystallises the context in which this Bill comes before us today.

Obviously, there is a history, and we can look at that history both domestically and internationally. I think, from an international perspective, it is entirely clear, in my judgment, that when you listen to and reflect upon comments made by the former Chairman of the Federal Reserve Bank, Chairman Greenspan, you see that there was a practice in the United States of America which was systematically aimed at deregulation and under-regulation. It was held up as a moral precept, virtually, a path that should be followed. It was in the context of a low interest rate climate and in the context of a very highly competitive institutional investment marketplace.

Mr. President, the byproduct of that approach to economic development has caused us to be largely where we are right now. There was a lot of inappropriate lending manifesting itself in the same sub-prime mortgage market sector and a lot of speculative investments, some of which boggled the mind. In principle, some of them seemed very attractive.

Mr. President, the concept of a hedge fund is something that, on its face, does not beg you to find fault. I remember well reading in an economist magazine that Sir Richard Branson, Chairman of Virgin Airways, made the point that it was a useful thing for the airline to pre-buy its fuel, so that when you are purchasing at \$60 and \$65 a barrel, you were anticipating the day when oil would reach \$100 a barrel, so that people would be paying \$100 a barrel for it and since you would have pre-bought, you would have saved yourself.

Mr. President, when the magic of that thinking became global, you had situations where so many people are involved in that type of approach, that you hastened the pace at which oil reached \$125 or \$130 a barrel. Therefore, even something as on its face, with such potential as a hedge fund, became a questionable product.

Then you got into the very outrageous ones where we had to deal with in Barbados, the disproportionate high yield of annuity, the executive flexible premiums and then the issue of credit defaults, et cetera.

Sir, the bottom line for the purpose of this legislation, I think must be, that we come to understand across this island that you have to make sure that you better police and maintain vigilance over the financial services sector, and that gone forever perhaps is the time when you could just have a laissez faire attitude, leave well-enough alone, allow the practitioners to regulate themselves, because the only thing that we have done is that the approach which expects that he who has the power to regulate himself will properly do so is to wish upon a star. That is perhaps the only thing we can walk away with, with some certainty in this exercise. Mr. President, by policing one does not necessarily mean using the full force of weight of the Law which is now to be passed, or soon going to be passed, it also must involve the point which the distinguished Leader of Government Business makes with respect to credit unions and cooperative societies.

Sir, I think that it must be made across the board. There must be an effort to enhance the sophistication and the knowledge and understanding of the consumer, the depositor, the average Barbadian citizen who is going to take his or her money and place it at the disposal of one of these services or service providers.

Mr. President, the old lady who goes to the unnamed insurance company and says that she wants to take up the opportunity offered to her to invest her life savings of \$150 000 on a high-yield annuity must also have some avenue to understand the nature of the risk which she is facing, that you do not just say that she is going to get 8 per cent, while everybody is paying 3 per cent, or that she is going to get 10 per cent, while everybody else is paying 4 per cent and that is good enough. There must now be another step where perhaps she can rely upon a seemingly independent entity which can say it holds out to the general public as being an investment which is worth their while.

Mr. President, I do not want to use the word "deficiency" because I promised that I was not in a mood to be contentious on this matter but if there was a detraction from the presentation of the Leader of Government Business, I think, perhaps, it was that the Leader of Government Business did not spend sufficient

time reflecting on some of the other jurisdictions where we have seen legislation of this nature.

Here in the Caribbean, there is a Jamaica Financial Services Commission. It came into effect in 2001. The Bill was passed in Parliament in 2000. It was very similarly structured like this and, as with our legislation, there is a date at which you later on officially proclaimed the legislation is as being enforced.

Mr. President, one of the things that the Financial Services Commission of Jamaica has been able to do, even though it is not specifically demarcated as the intention of the Financial Services Commission here, one would hope that under the broad and sweeping power to do such other things under the Act as are necessary to make it effective, or words to that effect in the legislation.

One would hope that one of the things that could be done, would be for the Financial Services Commission here, as in Jamaica, to indicate, by way of a menu, that this is a product which is now offered and that this is a product which has passed the insight, supervision and that it has met with the approval of the Commission.

Sir, it is an important thing because one of the concerns which has been ventilated in the public with respect to the current issue that we face with CLICO is that it was not only... Sir, I am not one of them, but some people cast it as though this was the most benevolent exercise on the planet. I do not see it that way. I think it is better seen in the context of a business which was trying to produce a number of new products and perhaps over-extended itself.

3.10 p.m.

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SENATOR K. D. SYMMONDS: More importantly, the deficiency was this and simply this. Sir, many times persons bought into the new product, which was placed on the market without having the benefit of some idea as to the full idea of that which they were getting into.

Sir, there will always be the doctrines that critics will fall back on saying "Let the buyer beware", that if you are buying a house, that you should check on the house, that if you are buying something like insurance that you should check on that but, again, we have to place it in the context of the reality of our society and our economy where the average Barbadian investor is still growing in the context of his or her sophistication.

There are still coming to understand a lot of these things and especially that investor who is 60 years, 65 years or more, not casting an aspersion on you, Sir, because

I know you have reached the right excellent age of threescore years and ten plus two, so you are batting somebody's else innings or part thereof, and batting well.

Mr. President, the reality is that I think that average citizen would not have enjoyed all of the benefits at that age, would not have come through a free education system, so the average citizen at that age does not have the exposure that, perhaps, Senator Ince, Senator Boyce and some of the others in this Chamber would possess.

Therefore, I think that special consideration has to be given to try to make sure that the Financial Services Commission, as it is contemplated, would have as part of its portfolio and remit that publication of those products which affects its approval.

Mr. President, I should also speak to the complex services and the range of operations which have mushroomed throughout the passage of time. Sir, there used to be an easy way to demarcate or create a line of demarcation, drawn almost in the sand between an institution and the product it offers.

Sir, you know that if you go to the credit union, you are going to get shares in the credit union and you are going to put down some money and ties you through in the event that you have a rainy day. Sir, as Senator McClean points out, today the credit union takes on a different image because of the fact that it is engaged in new financial products. The same credit union is involved in mortgage. The same credit union is getting involved in building and with every new tier there comes...

Asides.

SENATOR K. D. SYMMONDS: Senator McClean may not want me to say that in Barbados but, Sir, I can assure you that in other parts of this Region, there are credit unions taking out partnership in building societies. Sir, the point that I am making is that you are getting involved in the plurality of products and that increases the risk at every tier and the potential exposure at every tier, so there is a greater complexity.

Sir, again, small banks co-mingle their funds with larger banks and expose the risk in terms of the complexity of services and operations. The other thing that we have to very mindful of is the ongoing need to ensure that there is a certain skill-set, that there is a certain level of experience and a certain level of competence in the operators of these financial institutions. Sir, those are the concerns, if I could just try to capture them, which I think must be seen as underpinning this legislation.

It was of such significance that the Barbados Labour Party Administration, as it then was, spent much time in

seeking to tap into the wider cross section of views across this society, and I know that the new Administration followed through in that same line of thought.

Sir, Senator Boyce is now in his seat and I say here and now in his presence that I am aware that as recently as this year, in February, I believe, the Society of Chartered Accountants in Barbados and the Central Bank of Barbados, have put in their final comment on the Bill.

It is clear, from my reading of the legislation, that much of that which I understood to be their concerns have found their way into the Bill. Sir, this is not a situation where you can say that Government has turned a deaf ear. I want that to go out. I am satisfied that a significant effort has been made to be as all-encompassing as is possible.

Mr. President, however, I do not want to lose sight of the fact that there still remains some niggling issues which I really hope the Senate would exercise its right as a Chamber of review and have a chance to look at.

Mr. President, Sir, the bottom line is that in its totality, the Financial Services Commission clearly has a role to play in terms of enterprise and development, investment, capital market development and it has a developmental role in the context of maintaining employment and wealth in this society.

Mr. President, I have a concern. I am not sure that it could properly find its way into the legislation but I do know that in the United Kingdom, under their Financial Services Act, which, quite interestingly, passed the Parliament of the United Kingdom around and about the same time that the Jamaica legislation passed the Parliament of Jamaica. This goes to show the extent to which these issues have been attracting international attention for some time.

Sir, back in 2000, the Parliament of the United Kingdom passed their legislation and one of the things they sought to do was to urge their Financial Services Authority to exercise influence over the structure of similar or sister institutions which, of necessity, would have had to come up and come into being across the European Union because of the fact that there were in an integrated economic space.

Sir, following that same precept, I reflect on the fact that when we talk of the Barbados economy, we must understand the Barbados economy, again, to be integrated and of a regional nature. We have, therefore, I submit to you, Mr. President, to reflect on the status of where we are in the context of this Caribbean and the context of the very useful legislation we are talking about today.

Mr. President, there is, as I have said, a Financial Services Commission in Jamaica. There is one, Sir, in

Grenada and there is one in Dominica but, interestingly enough, the one in Dominica is different because it is not a statutory entity, so it is not clothed in the sense of independence that we are seeing under Clause 3 of our legislation here.

