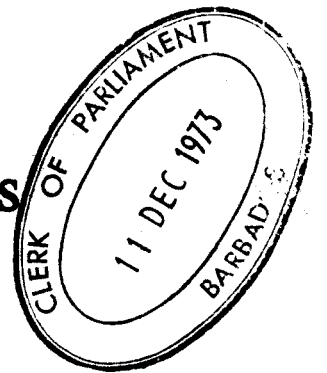


THE

House of Assembly Debates

(OFFICIAL REPORT)



FIRST SESSION OF 1971 - 76

HOUSE OF ASSEMBLY

Tuesday, 12th December, 1972.

Pursuant to the adjournment, the House of Assembly met at 2.30 p.m. o'clock.

PRESENT

His Honour N. G. A. MAXWELL, LL B., (Speaker); Hon. C. E. TALMA, C.B.E., (Deputy Prime Minister and Leader of the House); Mr. R. St. C. WEEKES, J.P.; Mr. W. R. LOWE, J.P., (Chairman of Committees); His Honour C. A. E. HOPPIN, (Deputy Speaker); Mrs. G. L. EASTMOND; Dr. the Hon. R. B. CADDLE, (Minister of Health and Welfare); Hon. A. MORRISON, (Temporary Minister of Agriculture, Science and Technology); Hon. L. E. SANDIFORD, B.A., M.A., Econ., (Minister of Education, Youth Affairs, Community Development and Sport).

Prayers were read.

Hon. P. G. MORGAN, Messrs. C. L. BOLDEN and E. D. MOTTLEY entered the Chamber and took their seats.

MINUTES

Mr. SPEAKER: The Minutes of this Honourable Chamber, for the 21st and 28th November, 1972, are before you for confirmation, and unless there is any objection, these Minutes will be confirmed.

There being no objection, these Minutes are duly confirmed.

GOVERNMENT NOTICES

Hon. C. E. TALMA: Mr. Speaker, on behalf of the Minister of Finance, I beg to give notice of the following Resolution:-

A Resolution to grant the sum of \$142,772 out of the Consolidated Fund and to place it at the disposal of Government to supplement the Estimates, 1972-73 Part I - Current, as shown in the Supplementary Estimates, 1972-73, No. 23, which form the Schedule to the Resolution.

Hon. L. E. SANDIFORD: Mr. Speaker, I beg to give notice of the following Resolution:-

A Resolution to grant, out of the Public Treasury, the sum of \$30,000 and to place it at the disposal of the Government for the purpose of making a loan to the Barbados Cricket Association (Incorporated).

Hon. A. MORRISON: Mr. Speaker, I beg to give notice of the following Resolution:-

A Resolution to amend the note to Item 109 of Head 30 - Ministry of Agriculture, Science and Technology, in Part I - Current of the Approved Estimates, 1972-73.

SELECT COMMITTEE REPORT

Hon. C. E. TALMA: Mr. Speaker, I am pleased to report to this Honourable Chamber that the Report of the Standing Orders Committee is ready to be laid.

Under Section 50(1) of the Constitution of Barbados, it is provided that

"Subject to the provisions of this Constitution, each House may regulate its own procedure and for this purpose may make Standing Orders".

At its third meeting of the First Session of 1971-76, the House appointed a Committee to revise and report on the Standing Orders of the House of Assembly.

I think hon. members are aware of the names of the members of the Committee. There were ten meetings held and the attendances are set out; so I do not think I will worry the House with who attended and who did not. Anyhow, there has been general accord, there were one or two minor differences, but generally speaking, members had an opportunity to study and peruse the work which has been done by the Standing Orders Committee in that copies of the amended Standing Orders were circulated at a certain stage in our deliberations in order to keep them *au fait* with what we were doing and to receive their suggestions and comments and we are very grateful to them generally for the comments and suggestions made.

I must at this stage say that the Leader of the Opposition has been of great help in that he did a lot of research and we appreciate his services considerably. The same thing may be said *a fortiori* for the Deputy Clerk, Mr. George Brancker, who made a very valuable contribution.

The Committee considered the draft revised Standing Orders which were the work of the Committee appointed by the House during the Parliament of 1966-71 to consider and revise the Standing Orders of the House. This Committee is indebted to its predecessor for the very valuable draft which was the result of its deliberations.
2.40 p.m.

The Committee adapted the rules, practices and Standing Orders of the Parliaments of other countries and had incorporated in the revised Standing Orders such provisions as are appropriate to the needs and requirements of our House. A draft of the Standing Orders was circulated on the instructions of the Committee to all Members of the House of Assembly and members made suggestions and comments which have been incorporated in the final draft of the Standing Orders.

The Committee have the honour to commend that the revised Standing Orders submitted herewith to the House as part of this report be adopted as the Standing Orders of the Honourable House of Assembly.

Mr. MOTTLEY: On a point of order, I would have thought that the report or the final draft would have to be circulated to members before it could be presented so that members could have an opportunity to discuss it.

Hon. C. E. TALMA: On a point of order, this is a Committee of the House which is reporting back to the House.

Mr. MOTTLEY: We have not actually seen the final report. (Hon. C. E. TALMA: What can we do about that?) The attitude is not what we can do about it, members on this side of the House have not seen the report so you cannot present a report which we have not seen.

Mr. SPEAKER: I understood the Hon. Leader of the House to say that he was presenting the report to be circulated.

Mr. BOLDEN: Mr. Speaker, I would have thought that if it were a Select Committee of this House to draft new Standing Orders, that when those Orders had been drafted they would have been circulated as a document of the House and then a motion moved that they be adopted, but I do not see how the Leader of the House can read the report and then present it. This has been the attitude of the Leader for some time, and we have had this same discussion in here over the Foreign Office Rules and Regulations which we were asked to adopt without seeing, and I do not see how something can be presented for adoption that we have never seen.

Hon. C. E. TALMA: Mr. Speaker, all I am trying to point out to hon. members is that they have all been consulted from time to time.

Mr. BOLDEN: On a point of order, Mr. Speaker, with all due respect to the Leader of the House, I do not know what he means by consultation. My interpretation of the English Language is that when someone discusses something with you, that is consultation, but if a document is sent to you to show the stage of proceedings, then my knowledge of the English Language certainly has deteriorated, if that means consultation.

Hon. C. E. TALMA: Consultation simply means that you have an opportunity to make comments and suggestions, and this was done.

Mr. SPEAKER: Standing Order 58(4) says: "A Bill reported from a Select Committee, together with a report on the Bill, shall be ordered to lie upon the Table without question put, and the report shall be ordered to be taken into consideration upon such day as the Member in charge of the Bill shall appoint. On the order for consideration of the report being read, any Member may move that the report be adopted and, if that motion is agreed to, the Bill shall thereupon be ordered to be read a third time, either forthwith or upon such future day as the Member in charge may appoint."

Mr. BOLDEN: Based on that, Mr. Speaker, I would be glad if the Hon. Leader of the House would now say to the House who is being funny.

Mr. SPEAKER: We are not being facetious about this.

Hon. C. E. TALMA: This refers to a Bill, and we are not dealing with a Bill.

Mr. SPEAKER: I am trying to be helpful by analogy.

Mr. MOTTLEY: Mr. Speaker, perhaps the first two rules of this same Standing Order would cover that, inasmuch as it refers to Select Committees generally rather than the question of Bills. "A Select Committee shall have leave to make a special report relating to the powers, functions and proceedings of the Committee on any matters which it may think fit to bring to the notice of the House. A report or special report together with the Minutes of Proceedings of a Select Committee shall be presented to the House by the Chairman or other Member deputed by the Committee, and shall be ordered to lie upon the Table and be printed without question put." I do not think there is any difficulty there, Mr. Speaker.

Mr. SPEAKER: All things considered, my ruling is that the report of the Select Committee which has just been laid shall be printed and circulated and then in the normal course of things a motion by the Leader of the House can be entertained that the Report be adopted.

Hon. C. E. TALMA: Mr. Speaker, I accept your ruling. It is just that this is not on all fours with what we are dealing with. I just want to point out that our case is a peculiar case in that it does not conform with what we have here.

Mr. SPEAKER: I have ruled.

FURTHER GOVERNMENT NOTICES

Dr. the Hon. R. B. CADDLE: Mr. Speaker, I beg to give notice of a Bill to amend the Druggists Act, 1894 and to seek permission of the House to deal with it in all its stages today. I would also like to give notice of a Bill to repeal the Dental Registration Act, 1923 and make new provision for the registration in Barbados of dental practitioners, dental auxiliaries, dental hygienists and of persons licensed to perform specified dental services and for related purposes, and I would also like permission of the House to deal with this Bill in all its stages today.
2.50 p.m.

Mr. SPEAKER: If there are no objections to the hon. member's request to deal with the Bill to amend the Druggists Act, 1894, and the Bill to amend the Dental Registration Act, 1923,.....

Mr. MOTTLEY: Mr. Speaker, the Bill to amend the Dental Registration Act makes new provisions relating to Dentists all over Barbados; it is a long Bill, and it requires very careful study. Perhaps the Minister will state if there are any pressing reasons why he wants to have this Bill dealt with today. Some hon. members on this side only received this Bill late yesterday. I received my copy of the Bill much earlier. There will be no objection to dealing with the Bill to amend the Druggists Act, but we would ask that the Bill to amend the Dental Registration Act, be postponed.

Dr. the Hon. R. B. CADDLE: Mr. Speaker, I should like to point out that the Registration of Dentists, Medical Practitioners and other people becomes due at the end of January next year, and we would like to have this Bill dealt with so that it would become operative from January next, otherwise we would have to introduce another amending Bill which would take more time. We would like the co-operation of hon. members on the other side.

Mr. FORDE: Mr. Speaker, this is completely comprehensive legislation but, in fairness to all members of this House, one should be given an opportunity to look at the Bill properly. I received my copy of the Bill early yesterday. I had an opportunity to look at the other Bills, but I did not study this particular Act. I would expect that all hon. members would be asked to make a contribution to the Bill. Surely the Ministry and the Cabinet would have had this Bill for some time, and the Ministers would have been able to study it. We should not be called upon to deal with a Bill of this nature at such a short notice in order to discuss it sensibly, and I would have thought that we would have been given an adequate opportunity to study it. The other two Bills can be dealt with, because it is much more comprehensive legislation. If a contribution from this side is desired, I would ask that the matter be deferred.

Dr. the Hon. R. B. CADDLE: Mr. Speaker, I am rather surprised to learn that the hon. member did not receive his copy of the Bill before yesterday. I should like to state that permission was sought and given to introduce this Bill on the 8th December, and I believe that the Bill was circulated on that date. I received my copy at home. I am quite prepared to co-operate, if they feel that it is necessary, at this stage, to postpone the Bill, I will be prepared to deal with it next Tuesday in all its stages.

Mr. ADAMS: Mr. Speaker, I received my copy of this Bill yesterday along with a letter from the Leader of the House. Although I must confess that the envelope is marked 8th December I was sick at home and the envelope was sent by messenger to me yesterday. I have spoken to the Leader of the House on this matter, and there should be no surprise that we are opposing the passing of this Bill through all of its stages today. Even next Tuesday, I should not like the Minister of Health to think that it will necessarily get a quick and easy passage. I am not saying that it will not be passed.

I think it is customary, when dealing with these professional matters, to consult the respective Associations, and I also think it would be fair to inform the House that certain representatives of the Professional Association have been making representations to me about certain matters with which I do not necessarily agree. The principal point of their representations was that they have not seen the Bill in its final form. I should hope that the Minister would continue to follow the customary process of consultation with the Professional Association on this occasion, and see that the Association receives a copy of the Bill before it is debated in the House of Assembly.

Mr. Speaker, it came as a matter of surprise; I could not understand the reason for their telephoning me. They said that it came as a surprise to them to find that we were likely to debate this Bill within an hour in the House of Assembly. I received that message at one o'clock today. Let them have a copy of the Bill. In fairness to the people principally concerned, I would suggest to the Minister that he sends a copy of the Bill to the Association. A number of statements were made to me which, of course, I have no way of verifying, but they refer to certain assurances said to have been given by a previous Minister of Health and so on. All of these things, if canvassed by anyone either on this side or on that side of the House, I am sure the Minister would like to have thrashed out outside of Parliament before the Bill is debated next Tuesday. All of those people interested in the Bill should be given an opportunity to see it.

Mr. BOLDEN: Mr. Speaker, some time ago we had a debate in this House on the Post Office, and I remarked that people were complaining of receiving mail, outside the normal time etc., with a date stamp which signified that they were posted in sufficient time to be received by the recipients. This is a typical example of what members on this side are faced with, too. Now, the envelope sent to me

was date-stamped 4.30 p.m. on 8th December, 1972. I presume this is the Bridgetown post mark, and it was delivered at my Chambers in Pinfold Street at three o'clock yesterday afternoon. At that time it would be impossible for anybody to look at a Bill and come here today to deal with it in all of its stages. The Minister said that permission was sought to deal with this Bill some time ago.

Mr. Speaker, you know that when Bills are introduced in this House the members of the Opposition do not know about the contents of the Bills, and they receive them with the bundle of papers probably two or three days before we are required to come here to debate them. I think this is the right occasion for us to create some sort of principle that when Bills are laid on the Table they should be circulated to all hon. members of the House so that everybody would be prepared for the debate whenever it is to be had. I hope that the Minister would give consideration to the question of circulating documents to members of the House at a proper time. We should be given a copy of the Bills at the same time when they are being introduced for first reading.

3. p.m.

To receive them one afternoon at 2 o'clock to be debated at 2 o'clock the next day certainly is not in keeping with good parliamentary democracy.

Mr. SPEAKER: Permission is therefore granted to discuss the Bill to repeal the Dental Registration Act, 1923, in all its stages today.

Hon. C. E. TALMA: Mr. Speaker, on behalf of the Minister of Housing, Lands, Labour and National Insurance, I beg to give notice of a Bill to amend the Sugar Factory Workers' Severance Payments Act, 1965.

Permission has been granted to deal with this in all its stages, and it was duly circulated at the given time when the request was made.

On behalf of the Minister of Finance, I beg to give notice of a Bill to authorise the Government to borrow from the Government of Canada for the purposes set out hereunder a sum of money not exceeding the amount set out and for matters incidental thereto and connected herewith.

BILLS READ A FIRST TIME

On the motion of Dr. the Hon. R. B. CADDLE, seconded by Hon. C. E. TALMA, a Bill to amend the Druggists Act, 1894, was read a first time.

On the motion of Dr. the Hon. R. B. CADDLE seconded by Hon. C. E. TALMA, a Bill to repeal the Dental Registration Act, 1923, and make new provision for the registration in Barbados of dental practitioners, dental auxiliaries, dental hygienists and of persons licensed to perform specified dental services, and for related purposes, was read a first time.

On the motion of Hon. C. E. TALMA, seconded by Dr. the Hon. R. B. CADDLE, a Bill to amend the Sugar Factory Workers Severance Payments Act, 1965, was read a first time.

On the motion of Hon. C. E. TALMA, seconded by Mrs. G. L. EASTMOND, a Bill to authorise the Government to borrow from the Government of Canada for the purposes set out hereunder a sum of money not exceeding the amount set out and for matters incidental thereto and connected herewith, was read a first time.

SUSPENSION OF STANDING ORDERS

Hon. C. E. TALMA: Mr. Speaker, I beg to move that Standing Orders Nos. 5, 14, 16, 18, 19, 40, and 45 be suspended for the remainder of today's sitting subject to the usual proviso that the rights of the Opposition are not affected, and that if they care to deal with any matter they will be granted the opportunity to do so.

Mrs. G. L. EASTMOND: I beg to second that.

The question was put and resolved in the affirmative without division.

GOVERNMENT BUSINESS

Hon. C. E. TALMA: Mr. Speaker, I beg to move that Government Business be now taken.

Mrs. G. L. EASTMOND: I beg to second that.

The question was put and resolved in the affirmative without division.

THE LEGAL PROFESSION BILL, 1972

Hon. C. E. TALMA: Mr. Speaker, the first Item under Government Business stands in the name of the Hon. Prime Minister, to move the second reading of a Bill entitled an Act to provide for the fusion of the Legal Profession, and for legal education and discipline of attorneys-at-law and for connected purposes.

I beg to move that this be the first Order of the Day.

Mrs. G. L. EASTMOND: I beg to second that.

The question was put and resolved in the affirmative without division.

Rt. Hon. E. W. BARROW: Mr. Speaker, this Bill, not being a Bill for the voting of supplies for the Government of this country, has had an unusual history in that it first saw the legislative light in the Other Place and has been passed by the Other Place with a great deal of debate which has taken place over there, and it has now come to the House for debate.

Now this is a very simple Bill and all that I have to say can be said in about two or three minutes. It is a Bill simply to provide for something which should have taken place over 30 or 40 years ago, the fusion of the two branches of the Legal Profession in Barbados. That is all the Bill is concerned with. This Bill has been sent to the Barbados Bar Association and then to the Barbados Law Society, one of course having the connotation of imbibing of alcohol and other strong liquor and the other one having a connotation of being the only people to know anything about the law, whereas the reverse may be true, and it has been debated by those worthy gentlemen of the same profession to which I have the misfortune to belong. It is not the most worthy profession in the Island, it is not the most worthy profession in the world, and I myself being a member of the legal profession look forward like Cicero, I think it was, to the day when we will be crowned with laurels and ushered out of the State.

I am not here to deliver a general indictment on the legal profession, but I am not very proud of being a member of the legal profession. They tend to pontificate on matters with which they are not acquainted, and they also tend to arrogate to themselves the right to dispose of the destinies of mankind as if being a lawyer, they have some proclivity and exclusive claim to legislative honours. Fortunately that superstition is dying away in Barbados, that legal minds have some special contribution to make to the legislative life of this country, because it has been my experience that this country or the West Indies would have been a lot further along the road, if we were not plagued by the practices of the people who have joined a profession which should be honourable, but is frequently dishonourable. I speak with a measure of impunity because I have been exposed to the rigours of practice in that profession not only in Barbados but elsewhere. I do not have to present a list of the countries in which I appeared before one court or another because I am not advertising like some of the members of the legal profession do in Barbados. I am not entitled to practise

neither, contrary to superstition and belief and statements on public platforms, have I drawn a single penny from the 7th day of November, 1961, for giving anyone advice, appearing for or in any way professing to practise law. My income has been severely restricted to such emoluments as the House has voted from time to time.

If I have entered into this undertaking, I have entered it voluntarily and I have left the legal profession to snarl and bite at each other with a great sense of relief, and if I had thought when I decided or my grandmother decided she would leave money for me to read law, if I had known at that stage the kind of degradation of the human spirit which is perpetuated by keeping people standing outside in the hot sun for weeks and months at a time, waiting for cases to be called, the exploitation of the poor people in Barbados because the rich do not go to court, — no merchant in Barbados during my time ever took another merchant to court, and it is always the poor people living in the chattel houses that find themselves spending 50 per cent of their earnings on retaining the services of lawyers — I would not have studied that profession.

3.10 p.m.

I am not here to whitewash the legal profession. Apart from political considerations, half of the legal profession in Barbados does not speak to the other half, and some of them claim that they speak only to God. I personally have always had an open door in my house for anyone who was of good reputation and not dishonest. There are members of the legal profession, a former member of the Caribbean Bar Association, a representative of this Government, and one or two representatives of this branch of the Caribbean Bar Association who have always been welcomed at my doors, as well as members from both sides of the legal profession, and I do not think there is any one of them who would say that for political reasons I was not prepared to have meetings with them either at my office or at my house, or invite them to any function at the place where I reside, even before I happened to have an official position in Government, but the profession which has been unanimous on the fusion of the two branches, will never be fused.

I want to make this clear. We are presenting a Bill here today for the fusion in law of the two branches of the profession, but you will have barristers appearing in court with a common interest against the litigants on the other side and conferring at great length in chambers together, but who had never had the decency to invite their colleagues to share the festive board with them, and who will not allow their colleagues to darken their own houses.

I daresay that I will be attacked, but we have a situation right here on the opposite side of the House where some of the people cannot enter the doors of the dwellings of some of the other people. There are four barristers out of six members on that side of the House, and not all four of them can get up and say that they have had mutual visitations even since they have been political affiliates. Not all four of them, and as to the members who are not members of the legal profession, they are beyond the veil altogether, they are not invited anywhere. You may find three barristers who for political reasons may find themselves having a meeting at the other barrister's house, but if you go through the profession you find that it is divided. It is one of the last bastions of racial prejudice in Barbados. I am speaking as a member of the profession. The only person who can claim the dispensation in that respect is the member for Christ Church West, because he is managed by a firm of solicitors who do not claim the same racial affinity as he does.

Mr. FORDE: Mr. Speaker, I think the Prime Minister believes that he has a genius for baiting me, and he cannot introduce a debate unless he mentions me. I am neither managed by a firm of solicitors, because it would be contrary to the profession, nor will the Prime Minister ever be able to manage me. As you well know, it is contrary to the profession for any barrister to be managed in his profession by a firm of solicitors, and I am asking that those remarks be withdrawn.

Rt. Hon. E. W. BARROW: I did not say that the hon. member was managed in his profession, we all know we mean managed politically. The hon. member will only be managed in the sense that he is favoured by people who do not belong to the same ethnic origins as himself over and above all other barristers because of his political compliance.

Mr. FORDE: On a point of order, do I understand that the member has said I am not managed in my profession?

Rt. Hon. E. W. BARROW: I am stating facts. I am presenting a Bill for the fusion of the profession. We are not going to fuse the members of the profession, we are not going to bring them to any sense of christian feelings about themselves or the rest of mankind, so do not allow ourselves to be deluded by the presentation of this Bill and its successful passage through the House that we are in here attempting to do what God the Almighty has not succeeded in doing with the other members of the profession in bringing them to any sense of christian feeling about one another. That is all I want to say, there is nothing offensive about

that, it is a statement of fact. You get the situation even on the Bench where that kind of dichotomy may be possibly extended. If the members of the Bench go to one another's houses, there will probably be a great feeling of uneasiness because of the division of the profession in Barbados. It is not only divided politically, it is divided racially, it is divided finally between this archaic system of a distinction between the people who are trained as solicitors and those who are trained as barristers. I could not as a member of the legal profession of now 23 years standing get up here and introduce a Bill which would give the general public the impression that we have solved the problems of the legal profession in Barbados. The legal profession in Barbados will have to do like the physician and cure itself. We are merely making provision in this Bill for the abolition of the distinction so that like the medical profession, the legal profession would be regarded for the purposes of the law, and for the purposes of the law only, as one single undivided profession. It is not for me to go into the legal history of this division, which has existed since the early 15th century. Barristers and solicitors have been trained differently but frequently they have to work together, particularly in litigious matters and in appearing before the courts of the island, because in civil suits a barrister is not allowed to appear unless he is instructed by a solicitor.

One of the purposes of this division was that the solicitor should do all the contaminating contacts with the members of the general public and pass only carefully documented briefs to the advocates who were expected to present the cases of the litigants in the courts of law, and in so far as litigation was not involved, the solicitors did not deem it necessary to seek the consultation of or any advice from any member of the legal profession except in extremely difficult cases where they did not run the risk of being sued for giving bad advice or for negligence, and so they protected themselves and may still protect themselves from time to time by inveigling a counsel to affix his signature to a document so that the negligence would not be the negligence of the solicitor but the negligence of someone who is protected by law, theoretically anyhow, from being sued since he was not supposed to collect any fee. The legal profession has been circumscribed by all these myths, a whole elaborate system of mythology has been built up about the legal profession. There was a time in Barbados when any schoolmaster's son, because you, like me being a schoolmaster's son, would know that only schoolmasters' sons got enough chastisement to induce them to try to get into a university, and if you look at the long list of scholars, including yourself and excluding me, who have succeeded in enter-

ing a university, you will find that nearly all of them are schoolmasters' sons.

