

**CONTRIBUTION MADE BY THE MEMBER FOR MICAL
ON THE CONSUMER PROTECTION BILL, 2006
WEDNESDAY MARCH 22, 2006**

MEMBER FOR MICAL (HON. ALFRED GRAY):

Thank you very much, Mr. Speaker. Mr. Speaker, I rise for the second reading and the beginning of a debate which, I hope, will be very intense and educational, and I trust, Mr. Speaker, that Members of both sides of the House will contribute to it, so that, at the end of the day, we will get the benefit of their contributions, and if there needs to do anything with it, before it's passed, we will have that opportunity to do so. But before I get into the presentation of the Bill itself, I would want, Mr. Speaker, to salute the good people of the MICAL Constituency. Mr. Speaker, when I speak to the MICAL Constituency, I'd like to say Acklins, Crooked Island, Mayaguana, Inagua and Acklins and Long Cay, because when I call the names like that, it gives me that connection which I have. MICAL does not do it for me and those people are very special, and I want them to know that. And, Mr. Speaker, I attended a funeral on Saturday or Sunday— one of the days. Mr. Speaker, I was aghast by some of the comments which were made with respect to the development in Mayaguana. And I speak to it in general terms because I do not want to call names either, or even go further than that because I am still in dismay. The development of Mayaguana, Mr. Speaker, is perhaps one of the best thing that has happened to Mayaguana in over a thousand years.

Mr. Speaker, you may not agree with everything that might've happened to reach to the point of signing of Heads of Agreement but, certainly, no well speaking Bahamian, certainly, the people of Mayaguana, would be very upset if they felt as if there was anybody alive who was

seeking to derail the first thing that ever happened to them with an economic benefit. And so, Mr. Speaker, I was very...

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

Well you can speak to it when you speak. But you know, Mr. Speaker, I cry shame, I am, like I said, disappointed that there is anybody who, either live in Mayaguana or who are descended from Mayaguana, who would like to live there, who would not want to see Mayaguana better than it is today and this, to me, Mr. Speaker, is the essence of this development – to bring economic life to an island which, before 2002, was very dead. If such an expression make sense. And so, Mr. Speaker, I only made the comment because I think a lot of people left that funeral hurt, disappointed that a funeral service was used to lambast the Government and those connected with that development. At a funeral.....that was so distasteful. I mean, I don't know whether I am speaking for anybody other than me, but certainly, I think the church and funeral are never to be used for political purposes, to campaign.

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

Never, never, never. They ought never. I speak for me, they ought never. I respect the church, I do not campaign in church. I will never do it. It's a place, It's a place and time and the church is never the place to campaign on any issue other than to speak whatever your minds says that...

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

No, that affects this country, no problem but, basically, Mr. Speaker, a funeral is, in my view, a sacred opportunity for people to grieve and for others to share that grieving moment and to talk about...

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

Ahh... I wanted that to happen. I got exactly what I wanted.

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

Well, I can go on because I've made my point.

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

Yes, I was there. I saw you too. Mr. Speaker, let me just also say having said that I was disappointed, I still am, but God has a way of making these things happen for reasons. The other thing I want to say, Mr. Speaker, before I get into the debate, and I want to take five minutes to do this from my hour. There was, Mr. Speaker, a school called the Abraham's Bay All Age School when we came to office in 2002. Since that time, this Government has seen it fit to upgrade the school and its facilities and it is now The Mayaguana High School.

Having said that, Mr. Speaker, there was a spelling bee or a spelling competition between the schools in MICAL over the last two or three weeks and, Mr. Speaker, you know, the Mayaguana School has about, no more than 35 students over the grades 6-12. But you know, Mr. Speaker, I raised the question because it is not so important where you live or your background