Sir, if I go back to the core principle outlined in Basel 1 which was that international accord that allowed Member States to understand that you are seeking to make sure that there is a certain level playing field in this matter of financial services and offering financial services. When you go back to the core principle of Basel 1, you find that it was all about the independence of the enforcing authority, that if you are an enforcer and you are clothed with the power to enforce, you should be independent.

Sir, I am not satisfied that Dominica, therefore, meets that high standard, but what I do know is that because we are one of the early players in the regional market, we are in a position to be urging our Financial Services Commission to be exercising influence in the rest of CARICOM, to help shape the output of that which we have here. Why does that become important, Sir? It become important because that which we understand to be a highly risky approach to management of a company which is regional can lead to a pan-Caribbean threat and it can lead to pan-Caribbean contagion. The fallout of CLICO Trinidad impacted the Eastern Caribbean, impacted Barbados, impacted Guyana and elsewhere.

Mr. President, one of the things you want to do when you have a Financial Services Commission of this nature, I think, must be to start to give context to the supra-nationally, to quote the language of the European Union, the supra-nationality of the regulatory body.

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Mr. K. D. SYMMONDS: It is not strange language to us. Already in the Revised Treaty of Chaguaramas, which is clothed with the responsibility for passing judgment on matters of a regional nature. It is supranational in content. Already in the Revised Treaty of Chaguaramas we have a Regional Competition Commission. It is clothed with the supranational power to pass judgment on matters of unfair competition and abuse of consumer rights across this Region, and so should it be, in my respectful submission, Sir, with the Financial Services Commission.

Sir, like I said, I do not know that we should put at this stage, probably put that in the legislation but I would want to think that this is part of Government's strategy thrust, for want of a better way of putting it, as we go forward.

Sir, I am one who was also concerned about the fact that we need to look a little bit at some of them, not just this crisis, that I outlined earlier in my contribution, but some of the structural difficulties which are facing this Region economically and to prepare ourselves, because of the fact that we are talking about the movement of capital across borders, we are talking about harmonising our financial systems and financial policies, we are talking about greater liberalisation, therefore we have to be mindful of the state of the play within those economies and within those countries with whom we are going to be doing increased business.

Sir, Jamaica, I think, can teach us a lesson. When I studied, to some extent the Financial Services Commission of Jamaica, I was quite surprised to realise that it was born out of a systemic failing in Jamaica which almost replicates itself in the Eastern Caribbean. Sir, what were the features of that failure?

Asides.

Mr. PRESIDENT: I know that having that habit dies hard, and I do not take any comfort in being called Mr. Speaker.

SENATOR. K. D. SYMMONDS: Mr. President, I really am sorry. Sir, you know I would not have demoted you in that way.

Sir, one of the things that came out of the Jamaica situation was a concept known as “conglomeratisation”. Mr. President, where simply put, a number of owners of businesses got into complex financial relationships and then you have all of the corollary of products coming out of those financial relationships. The purpose was basically to mask the nature of the relationship from the regulatory entity such as it was at that time.

Sir, the features replicate themselves in this Region and certainly we saw it in the Eastern Caribbean, and to some extent I have to say in Barbados as well. Features such as an interlocking Board of Directors, intercompany share holding, the intra group transactions so that there is one big group and it passes files between its subsidiaries.

Sir, there is a company which holds shares in another company, et cetera. Sir, these things are not concepts to which we are unaccustomed, but there are certain additions which we have, to be looked at carefully because they tend to be a problem elsewhere.

Sir, in Jamaica there was the question of regulatory arbitrage, where the players in the financial services sector, because they have a number of products would try to put certain types of products into certain divisions of the company where there is the lowest possible level

surveillance by the Oversight Authority, so that you would take what appears to be an insurance policy and have it resold from some other entity because that entity could help you by passing the sight of the Supervisor of Insurance, so therefore, you are trying to place your product at a location where it is not likely to be identified as being suspect in nature.

Sir, you had the simple misuse of funds held by depositors so that funds, for example, which should have been routed to one place were routed with the blessings of the Authority. For example, in an insurance setting, the Supervisor of Insurance could tell you, you could take your funds and place it on “X Y Z Merchant Bank”, but instead you made sure that the funds went elsewhere. Those are some of the concerns that came out of Jamaica and led to a very strict Financial Services Commission.

Sir, again, these are some of the features of economic activity which are certainly not alien to the Eastern Caribbean, but it is precisely within the Eastern Caribbean, and indeed they are not alien to Barbados. It is precisely within the Eastern Caribbean. We are now growing bigger and more ambitious business as we harmonise our financial system and to fully integrate this economic space. Sir, I think therefore we have to be particularly careful as we go forward in that regard.

Mr. President, I want to spend a little bit of time sharing with the Chamber one or two private concerns I have before I move into the full substance of the legislation. The legislation, in my judgment, could have been enhanced if we had followed the United Kingdom model and sought to use an independent practitioner and consumer panel to help advise their Financial Services Commission.

In the United Kingdom they recognise that nothing is static, as we must too. In the same way we would have a set of practices today, which are viewed with some suspicion, yesterday there were viewed as okay, and the reverse is true that there are processes which are followed today that people will have some difficulty with, but have come to accept as a norm within a few years.

What the independent consumer panel and the practitioner panel do, in the United Kingdom, is to have audience with their Financial Services Authority. They basically say, “Look, these are some of the developments in the industry. We are the day-to-day players, and you are not. You are charged with the special responsibility of enforcing the law and regulations of the Oversight Committee, but we are the players. We are saying that this can make business a little bit less complex and a little bit less complicated. We want this as an input into what you are doing. Can you give a seal of approval that this is the way we should go?”

Sir, I think that interface over the last nine years seemed to have worked well for the United Kingdom. It has not spared them. May I say, nothing can spare any of us from the type of fallout that the world is now facing, but it has helped to make the process of reputation on oversight a little more consumer friendly and a little bit more friendly towards persons who are the actual practitioners in the sector.

Sir, the other thing I am concerned about has been born out of the number of institutions which I have seen come to Barbados, owe people money, steps are taken to try to get the money when the institution goes out of business, and for all intents and purposes those steps failed. I think that perhaps the time has come where we have to look in Barbados at the Financial Services Compensation Scheme. It is, again, a great concern about additional cost to business. I am one who confesses to have that.

I am not entirely sure that we have thought through how best the institute of that nature could be funded, but I am very satisfied that there are too many cases in which businesses come here, take deposits, collapse and the consumer is left virtually holding the bag.

Sir, I can say this, in every single instance people look to the Government to bail them out. That perhaps is where we now have to try to be more sophisticated than it is now as a Government to ensure that the only solution is not yet another on the taxpayers of this country.

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SENATOR K. D. SYMMONDS: Mr. President, you have been very indulgent as I have spoken in more general terms to the legislation. I do not want to trespass on your indulgence on the eve of Christmas, so I turn now to the substance of the Bill.

Mr. President, one of the areas that I noted was at Clause 6 of the legislation and that has to be read in conjunction with Clause 6.(1) and 6.(7). Simply put, Mr. President, since subsection (1) indicates that no person shall operate any business which is regulated under any of the specified enactments - those are the enactments outlined in the Schedule to the Bill - without first applying to the Commission to be registered or obtain a licence. Then, at Section 6 subsection 7, it says that a person who holds funds obtained from carrying on business in Barbados contrary to subsection (1) - which I just read - shall repay those funds in accordance with the direction of the Minister.

I question the necessity, Mr. President, for ministerial intervention because, as I said earlier, this piece of legislation begins at the very early part, Clause 3, creating a statutory entity, you probe it with full independence and autonomy to function, it is understood to be a regulator and I believe, Sir, that if it is a regulatory body, with full powers and capacity to regulate then, Sir, why would you be calling on the Minister to determine something as simple as, how you repay funds that you have in your possession, when once you had come to the point of being licenced.

Sir, it is a concern I have and I do not know if the Chamber will want to reflect on it, but I would certainly urge that this be taken into consideration as one of the numbers of concerns that this Chamber should look at.

The next one, Sir, is Clause 10 of the legislation.

Mr. PRESIDENT: Senator, I have to draw to your attention that the specifics which you now appear to be going into are usually reserved for the Committee. When this Bill goes into the Committee stage, the questions which you are raising will be quite appropriate and this broad debate in the Second Reading of the Bill, I draw to your attention for what it is worth that you are stretching the indulgence which you referred to earlier.

SENATOR K. D. SYMMONDS: Sir, I do not want to do that and I really do not want to reflect either. I just remember that is the route I think we had travelled in a similar way before when we did the debate on the Constituency Councils but, Mr. President, I am more than happy to see it the same way as you. You are rightly suggesting and I think correctly suggested as well, your understanding of the Rules is identical to mine and perhaps, Sir, it was that you misled me by allowing it to happen in the other...

Asides.

SENATOR K. D. SYMMONDS: Sir, rather than having to come back to it at a later stage, let me say that, as I said, there is, I think, usefulness in this piece of legislation. It is an idea whose time must come. Clearly, there is a financial context globally, which we have to deal with and clearly, Sir, there is a fierce urgency of dealing with it swiftly and effectively.