3.20 p.m.

You do not find any plantation manager's sons, with the exception of Mr. Payne; you do not find any dentists' sons; you find a long list of schoolmasters' sons. The superstition is that after you have achieved some kind of distinction by gaining entrance to a University that there are only two professions you could pursue: one was law, and the other was medicine. In Barbados people did not become members of the legal profession because they have any dedication for serving their fellow human beings, and doctors for the same reason. They became members of the legal and medical professions because their fathers or their mothers told them that was what they had to do, and the lower down the social scale that these people came from, the more the impetus that would be given to get some kind of respectability by becoming a lawyer or a doctor.

As far as I am concerned, seeing the way how law is practised in Barbados — I do not want to use any superlative in this matter to describe the abject kind of dedication which they have for climbing the social ladder — I am beginning to wonder whether we should not have some kind of objective tests to decide whether people should be allowed to enter the medical profession or the legal profession. A person who is a complete human being does not have to get status by going into a profession; therefore, a person who is a person in his own right should look at the requirements of the society and try to do agriculture, engineering, motor mechanics and matters of that kind. You will find scholar after scholar, paid for by the Government of Barbados, including your unfortunate self, Sir, being impelled in the direction of law. As far as I am concerned, that is a completely unproductive activity in a country which is trying to develop.

Now, I have probably burnt my bridges behind me. I might be like Julius Caesar in this great dawn in the fusion of the two branches of the profession. I have stated my case against a return to the sacrosanct position of the legal profession, because I am completely disgusted with the way in which the law has been practised in Barbados. I hope that the society develops a sense of value and will pay as much respect to a worker on the waterfront — in fact pay more respect to a man who is a worker on the waterfront — than a person who wears a long robe, a horse-hair wig and so on and calls himself a lawyer. Some of them do not like to take off the long band when they leave work and attend a social

function. As a matter of fact, I think it was the hon. member for St. Michael West who said one day that he believed some of the lawyers slept in their bands and wigs, because they are afraid to lose their status if they divested themselves of the imperialistic trappings which we are still holding on to, in the benighted areas which were formerly colonies.

Sir, it is a fine effort to start a Bill on fusion, but I am being philosophical about it. We are fusing the practice of two branches of the profession and bringing them under a common body of rules, but we will not, in this century, even fuse the members of the legal profession into one body to serve the community in which they live. The very atmosphere of the Court is contentious, and the contentiousness rubs off on the people who have to practise in the law courts so that they are always beligerent, hostile and sensitive.

Having started on a kind of philosophical note in dealing with things relating to my profession — sentiments which you, Sir, may not necessarily agree with, but these are my sentiments. In all of that, I am merely trying to say that we should not delude ourselves by thinking that we are reconciling the irreconcilable. By the irreconcilable, I do not mean the Barristers and Solicitors, but I mean the Barristers and Barristers. You will never get a dedicated, united body willing to serve this community in Barbados. Far from serving the community, the community has been ill-served because there have been all kinds of malpractices and defalcations by members of the legal profession — not by anybody here present that I know about; I am not malicious enough to make wild statements like that; I have no reason to believe that anybody now present has been guilty of any kind of malpractice.

The Attorney-General and I get letters from members of the general public complaining about malpractices every day; we forward them to the Registrar and hear nothing more about them. The people who make the complaints do not hear anything more about them, and this is bound to bring the legal profession into a state of disrepute. I am very glad that provision is being made in this Bill for a Disciplinary Committee, but at the same time I am also very pleased that the common-law powers of the Attorney-General to initiate proceedings against a member of the legal profession who is in default is being specifically retained by the terms of the Bill itself.

As I have said, from the debates which I have read from the Other Place, the general public has no confidence that even the Disciplinary Committee, either constituted as it is, or in the way in which I will seek to amend the Clause dealing with the composition of the membership of the Dis-

ciplinary Committee, will ever take action where, let us say, some firms of Solicitors are involved. I have had unfortunate cases into which I do not want to go now. I have been myself the victim of malpractices by members of the legal profession, but if I took them to the proper authorities it would be said that I am the worst man in the world, because I am trying to bring down the members of my race and that in all of these years no Barrister ever took another Barrister or Solicitor to Court for malpractice and that I am trying to turn the world upside down. In the circumstances, I suffer silently. (*Asides*) If members on the other side do not know that malpractices have been perpetrated in Barbados in the legal profession by people who should be in a position of trust, then they have been living in the middle ages and they are not awake in this century at all.

I would also say that some criticism must be borne and suffered by those people who are responsible for the administration of justice. The Registrar in many cases, whoever he may have been from time to time, has frequently not even had the decency to reply to letters. I wonder if Your Honour is aware of the number of people in the United States of America who have suffered at the hands of the legal profession in Barbados? I wonder if you are aware of the number of people in Panama who are still suffering? If there is one thing that the member for St. Peter and I agree on, it is the need for some Commission of Inquiry to go into all of the transactions relating to the Panama Estate, and the lawyers in this country have done nothing about it. I have tried to help from time to time. I have been to Panama myself and made pronouncements. Those poor people who left here in 1907 and 1908 and went to Panama to build the Panama Canal — some remained there and others went to Cuba — and saved their money only to be defrauded by certain Barristers over here.

3.30 p.m.

Do you think in those circumstances that I go around advertising the fact that I was called to the Bar, despite the fact that they tell me I am a half-baked economist? I tell them I went to the London School of Economics; I do not tell them that I am a member of Lincoln's Inn, and nobody can gainsay that, and that I got a degree at the end of my period there and it was not an aegrotat either, it was not *honoris causa*; it was on account of the marks which I secured in a written examination. This brings me to another scandal about the legal profession in Barbados which has not been ex-

posed before and in the West Indies, that the system of legal training in the United Kingdom is so deficient that it is possible for people to spend some time in the United Kingdom and come back out here without having sat the examination at all and be admitted to the Bar in Barbados. (*Asides*) I am saying it is possible and it has happened. I am not talking about the gentleman called Mr. Nicholas Robinson because he was a product of the snobocracy of Barbados society itself. I am talking about people who come back here and have been called to the Bar in England and have been admitted to practise law in Barbados without having even read the examination papers or known what the examination was about, and that is bad.

The way that happens is that under the Council of Legal Education you are supposed to attend lectures. The people are not personally known to the lecturers unless you are the kind of person who repeatedly ask questions. Throughout the West Indies this is so. Some people get what they call the nutshell and they cram about four weeks before the examination, and some people who could not even pass a school certificate have been called to the Bar in England and were incapable of assimilating the information which was given them there, and I am saying categorically that there are people who have had other people to do the examination for them. I am not referring to any member on the other side because I do not know about them. They were not in my time. There are now four, so we have 100 percent attendance here today, because each one of the four of them is a lawyer; so he feels he has a special expertise to talk on a Bill which merely says that the two branches may be fused. It is a disgraceful situation about legal training in the United Kingdom that numbers of people have been called to the Bar in England who never went into the examination room at all, and about 75 percent of them only read the nutshell. (A VOICE: And practise here too?) I will say as much as I intend to say. It is not my practice to get up in here and call anybody's names. It is not in keeping with the Standing Orders of the House of Assembly; but I am saying that I know this for a fact, and I have already exempted legal members of the profession in this House from what I am speaking about now. I do not know if Mr. Speaker is one, because he has a certain amount of academic distinction and being a law lecturer he could not get away with it. There are some hon. members on that side who know that this has happened in the Bar Examination.

I am trying to show you, Mr. Speaker, that accepting other people's standards is sometimes accepting false standards when to practise at the Bar in Barbados all you have to do is to absent

yourself from this country for a certain number of years and come back and produce a certificate to say that you have passed the Bar Examinations. That is all that the Barristers Act requires; to be called to the Bar in the United Kingdom or Northern Ireland. By the United Kingdom I mean including England, Scotland and Wales and Northern Ireland. How you get that certificate I am saying is under a system in the United Kingdom which is open to a lot of fraud. I can take an oath in Court and say that I took my Bar examinations and my name appeared on the pass list after my first attempt at the Bar Examination; but how many people can say that? Especially after they introduced a restriction on the number of times you could take the Bar Examinations, some people got desperate and rather than run the risk of failing the fourth time and not being able to sit the Bar Examinations again, they took out insurance, and all over the West Indies, we have a lot of people practising law who did not take the Bar Examinations. That shows you what happens when you rely on standards of people overseas.

Fortunately for us, we have a Council of Legal Education and we have a Law School and in our Law School all the candidates will be known by the lecturers, and every single practitioner from now on will have to come here to Barbados to attend the Law Faculty until we get other Law Facilities. For the next ten or fifteen years, if I am a correct prophet in this prediction, every Barrister will have to come here and be under the surveillance of the tutors and lecturers at the Law Faculty in Barbados, and so there would be no room for any fraudulent misrepresentations on the part of people who profess to have acquired legal qualifications.

This Bill therefore would not have made any kind of sense if we did not have a Law Faculty, because one of the essentials of a system whereby the two branches of the profession are fused is that there should be a common system of training, and it calls for, as far as I can remember, three years at the Faculty of Law and a period of two years at a professional school so that every single attorney-at-law now will have to have resided in at least two countries in the Caribbean, thereby we hope broadening his vision of the problems of the societies before he can be admitted to practise even in the country of his origin and birth. So this Bill could not have come before this House and be proclaimed and be put into effect unless we had established a common system of training, and from the very earliest days no one can, I think, gainsay that I have been in the vanguard of fighting for the establishment of a Law Faculty, not only its establishment but its establishment in Barbados, and I want now to say with the greatest sense of humility that my desire to have it estab-

lished in Barbados is not that Barbados had such high standards that the other people should emulate, but for the opposite reason that the standards were so low in Barbados that I felt only a Law Faculty here with people of very high calibre circulating in the community and looking at the potentially corrupt systems of law which we still suffer under, would elevate the standards and practice of law in Barbados.

I saw the hon. member for Bridgetown making a note of that. Let me give him an example of what I mean by a corrupt system. The hon. member knows what I am talking about. No civilised country could sit by and endure with any sense of equanimity a device which we have here to acquire a title by foreclosure. It is a rotten and corrupt system. It is true that some members of the legal profession who were elevated to the highest office in this land not of our generation benefited from the provisions of the Chancery Act. I hate to speak so outrightly about people who have been called to their forefathers, on which side of the stream I do not know, but certainly have been called. I have been trying to get that law amended now for a long time, but it is bogged down somewhere or the other.

Now you cannot have justice in a country if a man can be deprived of his inheritance of the property whereon he and his predecessors have lived by an advertisement in a newspaper which even a person like me sometimes could not recognise as identifying the parcel of land on which I happen to live and on which I may be the owner; so I agree that a lot of things have got to be done. Do not let us fool ourselves that this is what we have been working towards, and that the fusion of the two branches of the profession is either going to fuse the outlook or the minds or the thinking of the people who in one way or the other have secured legal qualification. It is the most divided profession in the whole Island, but it would certainly make it possible for them to come to some kind of christian feeling.

3.40 p.m.

Now whether it takes 35 or 75 years to do that I will not know because I do not think it is going to happen in my lifetime, but at least we can claim that we have laid the ground work for a rational system of training, a rational practice of the profession, and we have in this Bill provided for the amelioration of some of the conditions under which some litigants in this island have had to suffer. It is seldom I suppose in the history of this House that anyone has heard a member get up and openly criticise the false standards of the profession to which he belongs; I have the unfortunate distinction now of not having a profession at all, because as I have said, I have washed my hands of the members of the

legal profession and I have never regarded myself as a politician, so I am holding political office and I am not practising law, I am not a politician nor a lawyer, I do not regard myself as one. I suppose there could be a *restituto integrum* at some time if I so desire, but I do not have any desire to be reconstituted as a lawyer until we have a direct confrontation between the general public and the legal profession and let us all know where we stand.

The members of the House have had a long time to read the provisions of the Bill, and it has never been my practice to get up and show that I too can read and write by reading out the objects and reasons clause, because what I would have expected in a debate of this kind is at the committee stage some kind of constructive suggestions on any possible improvements in the drafting of the Bill, but the drafts of this Bill have been sent to both branches of the profession, whether to individual members I am not in a position to say, but what I mean to say is that both solicitors and barristers, all who were practising up to two months ago certainly, would have had the opportunity to examine at length and in detail the provisions which are now being enacted for the true governance of the profession to which they belong.

I think the most significant thing of the Bill itself is the fact that we have made provision for discipline, but just to safeguard against nonfeasance of this provision — by nonfeasance I mean the failure of the disciplinary committee to take action against a member of the legal profession — the common law rights of the Attorney General of Barbados to bring to the attention of the High Court of Justice malpractices on the part of members of the legal profession have been safeguarded by the provisions of the Bill itself, and I understand that this has had the unanimous support of the members of the legal profession. I do not have any conversation with them unless there is some kind of statutory requirement for me to discuss matters. The Attorney General and the Solicitor General carry on dialogues as members of the Government, one in a political and the other in an official capacity. It is not my duty as Prime Minister to get involved in that kind of discussion on these matters, but I am usually kept informed and I hope that my information is correct.

When we get to the Committee stage, Mr. Speaker, there is one Schedule which I will be asking leave to amend.

Mr. SPEAKER left the Chair and Mr. DEPUTY SPEAKER took the Chair.

Mr. Deputy Speaker, I am referring to the fourth Schedule to the Bill on page 71. I intend to

move the deletion of clause 1 (a), and that clause makes provision that the person for the time being holding or acting in the office of Attorney General shall be a member *ex officio* of the Disciplinary Committee. The reason why I am doing that is not the reason advanced in the Other Place, that the Attorney General is politically appointed and that we should not have a political appointee as Chairman of the Disciplinary Committee. A lot of them are too young to know what used to happen in Barbados. The Attorney General in Barbados (a) was a member of the Public Service, (b) he was on the Public Service Commission, (c) he was a member of the House, and (d) he was not only a member but he was the Leader of the House and virtually Chairman of the Governor-in-Executive Committee. He ran for political office, and when we speak about the separation of powers, the Judiciary, the Legislature and the Executive must be kept separate and distinct, that is a lot of nonsense, and the lawyers would talk that kind of foolishness, because it has never been so in the United Kingdom and it is only since independence that some kind of movement in this direction that the separation of powers is being made, and you would think that the members on the other side do not ever regard themselves as potential holders of office in the Government, because the way they talk about the functions of the Attorney General you would believe that it is because you have a political Attorney General — and this is according to the Constitution because the Constitution says “of whom one shall be Attorney General”. This is what the Constitution of Barbados says, and they were members of the conference in London who insisted on provisions of this kind.

What I want to say is that I do not agree that because the Attorney General is an active Minister that he should not be head of the Disciplinary Committee. In the first place, it is a committee and the Chairman of the Committee normally only has a casting vote, and any report the committee delivers to the Chief Justice who then under the provisions of the Bill would forward that to the Court of Appeal with more than one Judge, and it is not a report of the Chairman of the Committee but it is a report of the committee itself, and only in the cases where the Chairman exercises a casting vote, which seldom occurs even in this Chamber — and we hold more debates and discussions here on a wider variety of topics, some controversial and some non-controversial, than any disciplinary committee will ever have. If they sit once in three years they will be sitting a lot, but by the law of averages the occasions on which the Chairman would have to exercise a casting vote would be minimal if not virtually non-existent, but only in a situation like that can one say that the Attorney General may be in a

position to influence the decision of the committee in respect of a report to be submitted to the Chief Justice. Not only that, according to the Bill which we now have, disciplinary action is not taken by the committee itself, disciplinary action is taken by the Court of Appeal of Barbados which must be constituted of more than one Judge of whom the Attorney General could never be one and be Attorney General at the same time.

3.50 p.m.

When they talk about political interference by having the Attorney-General on the Disciplinary Committee as Chairman, I cannot agree with that. I would say that there are other good and sufficient reasons why we would not wish the Attorney-General to be involved in the activities of a Disciplinary Committee. We are not excluding the possibility that the Bar Association themselves may appoint the Attorney-General as a member of the Committee and then the Committee in their wisdom choose the Attorney-General as Chairman of the Committee, but we leave it to them. We do not want to put it in any statute. If we have reasons, then those reasons do not coincide with the reasons of the members of the legal profession in their wisdom or lack of it. Every single member of the legal profession in Barbados is politically minded. Most of the solicitors are conservatives and, as far as the two political parties are concerned, the legal profession is such that whoever you have as Chairman is going to be a politician and you might as well resign yourself to that.

In Jamaica today — and they arrived at this situation by a different course from the enactment of the Jamaica Fusion Bill — the Attorney-General, Mr. Rudolph Robinson, is the Chairman of the Disciplinary Committee, and up to today that has not been changed. Of course, the Government of Jamaica has only been in office for four months. (*Asides*) The Attorney-General of Jamaica is the Chairman of the Disciplinary Committee, but he arrived there by virtue of the fact that he was President of the Bar Association. In other words, the requirement of the Bill is not that the Attorney-General should be Chairman. (*Asides*)

Mr. SPEAKER: Order!

Rt. Hon. E. W. BARROW: The Attorney-General of Jamaica is a politically appointed Attorney-General. (Mr. MOTTLEY: “He is not a member of the Cabinet.”) The hon. member for the City is saying that he is not a member of the Cabinet. He belongs to the Government Party. He has been a member of the Government Party from 1945, at least, when I first knew him and that is over thirty years ago. He has never belonged to any other political party, and that is different from some of us in this House. At least the hon. member for the City,

the Deputy Leader of the House and I would know both sides of the fence. (*Asides*) It is not the fault of the hon. member for the City that his party is now defunct.

Mr. Speaker, I am trying to emphasize here that the superstition in Barbados that because you belong to a political party and you hold some statutory office, that by virtue of being a politician you are disqualified from being able to exercise any independent judgement in matters which do not relate to the perpetuation of your status in that office is all nonsense. The suggestion made by members of the Bar Association is that, if the Attorney-General is Chairman of the Disciplinary Committee and any lawyer of his own political persuasion is charged, he would be inclined to be biased or partial, and that was actually articulated by members of the other party in the Other Place when this Bill was being discussed. (*Asides.*) Would any member of the Government be so stupid as to make a statement like that?

Mr. SPEAKER: *Asides* are interruptions!

Rt. Hon. E. W. BARROW: Mr. Speaker, the more I read the pronouncements by members on the other side, the more I am convinced that they do not believe they have the remotest opportunity of ever occupying these benches over here. They do not speak in a manner as if the misfortunes of this country would be so aggravated that they could occupy these benches. When they talk about an Attorney-General, they mean a D.L.P. Attorney-General which, as far as they can see, will be here until the end of time. If they had any hope of coming over here, they would realise that a man is trained as a lawyer; he is the Attorney-General who has certain responsibilities, and as Chairman of the Disciplinary Committee he cannot submit his own minority report as, say, the Speaker of this House has done on the question of boundaries.

Mr. SPEAKER: A former Speaker.

Rt. Hon. E. W. BARROW: Mr. Speaker *emeritus*, Sir. The point is that the Chairman of the Disciplinary Committee cannot submit his own report. It has to be basically the majority of six members who are proposed in Clause 1 (b) of the Fourth Schedule, and his discretion can only be interposed where it is a question of equality of votes. In order to save a long-winded debate on the efficacy of having the Attorney-General as Chairman of the Disciplinary Committee, I am giving notice now that you need not discuss it. You are speaking to the converted. Let me give you some of the reasons. As it is now the general public regard the Attorney-

General as some kind of ombudsman: they regard every Government Minister as an ombudsman, and we know that even if we created the title and office of ombudsman in this community that the Ministers would still be besieged with complaints and requests — complaints about superiors in employment, requests for jobs and so on, and the ombudsman would serve no useful purpose. I am not in favour of any ombudsman in Barbados. Every Minister has to be his own ombudsman in Barbados. If we did need an ombudsman prior to the introduction of this Bill, it was to protect the public from the legal profession. (*Asides*)

I am dealing with realities; I am not dealing with Jennings or Dicey, or things that I read about in the English Constitution. I am dealing with the realities of the constitutional practices in Barbados. A consequential amendment will have to be made for the deletion of Clause 1(a) in the Fourth Schedule of the Bill by the deletion of the word "six" in Clause 1(b) and the substitution therefor of the word "seven". In other words, the Committee will be comprised of seven members as before, but all seven will be nominated by the Bar Association and must be persons of whom three shall be of at least 10 years standing in the legal profession.

4 p.m.

My contention is, although everybody will not agree with me, that under the wording of clause 1(b) on the composition of the Committee, "six attorneys-at-law of whom three shall be of at least 10 years standing in the legal profession" did not admit the possibility of more than three members of ten years' standing being appointed to the Committee, and if I were a member of less than ten years standing instead of twenty-two — the oldest called member in the House — I would argue vehemently that four places be reserved for the people under ten years under the old wording; so in order to remove any doubt and to admit of the possibility of more than three persons of ten years' standing and upwards being appointed to the Disciplinary Committee, I will be proposing in the Committee stage that the word "six" should be deleted and the word "seven" substituted therefor, and that between the words "whom" and "three" in the first line of subclause (b) of Clause 1 of the Fourth Schedule that the words "at least" should be inserted, and that the words "at least" at the beginning of the second line should be deleted, and the words "not less than" be substituted therefor. I hope that is acceptable. Copies of the amendments should be circulated immediately.

I want hon. members to understand that we are not doing it now; we are going to do it in Committee stage, but I think it is only fair in order to allow us to escape from this place at least by 5

o'clock and to save a lot of debate and to tell you what the position is, that it should be circulated. I want to make it clear less I be misquoted as I frequently am that this does not preclude the Bar Association from nominating the Attorney General to the Committee and it does not prevent the Committee from itself deciding that the Attorney General should be Chairman. I want to make that abundantly clear. What we are doing here is leaving it to the Bar Association from time to time to say who shall be Chairman and whether the Attorney General should be a member of the Committee. He is eligible but not compellable. There will be certain consequential amendments to the Fourth Schedule, Mr. Speaker, having deleted Clause 1(a) and made amendments in Clause 1(b) which will now be Clause 1.

In clause 2 of the Fourth Schedule the word "nominated" appearing in the first line should be deleted. I do not think that appears in the cyclo-styled list of amendments which have been circulated, but I would like members to take note of that. It has been drawn to my attention that the word "nominated" should be deleted wherever it appears, but I do not agree with that either. This was done without my knowledge or consent. The word "nominated" could not be deleted wherever it appears, so just take the time from me and not from the printed sheet, because if that were so, the word "nominated" in clause 1(b) would have to be deleted as well, and that would make a nonsense of the whole schedule. So just take the amendments from me and not from what "they" the public service printed there. "Nominated" should stay in clause 1, but deleted in clause 2. The whole of clause 3(1) should be deleted and the new clause 3 will be the consequential renumbering of subclause 2. The new subclause will read:

"There shall be a Chairman and Deputy Chairman of the Committee who shall be elected by the Committee from among the members of at least ten years' standing in the legal profession."