you know. God can raised you up out of any circumstance and the smallest school in the constituency that is the Mayaguana School was, in fact, the champion in the debate. I said that because you know, Mr. Speaker, all of those islands are very important to me, but I want to give credit to all of the teachers in all of the schools for organising this competition: Acklins, Crooked Island, Mayaguana, Inagua and, in fact, Long Cay and the winners, Mr. Speaker, I want to congratulate.....because both winners came from Mayaguana High School is significant, but I know, next year, some will come from Acklins and then Crooked Island. But I say that to say, this is the newest high school in my constituency and they have done exceptionally well over the last year, such that they were able to get both first and second places in the competition, and I think we really need, Mr. Speaker, to congratulate Lacovia Bethel, who took first place, and Janice Charlton, who took second place in the competition. Both from the Abraham's Bay High School. The third place winner, I am advised, came out of Inagua. But you know, Mr. Speaker, we need to congratulate that third place winner. I don't have his/her name here on this release which they sent to me. But I'd like to congratulate all the participants because whether you win or whether you did not win, just participating is very important, and you are a winner for just participating because if you were not good, you would not even qualify to participate. And so I want to congratulate all the teachers and students of all the schools, in particular, those two students and I do wish them well. I am going to look, in the next few months, over the holiday, for a student in my constituency to whom I will be able to grant a partial scholarship, if they do well in their exams and to college. Hopefully, together with the teachers and faculty, we should be able to achieve that. And now, Mr. Speaker, the Bill before us today.

It's very important, Mr. Speaker, because this Bill seeks to emphasize and, indeed, regulate the relationship between consumers in our country and the business community. Now,

Mr. Speaker, it's important that I say one or two things about consumers as a definition and then businesses as a definition as well. Mr. Speaker, a consumer, for the public's consumption is anybody who buys a good or services from a provider, and that meaning somebody who sells that good or that service. Now, Mr. Speaker, there are presently rules and regulations governing relationships between buyers and sellers. We've been doing it for centuries. This Bill, however, Mr. Speaker, is by name called: A Bill for an act to make provision for the greater protection of consumer and to establish a consumer protection commission and for the function and powers of that commission to be established.

Mr. Speaker, the Bill before you was put together after consideration of the guidelines which were established by the United Nations for consumer protection in April of 1985, which guidelines were expanded in 1999, giving rise to Bills of this kind throughout the world, certainly, throughout the Caribbean. And our Bill is almost closely adapted to the Jamaican Bill, to the Barbados Bill and to the Belize and Guyana Bills. And so it's not a Bill that cannot be considered closely connected with the Caribbean's business consumer operations, and so I'm very proud of the contents of the Bill and I am at the offset, Mr. Speaker, going to go on record as saying all of the players, all of the stakeholders who were involved in the preparation of this Bill, ought to be congratulated for the time they took. Certainly, long hours were spent by the Ministry staff, the Attorney General's staff, the Chamber of Commerce personnel and other people who combined their resources to give rise to this Bill. And, Mr. Speaker, up to recently, I have had discussions with the Chamber of Commerce, who had some concerns about one or two things and, if I could expand that, I would say several things and we were able to water them down having discussed and find compromises, etc. to seven issues. When we met last, on Monday, there were seven issues which they felt needed to be revisited or looked at, and I'm

happy to say, Mr. Speaker, the Government of The Bahamas....eight, sorry eight....the Government of The Bahamas looked at them in our Cabinet meeting yesterday and it was generally agreed that...except for two of those issues, the Government thought the positions they advanced could be accepted for inclusion in this Bill. And, Mr. Speaker I said that only to say, whenever you are able to partnership on issues such as this Bill, which affects both consumer and business people, it is always good to dialogue because it is through dialogue that you reach consensus and sometimes, avoid complications and controversy. And I am very pleased that there will be no controversy in this presentation and even if people disagree, I can tell you, Mr. Speaker, the stakeholders with whom the Government collaborated, have reached a position where all sides could live with this Bill. And that is the only intention of the Government.... to insure that those who are affected by it had an opportunity to give their opinion and, wherever possible, you meet half-way and compromise and you go forward.

Now I know this will disappoint the side opposite because...

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

I am doing it now. I am saying this will disappoint the side opposite because they were in power for ten years and never sought to bring such a Bill before Parliament for...

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

Oh yeah they keep promising, we know about that but I am speaking to the fact that they were not either willing or able to bring the Bill and so I believe that it is going to be important to see and hear what they will have to say. Because they had a chance to do it. They did not do it. We're doing it and I trust that they will give us some credit for having the vision to

do what we believe we are doing. And so, Mr. Speaker, having spoken to the Chamber of Commerce and other stakeholders, we foreshadow that there might be about seven or eight amendments to the Bill, either before its passage or shortly thereafter. The Attorney General has been charged with the responsibility to look at those and to put them in amendment form for presentation. She'll speak to the amendment side.