I think that this legislation, Sir, potentially speaks to a number of the challenges and issues which we have to face, and as I said, we have, I hope, the opportunity to engage here in a debate which is really not partisan because both parties have worked very hard towards bringing it to where it is, but a debate in which we can start to look at how we flesh-out the financial architecture of this Region and do so in a manner which will be to the greatest service

and value, not only of our time, but for generations to come.

I thank you, Sir.

Asides.

Mr. PRESIDENT: Senator Newton.

SENATOR the Hon. Prof. V. E. NEWTON: Mr. President, I rise to say that I am extremely pleased to see that this legislation has finally reached this stage so far because, as we know it has been mentioned, planned and thought about, for probably at least 10 years, so I am extremely happy to see that it has reached debate in the Senate.

Mr. President, I have just one provision that I wanted to draw attention to - and the Nobel tells me that I should do these things but it is only one, so I will just mention this one - and it has to do with the Third Schedule to the Bill dealing with the Financial Services Commission Appeals Tribunal.

Section 1. (1) provides that the Commission shall appoint to chairman, a member who is an attorney-at-law for at least 10 years to be Chair of the Tribunal, and such other number of members, as the Commission deems appropriate.

I am just concerned, Mr. President, that the Commission should be appointing the Tribunal. I do not think I have seen this in other legislation. You, an administered lawyer yourself, at some point you would have to look at it carefully but to me, the Chairman of the Tribunal should be appointed elsewhere. This is the one concern I have, Mr. President.

Mr. President, I am obliged to you.

Mr. PRESIDENT: Senator Cave.

SENATOR R. G. CAVE: Mr. President, I just want to support the Government on this legislation. It has been a long time in coming. I understand that a lot of work has been done behind the scenes on the subject and discussion. A lot of the Larceny Bill that could have been difficult had been taken out and my understanding of it is that it will be well received in the community.

Barbados is fortunate, and during this financial crisis we have been very fortunate, as a country, to have had the Canadian banking system that has stood up well. We have also been fortunate to have had most of our other financial institutions that had been liquid and solid so it is work but nevertheless, we have seen an increase in clients, where some people have taken back the financial system and have

done as they like and therefore it is very necessary for us to have this type of regulation.

Sir, with it, I think though that the person who is regulating it, needs to act, because as long as before the turn of the Century, I was a director of 1 per cent of the Barbados Mutual Assurance Society. I remember having discussions on companies which operate in Trinidad in those days and had branches in the eastern Caribbean and Barbados and noticed that the formula, which we use for our operations, was not being carried out and, despite messages being sent to the regulators.

The result was, what we have seen happened recently because they were operating for a long time in a way that regulators did not want us to do, and knew that the results that happened would happen.

Mr. President, as much as is put in this nice regulation, we need to make sure that the regulators act and do not trust luck because most companies that I know of in Barbados are upright and following in a good measure that does not happen in many other parts of the Caribbean, but there are some that do not act correctly.

SENATE A38-PART 2, sequence 20, 3:57:16

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SENATOR R. G. CAVE: Nevertheless, the point is that the regulations that are with us are good. They have been fleshed out by many people and my understanding is that there is not a lot of change that needs to be made.

I do understand that the Bill brings this Financial Services Commission to be overpowering of all other bodies because there is other legislation which is in place which, for instance, governs the insurance industry and the Securities Commission and this legislation may conflict with some of those other Bills, so it may be that somebody has to go back through and see how those old legislation need to be changed.

Mr. President, that is the point I am making but I congratulate the Government in finally getting it here and I support it.

I thank you.

Mr. PRESIDENT: Senator Hunte.

SENATOR R. A. HUNTE: Mr. President, I recognise the fact that age always come before youth. Sir, I rise to support the Bill. My contribution in this debate is, of course, not one of any background in financial services or anything like that, but because of the fact that - I like the advice the Leader of Government Business gave earlier

today - the people who are part of this society, which this Bill will touch when enacted, will need to be educated because the area of which it covers is non-bank financial services and everybody seem to have the spotlight on credit unions.

The figure I heard earlier is that the two established credit unions account for well over 103 000 members. I am not talking about the other small ones, like Shamrock Credit Union and the Transport Board Credit Union. Any organisation in a small country like Barbados that can have over 100 000 members is a great percentage of the population, especially in a small one like Barbados. Mr. President, a lot came out of the Budget recently where people, for political purposes, would have talked about what was happening to credit unions and that sort of thing.

Mr. President, when I read the position of some ...framework and the report of the Securities Commission and I read the message from the Chairman with respect of ... page 4 which says that in addition to the financial crisis, the capital market regulates...the leading fallout resulting from major financial frauds, which have been reported over the last year. The Madoff Ponzi Scheme and the Stanford fall allegations are well-known because of their international and regional connections. The first of these and other similar faults remind us that regulators need the appropriate tools and legislation to help them identify who was first so that the incident that we had is reduced.

Further, the Commission has noted the developments of a national services industry relating to the proposed sale of one of its mutual funds administration to one of Barbados' largest credit unions. Successful completion of the sale will mark a reduction of credit unions into the mutual funds industry which has been dominated by banking institutions.

Sir, when you consider that the credit union can purchase that part of an institution... That is an industry that has grown because of credit unions so that when people talk about credit unions are not allowed anymore to have tax deductions out of the Budget, I think that is right. I say that because of the maturity of the credit unions.

Sir, I do not remember when the first credit union was established, but even if somebody wanted to give a former Prime Minister a credit, incentives to credit unions, incentives to make credit unions save or even to save with credit unions, but there is nothing wrong with that. Credit unions have established themselves from going to the fact that you do not have to write off incentives to save money. They should not be doing that. The credit unions come fully established and I just wish what they have been able to do - one of the biggest ones is in purchasing assets and so on.

Mr. President, let us look at the General Manager's Report. Enforcement is the subheading of the General Manager's Report. In the latter half of the financial year the Commission issued a notice reminding the public of the need to ensure that persons who approach them with the opportunity to acquire investments are registered with the Commission or provide them with securities in accordance with the legislation. The notice was issued primarily in response to an advertisement which appeared in a local newspaper purporting to all that investors made significant returns from investments whereby no information was requested, but the persons who placed the advertisements were registered with or represented the fund with the Commission and it was therefore necessary to take that opportunity to safeguard the Barbadian public.

Sir, after reading those two statements in the reports which I just read from, it is even more important - I know there is no divide on the principles of the Bill - why we should have regulations in Barbados to govern our financial institutions whether they are non-banking or otherwise. We do not want to regurgitate what the world is going through with who collapsed and who is not collapsing.

I would think that after 44 years as a sovereign nation that there must be some type of maturity for which we could operate. Anything that reached 44 years and have not matured would have to be an overgrown baby.

Sir, after all of these years that we have been able to operate credit unions and become a sovereign nation, it is only understandable that regulations of this sort must come into form. The reason why I said I am involving my discussion on this was because over 100 000 people is a lot of people. People tend to play these things up in Barbados for negative and political reasons that is why I looked at this and say look, people's moneys are involved.

I bought some things the other day at 17.5 per cent and it came to \$20 but it was a lot of things I bought. I am saying, even in that regard, because there has been an increase in the VAT, of which everybody agrees that they had to do something, it is not a lot of money. People go and stand up in the sun and listen to Boris this body and all kinds of things and pay a lot of money but when it comes now to helping your country, people try to play on it. That is what really tickles my fancy sometimes in this regard. This is a situation where all of us are involved.

I want to say this at this point, in the presence of Senator Cave, and I said it already, that I wish to congratulate the business community because for the first time in my memory, the business community has played their part, being asked by this Government to hold strain, I know it is a lot of strain, and for keeping people employed.

4.07 p.m.

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SENATOR R. A. HUNTE: I have said it already and I will say it again, Senator Cave, you can take back that letter and say Senator Hunte, your colleague in Parliament, has sent that message.

Mr. PRESIDENT: Honourable Member, I hate to remind you that you have to address the Chair. I think it is unfair for you to be addressing any Honourable Senator at this time, other than through the Chair.

SENATOR R. A. HUNTE Mr. President, I agree with you and so through you, Sir, I wish to convey those sentiments to my Senator colleague. Sir, I am very serious on this, because I think I already said in here when the other two Opposition Senators were there, that I have heard some very matured speeches coming from Senator Thompson, a former Honourable Senator. I told her that I had heard a very matured speech coming from her, which sounded like a farewell speech. She said it was not a farewell speech now because they had bode her farewell since January 2010. Sir, I sincerely hope that in hearing these mature speeches coming from the Other Side that they are not telling us they are bidding us farewell.

Mr. President, in tributes to you, the Honourable Senator across the Table congratulated you for helping to train him in a way, but he has left us. The Honourable Senator said he was not successful in that regard and so he has failed.

Asides.

Mr. PRESIDENT: Honourable Senator, I hate to participate in the debate but I wish to draw to your attention that he has never left me.

Senator Husbands.

SENATOR H. A. HUSBANDS: Mr. President, I wish to say that I consider this Bill to be a very serious one. We have to regulate and control what we have because there are so many stories around the world. I listened to the BBC overnight and when I woke up this morning all I heard were negatives.