In other words, we are inserting the words "Chairman and" after the fourth word in the first line of clause 3.

In clause 4(1) the word "nominated" will be deleted in the first line, but the second "nominated" will have to stay. May I explain that the Deputy Chairman is still on the floor, in the arena as it were, and he would only be out of it if the Chairman is absent. So you must have at least two senior members taking part in the discussions other than the Chairman.

The word "nominated" in clause 4(1) will be deleted the first time it appears; but the second

"nominated" will have to stay. That is the second instance where the cyclostyled amendments would be wrong. "Nomination" in clause 4(2) would have to stay as well. On page 72 the word "nominated" in clause 5 would have to be deleted, and in clause 6 the word "nominated" on the last line may also be deleted without doing any violence to the intention of the Act.

Mr. MOTTLEY: I think.....

Mr. SPEAKER: On what is the hon. member rising?

Mr. MOTTLEY: On a point of order. I think that if the word "nominated" is retained in paragraph 1 that

Mr. SPEAKER: That is no point of order. We are not in Committee stage. The hon. member just cannot give way on points like that.

Mr. MOTTLEY: The point of order is that this should be done in Committee stage rather than at this time.

Rt. Hon. E. W. BARROW: I indicated to the hon. member that I would give way. I am saying that the word "nominated" in clause 6 would also be deleted. The point is that all the members are nominated; so there is no point in saying a nominated member because the word "nominated" was used in contra-distinction to the ex-officio member who would have been the Attorney General, and in the first line of clause 7 the word "nominated" would also be deleted. On the other occasions on which the word "nominated" or "nomination" appear it would be retained.

The next clause in the Fourth Schedule which needs attention is clause 10. The word "nominated" will have to be deleted.

Those are the main amendments, Mr. Speaker, which after further consideration of the Bill after it had passed the Cabinet and after reading the discussion which took place in the Other Place, the Government finds itself willing to adopt or implement.
4.10 p.m.

As I said before, Sir, we know what the objects of the Bill happen to be, and I can only hope that we have a functioning, united legal profession and that they will live up to the high expectation to which the general public is looking forward. I beg to move that this Bill be now read a second time.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. MOTTLEY: Mr. Speaker, now that the two or three minutes taken by the Prime Minister have been concluded, I think that listening to him — it is rather unfortunate that he finds that he belongs to the legal profession, after belonging to it for 22 years, — is a misfortune because he is not proud to be a member of the legal profession, and we hope that on reflection the Prime Minister will think carefully of what he has said and perhaps one day change his mind. It may be that the Prime Minister's remarks were in regard to the legal profession when he was a member of the Bar some ten or eleven years ago, but I can assure him that today the feeling and the spirit of the Bar are quite different from what they were some 11 years ago.

There is one thing with which I agree, and I find it necessary to say that I agree with him, and that is when he says that this Bill is to make provision for the fusion of the professions, but that the Bill as such cannot really bring about the fusion of the profession inasmuch as certain parts of the legal profession in this country are still practising racial discrimination. This I find is quite true and I make no apologies for saying so. I agree with that aspect of it, but I would go further too, that discrimination which is reflected in certain sections of the legal profession is only indicative of the general pattern of racial discrimination that still exists in this country, and we find it in commerce and in banking. We find it also in certain other fields, and I do not believe that this Bill by itself is going to remove that discrimination. Those of us who practise at the Bar as distinct from being Solicitors know that this is true. One only has to be told by certain clients that they have gone to certain Solicitors and have been told that they do not work for some members of the Bar. This is true, I am not going to say that the legal profession is a dishonourable profession, but I am going to deal with fact.

I have been practising at the bar for half the time the Prime Minister says he was, for 11 years, and I find that certain Solicitors will tell you that they do not deal with certain members of the Bar. It does not mean that through this Bill, will be removed that attitude, because that is an attitude to which they have been conditioned over a period of years, and it is an attitude that is part of our society. I think that the role of Barristers and Solicitors in a developing society must be something more than mere practising professional men. They must be more than mere champions of the fundamental rights and freedoms of individuals. This is what most Barristers in Barbados deem the legal profession to be, to be champions of the funda-

mental rights and freedoms of the individual, but I believe that it is the function of the Barrister — if he is going to play an active part in society, the society in which he must live, — to understand the society if he is to be able to participate in its social and economic development, and the advancement of the people of this country.

I think the Prime Minister said that the people who qualify as Barristers look upon themselves as suitable to become politicians. It may be that the Prime Minister has risen from that and perhaps from his own experience feels that that is an attitude which should no longer prevail in this society. I believe that the Barrister must regard the narrow limits of the law and make a contribution to the society as a whole. I am not certain at this stage that the legal profession in this country is making this contribution at present. The Prime Minister said that the legal profession is divided. Of course it is a divided profession, and I believe that in his day at the Bar one would have said that the Bar was a divided profession in that certain members of the Bar did not speak to certain other members of the Bar, but today among the members of the Bar there is indeed a feeling and spirit that did not exist years ago.

When you think in terms not only of the Bar this time but of the Barristers and the Solicitors, one cannot deny that there is division, and a deep division, a division based on race at certain times, a division that is based on economic standards, and a division based upon social class structure. This is displayed not only outside the Courts, but this class distinction is sometimes evident in the Courts of law in this country.

4.20 p.m.

Now, the objects and reasons of this Bill are quite simple. The Bill would implement fusion in the branches of the legal profession and provide for reform in the system of legal education, etiquette and discipline in that profession. The Bill seeks to ensure that the legal profession operates within a framework which is beneficial to the public as well as to the profession.

Let me begin by saying that, although in the final analysis this Bill has come from the Government, the debate concerning this Bill was initiated not by the Government but by the Bar Association. The desire to have a Disciplinary Committee, to have guide-lines, and to have a proper standard of etiquette did not come from the Government, or from the Attorney-General, or from the Cabinet, but from the Bar Association. I think that, in due course, all of this will be made quite clear.

Now, the Prime Minister and Minister of Finance in his introduction seems to have accepted the argument with regard to the chairmanship of the Disciplinary Committee – and argument which was put forward in the Senate. It is not the argument and the reasons stated by the Bar Association in the memorandum which was submitted to the Prime Minister, because they submitted that the Attorney-General should not be the Chairman of the Disciplinary Committee. That suggestion was rejected, and it was unanimously agreed that a political Attorney-General should neither be the chairman nor a member of the Disciplinary Committee. The recommendation was that the Chairman should be an attorney-at-law of at least 15 years standing, selected by the Bar Association either from within or without the membership.

I know that when this matter was discussed there were other reasons put forward. I remember putting forward the view that, if the Attorney-General were the Chairman of the Disciplinary Committee, he would be placed in a position where there would be a conflict of interest. The argument used then, and I believe this is the argument adopted by one of the members who spoke in the Other Place, was that the way this Bill is drafted, once the Committee makes a recommendation which goes to the Court of Appeal of necessity it would be the function of the Attorney-General or the Solicitor-General, but preferably the Attorney-General, who would have to proceed by way of a motion if that attorney-at-law is to be removed from the roll of practising attorneys. We could not have the Attorney-General sitting at first instance as a Judge to judge an individual, and then coming back at a later stage to perform the duties as a prosecutor to prosecute the same individual. I believe that these reasons were put forward in the Other Place. These are the reasons which I urged when this matter was being discussed by the Bar Association, and I believe that it is for these reasons that the Government accepted that it would be wrong for the Attorney-General to be the Chairman of the Disciplinary Committee.

Rt. Hon. E. W. BARROW: On a point of order, Mr. Speaker, I did not want to interrupt the hon. member, because he appeared to be giving a true interpretation of things up to this point. I should like to make it clear that the Government, through me as the presenter of this Bill, has never said that it would be wrong for the Attorney-General to be the Chairman of the Disciplinary Committee. You will recall, Mr. Speaker, that I specifically said that it was possible that the Attorney-General could not only be a member but also a Chairman, but he would not be compellable. We are not making it mandatory in the Bill itself that the

Attorney-General should be the Chairman of the Disciplinary Committee. The term “wrong” was never used by me at all. I should like to make it clear that I see nothing wrong with it up to now. All I am trying to do is to save a lot of argument by letting the Bar Association decide whom they want to be Chairman.

Mr. SPEAKER: No point of order!

Mr. MOTTLEY: I think it is a point of explanation, Sir. That is the view expressed by the Prime Minister, but the recommendation of the Bar Council is that he should not be a member of the Committee at all, but they gave the wrong reasons why he should not be a member of the Committee. As far as I am concerned, he should not be a member of the Committee, but the Bar Association, unfortunately, advanced a lot of legal and persuasive arguments in the recommendation which was sent up. I will deal, purely, with the recommendations of the 31st July in which they suggested that the Attorney-General should be the Chairman of the Disciplinary Committee. That was rejected, and it was unanimously recommended that a political Attorney-General should neither be Chairman nor a member of the Disciplinary Committee. That, to me, is the wrong reason for objecting to his membership, but in the long run we have got the desired result because the Attorney-General will not be the Chairman of the Disciplinary Committee.

There is one other Clause which appears to be in need of an amendment, and it deals with the right of a Barrister who has been recommended to be dealt with by the Court of Appeal. Now, after the matter has been considered, the Report of the Disciplinary Committee goes to the Court of Appeal and the Court of Appeal makes a decision, we on this side feel that the Barrister concerned should be placed in the same position as any other person in Barbados who has a further right of appeal concerning his status. Inasmuch as any member of the public, who is convicted of an offence, can appeal to the Court of Appeal and also has certain rights of appeal to the Privy Council in England, a Barrister should be placed in the same position.

4.30 p.m.

We feel, Sir, that a barrister who has been dealt with by the Court of Appeal should be in the same position as the ordinary member of the public, and until such time as we in the West Indies have our own Court of Appeal as a final Court of Appeal, we feel that a Barrister should have the right of appeal to the Judicial Committee of the Privy Council in England in as much as that is the final body for the hearing of appeals for the ordinary citizen in this country, and the Barrister or

attorney-at-law should not be in any worse position than the ordinary member of the public. The earlier drafts of this legislation contained a provision that the final right or the decision of the Court of Appeal shall be final. I do not think that this draft which has come before the House has that section in it, but what we want spelled out quite clearly in the Bill is that the right of appeal be given and stated in the Bill and not left to be interpreted by the Court of Appeal as to whether or not you have a further right. We think it should be there set out quite clearly in the Bill giving any Barrister who has been dealt with in any way by the Court of Appeal, if he feels aggrieved or not satisfied with the decision of the Court of Appeal, the right to appeal to the Judicial Committee of the Privy Council.

Sir, there is one other point which I would like to deal with at this stage. I believe there is a belief that the fusion, and I believe this was expressed in another place by the Attorney General, should see a lowering of the legal costs involved. As far as I am aware there is absolutely no evidence to support this statement, and indeed in 1970 the Solicitor General of Barbados in a paper presented to the meeting of the Regional Bar Association in Jamaica stated that there appears to be no reliable studies available on the question of whether or not the fused profession would make the cost of legal services less for the public or would increase or decrease the earnings of existing barristers or existing solicitors; and again from a study presented at the same conference by a practising member of the Ontario Bar, he said that from reading discussions on the subject of fusion or no fusion, I gather that a suggestion has been made and vigorously attacked that the fusion of the profession might result in lower costs of litigation, and probably more expedition. Whatever the validity of contending views in other jurisdictions may be, I do not think that either aspect is relevant in Ontario. He goes on to say: I do not think the cost of litigation will be changed one bit by having a separation of the professions, nor do I think that the present system of fusion will result in lower costs if people who have to work on a case are paid for their time and efforts whether it is one person or four, or whether they are doing what would be regarded elsewhere as Solicitors' work or Barristers' work.

I do not think it should be held out to the public that because there is a fused profession that fees or legal costs are automatically going to be lowered, because the principle obviously as I have just set out is that it is the time and effort that is put in on the particular case and not really whether it is one or two people working on it. It is the amount of work that is put in that would be

relevant in taking the scale of cost into consideration.

Now, Sir, there is something that I would have thought the Learned Prime Minister — though he is apparently ashamed to belong to the legal profession, I still used the title Learned Prime Minister — would have adverted to in his remarks. There was something that was said by the Attorney General in the Other Place and it is that this Bill deals with the etiquette and discipline in that profession and also seeks to ensure that the legal profession operates within a framework which is beneficial to the public and to the profession. I should like at this stage to advert to a statement allegedly made by the Leader of the Bar, the Attorney General, and that is the question of the abolition of Queen's Counsel.

Now the Bar Association wrote to the Attorney General on the 6th November setting out that they had heard that it was the intention of the Government not to make any further recommendation as regards the appointment of Queen's Counsel. In other words, that there would be no more grants of the silk. I heard the Prime Minister use the phrase today about persons not having the decency to reply to letters, I think in relation to the Registrar, when letters were sent. Let me say that as far as the Bar Association is concerned, up until last Friday they neither had any acknowledgement or reply from the Attorney General concerning the contents of the letter of 6th November in which it was stated by the Bar Council that they understood that the Government was going to make some pronouncement on the abolition of silk or no longer to recommend any persons for it and they asked the Attorney General not to make any pronouncement on this matter until the Bar Council had some discussions with him. Obviously the Attorney General did not take the letter seriously because on 16th November the Attorney General made the very pronouncement that the Bar Association was seeking to have discussions on with him; not that the Bar Association wants to dictate to Government what Government's policy should be, but as a professional body representing Barristers in this country, they felt that it would be in their interest to ask the Attorney General to have discussions on the matter. The Attorney General did not have the decency, to use the Prime Minister's words, to acknowledge or to reply much less have consultation with the Bar Association before he made the announcement about the abolition of the silk.

4.40 p.m.

What was even more reprehensible was the manner in which it was done, because in a matter such as this where a person is appointed by the Governor General on the advice of the Chief Justice

and the Chief Justice himself was not consulted, I find this particularly reprehensible by a person who is supposed to be the Leader of the Bar, the hon. Attorney General, to go about something so fundamental and so meaningful to members of the Bar in so haphazard and irresponsible a fashion. I think one thing should be made quite clear, that there seems to be some thought that the Queen's Counsel is an Imperial honour or some sort of Imperial award, and this seems to be the belief that is rife among certain members of the Bar and others. I think this is something of which I should like to disabuse their minds. This certainly is not an Imperial honour, it cannot be termed that we are afraid — to use the phrase the Prime Minister used — to divest ourselves of the imperialist trappings, but I would think that one who would come to the House of Assembly in a shirt jack and then go right in the hot sun and settle in a collar and tie, breeches and cap is more imperialist than anybody else, but the award of the Queen's Counsel must not be looked at in terms of any Imperial honour, because I think the general feeling of the Bar is that even if you want to change the name from Queen's Counsel to Senior Counsel, that there should be some form of recognition for the senior members of the Bar, and this recognition should be based not upon any political affiliation or political considerations, but should be based on merit, character and ability of the particular person.

That should be the basis upon which the award of Queen's Counsel or Senior Counsel, whatever title you prefer to call it, should be made, but the fact remains that we at the Bar feel that there should be some distinction. Even in the Schedule which has been amended and to which the Prime Minister referred, in the very composition of the Disciplinary Committee, the Government itself makes a distinction between senior practitioners and junior practitioners, because in setting out the composition the Prime Minister referred to the amendment that at least three members should be over ten years' standing. At the time when this was done this was another way of saying that at least three members should be members of the Inner Bar or Queen's Counsel. As you, Mr. Speaker, would be aware, a person of ten years' standing can be appointed Queen's Counsel, and this is why you use the basis of the ten year period, and this is the very reason why I suggest that this was placed in the Schedule to make the distinction between the junior Bar and the senior Bar.

We feel quite strongly on this matter that it is not a question of any Imperialist honour. If you are ashamed of the word "Queen", then the very reason why a person is called Queen's Counsel as distinct from State Counsel in some places is because the country is not a republic and the Queen is still

head of our country. Because of that very fact you find that distinction and you are called Queen's Counsel as distinct from a place where you have a republican form of Government where they are called State Counsel or Senior Counsel. We feel as members of the Bar that there should be some distinction based on merit, and we go further, that there should be some body set up making this award, and that guidelines upon which this award will be made in future should be laid down quite clearly to all members of the legal profession.

Now, Sir, let me say this. If the Attorney General of this country feels that there should be no distinction between the members of the Bar, if he feels that the award of Queen's Counsel is meaningless, then I have but one thing to say to him. As Leader of the Bar he should set the example by returning the Letters Patent under which he was appointed a Queen's Counsel and return like the rest of us to the Utter Bar. It was done in Jamaica by one Counsel who got fed up at a certain stage and returned his Queen's Counsel, but if the Attorney General of this country feels so strongly about it let him be the first person to return his. Every one knows that the office of Attorney General in this country has always in the past carried the award of Queen's Counsel, and it is quite questionable whether this award would have been made had the Attorney General remained at the Bar rather than its being awarded by virtue of office, if we are going to be consistent in our conduct. I know there are certain members of the legal profession who would not return the Q.C. for all the money in the world, but I am dealing with the Leader of the Bar, the one who seems to think that it is meaningless. Let him be the first person, since his award came within the last year, to return his and set the example of showing that he not only preaches something but that he in fact is going to practise it.

4.50 p.m.

It is well known at the Bar why there is this talk of abolishing or no longer making recommendations for the award of the Q.C. It is well known why this has suddenly come about. It came about because of the desire of the Government not to make an award to a certain member of this Party who was invited — he did not apply for it on his own — to make application for silk, and for a number of months now the recommendations have not been made. He was recommended to the Governor-General by the appropriate authorities and, for a number of months now, the Governor-General has not seen it fit or the individual member has not been awarded the Q.C.

If this is the reason, Sir, it is the reason that is mooted at the Bar, and it has been stated openly by certain sections of the Bar. If that is the posi-

tion, then I can only accuse the Government of being motivated by spite, ill will and malice towards the particular person. There could be no other reason for the refusal of the award of Q.C. to this particular individual. He is one who has, obviously, made an impact on the legal profession in this country. I refer to the hon. member for Christ Church West.

Now, there are a few other observations that I would like to make on this Bill. One of the objects of this Bill is to ensure that the legal profession operates within the framework which is beneficial to the public as well as to the profession. The legal profession operates within the sphere of the courts of this country, and one has to take into consideration the present conditions that exist in the courts of this country.

With regard to the present Ministerial set up, it seems strange that you have a Ministry of Legal Affairs and yet you find that the Ministry deals with the Crown Solicitor's Office, the Registration Department, the Attorney-General's Department, but it does not deal with the Judiciary and the Magistrate. You will find that some of these Departments are under the direct control of the Prime Minister, and to my way of thinking this is an anomaly. You have the Chief Justice and the Magistrates under one Ministry controlled by the Prime Minister, whereas the Registrar and his clerical officers who work in the Courts are under a different Ministry. This is a situation that has existed in this country for some time and it needs a change.

Where the relationship breaks down, Sir, is that you will find magistrates with absolutely no control over the staff in the Magistrate's Court. You will find that a Magistrate has a clerk today and tomorrow he is not quite sure whether he will have the services of that clerk, because the clerk may be changed. I would seriously recommend to the Government to put the Judiciary, certainly at this stage, under the Ministry of Legal Affairs — if you do not want to call it the Ministry of Justice, then you can call it the Ministry of Legal Affairs — so that the Attorney-General as Minister responsible for Legal Affairs will be the one person responsible for the entire administration of the legal profession, the Judiciary and the Courts of this country. We should not have them divided as at present, because the system is not operating properly.

The conditions under which the officers are called upon to work in the Magistrates' Courts and in the Registry are really deplorable. The Registry is obviously too small for the number of officers working there. These officers are probably not represented by the Barbados Workers Union, because I

know that the Union would not allow such conditions to continue. I seriously recommend to the Government that something must be done as soon as possible to improve the accommodation in the Registrar's Office and in the Magistrates' Courts. I refer to the office where clerical officers and typists have to work. They complain daily about these intolerable conditions, and I am asking the Government to look into this matter.

Now, there is the question of the Court of Appeal in Barbados. There are a lot of problems as regards the Court of Appeal in Barbados. It has been suggested that Barbados should share its Court of Appeal with the West Indies Associated States. It has also been suggested that an independent territory should not share a Court of Appeal with non-independent territories. On the other hand, we have seen certain political affiliations and economic bodies such as Carifta. These non-independent territories are joining with independent territories for economic interest, and I see no objection to Barbados sharing its Court of Appeal with the West Indies Associated States. Whether you like it or not, the Court of Appeal in Barbados is an unsatisfactory one at the moment.

The Prime Minister said that it is degrading to the human spirit to see poor people standing in the sun and having to walk to the Courts, etc. We on this side have submitted recommendations to the Government long ago with regard to the Magistrates' Courts, and I hope that certain changes will be made as soon as possible.

5. p.m.

I think recommendations were made that the Courts should be centralised in Bridgetown because no hardship would be created upon the litigants or members of the legal profession if the Magistrates' Courts were centralised. Nothing has been done. No change has been made really in the ten years the Prime Minister has left the Bar, and if he has left the Bar knowing that it was degrading to the human spirit for the litigants to come to the courts and have to stand in the hot sun in the manner in which they do, he should be aware that his Government has done nothing in the ten years it has been in power to alleviate that situation to which he adverted. He talks about the exploitation of poor people by the Bar, but it is the Barbados Labour Party on this side that has been pressing for the extension of legal aid to assist people, and nothing has been done about it.

We have asked for legal aid to be extended to husband and wife cases, in affiliation cases, in adoption cases, and in a field where legal aid is required, the landlord and tenant cases, because in spite of the Tenantry Control Bill of 1965, there

are still poor people in this country who are exploited, and we have made representation to Government to extend the Legal Aid Bill to make provision for the tenants to be represented in landlord and tenant matters.

I think that if the Prime Minister as Minister of Finance were to look at the revenue derived not only from the court fines etc, but from the practising certificates of the members of the legal profession, both the solicitors and barristers, he may well feel that this money could be used to expand the legal aid services now operating in Barbados, not so much on the question of increasing the amount of money paid, because we on this side would much prefer to see this money spent in expanding the scheme rather than have an increase in the amount of money that is paid to members under the Legal Aid Scheme.

There are two matters I would like to deal with here and one is the law library, because I think you will appreciate that a lawyer is of no use without his books, and we have raised in here already the question of the amount of money that is spent on books for the law library when we were told that this is what was asked for by the Registrar of the Supreme Court. As long ago as 1964 a meeting was held by the then Chief Justice, Sir Kenneth Stoby at which certain recommendations were made as regards the administration of the law library, and these were that the law library be reorganised, that a post of librarian of the law library should be created in the establishment of the Registrar's Department, and that the post should be filled by a person with professional qualifications such as an Associate of the Library Association, and that for the purposes of the reorganisation of the law library an officer with the qualifications referred to should be seconded from the Public Library, and at the time it was felt that this should come into existence from 1st June, 1964. It was also felt that an Advisory Committee should be set up comprising members of the legal profession, the Attorney General's Department, the University of the West Indies, the Librarian etc. for the purpose of ordering books, magazines, pamphlets and related matters. This has not been done and I urge the Government to take steps immediately on this aspect of it, because the Librarian who formerly held the post has gone on pre-retirement leave and before a similar appointment is made, we think the Government should have a look at the operation of the law library and see that there is a need at this stage to upgrade the post of the Librarian and to implement the recommendations of the meeting that was held in April 1964 under the Chairmanship of the then Chief Justice, Sir Kenneth Stoby.