Mr. Speaker, I am going to now invite you sir to indulge with us for a couple of minutes as we go through the Bill. Mr. Speaker, I might want to add, before I do though, that the Bill is not a perfect Bill. I don't know that any Bill is ever perfect. And so where there are circumstances where further amendments, other than those which are being foreshadowed, will be necessary, this Government is always willing to look at what is good for the Bahamian people and make the required adjustments.

Permit me, Mr. Speaker, to expand a little further on the guidelines of which I spoke, which were provided by the United Nations. Those guidelines, Mr. Speaker, were basically put in place to assist countries in achieving or maintaining protection for their population as consumers. Secondly, those guidelines were provided to facilitate production and distribution patterns responsive to the needs and desires of consumers. Thirdly, they were provided to encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers. Fourthly, they were provided to assist countries in curbing abusive business practices by all enterprises at the national levels, which adversely affect consumers. Fifthly, Mr. Speaker, they were provided to facilitate the development of independent consumer groups. Sixthly, Mr. Speaker, they were provided to further international cooperation in the field of consumer protection. Seventhly, they were provided to encourage the

development of market conditions which provide consumers with great choices at the lowest possible prices. And finally, they were provided to promote sustainable consumption practices.

In principle, Mr. Speaker, Governments are encouraged to develop and to maintain a strong consumer protection policy in conjunction with relevant international agreements, because, Mr. Speaker, no country, as the saying goes, is an island to itself. We live in a global village. And so international norms and practices are going to certainly become important as we go forward and The Bahamas is not willing to be left behind. And so we are, every day, willing to engage and promote international relations and those things which are good for the world. We certainly would want to look at them to see how best The Bahamas can benefit as part of that global village. And so, Mr. Speaker, therein lies the genesis of the Bill coming out of the list of suggestions for Governments all around the world by the United Nations. And, Mr. Speaker, I'd like to speak, for a moment, on the legitimate needs and assessment.

The needs and assessments of Consumers Bill internationally are for certain criteria to be met. Among them, Mr. Speaker, are for the protection of consumers from hazards to their health and safety, for the promotion and protection of the economic interest of consumers, to assess for consumers, adequate information, provisions and to give them the benefit of informed choices. Mr. Speaker, if I could stop there for a minute. Nobody is more able to shop well than an educated consumer. Because if a consumer does not know what he buys and how it affects him or her, he is not a wise shopper or a wise consumer. And so it is the Government's duty to educate consumers wherever possible so that they become educated consumers. This Bill, Mr. Speaker, will certainly give the consumer an opportunity to know what he is buying in circumstances where the finer prints are sometimes not readable by him or, even if he reads it, may in certain circumstances not able to understand what he reads. The burden now, Mr.

Speaker, shifts to the provider. The provider is now going to be expected to, verbally (meaning aurally) and in writing, give the consumer explanations as to the use and the other aspects of the product which will affect the buying public.

And so, Mr. Speaker, that is a step in the right direction because there were people who bought things, thought they understood, used it wrongly, hurt themselves and, of course in some cases, got killed as a result of not knowing how to use what they bought. Now, Mr. Speaker, the burden is on the provider to explain the use of it so that the consumer, whether he can read or cannot read, is benefitted by that explanation verbally and in writing.

Mr. Speaker, consumer education includes education in the environment, social education and, indeed, the economic impact of the choices the consumer makes. I believe, Mr. Speaker, when people are free to buy and free to sell, rules governing that relationship must be put in place by a caring Government. So that every person, be he buyer or be he a provider, will know what the rules are and if both sides stick with the rules, I suppose we will have a better country for it.

Mr. Speaker, the Consumer Protection Act, I believe, is very timely too because it not only speaks to the wellbeing and protection of the consumer, but it sets out guidelines as to what he could do and what the consumer, the provider, sorry, could do in the event they disagree on any issue regarding a purchase of goods or service. Mr. Speaker, under the Consumer Protection Bill, the Government has propose the establishment of a consumer protection commission whose primary function would be, among other things:

1. To advise the Minister generally in relation to consumer matters.
2. To formulate and implement standards in relation to consumer protection policy.