I heard about a tragedy off the Australian coast, an island called Christmas Island, I heard tragedies in Iran, in Pakistan. Sir, I am saying that we are now waking up to tragedies in Barbados and we need not to overplay like this is the worst thing that is happening in this country. This is not the worst country in the world, it is better than most, I think, really and truly.

Sir, I am glad to see that Senator Symmonds, as a practising attorney-at-law, would have some concern with certain clauses in this Bill, that is the way legal minds are trained. Mr. President, the principles of the Bill are there, that is, that we need to regulate our services very seriously, regulate them profoundly and with some sort of maturity.

Mr. President, I am happy that there has been no divide on this Bill. I have looked through it thoroughly. There may be other areas which my eyes might not be trained to see but at least I have looked at the principles of the Bill. Sir, I am glad that this Bill has received the support of all Honourable Senators and I too wish to add my support. Mr. President, I am much obliged.

Mr. PRESIDENT: Senator Boyce.

SENATOR the Hon. D. W. BOYCE: Mr. President, I wish to support this Bill before us, the Financial Services Commission Bill. I wish to start by advising that Barbados has a very good reputation internationally, especially in respect of the regulation in the banking sector. Barbados has one of the highest ratings in its banking regime in the western hemisphere.

I think that this amendment to the Financial Service Commission Bill by this Administration is an attempt to put the regulation of our non-bank financial intermediaries into the same league as the regulation of our banking industry. Sir, it is not too soon because over the last several years, we have not had the most salutary assessments of our insurance industries, or our mutual funds industry, in terms of regulatory structures that govern those industries.

Therefore, although we have done the financial sector assessment programmes over the last several years, we have not gotten the kind of rating on our non-banking financial sector as we had gotten in our banking sector. Sir, more recently there was some work done by the Caribbean Advisory Council, which also had some hard things to say about our regulation in the non-bank financial areas.

Sir, this is an important piece of legislation which I support wholeheartedly. Sir, it comes at a time when we have had a growth in our local insurance industry over the last several years, as well as the international insurance industry and where we have had growth both in our mutual funds and in our credit unions. We expect that as time goes on that growth will increase and we will get growth as well in our Stock Exchange. Therefore, we have to put in place a structure which allows us to ensure that there is adequate supervision, regulation and control of those sectors.

Sir, the faster those sectors grow, the greater will be the pressure for good regulation to protect the stakeholders in those industries. Sir, as those firms begin to follow a lot of the international financial and investment practices, we

can expect more and more sophisticated instruments being provided by those firms and, therefore, a more and more difficult task for our regulatory agencies.

Mr. President let me say, the matter of the linkages between the different types of financial companies is something which has not escaped us. As a matter of fact, two years ago, at a speech I gave to the Central Bank at a conference they had, I called upon them to start work on having some kind of regulatory college in place, a college of supervisors of financial services in Barbados, as well as across the Region. I know for sure that the Central Bankers do have their regular meetings of the Caribbean Group of Bank Supervisors and that within the last two years they have been having meetings between the regional regulators, both banking and in the insurance industry. We expect that to continue and to go further. Mr. President, this is just one pillar in that issue of trying to make sure that we have good regulation within the financial sector.

Mr. President, a good power of the regulation is that we need to understand the products that are being created. We need to have that dialogue with the players who run the industry. Senator Symmonds mentioned the consumer body that advises the financial services in the United Kingdom.

Of course, that is a formal way of doing it, but very often a lot of this work is done informally by way of the dialogue that it establishes on an ongoing basis between your regulator and the firms that they regulate. I know certainly that the Central Bank of Barbados does a lot of that. Sir Courtney Blackman calls it the practice of persuasion, in making sure you know what is happening within the non-banking before the products are out, so you could guide them right or you could send a signal to them that this was not something you were prepared to tolerate.

Mr. President, this Financial Services Commission Bill begins to lay out the framework for how we want to do regulation in the non-banking financial sectors. Mr. President, for example, it calls for quarterly financial statements from those bodies that are under its coverage. Sir, that is important because we have been accustomed, for the most part, to having annual statements sometimes, and sometimes only when companies feel like submitting those statements.

Persons are now expected to submit quarterly statements. There will be an enforcement regime to make sure that those statements come in on time, that they are adequately analysed and that such notices as are required in the public interest are posted in the Gazette or in the newspapers.

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SENATOR the Hon. D. W. BOYCE: Indeed, the Bill calls for the Financial Services Commission to publish, from time to time, in the Official Gazette as well as in the newspapers matters of interest to the public in respect of offices that it regulates. Sir, that is an important development and it will definitely allow them, when they see signals of strange things happening, to begin to warn the public if it is necessary. Sir, it is a broadly worded Clause with flexibility to the Financial Services Commission to do some of those things.

Mr. President, the Bill is also very clear about the sort of skills it expects within the Financial Services Commission to make sure that there is good technical coverage of the areas that the Commission regulates. Sir, that is important because the way in which the financial services industry has been growing, we need a number of people who are very technical to be available to the Board and who have followed the development of this sector. Sir, technical people are required, by Law, to be on this Board and to make sure that the Commission is run properly.

Sir, the problem, quite often, with regulatory entities is that they do not have the power to move in to seize management of an organisation when it is beginning to fail. Sir, often it has to stand by and wait until it has failed before you can go in and try to rectify the situation. Sir, this Bill gives the Financial Services Commission the power, if it sees things not going right to appoint someone to go in and try to save the situation before it goes to rock bottom.

Sir, that is an important development because in the financial industry, you need to be able to go very quickly because they develop fast and the repercussions are wide-ranging and very serious and, Mr. President, that is important for this Financial Services Commission.

Mr. President, I am glad that the Bill gives autonomy to the Commission itself, including the autonomy to decide who to register and who to give a licence to. It cannot just take away a licence, it has to consult with the Minister because, when you withdraw a licence from a financial services company, it sends signals throughout the economy and you have to be very careful that those signals themselves are not worse than the effect, so you have to have that consultation with the Minister.

Mr. President, in terms of licensing a business, the Financial Services Commission does that in its discretion once it is satisfied that proper arrangements have been made for its management, for capitalisation and so on of that company, and that is why it is important to have that independence for the Financial Services Commission.

Mr. President, the Commission also has the power where a financial services company does not appoint an

auditor, to appoint one to audit the company so that we can make sure we know what is happening within the company.

Sir, this is a first step, and we will have to do some more as we go on in terms of regulations but, Sir, I think the time came where we had to bring it to Parliament, get it passed, get it moved on, get it staffed and get the appropriate skills and the appropriate number of people within the Commission and bring it to the stage, in respect of the non-bank financial institutions.

Mr. President, therefore, I wish to give this Bill my wholehearted support. Sir, I thank you.

Mr. PRESIDENT: Senator Worrell, you have the Floor.

SENATOR A. R. WORRELL: I rise to support the Financial Services Commission Bill and I would also like to take this opportunity to commend the Administration for finally bringing this Bill to this Chamber to be debated. We look forward to having it passed and proclaimed. It has been a long time in coming and you can tell at this time that there is a need for this particular Bill.

Sir, the purpose of the Financial Services Commission would be to regulate the non-bank financial sector which would largely include the Securities Exchange Commission, insurances, pensions and also the Co-operative Societies. Sir, one of the objectives of the Commission is that it is important for the Commission to come in at this time because the economic crisis which we faced, which has been mentioned by Senator Symmonds, has been largely due to a financial crisis, and it is important that we have a regulatory body in place that can oversee the performance of these companies and help to restore confidence to the public, to the business community and to individuals so that they would have confidence to continue to invest in entities such as insurance companies and to continue to invest in the stock markets, to continue to invest in pension funds and so forth and also to deposit their savings within the credit unions as well.

It is the intention with this Commission to bring it to the standard of the Central Bank of Barbados as was mentioned. Sir, as was mentioned, the Central Bank of Barbados is well respected for its regulatory ability in regulating the banking sector so, therefore, you need the Financial Services Commission to be operating at that level where it can have that oversight and regulate the non-bank financial sector to the level at which the Central Bank of Barbados is currently operating.

Mr. President, right now the process is being taken care of by different entities and what the Commission serves to do would be to bring all of those entities under

one umbrella. Sir, in essence, that would create an economy of scales.

Sir, it is also important to note in looking at other such entities internationally, Senator Symmonds mentioned the United Kingdom, that those entities especially, in particular, the ones in the United Kingdom, you have the independence of the entities in terms of the funds that they generate from the fees, so that they can independently govern their own finance.

Sir, I believe, hopefully, with the coming together of those entities which even now the Securities Exchange Commission is given a grant from Government in order to meet its economical expenses and imagine that you would have the same with the other entities but, Sir, if you have all of them coming together and all the fees they impose that, hopefully, the entities would come to such a level that, financially, they would be almost independent of that subsidy from Government and be able to have a level of independence because you not only need independence from Government but you also need independence from the business community as well so that they can effectively regulate and also take steps and make decisions if an entity is not performing they cannot effectively regulate, take steps and make decisions if an entity is not performing as it should, or would want to put out a product which is not in the best interest of the public, that they can make that bold decision to say, "Look, take a step back from the situation," so you need that kind of independence.