Finally we on this side of the House for quite some time have been asking the Government

to establish a permanent Law Revision and Law Reform Committee, the accent being on law reform because law revision is going through at the moment, and this is something about which we feel very strongly. We feel there should be a permanent Committee established to reform the laws of this country. Off-hand there are such things like the Divorce Law, Landlord and Tenant, Motor Vehicles and Road Traffic Act, the Real Property Law and the Criminal Law needs to be brought up to date, and this could be done if the Government would heed the Opposition and establish a permanent Law Revision and Law Reform Committee.

I may at this stage state that we are living in a changing world and changing society in which the pace of change is becoming greater, and as such the laws must keep pace with the changing needs of our society. This is not to say that the law must be like a straw in the wind bending to every turn, but the law must keep pace with the needs and aspirations of our society in the same manner that Barristers must go outside being mere champions of fundamental rights and freedoms and participate in our society as a whole.

5.10 p.m.

I would like to finish by saying the words with which I started, that the Barristers in Barbados must participate in the society in which we live, that we must do this to understand our society, and that we must go beyond the narrow limits of the law in an effort to make sure that the law will be used as an instrument for the social and economic well being of our society.

Mr. BOLDEN: Mr. Speaker, the Hon. Prime Minister in introducing this Bill sought to cast quite a number of doubts upon the validity of the legal profession in this country. He has often said that the members of the Opposition do not do their homework. It would not have been necessary for me to speak if the Prime Minister had not made certain remarks which obviously would draw out answers, because I am sure members of the Government are not fully aware that the member for the City has certainly done his homework in order to reply to the person who introduced this Bill this afternoon.

I rise to comment on some of the statements made by the Prime Minister when he introduced the Bill, but it is so difficult to comment when the Prime Minister introduced the Bill, made his remarks about the legal profession and then left the House, because you know, Mr. Speaker, the Prime Minister spoke about keeping people waiting in the hot sun for weeks and months in order to get cases completed, but that was the practice of the Barristers some years ago. He as Minister of Finance is in a suitable position to remedy this whole situa-

tion. It is all good and well to criticise but not to wait to hear the replies which he well knows will be pretty harsh. If one should think about the conditions which exist – and the Prime Minister knows what he is talking about – he said that only people in chattel houses go to the Courts and that he never sees the well off appear. I would say that the Government of today has kept the Courts in a state of repair suitable only to people in chattel houses.

Let us start in the east, District 'C' which I believe is in your constituency, Mr. Speaker, The people attending District 'C' Court have to pass under the Policemen's toilet, and many days the Magistrate has to rise because of the stench coming out of that toilet, and it is in keeping with the chattel house atmosphere that nothing has been done, because the Minister of Works who is also a Barrister is absent from the Chamber today. The Prime Minister who is a Barrister and Minister of Finance is now absent, but I hope that the Minister of Information who smiles so greatly and who earlier in the Prime Minister's speech began to cheer will carry back the information to him, because that is his job. I hope he will publish the information for the public at large to know the conditions under which the Barristers and litigants have to work, and as Minister of Information I hope he publishes it well.

Look at District 'D' Court. It is practically impossible to work there because there is nowhere to re-arrange the Court in order to get the Barristers, litigants and the Policemen inside the building, but the Prime Minister criticised the whole system. Go into District 'A' Court – and you must have suffered like every one of the practising Barristers, Mr. Speaker, – chairs are broken and many of us have lost trousers on the screws coming out of the chairs. What are supposed to be desks are like the kitchen tables taken out of some chattel house kitchen and put there to accommodate what will now be the new fangled attorneys-at-law. If you go to some of the other Islands like St. Lucia and Dominica you will see that the Courts there are superior to the Courts we operate in, and we talk about being so advanced. What can the Act do? He said that one should know that the Act is not going to change anything, and he knows full well that when you keep changing but do not look beyond the change you are not doing anything. You have a new Juries Act, you have women on the Jury, but what accommodation have you provided for the women jurors? It is a most shameful situation. One Magistrate had to give up his Chambers to accommodate the women who sat as jurors during the Assizes. What are the facilities provided for the Barristers who have to pay registration fees? There are no toilet facilities, no change room, it is only

after struggle and struggle that a telephone has been put into the law library, but these are the things you must look at.

It is not only good to criticise the profession, the Prime Minister knew what existed when he was there and it is worse now. It has deteriorated since he was last there and I believe it will continue to deteriorate. He talks about the divided profession, politically, racially and the separation of the profession. This is absolutely true. It is well known that an industrialist coming into Barbados and happens to fall upon the wrong attorney-at-law who does not belong to the right Party might not meet with much success thereafter, so it must be politically divided. When you talk about it being racially divided, that is so well known that I would not even have to say anything about it. As far as the separation of the profession is concerned, by joining them, what the Prime Minister must do is to look around Bridgetown and ask about the last upheaval by a group of young Articled Clerks and newly qualified Solicitors who had to walk out of a Solicitor's chamber, and then he will know about racial discrimination. They will talk about the service and say they know what is going on, but what happens after that? That is the question.

He talks about the exploitation of poor people. For the longest time several of us practising at the Bar have asked for facilities for Barristers, and I think that now the attorney-at-law should be able to appear by himself in the Supreme Court in many cases.

5.20 p.m.

With regard to the question of an undefended divorce case, Mr. Speaker, you know full well that there is nothing so technical in that case that you must get a Solicitor to go with you. It is now commonly known that the Barristers draw up all the documents, carry them to the Solicitors who scribble their names at the bottom and draw the same fees as the Barristers. Because a Solicitor enjoyed a position where he could not be touched, he commanded all of the conveyancing work. He knows that once you get into the High Court you are bound to come to him, and the poor Barrister will always be the kick-about boy.

I thought the Prime Minister would have told us this afternoon about amending the Supreme Court Rules to allow solo appearances in many of these cases. Let us take an accident on the road for example, Mr. Speaker. You cannot get a Solicitor to come out after four o'clock in the evening. The Barrister is called out during the night, but the Solicitor can sit back and wait. The Solicitor sends his Articled Clerk to the Supreme Court, Mr. Speaker, I am sure that since you have

returned here you have not seen many Solicitors in Court, but you have seen their Articled Clerks. But who draws the money? These are the things I thought the Prime Minister would have spoken about.

Mr. Speaker, the Prime Minister said that he was unfaired. He also said that people had to stand in the sun. Now, take the question of people making applications for liquor licences. You merely have to go in the Court Yard for a Liquor Licensing Session morning and you will see people standing in Coleridge Street and in the Court Yard waiting to hear if their applications have been granted. John Thomas is called; he goes on the stand; he is told "granted"; he gets off the stand and he goes away. Instead of the Prime Minister coming here and telling us how he is going to remedy some of these things, he comes in here criticises the legal profession and runs out, but this does not take us any further, Mr. Speaker.

The hon. member for St. Michael West has been sleeping on this matter. If the Trade Union were interested in this matter, he would have called a strike long ago. I wonder what the Prime Minister would have done in the circumstances. He would have come here and introduced a Bill to take care of the things he has quarrelled about in here. As I have said before, it is all well and good to come in here, criticise, abuse and then walk out. Ask him how he is going to control the racially divided profession and the politically divided profession? It is in his power to do all of this.

Mr. FORDE: Mr. Speaker, may I say that this is not the first time in the history of the legal profession in Barbados that legislation affecting the regulation of the profession has been introduced, first, into the Other Place and then, secondly, in this House of Assembly. Indeed, Mr. Speaker, in 1891 in the Barristers Act a similar procedure was followed and, again, in 1896 when the Solicitors Act was dealt with. The reason for this is not far to be sought. It is that by and large there is a great deal of unanimity concerning measures dealing with professions, and in particular the legal profession, and, secondly, because of the noncontroversial nature of the subject, it would be better to introduce it in the Other Place where, I believe, the acrimony of the debate is less pointing and less personal. I think a third reason is that in 1891 and 1896 as today, the principal spokesman for the Government on legal affairs has been the Attorney-General and, wisely, the Government of the day as the electorate of today have always kept him shielded from the attack of his other fellow members of the profession on the other side. That is why if you look through the

Hansard of this country for several centuries you will find that the debates on the legal profession have lasted for a lesser time than it took the Mover of this motion to introduce his principal speech.

The Attorneys-General of those days had no acrimony; they did not have to make an attack on their own profession, and they had no shame for their profession because they themselves had practised honourably in it. But whatever the reason is for the introduction at that time, let me make another statement that it is not the first time that the legal profession is being regulated in any manner by the Government of the day. When we come to discuss this Bill, we should be mindful of the fact that as early as 1670 when Christopher Codrington was the Deputy Lieutenant Governor of this country, he and the Council and the Assembly brought before this Chamber a measure to control the abuse of lawyers and the multiplicity of lawsuits. Even in those days, well over three hundred years, the legal profession like most professions were liable to abuses, not only themselves abusing the interests of the public, but being themselves abused by the public — sometimes very unfairly. It was, therefore, necessary to have some degree of regulation. In 1715 likewise His Excellency Robert Lowther the then Governor introduced into the Legislature a measure to confer on licentiates the right to practise and the status of attorneys-at-law.

Mr Speaker, I said a few days ago, and I will repeat it here, that the poet Shelley has well said that the only changeable thing in the world and the only consistency about human affairs is mutability itself. We have the repetition in this very Bill of a provision to elevate to the status of attorneys-at-law persons who would have been described in 1750 as licentiates. I refer to persons on whom this Legislature has recently conferred the right to practise as registered conveyancers.

When we scan our history, we can see that the legal profession has always been in the Legislature's mind and that the members of the legal profession have always played their part in the Legislature of this country. No legal history of our country is written, because if it were written it would have given the lie to many of the aspersions which have been levelled against the legal profession today. There have been outstanding lawyers in this country whose contributions to Barbados will always be acknowledged on any abjective assessment of their contributions. It is a fact that the disrespect which has recently been shown to the legal profession has been due to the fact that some of the people who have passed through the profession disrespected themselves. This is a great pity, and I

hope that, in future when we are speaking on the professions, we will recognise that the contribution of lawyers in this country has been a great contribution. I, as a member of that profession, am not afraid to state that I acknowledge their contribution, and I am sure that history will acknowledge their very valuable contribution, too.

5.30 p.m.

I should like to state that a further look into history shows that in the 18th century there was virtually a fused profession, Mr. Speaker, so fusion as being introduced by this Bill is nothing new. The situation is that people were licensed by the Governor to practise, some of them unqualified, some of them qualified in England, and indeed if one looked at the report of the Commissioners of Civil and Criminal Justice in the West Indies which is dated 16th May, 1825, you will note that in the testimony of the Attorney General of the day it was stated that the only person who was qualified in Barbados was his son, the others had come up as licentiates, and most of them practised as attorneys-at-law doing both the work of Barristers and Solicitors.

I think one should remark on these things because the public must understand that this is not the first time that the Legislature is dealing with the legal profession; it is not the first time that an attempt at regulations has been made, but we must be conscious of the development of the legal profession and the development of the laws governing it has gone almost on par with the development of some of our institutions. Changes have come about because of changing times, changing social conditions, changing political conditions, changing economic conditions, and today we are faced with the need to fuse the profession because of changing conditions in the legal education of the people of this country and indeed of the West Indies.

Let me state here and now quite clearly that the Government can take no undue credit for introducing this measure into the Legislature. The legal profession itself was the motivating force for this measure being brought in this country. You will recall, Sir, that in the year 1963, I think it was, a Committee was set up to look at the system of legal education in the West Indies, the Wooding Committee. That Committee reported in 1965, but prior to the report of that Committee the Bar Association of Barbados had met and passed a Resolution setting up itself a Committee to consider the question of fusion of the legal profession in the light of the recommendations being made for better legal training of the profession in the area. The Bar Association showed the foresight of seeing that there was change

everywhere and consequently the legal profession must make provision for that change. I think it is significant that the Wooding Report was presented, I believe, in May 1965, and a Select Committee of the Bar Association headed by Mr. Oliver Browne, Solicitor General, presented a report for fusion in September 1965. Could a profession which is so divided, which is so much in the doldrums, which is a cat and mouse profession, still have the youth and vitality to rise to the occasion and seize the opportunity well ahead of any other country in this region? When one is sharing blows, one should be big enough to stay and hear the reply to the blows that one shares and see where praise can be given.

I sometimes think that the bigness of men is where they can praise even where it hurts them to praise, where they can give honour even where they fail to see that honour is due. I should like to state that not only in the region of fusion, Mr. Speaker, but also in the discipline of the profession itself, I have been perusing the Minutes of the Bar Association to refresh my memory on this point, and honourable members should know that as early as the year 1964 the Bar Association was discussing among itself what steps it should take to have its own Disciplinary Committee, and indeed, Mr. Speaker, in 1965 the discussion at that meeting became very heated, and I think it was put off for a while.

In 1967 the hon. member for St. Michael South Central who is not here today came in fresh from Jamaica as Attorney General and in conversation outside the meeting with some of us, we suggested that one of the chief contributions which he could make as Attorney General was to have a proper Act regulating this profession and on 12th March, 1967 he moved that the Bar Association should set up a Committee to look at the whole question of discipline. Mr. Speaker, I had the honour to be appointed the sole member of that Committee and I should like to say, and I do this with humility, that it is my report to that Committee which formed the first basis for this Bill that is before this House today, and for the first time it was pointed out to even members of the legal profession that the Supreme Court of Barbados always had the right to discipline barristers and lawyers, and if it had not done so down through the ages the lawyers themselves could not be blamed, because the Attorney General of the day always had the right to move the Court, and if he had failed to do so down through the ages, then it was no fault of the profession itself.

Let us get the historical facts straight. After the Report of the Select Committee, the Bar

Association referred the matter to the Attorney General and then the Government referred that report to the Law Reform Committee under the Chairmanship of Mr. Erskine Ward, and he produced a much more comprehensive draft called the Legal Profession Act of 1970. That draft Act was referred to the Bar Association and the Law Society who met in joint session and gave general consideration to the matter and finally referred it back to a Select Committee, and I can state that the members of that Select Committee were composed of distinguished people like the Professor of Law at the University, the Dean of Law at the University, Mr. Oliver Browne himself, the Clerk of Parliament, Secretary of the Barbados Bar Association, Mr. John Connell, the Hon. member for Bridgetown, Mr. Christopher Blackman, Secretary of the Barbados Law Society, Mr. Nicholls, Mr. Armstrong, Mr. Clarke and myself, and it was our draft which they finally sent on with a few amendments to the Government, which by and large comprise this Bill which is now before the House; so we have nothing to be ashamed of. To denigrate us in the eyes of the public is cheap publicity, but when you really look at the true facts, if we should have been disciplined, there was always power in the Government of the day since 1961 when there was an Attorney General, and only on one occasion has the Attorney General moved the Court to strike off anybody from the role of Solicitors in this Island. Again I must state that that one occasion arose out of a dispute in the Court where I appeared for the plaintiff and my learned friend for the City appeared for the defendant, and I brought before the Court all the evidence and the Judge referred the papers to the Attorney General's Department. How come today we hear that lawyers belong to a disreputable profession and it is a profession that one should be ashamed of? Every profession has its black sheep. Indeed in a column in Washington recently I saw that the lowest thing beyond a lawyer is a politician and some people who have now run away from being lawyers and become politicians may have read that column.

Let me state quite clearly that we have our black sheep in the profession. There has never been any doubt about that, but there has always been power to deal with them. We hope that now that the profession is taking back to itself some of the common law powers that we ourselves will be more able to motivate and move the Court into acting and disciplining those members who have stepped out of line.

I have dwelt on this matter, Mr. Speaker, because one of the easiest things to do is to pull down, not to build up, and I would indeed like to say this for the Hon. Prime Minister, that he probably felt safe in the company of Shakespeare, because you

will remember that in Part II of Henry VII one of the characters could only shout and the only contribution he made to the play was to say, the first thing to do is to let us kill all the lawyers.

5.40 p.m.

Likewise if you are a person who is interested in poetry you will find that these sentiments are referred to in the poems of John Gay. He said "a fox may steal your hens; if a lawyer's hand is fed, he will steal your whole estate." Those sentiments are nothing new they are just generalisations, and in the context of Barbados they are not as correct as they may appear at first sight to the public. I would like to say that this Bill basically has some features that are commendable, that the public should know about, and one of them happens to be fusion. I have remarked on the history of fusion. I do not think that this is the place to canvass the merits or demerits of fusion; suffice it to say that it would be impossible in the Caribbean despite the fact that Trinidad is holding out for the profession to remain divided into two branches where you are having a common system of legal training. This is not to say that there will not be specialisation within the profession, but I think that the efficiency of the profession to the public can be made possible by people practising together in large partnerships where they are not only specialising to a degree but they are able to be more efficient in terms of the administrative and overhead costs which the profession must really attract.

My plea to the senior members of the profession, as well as to the Solicitors, is that one must throw open the doors, one must give younger members of the profession regardless of their social status, or racial characteristics, or their political affiliations, an opportunity not only to earn their living but to exercise their rights as human beings as part of the society to make a contribution. Mr. Speaker, I have never measured my friends according to their political nature or their complexion; I will never measure my colleagues at the Bar according to the political nature or their complexion or indeed their racial characteristics. I believe that men who aspire to be big must be bigger than that, and I am sure that the younger members of the profession particularly are deeply conscious of those sentiments, and that it is true to say even if it was not true ten years ago that the profession today has much more unanimity of spirit, and the younger members are much more dedicated to serving the public and to disciplining themselves than ever at any time in the history of the profession in Barbados. Therefore, they are conscious that in a fused profession they have their obligations. As I discuss other characteristics of this Bill I will show where within the Bill itself we have set out to do so.

The other point I should like to go on to in more detail is this question of discipline. I would ask hon. members to think of any other profession who has set out consciously to ask that it disciplines itself or that there should be regulations for disciplining in the profession. The Government has to bring down legislation to discipline druggists, it has to bring down legislation to control nurses and doctors, even without being requested by those professional bodies, but it is the lawyers themselves who asked for regulations. We hear how unregulated we have been, but how can Government allow real estate agents unqualified in any part of estate management to offer themselves to the public and hold themselves out on professional standards? What about them? Not a word we hear in this House about them. The only reason I can assume this attack has been launched on us in this vicious manner is because there are so many lawyers who happen to be in politics, and political disagreements are being allowed to cloud what should normally be an objective judgement. In this Act we trust and hope that we have built up a system that will work properly. I am glad to see that the Government has taken the suggestion and has amended or will be asking for leave to amend the Schedule so that the Attorney General does not automatically sit as Chairman of the Committee. I will state that I have the greatest respect for the present holder of that very high office. Indeed he and I have studied together at the university, we have been colleagues together for several years, and I consider that we are personal friends. My objection to his sitting was not based on either his personal qualities or any other such consideration. One of the reasons which the hon. member for the City has stated is correct, and the reason is that he cannot be the prosecutor and at the same time the judge who sits in judgement on the person whom he is prosecuting.

That is a conclusive argument, but I am not going to step back and say that that is the only argument. The argument based on the political nature of the office is also a conclusive argument in my view, for the simple reason that it may not be this Attorney General, but it may be a future Attorney General. This is a small society and people are small minded in some respects and it is better that things should manifestly appear to be right and not only to be done right. I think to that extent the Attorney General may be commended for having taken the constructive criticisms from the legal profession. I would like to say to him that this was not a matter of confrontation, it was a matter on which the profession felt deeply and we are sure that we will come to him for advice and guidance in the areas in which we are doubtful, and we are sure that he will as a lawyer rise up to the occasion and give

that advice objectively. We do not apologise at all in the Bar Association for having pressed the Government to make this change, and although in making the change the Prime Minister could not even appear magnanimous and say that he accepts the recommendation of the Bar Association, we do not mind, the point is that history is not only what comes out of the mouth of one man, history will show the facts and history will judge the true position on this point.

I should like to go on to another one of the important provisions of this Bill, the question of discipline. This is the first profession which has itself put in a Bill to Government that it is liable for negligence. Members should know that Barristers are here reversing the common law provision which has existed from the beginning of the settlement, and they are subjecting themselves to actions in the Courts of Law for negligence, other than in the field of advocacy. This is not a proposal emanating from the Government, it is one emanating from the profession itself. Is this profession which is so divided, so unconscious of the public's interest that was willing to give up any privileges that it has? Is this a profession that is so dishonourable that it does not care at all about poor people? Is this a profession which would willingly go to the Government and ask them to legislate for its liability if the profession was not an honourable profession? Is that the Act of a dishonourable group of people, Mr. Speaker? We must look at these points, because they are important that the country should understand and not be misguided.

I come to another part of this Bill that has tremendous importance so far as the regulation of the profession is concerned. I have spoken of the fact that in the future we will be liable for actions for negligence, just like doctors are today or any other person, but we have gone further than this in this Bill. You will see that in section 47 of the Bill and the following section that we have provided for a compensation fund. I dare the Mover of this motion to look throughout the Statutes of Barbados regulating any of the professions, either the existing Statutes or proposed ones, and see where there is this degree of accountability to the public at large. Are we less honourable than doctors because they are less accountable than us? Are we less honourable than trade unionists because they are less accountable than us? Are we less honourable than Ministers because they are less accountable than us? I should hate to think that the

public would take invective of that nature and judge it as respectable of any proper commendation.
5.50 p.m.

We have provided that all of the members of the legal profession will every year give out of their pockets a sum of money which is funded, that we should have the power to borrow money, if necessary, so that where a person suffers because of defalcation of a member of the profession and that member of the profession is unable to make restitution that those of us who are not accountable will still have pulled our own pockets to make sure that the poor person or, indeed, the rich person who suffers will be compensated.

Mr. Speaker, anyone with a heart, anyone without an axe to grind, anyone who is not sour and lacking in acrimony, anyone who is objective, kind, humble and big, will at least, acknowledge that this is a good sign for a profession which is looking forward, vibrant, and is aware of its public duties. That is the position, Mr. Speaker. I could not, as a member of the public and not only as a member of the profession, allow those aspects of the speech to go unanswered regardless of where they come from, because I would feel that I have failed my country and have failed in my duty if I did not put forward the facts in this manner.

Mr. Speaker, I want to ask: What of the future? Other speakers have spoken of the obligation of the Government to treat the law with respect. To treat the law with respect you must treat its institutions with respect, because its institutions are important. Any objective assessment of the legal institutions in this country will show today that they receive Cinderella treatment. Go around the law courts and you will see how nasty and dusty they look! There is no regard for them.

The hon. member for St. Joseph has spoken about introducing the Juries Act without making provision for the convenience of the women who serve on the juries. If this Government is really serious, then it should have respect for its women. It should have delayed the legislation, or brought down a measure to this House to make adequate provision. That is the position. Do not come in here after you have been in power since 1961 to run down your colleagues when you have introduced the Juries legislation and cannot even provide proper toilet facilities for the women you are

asking to give public service in this country. What I want to know is what is going to be done to prevent the very poor people, about whom this Socialist Government is so concerned, from standing in the sun and in the rain at all of our courts, despite the fact that the Government has been in power for 10 years, and has not seen fit to bring down a Money Resolution to the House to take care of such things? As Minister of Finance, he should have brought down a Money Resolution to provide for these facilities. Are you saying that every individual practitioner should pay for them out of his own pocket?