3. Thirdly, they are to carry out, at the request of a consumer who has been adversely affected, such investigations in relation to the sales of goods or services in order to make a determination as to whether or not the goods purchased or the services rendered were done in contravention of the Act or otherwise. And if they find that it was done in contravention of the law, to make reports to the Minister as it deems necessary and take appropriate action to bring the matter to a resolve.

Mr. Speaker, The Consumer Commission will also be charged with the responsibility of deducting, on its own initiative or after a complaint is made to it, the kind of information search which will provide it with whether the goods being sold are appropriate, whether the class of goods being sold ought to be allowed and things of that kind. Because, Mr. Speaker, everything that is sold or everything that one wishes to sell is not always good for those who will buy it. And so the Government has taken the step to provide within the ambit or the powers of this Commission the powers to look at items that are being offered and to determine whether such items being allowed to be sold would be in the best interest of The Bahamas and indeed the consumers.

Mr. Speaker, one of the powers of The Commission would be to promote the development of organizations to protect consumers. They will also be able to collect, compile and analyse information which they gather from their investigation and present such to the Minister for his consideration and further directions if necessary.

They would provide, Mr. Speaker, information to consumers as well on their rights as consumers; and, indeed, Mr. Speaker, to provide in document forms or by way of town meetings, opportunities for consumers to be educated as to their rights under this Bill.

And so, Mr. Speaker, their mandate will not be limited to sitting down in some office pushing papers. I think they are going to be certainly a group of people when selected who will be proactive and their mission would be to ensure that the rights of the consumer is always protected, and to ensure that the relationship which governs the rights of the consumer and the provider is such that the partnership is one that will inure to the benefit of both.

Mr. Speaker, in our Bahamas and indeed the world, disagreements always arise between parties either buyer or seller or just contractual agreements; people disagree on items. Well one of the missions of this Consumer Protection Commission would be to resolve disagreements rather than have these disagreements go to a court of law in the first instance.

And, Mr. Speaker, that bodes well, you know, because there are some disagreements that can be solved by simple discussions. But when you have two parties, both angry with each other, a mediator or a third party and, in this case, The Consumer Commission could bring resolves to matters rather than every disagreement ending up in a court of law, where if but for the intermediation between the two parties that's where it will end. And so...

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

The Commission will be an arm of the Government that will sit down with the parties to find resolve to their disagreements. Now, if you call that being a judge then you may not know what a judge is. I mean, a mediator is not a judge.

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

No well, well me and you are the same. You are a lawyer and so am I. So I don't want you to be so cynical. You know what a mediator is. Why you want to say he is the judge? Don't let the public hear you say that because they know you know better.

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

I didn't say that. Never suggested it. I said that the Consumer will act in certain cases as the mediator between two parties who have a disagreement; hopefully they resolve this before it goes to court. That's what I said.

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

That's the intention of the Act.

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

I am debating it today.

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

When you speak, you explain your side of the story. Mr. Speaker, I don't want to debate from a debate on the floor. Let me just continue.

Mr. Speaker, I believe too, that in the execution of the function of The Commission which is foreshadowed by this Bill, there will be times when there are persons who are unable to present their difficulty to a court of law. For example, a minor or somebody who is an inviolate or somebody who is just unable to speak for him or herself. This Commission, one of its duties would be to represent and present before a court in a litigation the case for someone who is unable to do it for him or herself. And I think, Mr. Speaker, that is the step in the right direction because everybody is not able to pay an attorney.

And while the Commission appointment is not to substitute for lawyers because it makes clearly definition and to who The Commission should be willing and able to speak for; and I made reference to minors, people or children whose parents have died, people who are inviolate or dumb or challenged in any way, this will give them some aid and comfort in knowing that an unscrupulous provider could not just walk away from his business transactions simply because he was dealing with somebody who might have been challenged or disadvantaged. Because we will have put in place somebody who will be able to take his or her place in case the matter ends up before the court of law.

Mr. Speaker, I now go to the object and reason of the various provisions in the Bill because I know that I am almost halfway in my presentation. And so, Mr. Speaker, I will give a couple of definitions which will be important.