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SENATOR A. R. WORRELL: Mr. President, you also need that kind of technical skill, as well, operating within the entity so that the persons who operate within the Financial Services Commission will have the technical ability, the talent, the skill, and the know how, to regulate in terms of the legal aspects of the financial services. This is an area through which the Commission could have more persons regarding this as an alternative career path.

Sir, it provides opportunities for persons to look at other avenues and to specialise in certain areas, so it opens up opportunities for career development in this area, for persons who would be better able to give advice and work with the Commission in terms of regulations as well. Sir, as mentioned by Senator Boyce, also the area of audits which can be the laying of the Financial Reports.

Mr. President, part of the legislation says that the auditors must prove their ability to perform the necessary test to audit such institutions, increasing the standard, the quality of the information and reporting, which will be received. All of these things are important to maintain

stability within the industry, to boost the confidence of investors and persons within the general public.

I also want to say that one of the challenges which I hope this new entity would regard as important is the role of education, of educating the general public, in terms of this whole business of investment and financing, taking that component within the Securities Exchange Commission, where part of their expenses would go towards conducting seminars and training, workshops, and so forth to educate persons.

Sir, given the situation within the financial economy and the far-reaching problems which a financial person can face, and we do not need to look very far for examples. This is probably one of the deepest recessions we have ever experienced, a recession started as a result of finance. If you cannot convince persons to invest their money, it would be difficult to get sectors to grow and to grow your economies. It is also very important that we educate persons in the area of investment and finance.

Sir, I want to touch on that. It is one of the areas for growth of the Barbados economy, that is, we need to move beyond an economy using the relevance of the credit unions, focussing just on savings, but we need to find ways of channelling those savings towards productive investment, investment which can grow the economy. That is what we need to focus on at this time, to educate our citizens how to earn more with their money, how to invest and how to develop businesses.

Mr. President, we need to start looking at areas and maybe opportunities for the credit unions following the regulation of the Financial Services Commission, could put together structures for venture capitals in areas such as renewable energy, an area we need to develop. Sir, one of the problems would be the financing. Sir, how do we develop that as an industry? How can we use our savings to create the capital to start that business? Sir, there are a number of different areas.

I hope that the Financial Services Commission would pay strong attention by educating more and more Barbadians to become familiar with alternative ways of raising funds and also for business as well, while using the opportunity to develop business through investment, the Venture Capital Funds and so forth.

Sir, we also have to make sure this is where the Commission would come into play, that all of these investments are sound and that, at the end of the day, persons would be protected, but you cannot progress without a certain amount of risk. It is said that we are rather conservative here in Barbados and we do not like to take risks, but to do well as an investor you have to accept some sort of risk in order to grow and to develop as well.

Mr. President, I just want to add my support to the Financial Services Commission. The Bill has been out there for a while. It took some time to get here, and a number of sectors in Barbados have had the opportunity to comment on the Bill and to give their input. We would hope it would get off to a good start. There would always be room for improvement. That is where you have amendments and so forth. There would always be those opportunities.

Sir, as the organisation begins to grow, obviously there would be the transition phase, moving from four or five different entities being regulated under a single umbrella Bill. There will also be the difficult phase of sourcing persons with the adequate skill sets in order to operate the entity.

Therefore we can expect that for some period of time it may not be smooth sailing. There may be some peaks and there will be some valleys, but the intention of the Bill and the purpose that is supposed to promote the stability and public confidence in the operation of such institutions and bringing a greater sense of governance to the regulation of such institutions is sound.

Mr. President, I am heartened that Barbadians are capable of making sure that this entity, once it is established and once it is running, will be successful; and we would be able to source the necessary skill sets and talents. Over a period of time there would be a need for succession planning providing opportunities for persons to be trained in the areas that will improve the entity.

Sir, with those few words I support the Bill.

Mr. PRESIDENT: Senator Durant.

SENATOR Rev. Dr. D. L. DURANT: Mr. President, I rise to give a brief contribution in support of the establishment of the Financial Services Commission. I want to say that it has been long overdue so we really welcome this initiative. I know the Government would have carefully studied the proposals contained in this document.

Of course, there are a few minor errors here and there which will be corrected, but by and large I know they would have studied the proposals in this document, and would have come to the agreement that the establishment of a Financial Services Commission is critical to Barbados at this moment and it should be at the forefront of this island's effort to ensure longevity, sustainability and transparency in its financial services industry.

The present regulatory framework for the non banking institutions is deemed to be inefficient right now. We also need an update in equipment and technology. They

are grossly understaffed as well, and also grossly negligent in some instances.

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SENATE A38-PART 2, sequence 25, 4.37 p.m.

SENATOR Rev. Dr. D.L. DURANT: Let me say, though at this point that I want to commend the Central Bank of Barbados for the outstanding work they have been doing over the years, in the supervision of the monetary policies and in the supervision of the banking situation. I think they are doing an outstanding job and is worthy of an applause. The two things are separate but we are dealing with them as banking institutions in this instance.

A small open economy like Barbados cannot continue to have a fragmented regulatory system governing our banking financial institutions because this can cause serious problems in the long run, if this sector is not carefully supervised and regulated.

The establishment of the Financial Services Commission is to regulate and supervise the non banking financial sector in this island. At the present moment, the supervision and regulation of this sector is very fragmented. For example, Mr. President, the credit unions are regulated by the Registrar of Co-operatives, insurance companies and pension plans are regulated by the Supervisor of Insurance and Pensions, and securities and mutual funds are regulated by the Securities Commission so to me, the system is too fragmented. It needs to be centralised with prudential management and good careful oversight.

We cannot afford to do business as usual in a 21st Century financial world and if we are doing things the same old way, as in Bajan parlance, we can become very predictable. The problem with predictability is that our predictability gives way for clandestine manoeuvrability. Then a lot of things can happen and in the long run, we are shocked.

I believe if we are just sticking to the old way, some systems that we may have from the 1960s, 1970s, 1980s and 1990s may not be relevant now. I think, as Barbadians, we must continue to upgrade because we cannot afford to be left behind in a very delicate open economy like ours that is so vital to our people. For example, the present situation we are in, this global economic recession, I believe it is caused by some of the weaknesses that have been exploited by brilliant people in the midst.

This global recession has caused a lot of hurt, pain and discomfort. It has caused a lot of poverty, shock and

trauma in some places. The people within that area have been able to exploit the weaknesses that were shown in the system, the indiscipline, greed and lack of transparency and thought. These are just some of the reasons why we are in this global economic malaise at the moment and we cannot afford for this to continue.

I want to say really that we continue to build according to the pattern in the global climate in which we live because, Mr. President, there is a whole new global economic frontier emerging, especially in light of this current recession. Things are being done differently so we cannot continue the same old way.

As a matter of fact, there were several reports done that confirm the need for a single entity to supervise this sector. For example, the Maxwell Stamp Report of 1997 recommended that all supervisory responsibility should be amalgamated into a single new Financial Services Commission. I think that was sound solid advice. The same Report also said that there should be a central supervisory authority for all offshore finance activities.

Then, there was another report as well, the Financial Sector Assessment Programme Report in 2002 which, with the aid of the International Monetary Fund (IMF) they also highlighted a couple of weaknesses. I just want to mention two of them that they highlighted in the non banking financial sector relative to the system here in Barbados. They said:

1. There were limited and inadequate resources.
2. The lack of site visits or inspections, especially as it relates to the Supervisor of Insurance visiting and making sure that things are being done correctly.

Then, there was a third Report, the Larry Savage Report of 2005, which indicated that the financial sector is one of the main contributors to the Barbados economy and that is a fact. That is why it is something that we should make sure is being regulated and supervised with great discipline and prudence because it is so important to our economy and lifestyle.

Sir, that report also stated that there were some weaknesses in the sector and that the establishment of a well-structured single regulatory oversight authority would definitely assist in addressing the weaknesses.

The Consultants on the Savage Report Team are of the opinion that in today's complex globalised world, full integration brings the best combination of efficiency and effectiveness. They recommended, therefore, that we launch the Financial Services Commission with haste. This is why I said that I am glad this is on the Table now and shall be passed this evening in a short while.

Sir, some of the specific functions of the Financial Services Commission are very clear and as long as we understand them, then it would not be difficult to support such an initiative. For example, it says that one of the main specific functions is to supervise and regulate the operations of the non banking financial institutions, to issue guidelines for the non bank financial sector, also to increase the competitiveness of the financial services sector, just to name a few.

Mr. President, we cannot afford to have another Trade Confirmers Limited collapse in this island. It is therefore important that we have regulatory and supervisory systems put in place. We know that quite a number of years ago that happened and it brought a lot of hurt to our country and that was in the banking sector and now in the non banking sector we do not want that to happen in this area. The savings and in some cases the life savings, pensions and monies of our people need to be protected. I know it is the Government's aim and intention to fully protect the earnings of our people.

Asides.

SENATOR Rev. Dr. D. L. DURANT: Sir, people need to feel confident, as was just said by my colleague Senator Worrell, they need to feel confident having their monies within this system. Investors must be comfortable and confident in their investment and know that they are well protected.