What has your Attorney General done about this problem during the years which you were in power? It is easy to get up and say this is a sign that the legal profession does not care. The legal profession cares. The members of the legal profession have from time to time made recommendations on this very point, and they have been pigeon-holed somewhere in the Ministry of Home Affairs, the Ministry of Legal Affairs and in the Prime Minister's Office. You can get up and make it appear that all of the other lawyers do not have any sense; they have no sense of public duty, but the great "I am" is the only person who has any sense regarding these matters.

The members of the legal profession want to make it quite clear that we feel strongly that the Government should use some of the money that is collected in the Courts in fines through the Registrar's Office — it is a paying Department — and improve the conveniences in the Courts. It should not be done necessarily for us, because we make our living there and you may not care about us, but it should be done for the litigants, the witnesses, the people paying debts at the Courts and for the poor women in this country who have to go begging their menfolk to support their children and shoulder their responsibility. It must be noted that the Courts are used more or less by the people in the lower income group about whom we hear so much mouthing and see so little performance. Those are the people for whom we want to see you make provision.

Mr. Speaker, the hon. member for the City has spoken about the Judiciary. I believe that the Judges are an important part of the scheme of the Government of a country, and you should treat your Judges with respect for their office. Mr. Speaker, I will illustrate this by referring to the Chair. Whenever the Chair has ruled, even if I disagree with its ruling, I will sit down. I hope that I will always be within my sanity to pay respect to the Chair. I may disagree with you personally, Mr. Speaker, but in my opinion the day that you

sit in the Chair, your office is too important to be disrespected. Indeed the Prime Minister and myself have some very strong personal divisions, but, as Prime Minister, wherever honour is due to him I will pay it to him. Although I have my views about him personally, I am sure he has his views about me, too. That is the position, because I think offices mean something in a country.

Mr. Speaker, the Leader of a Trade Union is an important person, and his office should not be denigrated. I think that something should be done to make the Judges more comfortable. Only recently some members of the Junior Bar got together to see what they could do to improve certain things. People like the Clerk of Parliament, who is very concerned about his profession, people like myself and Senator Phillips who are very concerned about our profession, see these things not based on politics but as human beings. We are conscious of the fact that even when some of us in here have gone, this country must go on and on — the legal profession with us, the judiciary with us, and therefore if you do not like the Judges you should still give them the respect that is due to them and the legal profession will continually strive for the best for the judiciary of this independent country.

Mr. Speaker, we beg the Government to look at the conditions under which the Judges are called upon to work. Only recently they started to air-condition the court; their toilet facilities are shocking; some Judges have to borrow Law Reports from members of the Bar; the Laws of Barbados are not up to date. Do you really think that the Prime Minister should come into this House and criticise his profession when his Attorney General cannot even get the Laws of Barbados brought up to date? He has been promising this House every year to bring the Laws of Barbados up to date. There is a serious dereliction of duties on their side, and he has the gumption to criticise the profession in the manner in which he did. I did not think this is fair. It has been said that if you are going to cast stones, you should make sure that you do not get them cast back at your own house. This is a clear instance in which this could be done.

If we are serious about the future of our country, I would ask everyone to forget all of these attacks, trappings and what-not. I do not care to enter into any debate on any matter raised by the hon. member affecting myself. I could not care less. That is all I have to say on this matter. I do not think that the contribution which I can make to this debate should be measured by any personal sentiment that I may have on various other matters. I think that this is an im-

portant matter. The Government is right to grab it and treat it well as a baby which it baptised even if it did not give birth to it. I myself, Mr. Speaker, am an adopted child, and the love shown by an adopted father and an adopted mother is something on which I speak warmly.

If the Government has adopted this measure and wants to be in *loco parentis* here, then if the Government treats it warmly, lovingly, and wisely, it will build up in this country a serious respect for law and order. From this we believe that lawyers will continue to make the contribution they have made in Barbados — I can think of Sir Herbert Greaves as one — and to improve on the contribution which they have made. I should hope that the profession will not only come into this House and ask for an extension of the Legal Aid Scheme, but that the profession itself will set up a Legal Aid Scheme if the Government cannot do it and offer voluntary service for deserving cases at least one day a week for members of the public.

6 p.m.

I was struck during my travels in the United States, Mr. Speaker, by the Neighbourhood Law Centres established in that country, most of them springing from the voluntary acts of the profession itself. In a backward state like Georgia, if one judges Georgia in terms of its racial attitude, one found that the legal profession came together and started a scheme where on Saturday each lawyer gave the whole day to the public at large, the poor people, free of cost. They were allowed to take back the briefs to their Chambers and work on them without any cost to the poor litigants. I am not talking about people who would abuse the assistance, and then later the Government stepped in and the Federal Government through the measure of the Economic Opportunity Act has now provided funds where there is a group of lawyers who are called Poverty Law Lawyers who practise exclusively in this field supported by State funds and to some extent still paid for by their respective Bar Associations. But it is significant that in Atlanta, Georgia, despite the provision of State Aid now, the lawyers have continued this tradition of giving at least a Saturday free to the public who really need it. I should hope that with this measure, showing our awareness, showing our consciousness of our duty to the public, that we can now get down to planning among ourselves.

I believe, Mr. Speaker, that in the legal profession both the Solicitors and Barristers on both sides of the political fence are brothers practising law, who are devoted to the public interest, who are concerned about those of us who have stepped

out of line and abused the public confidence, who are determined to make sure that this is prevented in future, but who also are objective enough to recognise not only our lack of merit, but also to be aware that we do have merit. There is merit in this Bill as there is merit in the legal profession, and I can willingly commend it to the House as a good measure.

Hon. P. G. MORGAN: Mr. Speaker, I was referring to all of the honourable and learned members of the House, but there is one aspect of this matter which a less learned member would like to make. It concerns matters of law before they ever get to the Court and indeed matters which do not necessarily get to the Court. It really comes down to a question which I would like to ask of those hon. and learned members and to know whether when this Bill becomes law if there is any hope that the poor people in this community may be able to get their matters of law dealt with more expeditiously than they can now, and in this I refer to matters of law which are supposed to be dealt with by solicitors at this time. I would say that I have never come across this kind of problem which I have in mind when it comes to Barristers-at-Law. The matter arises simply because all of us as representatives, — and indeed long before I ever thought of becoming a representative — found ourselves in a position of having to represent people who are unable to get matters taken care of on their own without having somebody to speak out on their behalf, supposedly some big person, a member of the House or the Other Place, a businessman, plantation manager or such person, and still in all one cannot seem to get these matters, simple property matters, matters concerning deaths and inheritance and things like that, dealt with.

There is in the region of the Solicitors, as I see it, a callous regard for the interests of the more humble people in the community. They take on the work, but if I remember rightly, it was a former Chief Justice who said that they are slower than sloths. The regrettable thing however is that when it comes to the point of some more wealthy person wishing to buy property where there is a conveyance and a handsome fee involved, the sloths seem to wake up. When it comes to an ordinary person's very simple, drab and not very rewarding small business, it can take forever. Even now I know of instances where for eighteen months I have been trying to get a solicitor to act on behalf of a lady who really desperately needs money which she is entitled to, there is no question of litigation, and even up to yesterday when I called again, it was a question of "I would have to look into it, I will try to find out what is happening and will call you back", which of course never happens. So that I am hoping that the

Barristers who are to be attorneys-at-law will give better representation to the ordinary, simple matters which the people have to get dealt with, than their colleagues who are presently Solicitors have done in my experience.

Mr. WALCOTT: Mr. Speaker, I do not intend to be long on this as this is breaking new ground and from what the hon. member for Christ Church West has said, I would like to say that I am very glad to see a Bill like this, and I am very glad to hear the speech the hon. member has made.

Mr. Speaker, I am a strong believer that Barristers and Solicitors should not be immune from the penalties of the law. The hon. member in his speech said that they are going to set up a compensation fund. I would not like to see a compensation fund; I would like to see some of them put in gaol. I do not feel that a Barrister or Solicitor should not be put in gaol for dishonesty and any mal-practices, and I am very serious about that. You are not going to settle a small society like ours unless you can go a Barrister or a Solicitor for dishonesty like anybody else, and I do not feel that the prison doors would not lock if you put a dishonest Solicitor or Barrister behind prison bars.

Now the hon. member mentioned the trade unionists. Unfortunately there is no protection for trade unionists; we have to go to gaol if we carry away trade union money. If you go through the Trade Union Act you will see that there is no immunity, and it is unmistakably clear that nobody is immune for any falsification, carrying away books or hiding them or taking away people's money, and I am very serious about this.

On the other legal matter I would like to join the hon. member for Christ Church North Central in saying that there are simple legal matters that can be dealt with more expeditiously. I saw two law books recently, one is in the hands now of a lawyer, and the point was made by a lawyer in this book that the public is taken advantage of in simple legal matters. I will draw an example. There are simple routine matters that will take people to the High Court. The lawyer brought out a simple matter like in simple divorce proceedings where it is not contested and a junior lawyer can draft this matter and have it settled, sometimes it requires the rigmarole of getting a senior counsel, getting a Solicitor and a junior counsel and it ends up that a fee of £50 for an ordinary matter rises to something like £500. If it is £50, the senior counsel would be £150 and then there would be £75 for the junior counsel, another £75 for the solicitor and it multiplies.

6.10 p.m.

Those are the things I feel that the profession should not slavishly follow here in Barbados, and the profession should be modernised. When I hear so much about productivity these days I believe there should be legal productivity, and I do not feel that you should carry four people in court with a lot of padding. Perhaps it is all right in certain matters, but not in ordinary matters which do not require much legal difficulty. I do not want to say any more on this, if the profession is going to become modern I think it is about time, because at some time or other the public must use these services, and as the hon. member for Christ Church North Central said, I feel in simple matters like inheritances where people have to go through the Courts for a settlement, we would like to see greater speed so that these can be done in as short a time as possible. Many people today are dying and no wills are left, and some people have to go through a very long process to get their claims settled. In our own organisation there are instances where we cannot pay out money to people, sometimes it may be \$1,000 or \$2,000, but we have to go through a long process and the people are suffering in the meantime because they cannot establish any legal claim to the money, and we would like to see processes like these drawn up to help people get through much quicker. We hope that the profession as a whole will do something about speeding up the processes and making all the powers that are connected with this help the community as a whole.

Hon. C. E. TALMA: Mr. Speaker, for fear less this debate comes to an end without giving my point of view, I consider this matter very important for me to get my contribution on record. This Bill seeks to provide for the fusion of the branches of the legal profession, for the legal education and discipline of attorneys-at-law, and for connected purposes. I believe that in about 10 or 15 years it will revolutionise the practice of law in this Island, and presumably in many other parts of the Caribbean, as Barbados is regarded as being the seat of advance for learning. This Bill seeks to implement fusion in the branches of the legal profession and provide for reform in the system of legal education, etiquette and discipline in that profession. The Bill seeks to ensure that the legal profession operates within a framework which is beneficial to the public as well as to the profession. Those are the objects and reasons of the Bill. I think that one cannot reiterate the objects and reasons too often in order to be relevant, but to many of us, we are aware that both historically and traditionally, both here in Barbados which is known as "Little England" and in the United Kingdom, we have from time immemorial had two branches of the legal profession. The advocate, the narrator or mouth piece, the Barrister, whose

fee is an honorarium and who is supposed to be drawn — at least in England — from the higher income classes and the aristocrats, and the average advocate is an excellent mouth piece and relies to some extent on being briefed by his lower mortal, the Solicitor. The Solicitor or Attorney is expected to know the law except in certain criminal cases where the Barrister monopolises the situation. The Barrister's fee is an honorarium, and I want to explain that.

A Barrister could not sue for his fee and had to see that he was properly paid before he entered the court house to plead or see after any matter. If he failed to collect his fees before entering the court house, he would experience difficulties afterwards and could not sue to recover his fees. The Barrister was not subject to any schedule of fees, he could charge whatever fee he thought fit, and he is not at present subject to any scale of fees, and he is not disciplined in that respect. He does not have to account to anyone, whether it be the Registrar, Chief Justice, Judicial Committee or the Governor-General. The solicitor on the other hand, and I am speaking mainly of England, who was always drawn from the lower or middle income classes, and by virtue of the fact that he had to be articled to a practising Solicitor he had to start from the very beginning, he had to learn the routine of the office work and make all the searches and investigations of title, etc. as directed by his principal Solicitor. In short, he had to do all the spade work in the office and in the Registration Office on behalf of his principal Solicitor or on behalf of the firm of Solicitors to which he was articled.

The Solicitor's course of training is based on the examinations of the Law Society of England which are fairly comprehensive, but a Solicitor benefits mainly from his long years of experience in a proper up to date Solicitor's office in order to get a wide experience of the conveyancing work of the practice generally. The Solicitor's fee is stipulated in the Schedule of Fees and he can only charge the prescribed fee in the Schedule. He has to keep proper books of accounts, and is directly answerable to the Chief Justice and the Supreme Court of this island.

This question of fusion has been under consideration for some time, and in England it has been discussed from time to time since the Sixteenth Century. In Barbados it is only since November, 1966 — after Independence — that the question of fusion has become very active, and I am very happy to see that it is being seen after by the Bar Association, the Law Society, the University of the West Indies and the various law officials, and has at long last reached here.

6.20 p.m.

I agree, Sir, that it would be better to have that Amendment in the Fourth Schedule in that the Attorney General would be better placed if he is not a statutory Chairman. As the Prime Minister has said, the Attorney General will serve on the Disciplinary Committee if he is nominated to do so by the Barbados Bar Association.

There are many other points I would like to make, but I do not think they would serve any useful purpose at this stage. I think the Bill has been gone into very carefully, and certain hon. members who have already spoken have made very salient points. I refer especially to the hon. member for Christ Church West and some of the other members on the other side, and I think that they have made a very valuable contribution to the Bill.

Mr. ADAMS: Mr. speaker, although my voice is a little shaky, I do not think that I should let an occasion, both a Parliamentary and a professional occasion, such as this, pass without making some contribution to this debate. I had told my colleagues that I would not speak until after the hon. member for St. Michael South Central had spoken, but it looks as if I am going to be denied that pleasure of hearing the Minister of Communications and Works today, so I would have to speak in his absence.

Sir, if there has been one day in this Parliament upon which I really regretted that we have so dreadful a daily press in this country and Reporters so thoroughly incapable of understanding what they hear, or of reporting it fairly and accurately and with the proper respect based on the qualifications of journalism, it is today. I have not heard any speech today that was not full of good sense and of a very high, technical quality indeed. I think that the debate upon this particular occasion has been a very great day in the history of Barbados' Parliament, because people who had to think deeply about a subject have thought about it, and have come to the House of Assembly to talk about it. I daresay it will be many years before I will ever hear as able a speech as the one made by the hon. member for Christ Church West today. All of us, as far as I am concerned, who are privileged to be in here who have had the opportunity to hear him will agree with that.

It is with great diffidence that I would offer any comments after hearing what has been said by all hon. members, but there are one or two points which I would like to make. The first, Sir, relates to a colonial matter, the abolition of the status of Queen's Counsel. I do not wish to speak at length on this. I am a member of the Barbados Bar Council; I was present at the meeting at which

certain steps were decided upon by the Bar Council, and I do not feel altogether free to speak openly. But, again, I think I would be doing a good deal less than my duty if I did not tell the House, without any rancour, without seeking any political advantage or making any political point, that I regard the question of the abolition of silk as being based on a false premise; I believe it was abolished without entirely pure motives; I do not believe that the absence of rancour with which I am trying to speak to the house was out of the mind of those who welcomed it so enthusiastically, especially since my information is that the suspected abolition came from a member who is not in the House at the present time. I observed the manner in which he stated that the hon. member for Christ Church West and myself would have to do without silk, since he had his already!

Mr. Speaker, I do not believe that it is a step which can be justified upon any grounds: either the ground of anti-colonialism, or any ground that could appeal to serious thinking persons. There are already a number of Queen's Counsel practising at the Bar of this Island. If the status of Queen's Counsel should be abolished for the future, I would have thought that it would be abolished for all purposes and all Q.C.s would give us theirs. It is a status which after all, at least, enhances one's fees at the Bar, but such a status should not remain to a privileged few and be denied to others who in the fullness of time would qualify or, as I believe, in the case of the hon. member for Christ Church West had already been approved by all those concerned, except that he actually had to forward it for the attention of the Governor-General.

I do not believe that the status of the Bar of Barbados will be enhanced by the non-existence of Queen's Counsel. There seems to be some highly mistaken belief that Queen's Counsel is some sort of honour. For this I have to blame, partially, persons who have enjoyed that status before now, because in Barbados, undoubtedly, the position of Q.C. has carried privilege without any responsibility. It is the letters you put after your name, and you do not have the responsibility of having to carry a junior Barrister with you when you appear in Court, or, as it happens in the Islands of the Eastern Caribbean where the members of the profession are few but where the status of Q.C. is still retained, losing your right to sign conveyances before they are carried to the Registry of those Islands — a right which I believe is financially very valuable and which leaves a situation such as prevails, at least, in the Island of St. Vincent and one or two other Islands where there are no Q.C.s because nobody is either sufficiently eminent, or can afford to take the status of Q.C.

I refer to the status of the Bar of Barbados. Do not let us fool ourselves. It is important for a country to have its professional organisations and institutions respected abroad. It has been a part of the respect which Barbados carries and other Islands of the Caribbean and in other parts of the world that it is supposed to have a full, talented and experienced and able Bar as evidenced by the number of its senior practitioners. There is no doubt about it that in the days when the Prime Minister practised at the Bar — even though I do not believe he attained the status of Q.C. before he was called to the Ministry — it enhanced the position of Barbados when the Prime Minister was employed to practise in the Island of Antigua or St. Kitts. To this day you can hear people talking about the status of Barbados when leading members of the Barbados Bar are briefed and retained in other Islands of the West Indies.

Mr. Speaker, I do not know and I cannot conceive why the Government has thought it necessary to surrender this for no reason whatsoever. The Q.C. is not the same thing as C.B.E. or C.M.G. You do not wear a medal ribbon for a Q.C. It is not an honour. It could be Senior Counsel as it is in the Republic of Ireland, which has abolished Q.C., because it is a Republic and it can no longer have Q.C. In Guyana and South Africa these places have S.C., meaning State Counsel. 6.30 p.m.

The only country indeed, Mr. Speaker, of which I know where there is no recognition by a title of status in the legal profession is the United States. Throughout the continent of Europe, there are grades in the profession; senior lawyers in France are called Maitre, in Italy they receive a doctoral title after a certain number of years; — I have heard Sir Hugh Wooding explaining it at great length — in Germany senior lawyers are recognised, in the Spanish speaking countries senior lawyers are recognised, but Barbados for some reason, in the interest of goodness knows what, has suddenly decided that there will be no more Q.C.s, and I say that this comes ill from a Cabinet in which the only members of the senior Bar are persons who did not attain that status through practice at the Bar itself. It would come well from a Cabinet that included Jack Dear, Theodore Branker and Bernard St. John, and I believe that if it came from such a Cabinet they would give up their own silks; but it does not come well from a Cabinet where the only silks are synthetic silks. It does not come well from an Attorney General whose silks evidently means so little to him that he is prepared

to abolish it for other people who might have obtained theirs upon merit based upon advocacy at the Bar.

I have heard all sorts of arguments, all the solicitors would flood in and get Q.C.s. In Canada, are all the solicitors Q.C.s? You look at any Canadian lawyer's letterhead; there may be ten partners of a firm and it would not necessarily be the senior or the second or the third senior partner who is a Q.C.; it may be somebody six or seven down the line, because he and he alone is the advocate who goes into Court and who the Governor-General and the legal profession of his State in Canada have recognised as an advocate, a practitioner and a pleader who should be distinguished from other lawyers by the addition of the letters Q.C., and I particularly plead Canada since Canada is not a country renowned for colonialism, at least not in my books. I do not know why we should look to the greatest imperialist country, as I hear so many people say, on earth, the United States and adopt the practice of the United States where all around us a different practice is in force, and we can look indeed at Canada or Australia. I bet the Labour Government in Australia is not going to reject Q.C.s, or Guyana or Ireland. We can look around us and see the countries which have not fallen into this great mistake. Any future Barbados Labour Party Government, Mr. Speaker, and I say this quite categorically, will not follow the ruling which has been made by the Attorney General in introducing this Bill in the Other Place. That is quite a categorical statement.

There are one or two other things, perhaps I should mention this point. One would have thought that in dealing with legal matters that you consult the Bar Association, the Judges and the Law Society. Speaking for the Bar Council I can say quite categorically that the Bar Council was not consulted in this matter. I attended a recent meeting of the Bar Association, I could not be there for very long and I can only speak for hearsay of what I heard said by the person who presided at that meeting, but I heard it said then that a deputation from the Bar Association had been to see the Chief Justice and that the Chief Justice said he had not been consulted and he did not agree with it. This is a Government which has once rejected very wise although not fully comprehensive matters of law reform, not on their merit, but because the Barristers concerned who were then, Mr. Speaker, Mr. Deputy Speaker, the hon. member for Bridgetown and I who sat on a Select Committee in this House were practising Barristers and had not asked the Chief Justice before about the matters which we were suggesting should be the subject of amendment to the Magistrates (Jurisdiction and Procedure) Act, 1956. We were told in here that we

as lawyers had not asked the Chief Justice before we as members of the House decided to try to change the law.

I am not aware that my constituency is a judiciary. My constituents sent me to Parliament to express opinions as I think fit, therefore I do not believe that I have to consult anyone before such an action. Nonetheless it was the intention of that Select Committee to call for the legal draftsmen and to forward our suggestions to the Chief Justice but we were told it had not been done before, therefore it would be rejected as being out of order. Yet on another such occasion, something so very significant to the conduct of Court Rule procedure, — because it may not be known to members of the public, that Q.C.s alone are supposed to sit down in the front seat, — was done, I suppose that when the present Q.C.s retire from the Bar or are called to the grave beyond that you will allow a row of seats in the front of the Court in which nobody can sit. I can only suppose that. That is part of what is called silk. All these matters seem not to have been taken into account in this particular decision. I regret it, Mr. Speaker, I think it is based upon a great mistake in understanding of what is involved in the legal profession. I think that a constructive approach on the part of the Attorney General as leader of the Bar would have been to consult the Bar Counsel and say that he wished guidelines to be laid down for the award of silk in the future. That was, I think, the correct step to have taken. The Bar Counsel has written a letter along these lines to the Attorney General, and as far as I know no reply has been received. The Bar Council is perfectly ready at any time to consult with the Attorney General, lay down responsibilities for senior counsel which they will have to bear if they wish the privilege of the status lay down criteria, number of years at the Bar, frequency of appearance as an Advocate in the courts or whatever, lay these criteria down, criteria which have to be satisfied before the award of silk. In doing this you can take guidance from the very well run, in my opinion, courts judicial system of the Associated States of the Eastern Caribbean, you can take account of the Canadian practice, of the Australian practice and the Jamaican practice, and instead of abolishing the procedure, straighten it out and make it proper for the future. That is what I have to say about silk.