One of the things that I want to state now is that a person in this Bill could mean a living person or a company. As you know, Mr. Speaker, in law a company is a person for the purposes of legal transactions; meaning the company can sue and be sued in its name. Just like John Brown could be a company, is a person in law for purposes of that kind. And so when we speak to a consumer that does not necessarily have to be a living person, it can be a company who buys a product and so a consumer there can mean that company as well.

And so, Mr. Speaker, we go onto speak to the facilities which I believe will be provided for The Commission would be such that there will be an office so that persons in need could go to The Commission's office to make their report either verbally or in writing. Once the report is made, the Commission would look into the matter, investigate it and report its findings.

Mr. Speaker, why am I saying that almost by way of repetition? This Bill provides that if you make a complaint and the Consumer Commission finds that, after looking into your

complaint it was frivolous, it was basically baseless, you had no merit in your complaint, this Bill provides that they should tell you that in writing and give reasons why they will no longer investigate the complaint.

Because you know, Mr. Speaker, there are people out there who will make complaints about everything and, of course, the Commission will be charged with the responsibility of looking into the complaint; but once they look into it and find that it is without merit they can discontinue their investigation and give you reasons why they think that that's not something they should pursue.

Now, one of the amendments foreshadowed is that in the present Bill it only provided that an explanation be given to the consumer who made the complaint; but after discussions with the Chamber of Commerce it was felt that parties or both parties, meaning the provider and the consumer, would be provided with the reasons for discontinuance of such an investigation rather than only the consumer being provided with the same.

Mr. Speaker, the Bill seeks therefore to provide for a framework where the business of our country can be carried on in such a way that everybody will feel that they have a right and that right is protected.

Mr. Speaker, there are some people in business who are businessmen extraordinaires. And this Bill will not affect them because every day they do business in a very upright manner. But this Bill is basically for crooks; people who try to hoodwink the unsuspecting public. And you know, Mr. Speaker, most Bills, most laws are made for crooks and this one is no exception. People who do things right need not worry about the law because you know once you do it right every time you have no fear; but those who will take advantage of the poor and the unsuspecting need to read this Bill so that they would know that this Bill will in fact put a handle on things and

they may no longer be able to take advantage of the poor, especially those who cannot do things for themselves.

And so, Mr. Speaker, the Commission is expected to be appointed if the Bill is passed, as I believe it will. It should consist of a Chairman, a Deputy Chairman and not less than five members. Mr. Speaker; it can go up to nine, but it is envisaged that there be no less than five members of the Commission and no more than nine. With a hope, Mr. Speaker, that these will be appointed by the Governor General acting on the advice of the Minister responsible for consumer matters.

For further transparency, Mr. Speaker, the persons referred to for such appointments will be qualified persons in the areas of law, industry, commerce, agriculture, banking, finance, transportation and, indeed, organized workers, meaning union or union members.

Thus, Mr. Speaker, when you consider the ambit of the qualifications to the Commission, it covers generally the entirety of the working people of our country. And I believe, Mr. Speaker, once appointed, it will be a Commission that would not only be educated in different fields, endeavours; but will be willing and able to enforce the rules and regulations under this Act such that it benefits the Bahamian people.

Mr. Speaker, the function of the Commission. I may have already said in passing what it would do, but let me formally say that it would be empowered to receive complaints from persons who have been adversely affected by goods obtained or services provided and in required situations, it will be able to represent persons in the event the matter goes to court.

But it goes further, Mr. Speaker, in the event that the complainant as I have said I maybe repeating myself but it's okay, But I want to be sure that every Bahamian understands it. In the event that the complainant is a minor meaning a child under the age of 18 and where his parents

or guardians may not be able to or may have died, the Commission could represent their interests in litigation before the court.

I also indicated that it would be able to represent infirmed people or people who are challenged. And I believe, Mr. Speaker, one of the greatest considerations of any caring Government is to always look out for the poor and those who are unable to look out for themselves. Because you know, Mr. Speaker, as long as I can do for myself I really don't need anybody. But if the time came when I am unable to do or look out for myself, it is good to know that I have a Government that looks out for me or people like me. And so this Bill certainly will bring some comfort to those amongst us who are challenged, knowing that even if their advantage is taken they are not being left to fight their situation alone.