I want to applaud the Leader of the Senate on This Side and the credit unions for their outstanding performance and customer friendly mode of operation. They have helped many Barbadians with their easy rates and loans, and they are of great benefit to the growth and development of the financial sector in this country and they must be commended. Also, as I said before the Central Bank in its very important role and, as was said, I believe, the Financial Services Commission would be like a sister organisation to the Central Bank.

Sir, as I said before, it is a major financial service provider in this part of the Caribbean. Therefore with that in mind, our system needs to be very rigidly and prudently managed because of the importance it plays within the Region, and a level of excellence at every stage of our management must be embraced. There is no room for mediocrity. There is no room for negligence, and sloughfulness.

SENATE A38-PART 2, sequence 25, 4:47:16

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SENATOR Rev. Dr. D. L. DURANT: As a matter of fact, we think that we should by now be functioning at a

mature level of competence and vigilance in our approach to the whole idea of the financial management of the non-banking sector. No loopholes should be available for money laundering to be encouraged. All of those loopholes need to be blocked.

This Financial Services Commission Bill is designed to create a new level of sophistication as well as protection, supervision, and regulatory advantages, so it is going to be a very positive entity as soon as it gets started. It would be like a breath of fresh air to the whole non-banking financial sector in our island.

In closing my short contribution, my hope is that there would be no fallout in employment. I think there are about 44 employees within the three different areas and my hope is that those 44 individuals can be integrated into that Financial Services Commission or if they are too much for that entity that they can be placed in other financial institutions, but I would hope that there is no fallout or no unemployment as a result of this initiative.

Let me close by just giving a quote from Norman Peale who says that:

"Problems are to the mind what exercise is to the muscles. They toughen and make strong."

I say all of that to say that the establishment of the Financial Services Commission will make our non-banking financial sectors tougher and stronger with all of the problems we have had before, more mature, more vigilant and more prosperous. I wish God's blessings upon that entity as it is established and I thank you for your indulgence, Mr. President.

Mr. PRESIDENT: Senator McClean.

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, as I rise to wrap up the debate on the Financial Services Commission Bill, I want to start where the last speaker, Senator Durant, partly concluded. Senator Durant indicated that this Commission is intended to bring to non-bank financial institutions a new level of regulation, this is my interpretation, and I would add given the increasing sophistication of this sector, and I think that is a critical point that I want to make. By saying so I again want to emphasise that in the context of Barbados, we have had pretty comprehensive regulations of our several non-bank financial institutions.

Sir, because of my involvement in the Credit Union Movement as I would have articulated in my initial contribution, I would have been privy to the collection of information from the Maxwell Stamp Reports and subsequent Reports. Sir, while a number of weaknesses were highlighted, those weaknesses do not negate the

success that Barbados has had to date. Clearly, the intention is that this legislation is to further strengthen and essentially make Barbados a model when it comes to regulation of these institutions.

Sir, we acknowledge one of the comments in the consultation, I think it would have been the International Monetary Fund Report, where the issue of effective supervision and regulation was raised. In some instances, agencies were understaffed, et cetera but I can tell you, and certainly again I speak of what I know which is the Credit Union Movement, that in response to some of the concerns raised, a number of efforts were made to strengthen the operations of credit unions and I am happy to say that those kinds of initiatives were taken by the Movement in response to areas of weaknesses. Sir, that does not say that there is no need for regulation.

I also want to comment on the issue raised about education. If there is something of a model on which to draw and I believe that education is... Yes, the Commission has that responsibility, but the greater responsibility should rest with the financial institutions who want to do business and, of course, consumer bodies, et cetera.

Sir, I emphasise credit unions because, as I said, they have over 100 000 members. Sir, it is interesting that many of the people who write and speak about credit unions do not fully understand all that goes into the philosophy and the translation of that philosophy into activities.

Sir, I am happy to say that issue of education is a fundamental pillar. Part of what was done to encourage - and I will say that much still has to be done, let me preface my comment to that. Sir, right now credit unions are required to contribute one per cent of their surpluses, I use the language of the Credit Union Movement, to an education fund to educate the Movement because the intention is to operate efficiently and make some profits through top-of-the-line expenses, et cetera. Sir, that is why I made the point that while a tax incentive is icing on the cake, it is the philosophy which should guide the development of our members.

Sir, you would find two things, credit unions internally organise members' educational activities and the Credit Union League which receives that fund will organise across the Movement courses for volunteers, staff of the credit unions and members. In fact, the contribution to members' education is more than that one per cent because as I said, individual credit unions have to have those things.

The point to be made is that where there is evidence of weaknesses, we have regulations that are intended to streamline the process and bring a greater level of effective regulation while doing so efficiently through that streamlining. Sir, I would want again to emphasise the

caveat that as we do that, we need to ensure the persons charged with regulations understand the entities that they are regulating because we are bringing together a cross-section of financial institutions with very special characteristics, et cetera.

A credit union is not an insurance company, it is not another non-bank or another type of financial institution and, therefore, in the selection process that should be borne in mind in terms of the persons who have technical qualifications and a sensitivity to the nuances of the specific sectors of the industry.

Finally, in relation to the staffing of these institutions, right now we have a mix of organisations regulating, and as you would imagine staff complements would probably not coincide exactly with the requirements of a Commission, neither will the capacities or the competencies of existing staff in all instances, but the Government has indicated that careful attention would be paid to ensuring... and this speaks to the concerns expressed by the Honourable Senator Durant about what happens to the persons. Mr. President, that issue has been discussed at length and persons will be absorbed or re-absorbed into the Public Service, where necessary, or proper arrangements would be made for them.

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

The question was put to the Senate and agreed to.

Senate A38 Sequence 26

5.57 p.m.

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On the separate motions of SENATOR the Hon. Miss M. P. O. McCLEAN, the Senate resolved itself into Committee on the Bill. SENATOR the Very Reverend H. E. CRICLOW, in the Chair.

COMMITTEE

Mr. CHAIRMAN: This Honourable Senate is now in Committee.

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

Clauses 6 to 10, inclusive, were called.

SENATOR K. D. SYMMONDS: Mr. Chairman, at clause 6(7) where it says:

"A person who holds funds obtained from carrying on business in Barbados contrary to subsection (1) shall

repay those funds in accordance with the direction of the Minister.”

Mr. Chairman, I had earlier made reference to this Clause and to my concern that in view of Clause 3, which fully clothes this entity as a statutory authority and gives it complete autonomy, and we understand it is the autonomy to regulate, might be diluting, in my judgment, the regulatory process by requesting ministerial intervention for a matter which should be at the discretion of the Authority itself. My proposal therefore would be that we amend subclause (7) to say “to repay those funds in accordance with the direction of the Authority.”

Mr. CHAIRMAN: Senator Symmonds, your point is taken. Senator Boyce.

SENATOR the Hon. D. W. BOYCE: Mr. Chairman, my understanding is that the Financial Services Commission covers those entities that are licensed by the Commission to operate under the various acts, that the Commission and the Minister are therefore to have some autonomy.

Mr. Chairman, if someone registered under that Act collects money, it strikes me that person is not subject to the direction coming from the Commission. The Commission does not have power over that person, that person has his own licence. It requires us, therefore, to go to some other authority to direct that the funds be repaid. I think, as I recall, that was the consideration at the time, so that is set out in that Clause there.

SENATOR K. D. SYMMONDS: Mr. Chairman, that does seem to make good sense and I would therefore withdraw that comment. We had gone to Clause 10, I believe, so while I am on my feet on that point, I should also mention Clause 10, which is fairly extensive. If I could just bring the attention of this Honourable Chamber to subclause 3, which says:

“Where a financial institution fails, without reasonable excuse, to comply with a direction under subsection (2), that financial institution and every director of the financial institution is guilty of an offence and is liable on conviction, on indictment, to a fine of \$100 000 or to imprisonment for a term of 2 years or to both.”

Mr. Chairman, subsection 2, to which I referred, is essentially in three parts. Essentially what is provided is that the Chief Executive Officer of the Commission may fix in writing, within a reasonable period of time in all the circumstances, and in such manner as may be specified, the requirement for the Commission to be given information in relation to the business operation.

a. any information relating to the financial statements or any information relating to the financial returns of the financial institution;

b. any information the Commission considers necessary in respect of any holding company, subsidiary or affiliate of the financial institutions; and

c. any other information, records or documents the Commission considers necessary for the purpose of carrying out its functions under section 4(1)(b).”

Mr. Chairman, my concern here is the liability which would go to every director. I make the point to this Honourable Chamber that most directors are not appointed officers of the company. In fact, I think it would be fair to say that most directors perform a role in giving strategic direction and setting out policy objectives. They do not function in a day-to-day operational capacity.

Subclause (a) now seeks to suggest to me that much of the information required is operational-oriented information and I question whether we should not be seeking to attach liability to the Chief Executive Officer of a company and perhaps Executive Directors of the company, but to carry it as far as every single director would seem to me to be a grave situation where, and I argue it by analogy, if a stop order is issued to a company not to write policies and that stop order goes to the Executive Officer of the company but is not communicated with the Board, the Board, strictly- speaking, may find itself in a difficult situation because the liability might be attached to that which he does not know.