I cannot add anything to the speeches which I have heard so far. The very short contributions made by the hon. member for Christ Church North Central and St. Michael West are as valuable in their way in my opinion as some of the contributions which we have heard on this side. They have all made sense. I think the Prime Minister is a little sanguine when he attacks the Bar of Barba-

dos and says it does not live up to certain standards, speaking of his misfortune to belong to it. I keep telling hon. members that Barbados is a small place and that in a small place, certain standards necessarily get blurred at the edges because everybody knows each other so well. At the moment there is a Solicitor in Barbados practising who went to the Commissioner of Inland Revenue and represented to him that it would be all right with me Tom Adams if a death duty certificate which was the key to an estate worth \$27,000 and to which an old lady who is an inmate of a mental hospital in another island is entitled, was issued to him.

Mr. Speaker, there is not another country, I suppose, where that Solicitor would be practising today, but I tell you honestly that the pressures are such that although an action will shortly be brought out of it, I did not care and I do not care to make that the subject of disciplinary proceedings. Some few hundred dollars were owing to me as a result of this procedure. I believe, as I say, that an action is coming out of it, but my lawyers will better be able to tell you that than me. I believe I am an upright man and I do not like to see crookedness, and yet no step has been taken.

6.40 p.m.

There are other Solicitors who have gone up in standards qualified to go behind the bars of Glendairy Prison, as suggested by the hon. member for St. Michael West, and when I told a client of one of those Solicitors when I could do no more for her that she must now go to the police, one of the Judges made a joke with me about it. It was a joke. I am not suggesting that the Judges in any way condone the Solicitors' conduct, but it was a joke that a lawyer should have recommended somebody to go to the police, it could not be contemplated that I was serious at the time. Undoubtedly the Bar and the Solicitors have not always lived up to the highest standards. I wonder how many people realise when speaking of the traditions of the Bar that at the Bar of England which is the one which is toughest of all about malpractice — that a lawyer cannot practise, broadly speaking, if he owes money. There have been recent disciplinary proceedings against a barrister, and one of the charges was that he rented a flat whose rent he was unable to pay, and was brought before the court on a Judgement Summons for house rent, and that Barrister was struck off for owing money, for in the first place undertaking a liability which he could not meet. This is obviously a joke in Barbados.

If a Barrister could be struck off for any suit through the Courts, and if it is not a Judgement Summons, I think that in recent years the Bar

would have been depleted, because when I first came back six or seven years ago I could remember certain names being popular, names of Barristers and so on, around the court. These rules exist, what was most complained about in Barbados is that not enough has been done to enforce them. It is also — as the member for Christ Church West commented — true that Barristers are not obliged to return money when they have not been to court, money which was paid to them as a fee, and they are not liable for professional negligence. In my experience of Barristers in Barbados, if they can recognise that they have taken somebody's money and really wilfully have not done the people's work, in my experience Barristers give it back. Mind you, there are many complaints against the legal profession that I think far from justified.

The first complaint that ever went to the Chief Justice about me worried me, as I really could not see in the slightest that I was in any way to blame, and this indeed was the ultimate verdict, but when I expressed my worries to the Registrar he said that there was not a lawyer at the Bar who did not have a file with complaints against him. Every Solicitor and all Barristers have complaints against them. In these days now I believe other Barristers follow this practice, but as far as I am concerned, as soon as a client quarrels with me too much I ask him to go to the Chief Justice and the Registrar, because when I can no longer explain to him I have to rely upon the administrative head of the Registration Office and the Head of the Judiciary. I find it is best to send them yourself and let them hear it from the Judge. I am not saying by any means that all complaints are unjustified, but as the member for Christ Church West pointed out, the Bar is anxious for it to be dealt with by a body of its own choosing and is prepared to administer itself. For many years there has been some belief in Barbados that the fact that there is no way of striking off a Barrister, and not for very, very many years has any Barrister been disciplined by the court, apart from hasty and intemperate arrests that foolish, wicked and malicious Magistrates have sometimes been known to order, and it is invariably the Magistrate who gets the worse of the affray, but no Barrister has been disciplined for a very long time.

Solicitors have been recently disciplined, and it is not unusual I believe for Solicitors to face proceedings of one sort or another. Some are fortunate to have their little confusions dealt with in private, others have to face the publicity of a hearing, now all will go before the tribunal which has power. What I would suggest is — and this is a

new suggestion which I am making, and I have not heard it from any other hon. member yet — that since certain duties are placed upon the Bar Association, it will have to administer a compensation fund, it will have specific duties of collecting money and maintaining bank accounts, it will have to be accountable to its members and to the general public who are interested in these matters, I would suggest to the Government that the Bar Association should be given very adequate premises and a staff, with at least a paid Secretary. I do not think it fair to ask the Bar Association to carry out these duties with an unpaid Secretary any longer, they should be given suitable premises with adequate facilities and a Secretary who will be able to carry out particularly the compensation functions as set out in the Act. I would go so far as to say, Mr. Speaker, that the practice in England and in many of the United States where a Legal Aid Scheme is administered by the Bar Association is one which should find favour with the Government in these circumstances. The present Legal Aid Scheme is not spending all the money which is voted for it, it is not well known to the public, I sometimes think that it is a bit of a burden upon the Registrar and his staff who have to administer it.

Bar Associations in other parts of the world have shown this response. In Britain now the Law Society which administers the Legal Aid Fund there is also given the right to collect its money which is advanced to it as legal aid from those persons who are not able to pay all in one piece and who can pay it by the week. I would suggest that a professional staff be set up in the Bar Association to discharge this function. A lot of good results have followed from such legislation, say in New York and the State of New Jersey, because the Bar Association have got this interest in these matters, young lawyers have been given an opportunity to have experience even outside the question of payment by the Bar Association in absorbing certain prosecutions and matters on behalf of the Association.

I believe it would be a good thing if the Government would consider transferring the administration of the Legal Aid Fund to a Bar Association, strengthened by a professional staff and given adequate premises to carry out its duties in or near to the law courts. I do not believe it would cost very much, and evidently the Legal Aid Scheme can afford it because all the money is not normally spent.

It is not for me to reply to the whole debate, but without advertising I must say I am a lawyer and when I hear the hon. member for Christ Church

North Central talking about the delays, I would suggest to him that all he does is refer his constituents or the persons who come to him to section 42 of this Act. If you are dissatisfied with the lawyer you apply to the court for the Judge to say what you owe the lawyer; order you to pay him, order the lawyer to give your papers back and find another lawyer.

6.50 p.m.

Solicitors go to work between 9.30 and 10 a.m.; they go home at three o'clock in the afternoon, and some of them take two hours at the Bridgetown Club for lunch saying how hard they work and how many difficulties they have. Busy Barristers try to get to their offices by 8.45 a.m. to meet their clients; they go to Court at 9.30 a.m.; they work in some unpleasant surrounding in distant parts of the country — stuffy surroundings in which tempers get sharp by 12.30 or 1 p.m. The fees at the Bar, no matter what may be thought, are so low that it is genuinely impossible to contemplate a situation where you can pay a junior to go to any court that you cannot appear in on any given day. We do not have a very large number of Barristers in Barbados, anyhow.

Mr. Speaker, Barristers work under those conditions and then go back to their offices and try to do some work late in the afternoon. All over Bridgetown you can see the Barristers leaving their offices between 4.30 and 5 p.m., and some of them have to carry home work. I do not hear the same complaint that Barristers are keeping back the people's work. I hear that they adjourn cases. In most cases they adjourn cases because they have to be somewhere else, and the lawyer on the other side has to be somewhere else. I am suggesting that the hon. member for Christ Church North Central should express dissatisfaction in the same way as anybody would express dissatisfaction. If the Solicitor would not do your work, then you could ask the Judge to order him to give you your papers and take your business somewhere else. You will find persons able and willing to help.

I make no apology, Mr. Speaker, for saying that the standard of ability at the Bar, the standard of intellectual opinion, the standard of competence both actual and potential, is higher than the standard in the other professions at the present time. (Mr. HINDS: "Smith, too!") There are a few exceptions which we will not have to dwell on at this stage. Mr. Speaker, the Bar is a desperately competitive profession. There are people who go to the Bar and do not succeed, but who show great competence and you realise that if they had started on the other side of the legal profession they would be spoken of as some of the cleverest Solicitors out. However, they are unable to make a living at the Bar for one reason or another.

Mr. Speaker, I hope that this Bill will change all of that. A lot of talented Barbadians have been to the Bar, and they now crowd the Attorney General's Chambers and other places. I hope that this Bill will pose competition throughout the legal profession. I know Barristers who can make wills better than any Solicitor in Barbados. The best Solicitor cannot make a will as good as some of those Barristers in Barbados. I hope that competition will spread throughout Barbados when this Bill comes into force.

Mr. Speaker, I just want to say one or two things about the draftsmen. The draftsmen do not always understand economic affairs; they are not always responsive to the debates in the House of Assembly on matters where they have to be in close touch with the public, but, evidently, the draftsmen understand very well the requirements of the legal profession. There were one or two moments when this draft Bill was going through the customary processes of consultation in Supreme Court No. 1, presided over by the Chief Justice with both branches of the profession taking part, when I began to be afraid at some of the provisions that I saw steam-rolled there.

Mr. Speaker, I remember Mr. Dear expressing a lot of common sense. He is a sound man when it comes to ideas about things like this. I found myself on his side in many instances and found that there was a great blanket of negative opinion against it. I am glad to see that the draftsmen and the Attorney General have paid little heed to that negative opinion and have looked at the more positive side of the requirement of legal practice in Barbados in the twentieth century. I am pleased with some of the things which I see in this Bill and which I had given up hope of seeing here.

There are one or two things to which I will have to advert when the Bill reaches Committee stage, Sir. I am not going to do like the Prime Minister and start a Committee Debate at this stage, but when the Bill reaches Committee Stage I will have to advert to them. In many respects the general scheme of the Bill is of a higher standard than when it left some of those meetings of the Bar Association. I am not one who believes in the majesty of everything that is English, Sir, however hard it may be for certain people to swallow it. I believe that in the middle of the nineteenth century, although he has received a very high standard of moral correctness and an extraordinary high standard of advocacy, I believe this is at the expense of cheapness and at the expense of dealing with these matters.

When you come to wigs and gowns, as I hear people saying now that wigs and gowns are a relic

of colonialism, I have never seen a better argument for wearing a wig in Court than was written by a legal correspondent back in 1341 when wigs were going out of use ordinarily, and he attacked the idea that Magistrates would not have to start putting wigs, — no longer worn by sensible members of the community, — on their heads. He thought it was a lot of foolishness. That is over a hundred years ago in England, and I am now hearing the same arguments being repeated down here as if it is something anti-colonial.

Mr. Speaker, it may very well have been a fact of life in England when it was first worked out that a lawyer should not work for a percentage of the damages recovered in a case. In the days when juries tried the amount of damages to be awarded in England, undoubtedly, it could be a great temptation if the lawyer could manage to convey to the juries that he was working for 20 percent and that, if they made it an amount over £10,000, he would share out £1,000 among them. I believe that was the original reason why Barristers were not allowed to work for a percentage of what was awarded. I do not believe that anybody would seriously suggest it in Barbados, because such a consideration no longer applies. What are the arguments against it?

Mr. Speaker, this is what the member for St. Michael West said: "Two people go to Court: one brings an action against the other and is awarded \$500, and the lawyers on either side are awarded \$3,000 or \$4,000 between them." There will have to be a minimum. At least the American system of working for a percentage means that the clients do not get less than the lawyers get. That is a very powerful argument. The Prime Minister brought a libel action and was awarded \$2,400 damages: the seniors got \$4,800 between them and the juniors got \$3,600. Is that right? Is that a matter of common sense? That to me is one of the most cogent arguments in favour of doing away with all of this antiquated foolishness.

7 p.m.

I remember a Solicitor's firm and myself were trying to get some money for an old lady and a child left under a will, the money was tied up in the United States, and for two or three years it was impossible to think about getting the money because the American lawyer said he could only get the money out of the American Court — it was being appealed to the Supreme Court and so on — if he was given 40 per cent of the proceeds, and we in Barbados are not allowed to make such an agreement, and eventually in fact the matter was adjusted. The court found authority to deal

with such matters. These are old fashioned nonsenses that need sweeping away. It seems to people that when a lawyer says he is going to work for a percentage of what the client gets that this is something in the lawyer's favour. It very often is in the client's favour. All these are approaches which modern justice needs to see brought to Barbados. We have to revamp our ideas about a lot of things, Mr. Speaker, and they are not always revamped by standing up and giving a radical appearance. They are revamped by sitting down and giving some thought to what is needed, not just conversation; thought, not bombast, and I believe that we should have ideas even more radical perhaps than appear in this Bill, but for now I am satisfied that this is all the public and the profession will accept.

I repeat, Mr. Speaker, it comes in a bolder form than I had dared to hope. There are a few little things in it I hope we can iron out in Committee, and I think that the years of labour by the legal profession on both sides, by the draftsmen, by the judiciary, the Chief Justice in particular, and by the Cabinet deserve the congratulations of all sections of Barbados' Society.

Mrs. EASTMOND: Mr. Speaker, as the only female member of this House, I cannot just sit idly by and let history in Barbados be made and not take a part in it. I do not belong to any legal or other profession, but I think that politics is a profession; so this woman here is representing the political profession.

This legal Bill is certainly the beginning of professional men seeing commonsense and reason for the first time in Barbados; so they are creating history. I have often wondered when professional men would have examined themselves and realised that a country was made for them, and not that they were made for the country. Most professional men have seemed and still seem to feel that they are a law unto themselves. They appear to be confident masters, and often pride themselves to be knowledgeable gods. Today, I am.....

Mr. HINDS: Mr. Speaker, on a point of order, is the hon. member reading her speech?

Mr. SPEAKER: I think she is following her script very closely.

Mrs. EASTMOND: Today I am not only pleased, but I am happy to see such a legal Bill being introduced by its own members, and that for once in the history of Barbados professional men have really got a heart which embraces the poor people of Barbados, because most of you professional men have for a long time really fleeced the poor people of Barbados. The

rich people you do not really fleece because they have the intelligence and they know what they are doing, but the poor people have not got it and have been taken for a ride. I wonder how many consciences are being pricked and how many fall-outs this noble profession in Barbados will have when this Bill is made law. It is difficult or impossible for leopards to change their spots because they think they can manoeuvre better when they have the spots, but with a Bill such as this being introduced, leopards will certainly have to take cover, if not they will be shot.

I must compliment all members who spoke, but I would like to highly compliment the hon. member for Christ Church West, because he informed this House of a few things we were not aware of, and he spoke very well. As a female member and the only one in here, I am in sympathy with the female jurors, and I am sure that my Government will take the necessary steps to make sure that they have adequate facilities. We women are now starting to play a very important role in Barbados' history. I want to tell you that we must be treated with respect and dignity, and you men will have to give it to us. You may have just a few in the legal profession, but I am sure that we women will yet maintain our feminine charm in whichever profession we find ourselves.

Mr. HINDS: Mr. Speaker, I intend to speak on this Bill. Mr. Speaker, I have listened with some attention to the speeches made by members of the legal profession, and I did so well knowing that those members who spoke were members with many years of experience behind them. As a consequence one would expect that they would have a worthwhile contribution to make. Now all in all we have gathered that this Bill is one which seeks to fuse the branches of the legal profession and to provide for what we may call the better functioning of the system as a whole. It would appear to me, Sir, that after listening to those hon. members that it is not so much a fusing that we must address our minds to at the present moment, but we have got to set about purifying the profession as we go along.

I am not one of those, Mr. Speaker, who would be prepared to know that things taking place among the legal profession are causing considerable hardship and suffering to vast numbers of the public and to allow an occasion like this to go by without seeking to bring them to the notice of this honourable House, not joining hands with any other member who set about to castigate the profession and to have done absolutely nothing in 22 years except as the Prime Minister has said, to say how

much ashamed he is at having been a member of the profession.

7.10 p.m.

When we bring these things to light we do so in the hope that in the future we would find those members who will be qualified as attorneys-at-law shuddering to do some of the things that they have known and have been told took place in the course of the practice of the profession by some members in the past. There can be no doubt, Mr. Speaker, that the legal profession by this Bill which we have before us is a law unto itself. We understand quite clearly that legal brains went to work and we have the result of it all here before us, and each member of the legal profession who spoke tried to make us believe that the Bill is one very plain and simple. I seem to agree somewhat with the hon. member for St. Michael West with respect to the punishment that could be meted out to members of the legal profession when it is proven that they have committed some of the offences which we know have been committed by some of them during their practice. We find instead that this Bill admits that its members are human beings and are subject to error, and it makes provision for them to be treated as regular or ordinary offenders in the eyes of the law, but places them in a separate class whereby they are subject to be disciplined, and a fund has to be set up where you find that compensation will be paid, and it is not easy to get this compensation anyhow in some cases.

Already whilst we have been told and we have every reason to believe that this Bill had its birth within the ranks of the legal profession itself, there are members of the Bar Association who are asking why should an honest attorney-at-law be called upon to make an annual contribution to cover up for the dishonest acts of an attorney whose practice could be such as to cause the Association anxiety from time to time. This, as I say, is what is turning over in the minds of some of the members of the Bar Association itself, but that is not all. This Bill provides, as the Leader of the House said when speaking on the question of Barristers being unable in the past to sue for his fees, as an attorney-at-law he can now sue for his fees. As a Barrister-at-law his fees were not regulated, he was free to charge what he liked, so that when he got some of it and did not get the balance it was nothing to worry about because in any case there are Barristers and Barristers, and as you know there are some who even when they are paid half of what they charged would have got much more than what they are really worth to the client. However, the attorney-at-law is now placed in a position that he can sue for his fees, but the question is as a Barrister the fees are not regulated and as an attorney-at-law will he have regulated fees. We say no, the Bill itself does not provide for

this, so you will see from this Bill how well off these Barristers are — and I understand that there are about 45 persons who are entitled to appear at the Bar under this Act — but I do not know if it is fair to call them practising Barristers. One benefit that will be derived by many of those Barristers who now cannot get a brief to appear in court will be the conveyancing part of their clients' work, those who are often referred to as hungry Barristers, it is all well and good for us to have that type of Barrister doing this work of conveyancing and what not and being placed in a position where they extract fees from clients and when the time comes for accounting for the fees which they genuinely receive for appearing in a court case.

7.20 p.m.

This Bill now provides for the same attorney-at-law to pretend — you must remember, Sir, that the clients are not all as wise as the Barristers that they employ, and you will find that the attorney-at-law is now in a position to hold on to his client's money; do no work for it, and when the time comes for accounting he can claim that he is doing other work such as conveyancing and so on for his client. (*Asides.*) I am hearing something in an aside from a Barrister which you would not want me to hear, Sir. There are some Barristers who would not do that. I cannot say the same thing for all of them.

Hon. C. E. TALMA rose — —

Mr. HINDS: Mr. Speaker, the Leader of the House is now indicating the time to me. If he wants to take a break, I am willing to let him take a break.

SUSPENSION OF SITTING

Hon. C. E. TALMA: On a point of order, Mr. Speaker. A message has just been sent to me that the caterer is ready. In the interest of the caterer and ourselves, I think we should suspend now.

I beg to move that this sitting be now suspended for one hour.

Dr. the Hon. R. B. CADDLE: I beg to second that.

The question was put and resolved in the affirmative without division, and Mr. SPEAKER suspended the sitting accordingly.

On resumption —

Mr. SPEAKER: The sitting is now resumed.

Mr. HINDS: Mr. Speaker, I was making the point that this Bill provides for an attorney-at-law to receive fees genuinely in one respect and when the time comes for accounting for his non-performance in that respect he can pretend to be performing some other function in respect of that same fee. That cannot be denied by anyone who has read this Bill. There is one other provision which might be of some interest at this stage. Barristers, in the past, were not officers of the Supreme Court unlike citizens, but with the fusion of the profession they now fall under the jurisdiction of the Court and become officers of the Supreme Court. Years ago a Barrister could not be disciplined for certain acts.

Now, what we must concern ourselves with is the fact that the Bill admits the possibility of all of these omissions; it refers to the possibility of negligence, and it is so carefully drafted as to provide an escape valve whereby the clever attorneys-at-law can pass on the consequences of their own negligence to a second or third person. Undoubtedly, Sir, this is the handy work of some of the cleverest brains that can be found in the legal profession at this time. We have to ask ourselves whether the Bill as it stands provides adequate protection for the public. This is a case where the attorneys-at-law have to act for and on behalf of the public. Does this Bill provide adequate protection for members of the public, when the Bill in itself, through the eyes of its draftsman, cannot cover all of the loopholes?

You will find, Mr. Speaker, that every day people are complaining that they have paid fees to Barristers and the Barristers do not attend the Court. Some of these people have been convicted by the Court, and the Barristers merely tell them to appeal against the conviction. (*Asides*) Mr. Speaker, I am speaking about cases where the Barristers have been properly briefed, and you know what I mean when I say that the Barristers have been properly briefed.

8.30 p.m.

Mr. Speaker, when the Barrister has received every dollar he has charged his client and does not appear in the courts, the accused person is convicted and all the Barrister tells the person is to appeal.

Now this is not being just, in my submission, to members of the public who have matters before the various courts, and all this Bill does is to lay the foundation whereby a complaint can be lodged against an attorney who so offends, but where would he be lodging the complaint and to what purpose? The conviction has already been registered against the person who might not have been convicted if the attorney to whom he had paid his fees had done justice to him. It is a case where however one might try there is no code of discipline

whatever to set about to prescribe or draw up if you have members of the profession who are not prepared to honour what is written. If they are prepared to inject or infuse their own bits of skill, cunning or craftiness into the business, you will find this kind of thing taking place and the public suffering all the time. What can we do about it in these circumstances?

In many cases I feel that when the Supreme Court or the Bar Association makes its rules that Barristers should have posted in their offices in readable type certain points for the benefit of their clients; but we must understand and appreciate the fact that every Barrister does not like clients who can read and write. All these circumstances arise from time to time. We do not expect this Bill or any Bill to make provision for every situation which can crop up from time to time, but there is one sure thing and it is that everything has been done by the draftsmen in this Bill to make it as secure as possible for those attorneys-at-law and to place them in a watertight compartment where there can be no seeping through that the type of punishment that would be meted out to other offenders who had done the same thing could be meted out to those Barristers. This to my mind is not fair whatsoever.

As regards this disciplinary committee, I am sure there has been some debate as to its composition, but I believe that the Chairman should be some retired judge. My reason for suggesting a retired judge is that he would have nothing to fear at his stage and age there would be none of these trappings that we have heard so much about. We pride ourselves as being an intelligent community, and there is no reason why you could not find a competent layman or two to serve on a Committee such as this. We have people who are definitely intelligent enough who are not Barristers that could be members of such a Committee. If we cannot find them, it means that we have really not been producing people of the calibre that we have gone about all the years boasting that we have been producing. This is the time to put them to the test, and I feel we would not have to go very far to find suitable people to render the type of service that a Committee such as this would call for.

I remember that the hon. member for Christ Church West in his address urged that the law must be treated with respect. Nobody would set about to deny this, but, Sir, if the law must be treated with respect, the first persons to show respect for the law apart from the law makers must be those who earn their bread by practising law. I refer in this instance to those who will be

termed attorneys-at-law. It is public knowledge that some of the biggest offenders in this country from time to time have been those persons who have been protected or who have been given licence to hide behind a wig and gown, if I should put it that way. They have prostituted everything that wig and gown stood for, but, Sir, what does this Bill do to protect the public in instances such as those to which I refer? I remember the hon. member for Christ Church West saying that there will be black sheep in the profession.
8.40 p.m.