Mr. Speaker, in order to avoid abuse of the system, the Bill envisages that the Commission would have certain discretions which it can exercise. And I have already given one example where you find that a compliant made to them is vexatious, meaning malicious or just intended to be for mischief, they will not carry out such investigations. And if they are of that view they will provide in writing their reasons to the complainant so that no complainant feels that he has not been heard.

Mr. Speaker, I believe that everyone in our country has been touched with buying furnishings and cars and other things we call Chattel. Mr. Speaker, you know hitherto, before this Bill would've become law, a bank or a furniture company or the like could send one of their managers when you are not home, when you, where ever you park your car and pull your car if you have not paid your bill. Well this Bill envisions that you can do that but you could only do that by using a police officer or a bailiff of the court.

Mr. Speaker, that is important for a couple of reasons. There are some Bahamian consumers who like to get things but don't like to pay and we know that is true. New furniture for Christmas sounds real good, brand new Lexus sound real good, but some of us do not like to pay our bills. And so while protecting the consumer, this law also protects the provider, because we know if they could not repossess their goods they may never get paid. People move furnishings from house to house, they move cars from island to island and the poor bank, the poor furniture company looking for you at the last known address, you done move with that furniture to another address. So the right of repossession is very important. But you know the abuse, Mr. Speaker, use to be that people who are not law enforcers were used to go collect the car and fights break out, because you know if you meet somebody trying to take your car off the lot you don't know who he is....

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

You better hush.

AN HON. MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

And, Mr. Speaker, I was saying its important because we want to be sure that things are done decently and in order.

And so, Mr. Speaker, the thinking that a consumer and a provider or the representative of the provider because they are not a law officer, will fight over whatever it is in the parking lot or the door of the house; we are trying to make that a thing of the past so that the provider follows a procedure in repossessing his or her goods, so that it minimizes confrontation. Because I believe if a policeman shows up most people would respect the police and perhaps question why he is

here. If he says I have come with the bank to collect these furnishings they might be willing to let it go more quickly than if John Doe shows up and say I came from bank... no they've got to prove too many things and so, this assist in the process.

And so. I want to go on record, Mr. Speaker, asking consumers to abide by the law and with the practice. If you credit people things and you agree to pay \$100 a month, pay your \$100 a month. And if, in the event you are unable to pay, the proper thing to do, Mr. Speaker, is to go in to your provider and say sir/ma'am, I am unable to make my payment this month and they will certainly, in most cases, give you a grace period. But it looks like some people when they owe people, they duck them. And ducking is not the way to go because somewhere this Bill will catch up with you. And so, I am encouraging my Bahamian people to be honourable in their business transactions because while the law protects you it also expects you to honour your commitments. Because nobody could be more embarrassed, Mr. Speaker, than a man and his wife sitting for dinner and the bank shows up for the table. Could you imagine that? What I am saying, it could happen. And I am saying in order to avoid such happenings...

AN HONOURABLE MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

Not off hand

AN HONOURABLE MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

But, Mr. Speaker, I want to really be serious about asking all of us who do business with people because you know business people have to make a living too. And it is not good enough to speak to the protection of consumers but we don't also say they should do what they need to do in order to honour their commitments and agreements, so that their rights, once protected, is

protected because the advantage is being taken and not because they have broken a legal agreement and want to get away with it or from it. That would not be permitted under this Bill either. And so I only encourage all of the persons who would be affected by this Bill to do what they need to do in order to abide by the law.

Mr. Speaker, there is another provision in the Bill which I believe would need to be highlighted and that is the Commission does not substitute itself or the Bill does not substitute the courts for the Commission which is intended to be appointed. A person aggrieved can still go to court, you don't have to go to the Commission. The court is always there for every Bahamian consumer or provider. And if the provider feels that disadvantage has been taken or is being taken by the Commission, he has a right to go to court to seek the courts intervention to ensure that his right as a provider is not being violated by the Commission. And the same is true, a consumer has a right to go to court rather than complain directly to the Commission.

See the Commission is really being set up to assist those who would rather resolve problems amicably or by discussing it. Because you know court ought to, in most cases, be the last resort, people should not want to go to court for every little thing where somebody talking about it between the parties can resolve it.