Therefore, I question whether or not something of a similar nature could not arise in the legislation that we are now contemplating or would it not therefore be more fair and prudent to limit the liability to the Chief Executive Officer and any other Executive Director?

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. Chairman, I think the recent developments - and I am trying to remember the particular provision in the International Accounting Standards - directors are held in very strict account. The Honourable Senator mentioned that these are perhaps matters which are operational but, at the end of the day, for example, an institution that is required to provide the Commission with quarterly reports, I trust would be reporting to a Board on a monthly basis. That has to be the standard kind of procedure in public companies, at least those companies with which would have been affiliated with as a director.

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SENATOR the Hon. Miss M. P. O. McCLEAN: In fact, that is the standard kind of procedure, if you are engaged in a particular kind of business, that should find its way in a report to a director, if that company is functioning well and, therefore, directors need to stay on top of these things because, at the end of the day, that is where the buck stops pretty much.

Of course, one way of dealing with something like fines and so on, there is a practice in some circles of indemnity insurance, et cetera, of making provision for directors, but I believe in looking at what is required here and given what directors understand what they need to do is also going to impose on directors the duty of care and a level and degree that is substantially greater than what might obtain otherwise, if, as I have said, the practice is not similar to what I have described. Sir, I do not have a difficulty with it.

Mr. Chairman, there is a major penalty in this and it is pretty harsh. It also says that where you agree to be directors you need to pay very special attention. Sir, again, I would want to flag, in the case of a credit union where directors are, essentially, volunteers although, in recent years, we have seen the introduction of core fees, et cetera, but even then, people need to recognise the seriousness of that role and carry out the function in a way that it shows that their fingers are on the pulse in business.

Mr. CHAIRMAN: Senator Boyce.

SENATOR the Hon. D. W. BOYCE: Just to say that this subsection 10.2 requires the Commission to give reasonable time for the supply of information and it says:

“...where the financial institution, without reasonable excuse...”

Mr. Chairman, I know that in many companies there is a standard question which is asked of Chief Executive Officers in respect to, for example, National Insurance where it is the practice to enter into the record of the meeting whether or not the company discharged its obligation to National Insurance, PAYE, et cetera, as a way of making sure that the directors have acquired adequately of these liabilities for which they are, themselves, personally liable.

Mr. Chairman, this Section deals with insider trading. It deals with the issue of where companies are ramped into companies and where there are holding companies doing things that impact upon the institution. Sir, this is really the Section that tries to get down to the legal wizardry in respect of financial structuring to make sure that you know things that are going on that can then mushroom in the big problems for these companies.

I think that it seeks to impress upon directors the importance of making sure that we are not precipitating unwillingly in some of these schemes that have become known around the world.

Mr. Chairman, while I take Senator Symmond's concerns, I think we have to be conscious of our responsibility to the thousands of people who make deposit money or who may buy products in institutions.

Mr. Chairman, I am obliged to you.

Mr. CHAIRMAN: Senator Symmonds.

SENATOR K. D. SYMMONDS: Mr. President, I am grateful for the views offered but let me just say for myself that while I am grateful that I still remain uncomfortable. I think that a balance has to be struck between the regulatory framework, on one hand and, on the other hand, the idea of trying to be effective in business.

Sir, personally, I believe that the better solution would be to restrict this massive fine of \$100 000 or two years in prison to executive directors because all directors, have to use a very broad brush.

Sir, the mind boggles at the situation that could exist where a director, for example, may be out of the jurisdiction for a short period of time and misses a board meeting, or even two during which period of time the communication should have been made and was not made, but he finds himself in a situation where he is faced with this kind of penalty.

I hear what Senator Boyce has said about there being a reasonable excuse for not complying with the direction but, Sir, I do not know that damage was really done if you limit it to a CEO and to an Executive Director. I just fear that the brush may be sweeping a little bit too broadly to hold every single director of the institution culpable in an offence in circumstances where it can be very possible that director could not realistically have knowledge of the operational activity.

SENATOR H. A. HUSBANDS: Mr. Chairman, while it is true to say that every director cannot be held responsible for negligible acts of the CEO there still are certain broad decisions of the company that the directors, executive and non-executive must be held responsible for and, in specific cases, maybe the Commission or some law court will determine the extent of the liability of the directors in a particular issue like the issues raised by Senator Symmonds, there may be some extenuating circumstance why some director, executive or non-executive may have been in the hospital ill for the last six months and he plays no part in the liability at present but what this imposed though on people who accept

directorships in companies and so on, is a level of responsibility.

Sir, people have been known to accept these positions as honours and not pay very close attention to the activity. I accept that the directors cannot be liable for every decision, every day-to-day act and so on, but at some levels, even if you are out of the country, the fact that the company has not been in compliance with the National Insurance Scheme for the last couple of months or whatever is something that the directors, both executive and non-executive ought to be aware of.

Mr. Chairman, I conclude by saying that in those cases where there is some question, the Commission or the law courts may determine the extent of the liability of the directors.

S/A38/5:02 Sequence 28

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Clauses 21 to 30 were called.

SENATOR K. D. SYMMONDS: Mr. Chairman, Clause 30 says:

“The Minister, after consultation with the Chairman of the Commission, give to the Commission directions of a general nature as to the policy...”

Sir, I have no doubt that this is crafted upmost in good faith, and quite frankly, I have no doubt that any Minister, not necessarily every one Minister, would treat to this in the upmost of good faith, but the reality, Sir, in my judgment it admits of a mischief, and that mischief is that the appearance exists of the power of the Commissioner with another appearance of involving the Minister in a regulatory function.

Sir, it is clearly an institution which serves a regulatory purpose. It is clothed in independence. I have made the point in my presentation earlier that independence was fundamental when Basel 1 accord was framed. The centrepiece of enforcement and regulation was viewed to be independent of the regulation. What this admits of is a very subtle type of intervention, but the question is, what is the direction given by a minister?

Let us assume that the Minister was yourself, the Chairman, when you say that it is of a general nature as to policy, is general nature to say, I will prefer that you not pursue any measures against insurance companies, at a time when there is a particular insurance company that is in grave difficulty? Is that satisfactory? Arguably that is a consultation between yourself and the Chairman which certainly the legislation allows, and it is arguably a

direction of a general nature, but so general as to be specific because there is only one in the entity that is experiencing difficulty.

Sir, I believe that we must, if we are going to be entirely serious about the exercise of this nature, clothes the Oversight Authority with the fullest possible level of transparency and independency. I make the point by analogy, that when I consulted the Central Bank of Barbados' Act, Chapter 323 (c) on the Laws of Barbados, I may devise a similar institute at Section 49, and I will share with the Chamber. It says:

“If after consultation with the bank the Minister is of the opinion that the policies being pursued by the bank are not adequate for or condition to the achievement of the promises of the bank, as set out in Section 5, the Minister may issue a written order to the bank, determine the policy to be adopted by the bank and the bank shall where upon make right to that policy while the Order remains in operation.”

Sir, here is the interesting catch. Our legislation is contemplating a quiet consultation between the Chairman and the Minister, which then disappears in thin air and no one is any wiser. The interesting thing about the way it is dealt with at the Central Bank's level, and let me say that is the Financial Services Commission, as I understand it, is supposed to have a paralleled level of autonomy and regulatory oversight from the Central Bank.

The Central Bank Act says, “The order acknowledging Government's assumption of responsibility for the policy shall be published forthwith in the Gazette.”

It goes further:

“The Minister shall cause to be laid before Parliament as soon as may be practicable, after the Minister has informed the Bank of the policy determined, a copy of the Order determining the policy and statements by the Minister and statements by the Bank in respect of the matter which occasioned the issuance of the Order.”

The Minister not only has his involvement in policy published in the Official Gazette for all to see, but then you came here when you have final authority of the land, the highest court of the land, where the Minister gives his position to the Parliament and the bank has an opportunity to have its position put before the Parliament, so that the fullest possible discussion and disclosure can be made.

Sir, I find it to be a matter of concern that there is this difference between the way in which the regulation governing ministerial intervention into policy at the Central Bank's level is treated and crafted, and the way in which

regulation governing ministerial internationally at the level of the Financial Services Commission is being crafted.

Sir, I think if the two entities are supposed to be on par, both entities in their own right are guarded against systemic failure, that we should treat one in almost the identical way that we treated the other. My concern therefore is that Clause 21 should be amended and restructured so that it falls on all fours with Section 49, Chapter 323 (c) of the Central Bank of Barbados legislation, which speaks essentially to the same issue.

Mr. CHAIRMAN: Senator McClean.

SENATOR the Hon. Miss M. P. O. McCLEAN: Thank you, Mr. Chairman. I heard the contribution of the Honourable Senator and I register his concerns. However, I believe that I am not convinced that the mischief as set out, I will use his terms, it should not be something to detain the passing of the legislation and it is noted and that certainly would be shared, but I do not believe that it does not do major harm to the legislation, this particular section of Clause 30.

Therefore, Mr. Chairman, I beg to move that Clauses 21 to 30 stand part.

Clauses 21 to 30, inclusive, were called and passed.

SA38 5.12 p.m. Sequence 29

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SENATE A38-PART 2, sequence 30, 5.27 p.m.