There will be, but this is still a case where the Bill in itself shows us that brother is still going to be protecting brother, and that is why we have got to press most carefully as to the constitution of a disciplinary committee to see that it does not include all brothers. We are not afraid of having some sisters on it as well if in doing so it means justice to all. I think that with those few remarks I have covered enough until we reach the Committee stage.

The question that the Bill be read a second time was put and resolved in the affirmative without division.

On the motion of Hon. C. E. TALMA, seconded by Mrs. G. L. EASTMOND, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. LOWE took the Chair.

Hon. C. E. TALMA: Mr. Chairman, I propose to move the passing of this Bill in Committee in parts and hon. members would have the right to speak on any section they wish.

Mr. ADAMS: Mr. Chairman, the new rules are not in force yet. I would like to see three or four Bills dealt with in Committee at the same time and dealt with one after the other rather than having Mr. Chairman and Mr. Speaker going in and out of the House on quite short matters. That I believe is within the rules. What I am sure is not within the rules at the present time is moving parts. I would not object to it normally, but in this Bill I know that hon. members here are going to be discussing more than one section in a part and I would respectfully suggest to the Leader of the House to deal with it section by section. I would respectfully suggest that on a Bill which is going to be analysed in Committee.

Clause 1 was called and passed.

Clause 2 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that clause 2 stand part.

Mrs. EASTMOND: I beg to second that.

Mr. FORDE: Mr. Chairman, I trust that I can make a comment on the definition of "practise law" which appears on page 4 of the Bill. The Bar Association and the Law Society had submitted for consideration a widening of this definition. I am not sure whether the suggestion from them has been accepted by the Other Place, but my copy of the Bill reads "practise law" means practise as a Barrister or Solicitor or both as recognised by any law whether before or after the commencement of this Act.' In my submission, if this is the definition which we are asking to stand part in this section, it is a very restricted one and it will not deal with the situation where a person purports to practise as an attorney-at-law after the commencement of the Act, because we are establishing a category of persons who will practise only as attorneys-at-law and will never have practised as Barristers or Solicitors. The better way would have been to try to set out the functions carried out by these respective professions, but this would be virtually impossible. The suggestion which came from the Bar Association and the Law Society was as follows: "practise law" means and includes practise as a Barrister or Solicitor or as an attorney-at-law or undertaking or performing the functions of a Barrister or a Solicitor or attorney-at-law as recognised by any law whether before or after the commencement of this Act.' I am sure that that is a much more comprehensive definition and answers the problems in this Act in a better form.

I think that when one reads through this Act as a whole the point can be clearly seen that there may not be included in this section people who practise as attorneys-at-law after the commencement of the Act. This joint suggestion also had the blessing of the Dean of the Faculty of Law, Professor Patchett, as well as Professor Carnegie, and I think the Government would be well advised to alter the definition in this section. It received very strong legal consideration, the legal point in particular, but I think it is of some value. I should like to move the amendment that the words from "practise law" down to the word "Act" be deleted and that there be substituted therefor "practise law" means and includes practise as a Barrister or Solicitor or as an attorney-at-law or undertaking or performing the functions of a Barrister or Solicitor or attorney-at-law as recognised by any

law whether before or after the commencement of this Act.'

Mr. MOTTLEY: I beg to second that.

Mr. ADAMS: Mr. Chairman, much as I admire the legal expertise of Professor Patchett and Dr. Carnegie, I do not believe that "means and includes" is an expression that any longer finds a place in drafting Acts of Parliament; "includes" means one thing and "means" means another thing. In the highly technical knowledge of drafting I believe it is mutually exclusive because "means" excludes everything else except what you put in the definition. "Includes" permits other things which exist at common law to be taken into account, and if you look at the definition section you will see that "client" is an inclusive one but not exclusive, "client" includes the other things besides what is said in this Act. "Fees" also includes remuneration charges and disbursements. If "fees" means remuneration charges and disbursements it would be like in the old time days when you gave a donkey cart; that might not be a remuneration or a fee or whatever. This is just my technical feeling about drafting.

8.50 p.m.

I do not think that means and includes is correct. I think we would need the assistance of a draftsman. I am not saying anything in opposition to the spirit of the amendment, but I think we should need a draftsman to tell us whether means and includes is a phrase that occurs in Parliament today.

Hon. C. E. TALMA: Mr. Chairman, while paying strict attention to the suggestion made, I cannot see that what is suggested is more comprehensive than what is written here. "Practise law" means practise as a Barrister or Solicitor or both as recognised by any law whether before or after the commencement of this Act. This is very comprehensive to me. I will have to seek the assistance of the draftsman and the Attorney-General, Sir.

I beg to move that further consideration of this Clause be now postponed.

Mr. ADAMS: I beg to second that. I would also ask the Leader of the House, who is in charge of this Bill, to remember his own personal position, because not only Barristers and Solicitors will become attorneys-at-law when this Bill is passed. The Leader of the House is a licensed Conveyancer, and it may very well be that a broader definition will be needed to prevent persons from acting as unlicensed Conveyancers. I would certainly like to have the assistance of the draftsman on this.

Mr. BOLDEN: Mr. Chairman, with regard to the definition, the Leader of the House says that what is written here is very comprehensive to him. I am not going to get involved in the technical argument as to what the definition would include or exclude. I know that several members of the legal profession have been worried about the large number of untrained, unregistered persons who daily frequent the Civil Courts in this Island and charge people fees far in excess of those laid down by the Rules which govern Barristers. Therefore, from my point of view, speaking as a practitioner who has suffered and has been deprived of bread, after having spent many cold nights in the snow in London and having to pay a practising fee. If I do not pay my practising fee, as pointed out by the hon. member for Christ Church West, I would not be able to go before the courts. However, you get some persons going before the Civil Courts and saying that they appear for So and So. I am sure the Leader of the House has seen and experienced this during his years of dealing with the law. This law does not say anything about those persons. These people do not even practise hotel keeping, but they can practise law. They do not practise as a politician, but they practise law and I think there should be a wide definition to take care of them.

Mr. HINDS: Mr. Chairman, I rise consequent on what the hon. member for St. Joseph has said. I think the hon. member is referring to an agent.

Mr. BOLDEN: Mr. Chairman, if the hon. member for St. Peter will give way, I will explain the matter. There are certain Acts which permit an agent to appear in Court such as the Landlord and Tenant Act. In the Civil Courts you have a number of persons bringing civil cases, debt collecting cases and so on. For instance, Barristers cannot charge more than \$20 for taking instructions and drawing up a plaint. We are governed by the Rules. I know a certain man outside of Bridgetown — I will not call his name — who will charge \$35 or \$40 for doing the same work. If you are going to talk about bringing a bit of decency to the profession, then these are the people you must stop from doing certain things. You must make the definition of "practise law" sufficiently wide so that when these people are caught there will be no escape route for them.

Mr. CHAIRMAN: There are two motions before the Committee.

Mr. HINDS: Mr. Chairman, is the hon. member for St. Joseph referring to bailiffs? If these people appear in Court on behalf of litigants and they can charge these fees that the lawyers are now saying are exorbitant and they get these fees — I have not heard any complaints about this.....(Mr.

BOLDEN: "You are not a lawyer, so you would not know about it.") How is it that lawyers are now hearing complaints after all of these years? Is it that the people are getting a better type of service from that type of agent or bailiff than they are getting from some people who are supposed to be lawyers? I know for a fact that there are to be found in Bridgetown today some bailiffs who know more about the Landlord and Tenant Act than some of the good Barristers will ever know.
9 p.m.

Some of them know what they are doing, but I am really not familiar with the type of cases to which the hon. member for St. Joseph is referring, and if these people are overcharging people, it should be brought to the notice of the proper authority and something should be done to protect the public.

Mr. BOLDEN: Mr. Chairman, the hon. member for St. Peter obviously is not in his right waters this evening, because if he were he would remember that the hon. member for St. Thomas figured in a case in which he was impersonated. He should know that the Housing Authority employs a man who draws Landlord and Tenant complaints for which he has never yet won one of the cases in which a Barrister including a certain friend of mine has appeared, because he has never drawn them right, and several of us have got to turn around and sue these very persons in court for litigants who were misled by them and there is no question of satisfaction. We are dealing with a specific Bill now in which the Bar Association will carry the onus for any malpractices or misfeasances carried out by an attorney-at-law. The attorney will also be liable for negligence. We should not argue on this point.

Mr. MOTTLEY: Mr. Chairman, I think that one could only appreciate the true significance of this definition if one would turn to clause 12(1) which says:

"Subject to this Act, if a person whose name is not registered on the Roll — (a) practises law;"

I think the whole purpose of the definition is to make it a criminal offence for any person who is not a Barrister-at-law or Solicitor prior to this Act or an attorney-at-law after this Act to practise law, and this is the very reason why we say that the definition here just states "practises law" means practise as a Barrister or Solicitor or both as recognised by any law whether before or after the commencement of this Act. This is why we asked for the definition to be — "practise law" means and includes practise as a Barrister or Solicitor or as an attorney-at-law or undertaking or performing the functions of a Barrister or Solicitor or attorney-

at law as recognised by any law whether before or after the commencement of this Act. Under the old definition all a person needs to say is that he is not a Barrister or Solicitor and therefore you cannot get him convicted under section 12(1), but under the definition as moved by the hon. member for Christ Church West, even if he says he is not a Barrister or Solicitor or attorney-at-law, if it can be shown that he is undertaking or performing the function of a Barrister or Solicitor, then he would still be guilty of a criminal offence under section 12, and that is the reason why we need to have this wider interpretation. The Government must accept that the Attorney General and his staff are not the only people who know law, and particularly when it comes to criminal law.

Mr. ADAMS: Mr. Chairman, I do not want to delay this part of the debate, but in case hon. members really are worried about this matter, it should be known that there are a substantial number of persons who draw papers sometimes very elegantly for use in every court from the Supreme Court back down through the Criminal Courts and the Civil Courts where I think the greatest abuses are met, and while in the case of the principal practitioner in the Supreme Court I tend to believe that his charges are rather less than those of Solicitors and very considerably less than those of Barristers, except in divorce matters, — the hon. member for Christ Church West tells me that in divorce matters his expertise comes somewhat expensive — yet these persons do exist. Now this particular practitioner in the Supreme Court is at a slightly different level because he has made an effort and he confines his work to the one or two things that he understands and his papers are not so often thrown out of the court, but especially in St. Peter — and I was somewhat surprised to hear the hon. member for St. Peter raising this matter — there are one or two persons who in between their support for the Government Party find themselves drawing a lot of complaints for use in the Magistrates' courts of District "E", and of these complaints perhaps fully three-quarters are bad. Nobody can quite achieve the authority of the Housing Board who employed someone to collect rents for them and he decided he would be a lawyer on his own account, and the only one of his documents that ever stood up in court was one that was fought through the court behind the back of the hon. member for Bridgetown. I reckon that he was 99 percent unsuccessful.

That is the real danger to the client, that these people are not aware of the technicalities. Such drafting as they learned, they learned in the days before the law was reformed in 1956. They use a lot of old fashioned 19th century forms that

went out of style in Barbados many years ago, and this is a regular thing, because even the police use arrest forms and charge sheets which are carefully headed up "The Police Act 1908", which has been repealed I cannot tell you how many years ago. Even the police use charge sheets that no longer have any validity at law; but these things get thrown out and put the client to the expense of getting a real lawyer, and Mr. Chairman, anybody would appreciate that it is the profession's bread and butter, therefore when a lawyer sees one of these things hand-written or typed on a rough typewriter which he recognises as being the typewriter available to the gentleman in Synagogue Lane or the gentleman in Spry Street or other places, naturally a lawyer goes through it with a fine tooth comb. If a client brings it to you, what do you ask the client? Who made this for you, so-and-so? Yes. How much did you pay him, \$20? Yes. You could have come to me and I would have done it properly for you for \$10. Go and tell the Magistrate that you want it withdrawn, and you can file a proper one. This is a weekly occurrence in the courts.

I do not appear in the Civil Court quite as much as I used to or quite as much as the hon. members on my immediate left, but I can certainly recall this as a regular procedure by which the bad complaints were struck out and the people lost their \$10, \$20, \$30 and sometimes indeed \$150 if they were ambitious enough to attempt to open the High Court without the assistance of a qualified practitioner, therefore I would support the widest possible definition of "practise law". In the fullness of time I will also support the great extension of a system of codifying fees so that just as now in theory, not in practice, you should be able to go to a Solicitor and ask how much does the Law Society allow you for taking out Letters of Administration, how much does the Law Society allow you for making a will of not less than one page disposing of an estate to no more than three people, and you are supposed to be able to see that at once, I am going to support eventually in the Bar Association the provision of rules that will say, drafting a complaint for Summary Hearing in the Magistrates' Court Criminal \$10, so that any lawyer you go to, can charge that and no more.

9.10 p.m.

I think the Bar Association itself should set fees for all these things so that members of the public who think they are getting a bargain by going to unqualified practitioners will no longer suffer under that delusion, and the unqualified practitioners can then make themselves useful, because undoubtedly some of them have an immense knowledge of the law on the Landlord and Tenant

Act, and these unqualified persons – the tamarind tree lawyers – will be able to make themselves useful where it really matters, in the fields which they understand.

Mr. MOTTLEY: Mr. Chairman, there is one other point I want to raise which is the definition of "Caribbean Legal Education Agreement". It states here that it means establishing a system of legal education to which Barbados is a party. I think it is a bit much asking us to agree with this when in fact the Caribbean Legal Education Agreement has never been laid in the House.

Hon. C. E. TALMA: On a point of order, if the hon. member will give way, after consultation with my colleagues and in view of the fact that in future there will be no Barristers and Solicitors as such but attorneys-at-law, it may be a good thing to redraft it as suggested by the member for Christ Church West to make it more comprehensive and thorough by inserting the term as suggested by the hon. member, because in the definition which we have before us "attorney-at-law" is not stated, and in future, after the commencement of this Act they will be all attorneys-at-law and the Barrister and Solicitor will disappear, so like that I think that "attorneys-at-law" should be mentioned in the definition because the functions of Barrister, Solicitor or attorney-at-law whether before the commencement of this Act or after the commencement of this Act will all be carried out by attorneys-at-law. In truth and in fact the amendment goes on to say "or undertaking or performing the functions of a Barrister or Solicitor or attorney-at-law", but that is a lot of verbiage.

Mr. BOLDEN: On a point of order, I wish the hon. member would not persist in making these statements, and I will tell you why. You have heard us speak about a certain gentleman who occupies chambers in James Street. I was in the Supreme Court before the Chief Justice where this gentleman presented himself in Court on a Foreclosure Suit. This is a legal fiction only given to Solicitors to go in court and swear that somebody had taken a mortgage from him and was unable to pay in order to perfect a title, what we call the John Doe and John D. Roe action, and the Chief Justice threatened to lock him up. He was performing the functions of a Barrister or Solicitor or what will now be an attorney-at-law, so it is not a question of saying that this is verbiage, it has a definite meaning, to stop people from doing things which they are not qualified to do.

Mr. ADAMS: Mr. Chairman, I appeal to the Leader of the House to postpone it. I am moving

the motion for the postponement of further consideration of Clause 2.

Hon. C. E. TALMA: I beg to second that motion.

The question that further consideration of clause 2 be postponed was put and resolved in the affirmative without division.

Clause 3 was called and passed.

Clause 4 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 4 stand part.

Mrs. EASTMOND: I beg to second that.

Mr. FORDE: I am not moving an amendment to this clause, but I think there are some comments I should make. I would ask the Leader of the House to draw to the attention of the Attorney General at some stage the fact that the section as drafted will exclude people like Mr. Jack Procope, who I believe is the oldest practising Solicitor in the West Indies today and who has been practising as a Solicitor in this island for several years, and also Mr. Inskip Julien. They are not persons who have registered under the 1971 Act, they are not citizens of Barbados, but they were qualified under the Solicitors' Act, 1896 and permitted to practise here. I think at some stage we should give some consideration either to bringing them in by an amendment under that section or by extending very quickly to Trinidad reciprocal arrangement provisions in this Act so that they will be included.

The other point I should like to make is this – some other hon. members have in asides queried the provisions of section 4(d) – I think the records should make it quite clear that the Bar Association and the law Society in a general meeting did agree with the provision under section 4(d), so that there are only two persons who have been permitted and authorised under the Conveyancing and Legal Proceedings Authorisation Act, 1963 to practise as registered conveyancers. Only one person is at present in practice, and that is Mr. Norman Niles, and I should like to go on record as saying that when it comes to the rectitude of the profession he has certainly upheld the legal profession much better sometimes than some other practising members of the profession. When it comes to his knowledge of conveyancing I would like to say that he has displayed a knowledge gained from experience that is second to none in Barbados, and I have not had the privilege of practising with

the member for Christ Church East, but I am told by persons who practised with him that he too showed the same skill and knowledge in conveyancing matters.

I would not like the legal history of this country to record that we did not take these matters into account, and I believe that the Bar Association and the Law Society were well advised to ask the Legislature to confer a similar status on these two gentlemen. Also to make sure that after this Act is passed, the Conveyancing and Legal Proceedings Authorisation Act, 1963 will be repealed and therefore there will be one system of qualification in future for attorneys-at-law.

Hon. C. E. TALMA: Before you put the question, Sir, I think it my duty to publicly express our thanks and appreciation – I speak on behalf of Mr. Norman Niles and myself – for the consideration meted out to us by the Bar Association and the Law Society and all persons who were involved on the various committees which considered the granting of this concession to us.

Mr. BOLDEN: Mr. Chairman, I must differ from the hon. member for Christ Church West with respect to amending an Act to suit persons who might be qualified as Solicitors but who failed to register under the recent provisions of the 1968 Professional Registration Act.
9.20 p.m.

I have always said that persons of this nature who want to sit in the background and then suddenly ask for registration under some particular system should be excluded irrespective of who they are. Mr. E. K. Walcott, who was once Attorney General of this country, is at home, but he pays his practising fees because he says he does not know when he will have to come back and practise at his profession again. If certain persons want to be registered as Solicitors and they sit down without doing anything about it, then I would be the first person to oppose it.

The question that Clause 4 stand part was put and resolved in the affirmative without division.

Clause 5 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 5 stand part.

Mrs. EASTMOND: I beg to second that.

Mr. MOTTLEY: Mr. Chairman, Clause 5(1) deals with the admission to practise, and Clause 5(2) deals with the question of an appeal where an application is refused. It states:

“An appeal lies to the Court of Appeal from an order of the High Court refusing an application made under this section.”

As I have said on the second reading of the Bill, the feeling of the Bar Association is that the Barrister or the attorney-at-law should be in no worse position than the ordinary person when dealing with the courts of this country. Any ordinary individual who has a right of appeal to the Court of Appeal has certain rights to appeal to the Judicial Committee of the Privy Council as set out in the Constitution. This does not mean that I want to go to the Privy Council, because I am a firm believer in a final Court of Appeal in the West Indies.

I feel that the fact that we have placed in this Act that he has a right of appeal to the Court of Appeal from an order of the High Court refusing an application made under this section, it may very well be interpreted that the failure to insert the right of appeal to the Privy Council will be taken as excluded. (*Asides*) The hon. member for St. Michael West says that he is not a lawyer and he knows that you can appeal to the Privy Council, but I would prefer to have it written into the Constitution. There should be a subsection preserving or giving to the Barrister or attorney-at-law the right to appeal to the Privy Council.

Mr. WALCOTT: Mr. Chairman, I am a natural lawyer, and I know that if you can appeal from the High Court it is automatic that you can go to the Judicial Committee of the Privy Council. Anybody can go there, and you do not have to write that in the Constitution.

Mr. FORDE: Mr. Chairman, I believe the point taken by the member for St. Michael West is correct. The original draft which was put up was worded in a different way from the Bill which we are now considering. It went on to say that an appeal lies to the Court of Appeal from an order of the High Court refusing an application under this section and the hearing of such appeal should be final. Those words “the hearing of such appeal should be final” have been cut out from the draft. By virtue of the provisions of the Constitution of Barbados, the right of an appeal to the Privy Council is automatic. I think it would only be out of an extreme abundance of caution that an amendment should be made. I do not think that an amendment would change things, and I think that the Clause as it stands preserves the right to appeal.

Mr. ADAMS: Mr. Chairman, I am inclined to believe that the Clause itself is redundant, and you do not have to say that an appeal lies to the Court of Appeal. I am inclined to think that the

section is there for the reason that originally it was intended to exclude the jurisdiction of the Privy Council. To exclude the jurisdiction of the Privy Council you have to start off by saying that an appeal lies to the Court of Appeal, etc., whose decision shall be final.

Now, the draftsman, as a matter of policy, has been told that the decision of the Court of Appeal will no longer be final. I believe that, upon mature consideration of it, they could very well have removed the entire subsection, because an appeal lies to the Court of Appeal, anyhow, but they only removed the part dealing with the Privy Council. I do not see the need to say that an appeal lies to the Court of Appeal any more than I see the need to say that an appeal lies to the Privy Council. I think the original purpose of this section is not the purpose which it now serves, and I believe that the whole section should be taken out. For safety's sake I would leave it there, but I move that Section 5(1) (b) be deleted and that Sections 5(1) (c) and (d) be renumbered (b) and (c). If some young genius goes to the University and is qualified as a Barrister at the age of 20, I believe he should be called to the Bar.

It is the policy of the House as evinced by the recent giving of a second reading of a Bill to reduce the age of majority to 18 years, I do not see why we should have 21 in this case. Anyway, I think it is a matter of practical impossibility for anyone to pass the necessary examinations and carry out the period of apprenticeship envisaged before he is 21 years. It will take 5 years, and you cannot enter a University before you are 17. It is impossible, as I see it, for anybody to do so. Apart from the impossibility, I think it is undesirable to have it in the Bill, and I urge hon. members to delete this section and I so move. I hope I will get a seconder.

Mr. BOLDEN: I beg to second that.

Hon. C. E. TALMA: Mr. Chairman, I cannot agree to that. The age of majority is 21 still. Steps are being made to reduce it to 18, but as the law now stands it is still 21, and I am not in a position to change it from 21 to 18, 20 or anything else. The fact that the second reading of a Bill reducing the age of majority from 21 to 18 years was passed does not necessarily mean that the Bill will amend everything right through.

As far as Subclause 2 is concerned, I think we should retain —

“An appeal lies to the Court of Appeal from an order of the High Court refusing an application made under this section.”

The hon. member for the City wants to have this very clear so that people will know their rights.
9.30 p.m.

As the hon. member for Christ Church West explained, the right to appeal to the Privy Council is enshrined in the Constitution, so like that it is not strictly necessary here, but there would be no harm if we included it, but I do not see it would serve any useful purpose to have it included at this late stage unless we want to delay the passage of this Bill indefinitely with all these amendments, some of which, as in this particular, are not strictly necessary.

Mr. ADAMS: Mr. Chairman, I accept what the Leader of the House says about the question of the age of twenty-one. If this Bill comes into force when the age of majority is twenty-one, it is possible, although not very likely. I believe the only person in recent years who was at all a threat to the age limit was the hon. member for the City who I believe did in fact pass his bar examination before he was 21, but he apart, I do not think it very likely that we are going to get any applications from 20 year olds, but still I suppose it has to be covered, and so if the House would permit, I would beg leave of the House to permit me to withdraw my motion.