And so while the Commission would certainly be as a middle person or middle man, so to speak, there's always the court that any of the parties could turn to in case they feel that it's advantage is being in anyways taken by the other party.

AN HONOURABLE MEMBER'S REMARK IS INAUDIBLE

MEMBER FOR MICAL

Oh yes. As you know under the inherent jurisdiction of the court, the court is at liberty to hear all matters in one jurisdiction or the other. And so the court is always there as the last resort.

Now, Mr. Speaker, when The Consumer Commission is appointed, it is important that I mention here that those who are requested to provide information to it or documents for its inspection in the process of its investigation must do so. Because if they do not provide the required information to assist the Commission to reach whatever conclusion it might, that becomes an offence.

And, Mr. Speaker, it is similar to a witness being summoned to come to the court to give evidence in a case and if that witness, for whatever reason, fails to show and he doesn't have a good reason, maybe sick or death or otherwise, the court could, and I am using my own words here, could fine them, cite them for contempt and indeed they are punishable.

So, if the Commission requires the presence of somebody or something which they have which will provide the Commission with the ammunition it needs to do proper investigations. This law provides that if you do not assist the Commission, knowing that you have the information, it becomes an offence and fines up to \$2,000 could be levied against such a person or company which fails to cooperate in that way.

And you see because, Mr. Speaker, the only intent of this is to get to the bottom of the issue or the complaint. And if you have the information which I would need in order to properly investigate it defeats the purpose if you could be allowed to say, "I am not giving it to you" and walk away. And so, there is a penalty for seeking to ignore the request, lawful request of the Commission.

Mr. Speaker, I am able to also say that under this Bill, there are certain goods which the Minister would be empowered to prevent coming into the country and he can do that by order, if he finds that such an order is in the interest of The Bahamas. Now I don't believe that that exercise of the Minister's discretion would be willy-nilly but the law does give him a judgement

call in matters which he feels would be in the interest of The Bahamas to make such an order for the prevention of certain imports, if he or she feels that it ought to be that way.

Mr. Speaker, I believe that, in the next three minutes, I will only be able to tell you, Mr. Speaker, that the Bill contains features where if you buy a certain product, let's say a car, for example, Mr. Speaker, and I'm using examples more than trying to read this Bill because it makes a little more sense to me. If you buy a car and two days after you bought the car, the car breaks down on Carmichael Road. Well, the consumer spent \$25,000 for that car. Some dealers may take the view that once you drive out of my yard or out of the gate, it's your responsibility. And, you know, Mr. Speaker, I can tell you of examples where people had used the car for a very short time, axle broke, chassis bent and they go back for their monies or a new car and they got to end up in court because some provider feels that that's not their responsibility. And then to make matters worse, they tell you that we bought this car in Japan. We got to wait until we hear from Japan before we could provide you with another car.

This is not going to happen under this Bill because you either give him another car or give him his money back or repair it, if it can be repaired. That's the third alternative but there is no more, you know, of this vacillating and making people stress over things for which you are responsible. And this is, Mr. Speaker, perhaps a very familiar problem and I believe many consumers could attest to the fact that they have bought things (Microwaves, refrigerators) any consumer item and they go back to the store keepers or dealers and they want, you got to come back in three weeks' time. We got to hear from New York and we got to hear from London. Man before you get paid or refunded, the thing cost three times as much. So this is going to prevent that. It gives you 10 days, yes, it gives you 10 days to refund, to replace or repair and if you do

not do it, you will pay 10 percent after 14 days on the man's money that you didn't refund him and you are liable to give him a car of equal value to the car that he bought.

For some people, you got a Lexus and they give you a Volkswagen and say "That's all I got. Go with that. When I get your car back, I will call you." No. this says if I bought a Lexus, you got to give me something good to ride. It doesn't have to be a Lexus but you have to give me something equivalent or equal to or comfortable because, you know, people will use whatever they could to get out of their obligation. So don't give me no Volkswagen for my Lexus. Give me something that I can be comfortable in as I would've been if I had been driving my Lexus.

And so, Mr. Speaker, I commend the Bill to all in sundry, colleagues on both sides, with the hope that we will pass this Bill in the interest of the Bahamian people. Thank you very much, Mr. Speaker.