Clauses 31 to 40, inclusive, were called and passed.

Clauses 41 to 50 were called.

SENATOR K. D. SYMMONDS: If I may, Mr. Chairman. Sir, I take it that this is the last intervention of this nature. Again, Mr. Chairman, I have a difficulty and locate it at Clause 45.(b). It states that the Commission may invest any funds, not required for the purposes of Section 42, in such no risk securities as it considers appropriate. Of course, Section 42 basically speaks to the application of the Fund which is created to fuel the work of the Financial Services Commission.

Mr. Chairman, I do not think that this should be contentious. Simply put, I would want to suggest that a better route would be to define the concept of no risk securities because we are talking about investment of funds in an institution which again, is very critical. It is a new tier of governance and one would not want to be on the one hand, either overly conservative or on the other hand,

outside of the ambition and the scope contemplated by the Government when framing the Bill.

We do not know what is meant by low risk security and I am submitting very respectfully to the Chamber that the very least we could do, is to do a negative list which outlines those things which, in the judgment of the Ministry of Finance are the things that we should not be investing the funds of the Commission in and that is the very simple concern I have, Sir.

I do not know that no risk securities today would be viewed as no risk securities tomorrow and I do not know that those Members present here in the Senate can all agree on what constitutes no risk. If it is there, it is nebulous, it is esoteric and you could be more precise with the language and hopefully, with the deployment of the resources.

I am obliged to you, Sir.

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. Chairman, I think I will start where the Honourable Senator left off, which is to suggest that you are not sure what low risk is. It might be business today and that tomorrow that perhaps on that basis we were wide and therefore I believe that those are no risk, so I beg to move that Clauses 41 to 50 stand part.

Clauses 41 to 50 were passed.

Clauses 51 to 59, inclusive, were called and passed.

The First, Second and Third Schedules became the Schedules to the Bill.

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

On the separate motions of SENATOR the Hon. Miss M. P. O. McCLEAN, the Bill was read a third time and passed and cited as the Financial Services Commission Act, 2010.

ADJOURNMENT

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, before I move the Adjournment of this Sitting, I want to again congratulate you on your elevation. I also want to wish you, Sir, as President of the Senate, a blessed, peaceful and restful Christmas, remembering, of course, not to sound cliché, the reason for the season.

I also want to express, on behalf of my colleague Senators, thanks and best wishes for Christmas to the presiding officers, staff of Parliament, the members of the

Royal Barbados Police Force and the security guards who look after our security, the members of the Press who cover our Sittings, our caterers and all those persons who have played a role in ensuring that the Senate can sit and deliberate in comfort, and be in a position to seriously take on the business of the people of Barbados.

It has been in many ways a very difficult year for us and will continue to be so, certainly throughout this season, for reasons known to all of us, but I anticipate that in all that we do partake of and partake in that we remember the importance of our faith in the person for whom we recognise this season, and that would give us strength to deal with all the adversities that befall us and would have befallen us during difficult times in the past year. I wish you all a blessed 2011 because we would not be meeting in this Chamber until that year, not before the middle of January.

Once again, thank you very much. A blessed Christmas to everybody and may you travel safely to your respective homes.

SENATOR the Hon. Miss M. P. O. McCLEAN: Mr. President, 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.

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EDITORIAL NOTES — NOT PART OF THE REPORT

Prepared with the transcript; for checking against the recording and the Minutes.

EDITORIAL QUERIES

Points noted while preparing this report from the edited transcript. The text has not been altered except where stated.

Q1. Masthead. The session is not stated in the source, so no session line is printed.

Q2. Dates in the text. The source gives ‘Tuesday, December 15, 2010’ (15 December 2010 was a Wednesday) and ‘Friday, December 15, 2010’ (15 December 2010 was a Wednesday). The weekday and date do not agree; printed as in the source.

Q3. Order No. 2, Guarantee of Loans (Companies) (Amendment) Bill. The Leader of the Senate first gives the new limit as \$850 million, reading from the file signed in Parliament; the President reads the Bill, which substitutes ‘\$1,000,000, 000’ for ‘\$345,000,000’, and the Leader later states for the record that the file was incorrect and the limit is \$1 billion. Printed as in the source.

Q4. Order No. 2, Committee and third reading. The Senate is recorded as resolving itself ‘into Committee of Supply on the Bill’ and the Chairman as reporting ‘the passing of one Bill in Committee of Supply’. No third reading of the Bill is recorded before Order No. 3 is called. Printed as in the source; please confirm.

Q5. Order No. 3, Committee. Clauses 6 to 10 are recorded as ‘called’ but not as passed, and there is no record of clauses 11 to 20 before ‘Clauses 21 to 30 were called’. Printed as in the source.

Q6. Take-slips. Several take-slips appear in the text as ordinary paragraphs (for example ‘SENATE A38-PART 1, sequence 10, 12.53 p.m.’ and ‘S:No:38(12)2.37 p.m.’). One slip, ‘SENATE A38-PART 1, sequence 15, 4.37 p.m.’, follows ‘SA 38 PART 2 2:57:20 Sequence 14’ in the middle of the Leader’s speech, presumably about 3.00 p.m. Printed as in the source.

Q7. Order No. 3, speaker labels. Senator K. D. Symmonds is headed ‘Mr. K. D. SYMMONDS’ and ‘SENATOR. K. D. SYMMONDS’ in two places. Printed as in the source.

DEBATE SUMMARY

(Editorial summary — not part of the record.)

The Senate met on Wednesday, 15th December, 2010 at 11.00 a.m., with the President, Senator Dr.

Branford M. Taitt, in the Chair; prayers were led by Rev. Father Errington Massiah. The President read a letter from Senator Sir Roy Trotman asking to be excused while attending the 17th American Regional Meeting of the International Labour Organisation in Santiago, Chile, and noted an excuse from Senator J. O. Bradshaw. The Leader of the Senate, Senator the Hon. Miss M. P. O. McClean, laid six papers, among them the Annual Report of the Securities Commission for the year ended March 31, 2010, the Annual Reports of the Sugar Workers’ Provident Fund for 2007 and 2008 and the Annual Report of the Chief Medical Officer for 2004-2006. Standing Orders 22 (1) and 45 (2) were suspended and three Bills were read a first time.

Senator McClean then congratulated the President on being made a Knight of St. Andrew in the Independence Day Honours. Tributes followed from Senators K. D. Symmonds, the Very Reverend H. E. Crichlow, who recalled being his first Form Prefect and spoke for the Independent Senators, Benn, Sandiford-Garner, Prof. V. E. Newton, whom he had taught Criminal Law, Rev. Dr. D. L. Durant, Hunte, Ince and Husbands. The President thanked them, saying that because his mother was born in St. Andrew he had wished any honour to come from St. Andrew, and that he was grateful to the Prime Minister for the choice.

Senator Crichlow was appointed temporary Chairman of Committees in the Deputy President’s absence. Senator McClean moved the National Insurance Commissioner (Validation) Bill, 2010, explaining that Sir Denys Williams had been appointed Commissioner in December 1988 and his last appointment expired on December 31, 2003; he continued to act on the recommendation of the new Chief Justice, but no new instrument was issued, which the National Insurance Scheme learned only in 2010. The Bill validates his decisions in that period, and it passed without debate.

After the lunch suspension, Senator McClean moved the Guarantee of Loans (Companies) (Amendment) Bill, 2010. After some uncertainty over whether the new limit was \$850 million, the President read the Bill and she confirmed that the limit was being raised from \$345 million to \$1 billion. She listed guarantees to the Barbados Tourism Investment Inc., the Grantley Adams International Airport Inc., Needham’s Point Holdings, the Caves of Barbados, the Barbados Port Inc., the Barbados National Oil Company Ltd. (\$160 million), Barbados Conference Services Limited (\$58.1 million) and the Four Seasons project. The Bill passed through Committee without debate.

On the Financial Services Commission Bill, 2010, Senator McClean said the Commission would consolidate the regulation of the non-banking financial sector now divided among the Supervisor of Insurance and Pensions, the Registrar of Co-operatives and the Securities Commission, citing AIG and the CLICO Group as warnings of unregulated holding companies. Speaking on credit unions, she said that of the 55 285 members of the public workers' credit union about 3 000 had claimed tax credits. Senator Symmonds raised no objection to the substance but warned of risk in the growing range of products offered by credit unions, and was reminded by the President that details belonged in Committee. Senators Newton, R. G. Cave, Hunte, Husbands, the Hon. D. W. Boyce, A. R. Worrell and Rev. Dr. Durant supported the

Bill, Senator Boyce noting Barbados' high international rating in banking regulation and Senator Durant commending the Central Bank.

In Committee, Senator Symmonds questioned clause 6(7) on repayment of funds at the Minister's direction, the liability of directors and clauses 30 and 41 to 50; Senators Boyce, Husbands and McClean replied, and Senator McClean said she was not convinced by his concerns on clause 30. Clauses through to clause 59 were passed and the Bill was passed as the Financial Services Commission Act, 2010. Senator McClean again congratulated the President and wished him a peaceful Christmas, and the Senate was adjourned sine die.