Mr. WALCOTT: Mr. Chairman, the point was raised earlier today about the Privy Council, so I am only now sort of re-echoing something by the Bar Association. After listening to all the Barristers speaking, I am still a little bit bewildered that they are still pursuing this, because it seems illogical that you speak of Legal Education in the West Indies and creating your own Legal System and doing all these things, and yet you are still harping after a system that was created for the English society. I cannot see an Englishman ever agreeing to carry an appeal to the United States of America, to Russia or to Barbados, and I do not understand, and I hope the Barristers.....

Mr. ADAMS: On a point of order, is the hon. member aware that it was just agreed that certain appeals in economic affairs will go to the High Court of the Common Market Commission?

Mr. WALCOTT: The Common Market is on a regional basis. It is just like in Europe you have a row in the European Common Market and they say they would send it to The Hague because the civil servants come from all over Europe and they would prefer it to go to one place than to go to Brussels. But that is a different thing. This is something in Barbados, and what I am saying is that I hope the Barristers will see for themselves that it is bound to be a contradiction in terms of time that you will be creating your own Legal System,

but you will be saying that it is still unsatisfactory and that you cannot get the maximum benefit from it and you have to seek the judicial system in the United Kingdom. I only throw that out as something for them to think about, as sooner or later this is one of the amendments to the Constitution you will have to think about.

Mr. FORDE: On this point, it is a pity that other than the Leader of the House there is not anyone on the Government side in this House who really is up to date on what has been happening in legal spheres. I would like to assure the hon. member for St. Michael West that not only has the Bar Association of Barbados at its meetings raised the question of the abolition of appeals to the Privy Council and the role of the Privy Council as the ultimate Court of Appeal, but that matter was discussed at a meeting of the Organisation of Commonwealth Caribbean Bar Associations in Jamaica, I think, some two years ago and a Resolution was passed setting up a Committee referred to as the Fraser Committee which has already reported to the Regional Bar Associations and have recommended the abolition of appeals to the Privy Council and the setting up of a Commonwealth Caribbean Final Court of Appeal to deal with all appeals coming from the Commonwealth Caribbean, and adjudicating on international agreements between ourselves and our sister territories in the Caribbean. That report was referred to a meeting of Attorneys General of the area who have been considering the matter, but unfortunately the final decision does not rest with the Barristers.

Politicians and particularly politicians in Government move slowly. They are each very jealous of their rights of sovereignty, and in this country and in the countries of the Caribbean, nationalism in some areas is unfortunately working havoc in areas which should really develop on a basis of internationalism rather than nationalism, but we are hopeful as a Bar that the points which we have made in relation to the final Court of Appeal will eventually be taken by the political controllers of our destiny, and that before the next five years, we hope, all appeals will go to an ultimate Caribbean Court of Appeal instead of to the Council. The Privy Council in my view is fast outliving its usefulness. It is paying very scant respect to some of the social and economic conditions in the Caribbean, some of its judgements are not as considered as they were before, and in this way I think we must recognise that we have to provide our own ultimate Court of Appeal. I believe that we have judges in the area who are as good as most of the English judges, in some instances better, and who are as erudite in the law as some of the English judges who sit on the Privy Council, and I have every confidence that, eventually,

this point will be well taken by the people in the Caribbean who control the political destiny of our country.

Mr. MOTTLEY: Mr. Chairman, perhaps the hon. member for St. Michael West did not quite hear what I was saying. I just want to get the records straight. When I talked about a further appeal, what I was seeking to preserve was the principle of a further appeal, and I said at the moment to the Privy Council until such time as we in the West Indies established a Caribbean Court of Appeal. I want to make this clear because I am in favour of a Caribbean Court of Appeal and as recently as September the Organisation of Commonwealth Caribbean Bar Associations sent on the Fraser Report to which the hon. member for Christ Church referred, to the Heads of Government Conference for discussion, and as yet we have heard nothing more about it; so the Bar Association in Barbados is committed to having a Caribbean Court of Appeal.

The question that Clause 5 stand part, was put and resolved in the affirmative without division.

Clause 6 was called and passed.

Clause 7 was called.

Hon. C. E. TALMA: I beg to move that Clause 7 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. FORDE: Mr. Chairman, in moving an amendment to Clause 7, I must confess that although Clause 7 did give me some cause for concern, I think that one should for the purposes of the record explain to hon. members that this clause permits the Minister, after consultation with the Chief Justice to allow non-citizens of Barbados and non-citizens of the Eastern Caribbean and the Caribbean in general to become eligible to be admitted as attorneys-at-law. Their eligibility in this instance will be based not only on reciprocity between our country and theirs, but also on the fact that such foreigners or aliens would have qualified at our law school.

9.40 p.m.

To this extent this clause is different from Clause 6 which is a general reciprocity clause dealing with, I believe, other countries who allow our qualified people to practise in their country, like Canada for instance, and whose citizens have not

necessarily taken our examination. It is a very involved clause and could be very difficult to interpret unless it is properly explained. I trust I have explained it for hon. members and for other persons who may in future want to understand it.

The question that Clause 7 stand part was put and resolved in the affirmative without division.

Clauses 8 and 9 were called and passed.

Clause 10 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 10 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. FORDE: Mr. Chairman, I think that we should record here that this clause breaks very new ground in this country. It allows all people in future who practise in this country in the legal profession to be liable for negligence except where they are engaged as advocates in any court of law, and the exception is based on public policy. The principle here follows the decision in a case called *Rondell versus Walseley*, and I think that we should record this as a very important protection for the public, and I trust that it will be looked at in this light.

Hon. C. E. TALMA: Mr. Chairman, just by way of further explanation, I think that this subclause if carefully analysed would more or less clear up the definition which we attempted to re-draft, because unless you have a practising certificate you are not entitled to practise. No matter how widely the definition is worded, if you are practising law as an attorney or Barrister, unless you have a practising certificate you may find yourself in trouble. Anyhow, we will postpone that.

Mr. BOLDEN: Mr. Chairman, that could not be right because when we come to Clause 12 we will see that "practise law" must define what it is because it is going to crop up and again.

The question that Clause 10 stand part was put and resolved in the affirmative without division.

Clause 11 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 11 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. FORDE: Mr. Chairman, when this section was being drafted originally we suggested to the Government that the section should not only be subject to section 49 but that it should likewise be subject to section 44, I think it was. The reason is that the Bar would like to think that there is a compulsory payment of subscriptions to the Bar and that one should not have a practising certificate unless he pays a fee as well to the Bar Association, and I would respectfully like to move that we insert the words "subject to sections 44 and 49". Later we will have to move the relevant amendment to another section. If on the other hand the Leader of the House would like to reconsider this one a little later with the Attorney General, perhaps he could again ask that further consideration be postponed.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that further consideration of Clause 11 be postponed.

Dr. the Hon. R. B. CADDLE: I beg to second that.

The question that further consideration of Clause 11 be postponed was put and resolved in the affirmative without division.

Clause 12 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 12 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. BOLDEN: Mr. Chairman, before we leave Clause 12 there are one or two things I would like to draw to the attention of the Government. On page 17 Clause 12(1)(b) states "wilfully pretends to be an attorney-at-law." I am at a loss to know how you can wilfully pretend. This is what I said earlier, that there were once two gentlemen, one pretending to be the hon. member for St. Thomas and the other pretending to be his Clerk, and they were charged in the criminal courts for false pretenses, and they were not convicted because of the state of the law at the time. I am corrected that they were convicted but there were certain mistakes made and then they were successful on appeal. I would therefore move that the word "wilfully" be deleted from Clause 12(1)(b); I do not see how you can wilfully pretend. This comes back to what I said earlier about persons who would seek to use facilities in the law which are there only for Solicitors, the fiction for obtaining title by way of a foreclosure suit.

Mr. FORDE: With respect, Sir, I think my hon. and learned friend is aware of the fact that the trend in legislation is to abolish as far as possible absolute offences and to have some state of *mens rea* in people's minds. I think my friend has adverted to evils which I agree we should stamp out, but there are also other considerations that in drafting one must take into account. It says "Subject to this Act, if a person whose name is not registered on the Roll —

- (a) practises law;
- (b) wilfully pretends to be an attorney-at-law; or
- (c) makes use of any name, title or description implying that he is entitled to be recognised or to act as an attorney-at-law,"

in my submission there could be a person who pretends wilfully to be an attorney-at-law, and is an attorney-at-law who has paid his fees and whose name because of a *bona fide* mistake is not on the Roll. He is pretending to be an attorney-at-law within the context of the Act, and in my submission if the word "wilfully" is going to be removed there will have to be some defences provided later for the proper drafting of this legislation.
9.50 p.m.

There must be provision under the Act for *bona fide* mistakes. I have seen in subsidiary legislation where people coming through the Bridge-town Harbour have had a slight error made on the part of Port Contractors, and they come out and find themselves convicted because of the strict provision of the legislation and no provision for *mens rea*. I suggest, respectfully, that there is nothing wrong here.

Mr. BOLDEN: Mr. Chairman, I do not want to argue law in here, because this is Parliament. I have seen this year that certain Barristers paid their practising fee before the 31st January, but because of the practice in Government that after three o'clock civil servants close their books for one day and open them on another a Barrister's name does not appear on the Roll after he has paid his fees. Do not tell me that after I have paid my practising fee and received my receipt that I cannot go to the court and work because a clerk in the Registrar's Office was careless and did not register my name on the Roll!

Mr. Chairman, to give you an example of what happened to me. I have a receipt for the use of the Law Library, and I received a letter from the Registrar stating that I cannot use the Library because I have not paid for this year, despite the fact that I have my receipt. Are you going to tell me that I cannot practise? Are you going to tell me

that I am wilfully pretending to be a Barrister? Wilfully pretend means that you are not a Barrister and you are wilfully pretending to be a Barrister. The Chief Justice says that he will only accept appeals to the Supreme Court where an error is made by an Officer of the Court.

Mr. FORDE: Mr. Chairman, my friend must go back to Section 2 which says that "attorney-at-law" means a person whose name is entered on the Roll in accordance with this Act. If a person's name is not entered on the Roll he is not an attorney-at-law although he has all the requisite qualifications of an attorney-at-law. "Wilfully" helps the Court to determine that there is no *mens rea*, and it helps the Court to decide whether it is a *bona fide* mistake. When the Law Society, the Bar Association and the Attorney-General considered this matter we were all aware of some such necessity, and that is why the Section was drafted as it is. To strike out the word "wilfully", in my view, would be doing an injustice to such persons.

Mr. ADAMS: Mr. Chairman, it is a matter of English, and I hope the Minister of Education will support me. Pretend imports the element of wilful. You can pretend without wilfully so doing. Pretence is a deliberate act. I would suggest to hon. members that they accept what the hon. and learned member for Christ Church West suggested at first. "Unlawfully pretend" might very well meet the point. Apart from anything else, I do not think the court would hold that a man is pretending to be an attorney-at-law, if he is a qualified attorney-at-law, if he was an attorney-at-law the previous year, if he had paid his fees and a clerk in the Registry had left out his name. I believe that, as a result of the error, a Judge would deem that his name be on the list.

Mr. Chairman, I have appeared in a case where the Judge looked at legislation coming from the Government Printer and put in two lines. The Judge said that the Government Printer must have left out two lines. If you look at a certain decision and at the Rules of the Supreme Court relating to where a litigant dies in the course of an accident, you will find that the Judge has put in two lines which the Government Printer had left out. I do not believe that "wilful pretence" means any more than pretence. "Unlawfully pretend" might mean something selse. (*Asides.*) I have never heard of "inadvertently pretending."

Mr. Chairman, I would suggest "unlawfully represents himself to be an attorney-at-law", or "unlawfully pretends to be an attorney-at-law." I do not think there is any problem in this matter. All I can say is that there is not a Magistrate in

this Island who would convict him. The experiences of the hon. member for Christ Church West in the Courts must have been very unfortunate. He must have come up against one of the retired persons on the Bench.

Mr. MOTTLEY: Mr. Chairman, the hon. member has raised a good point when he talks about a person whose name has been left off the Roll by accident. I do not think there is any provision under this Section to cover such a person. In the past a number of people have paid their fees before the 31st January. It is stated that the Registrar shall cause to be published in the *Official Gazette* in the month of February the official list of Barristers. What happens to a man who has paid his fees and his name is left out? I agree with the Leader of the Opposition that the word "lawfully" should be deleted, and it should read "Pretends to be an attorney-at-law." There is nothing under the Act which provides for the circumstance to which I have referred.

Hon. C. E. TALMA: Mr. Chairman, I cannot accept that. Lawfully pretends is a deliberate act; it is a state of mind.

Mr. BOLDEN: Mr. Chairman, when the Leader of the House says he is not accepting the amendment, I want to say that this is the place to let in those persons who refuse to register.
10 p.m.

You either have a straight profession, or you have the same corrupt profession that you have got. In all the criminal law that I know, "pretends" connotes in itself a criminal mind and if you tell me that you have to put in "wilfully pretends" because you can pretend without knowing you are pretending, I would have to be born again in order to accept this. God would have to come from Heaven and tell me that you can pretend without wilfully pretending. I do not care how old or brilliant you are, but if you insert "wilfully" there, you open the backyard for people to stay home in their drawing rooms and create legal documents and come out and tell you they did not wilfully do it. I say as a practising Barrister that if you are going to make the law to suit the profession, you should make it an absolute liability. You are either practising law or you are not. As a certain Magistrate would say, you are either with child or you are not with child. There is no half-way house in it, and I want it clearly recorded that this is how I feel on the matter.

Mr. MOTTLEY: Mr. Chairman, I think that three offences are created by this section. One is — if a person whose name is not on the Roll (a)

practises law, (b) wilfully pretends to be an attorney-at-law, and (c) makes use of any name, title or description implying that he is entitled to be recognised or to act as an attorney-at-law — wilfully pretends to be an attorney-at-law only means if a person says that he is an attorney-at-law or does something showing that he is an attorney-at-law, and looking at the section again, if the word "wilfully" is deleted and a person says that he is an attorney-at-law, then that in itself creates an offence. On reflection I come back to agree with the hon. member for Christ Church West that the word "wilfully" must be included. You have to look at the whole section because once you practise law you create an offence. If you make use of any title, that is an offence; but if a man walks down the road and says he is an attorney-at-law, that is pretence. Pretending alone cannot be an offence. I agree with the hon. and learned member for Christ Church West.

Mr. WALCOTT: I agree with the hon. member for Christ Church West too because it does not seem to me that the mere word "pretends" in itself can be what the hon. member for St. Joseph has said, because if a man walks down the road dressed up in a black jacket and a bow-tie, black bag with a lot of books and says he is going to Court to do a case, passes by the court every morning, walks through the court door and comes out the other side, to the ordinary eye it looks as if this fellow is pretending that he is a lawyer, therefore by prescription it seems that only a lawyer can wear a black jacket and a grey pants and walk with a bag with some books in his hands marked Archbold, and get an old cassock and look like a Barrister. All that would look like pretence, but I would take "wilfully pretends" to be where the act is going to be performed, and where he starts taking money from people. We have a man here who for some years pretended he was a priest walking about and wouldn't work, and when the day comes he would hit you for a little \$5.00 if he catches you off side; so what are you going to do? The policemen never caught up with him because he looks too decent and is dressed immaculately. How are you going to deal with a man like that?

A man can walk down the road and say he is a doctor, but he has never touched a patient. Do you think a police can arrest him for saying he is a doctor? I do not think that pretence can be only where a man pretends in the ordinary sense. Pretence would have to be carried into some action. You cannot have pretence being left as a mere symbol that you look like a lawyer, like somebody would say a man does not look like a lawyer or

that a lawyer must have some appearance. I think "wilfully" will cover everybody because it would put it beyond any doubt.

Mr. ADAMS: Mr. Chairman, this is not a big thing, but the speech that has impressed me most is the speech of the hon. member who has just sat down, because there can be no doubt that if a man puts on a black jacket and a striped pants and carries law books under his arm, he is wilfully pretending to be an attorney-at-law. As I heard him....

Mr. WALCOTT: On a point of order, I said he can pass through Coleridge Street and go through the Court, but I do not see that that in itself can be an offence. That is why I say it must be something wilful. This is where something would be done because the mere fact that a man walks up with law books in his hands you cannot say you are going to prosecute him for pretending that he is practising law.

Mr. ADAMS: The hon. member for St. Michael West appreciates that I understand his speech completely. I have not misunderstood him. The burden of his speech is that if a man so dresses and conducts himself as to make himself look like an attorney-at-law, he should not be prosecuted unless he does something more like asking for money. The whole point about this is that we are putting too much on the word "wilful" because it is clear from the language of the Act "wilfully pretends to be an attorney-at-law".....if only attorneys-at-law walk through a certain door in the Court, because after all we do not have it in Barbados, but if you go in the Law Courts in London you will see a big sign in the Chief Justice's Court saying "Only Barristers may pass through this door." Let us just make a slight effort. Suppose a door in our court is marked "only attorneys-at-law may pass through this door, do you mean to tell me that a man who dresses and carries a book under his arms and walks through that door is not wilfully pretending to be an attorney and therefore is not caught by this? Who says there has to be any overt act? I am tired of hearing these things. Mr. Chairman, can I be heard in silence?

Mr. CHAIRMAN: The next thing the Chairman will be doing is putting the Question.

Mr. ADAMS: Sir, there is a lot more under this section I want to talk about. The Shorter Oxford English Dictionary agrees with me on the definition of "pretend", not with the hon. members on this side. "Pretend" — to give oneself out as having something; now always, to profess falsely, to feign some quality; so you do not need to add the word "wilfully". The prosecutor only

has to read out one of the two greatest authorities of the English language, this and Webster to the Judge or jury, — to profess falsely — therefore you do not need "wilful". Wilful only means knowing and you cannot profess something falsely and not know it. This is not selling milk. This is the importation of a word which is appropriate to the selling of adulterated milk to deal with another situation. The selling of adulterated milk is an offence whether you know it is adulterated or not. 10.10 p.m.

It is such an offence because the courts have made it so, and these days the legislation says "wilfully to sell milk knowing it to be adulterated", but selling is not an act that implies anything false. Because you sell adulterated milk the law does not say that the fact of selling means that you know it is adulterated, but "pretends" implies wilfulness, and why I have risen again is not merely to argue a semantic point, because Acts of Parliament are full of semantic points that are not worth taking, although occasionally great sums of money turn upon them. Why should I as a lawyer go into whose pocket some of those sums of money will perhaps some day come — and those of my colleagues as well — argue about it?

I am now taking the point that the hon. member for St. Michael West thinks should be made in the Act but which is not in fact made, because wilfully pretending to be an attorney-at-law is going to catch one or two of the people. I heard somebody say "poor Slims", it is not Slims, there are other people who dress immaculately in suits and go in the courts and carry wigs and gowns and books and so on. Let anybody in this House tell me what is the situation then with such a man if he allows himself mistakenly to go so far as a stranger — a tourist — came up to him and said "are you a lawyer?" and he says "yes, I am an attorney-at-law", you tell me what will save him if he is prosecuted. There is nothing here saying "wilfully pretending to be an attorney-at-law and asking for money"; is it intended that such a person's conduct will be called criminal? Merely representing yourself by appearance perhaps is a joke, because you may wilfully joke. Anyhow, Mr. Chairman, the Leader of the House says he is going to leave it, but it is a matter which should be looked at.

Again, I do not see that it has to be there at all because you have "practises law" — if it has given rise to all this confusion. If "pretend" means wilful, why worry with it? I think we are going to be asking that this section be reconsidered anyhow, because I know that hon. members have something to say about subsection (4), and I hope the Leader

of the House will not be so cavalier merely because "wilful" means knowingly in other sections of the law as to assume that it means knowingly here and it does something here; I hope he will not be so cavalier as to refuse to refer this when he refers section 2.

Mr. BOLDEN: Mr. Chairman, there is a lot more under this section. I am no legal expert, but let us turn to page 18. The restrictions do not apply to certain public officers as at (b) "a person employed merely to engross any instrument or proceeding;" or (c) "a person drawing or preparing — (i) a will or other testamentary instrument."

Mr. Chairman, I do not agree with this and I want to register my disagreement. Wills have been the subject of long court proceedings in this country for years, and the Prime Minister said only chattel house people occupy the courts, but I would like to have seen where this had something added to it like "in cases of emergency" or something of this nature. If a man is sick either in hospital or at home and he calls somebody and asks them to scratch down something as a will, but I would have thought that when it comes to wills and other testamentary instruments that this would have been more tightly drawn.

The second point, (c)(ii) "an agreement under hand only," This is something which I think was put in here because the argument arose as to whether or not people dealing with Hire Purchase, like the banks with Bills of Sale and the several firms in town, where they could fill out their own Hire Purchase Agreements without having to employ an attorney-at-law, and I think this is left as it is to facilitate those persons. This, in my humble opinion, is also going to open the gates whereby I can sit down and draw an agreement for you to go and buy a half acre of land from the next man and then let the two of you sign it just so. I think this is where the problem is going to arise, and I think that this is something which should be carefully considered if you are going to restrict certain legal matters. I think that that too should be deleted and should be put in a completely different way. I am not going to suggest how it should be done, but certainly I think this is going to open up a lot of avenues which would cut away from the effectiveness of the Act if it stands as it is.

Hon. C. E. TALMA: Mr. Chairman, as far as the wills are concerned this is normal practice. The hon. member is objecting to a will in these circumstances, but you cannot compel a man to retain a Barrister or attorney-at-law to say what he is giving to whom, a will is only a man's wish and

he can draw his will to give all his property to one person.

Mr. BOLDEN: On a point of order, if the Hon. Leader of the House would only stop and consider what is being said without jumping up and flying off the handle.

Hon. C. E. TALMA: I did not jump up and fly off any handle.

Mr. BOLDEN: Nobody has said that a man cannot draw his own will, nobody can say that if I felt like calling in an attorney-at-law to draw up a will I could not do it. I am talking about the quacks who walk around and draw wills, and the Hon. Leader of the House must have seen some of those documents drawn up by old schoolmasters with "pretty-pretty" handwriting, and the whole thing ends up in the law courts. I am told that the Leader of the House would know very well what I am talking about. I have one in my office now where a schoolmaster went in and carried in his friend and drew up a will for someone with what he called legal terms, when what is given in the top, cuts away from the middle and the centre and you do not know where you are. This is not a case where somebody was sick, this is a case where these experts know how to draw it up better than the people who were trained.
10.20 p.m.

This is done every day and we know about it. What I am talking about is where people carry their friends into somebody's house at night and tell the people that they know a lot about wills. The same thing exists with Cole's Printery complaints. Every Tom, Dick and Harry in Bridgetown can buy them, walk about with them in his pocket, and charge some people \$30 for making them out. These are the people from whom we want to protect the public. On the one hand, you talk about protecting the poor people who have no money, and as soon as we try to put you right you say something else. How inconsistent can you be?

Mr. ADAMS: Mr. Chairman, the Leader of the House has not, perhaps, given this Section full consideration, because this Section refers to persons who not being attorneys-at-law act as such. This particular part 4(c) (1) is saving anyone who makes a will for someone else. If you read the Section you will see that is what it is. Now, this is an old and traditional thing in Barbados and, I believe, in England. The hon. member for St. Joseph and I are fully aware that it is breaking

new ground, but I am suggesting that a will is too important a thing to leave to untrained persons. I am sure that some of us might have heard people saying: "He left a will, the land cannot be sold, and it has to pass from seed to seed," but when you read the will it says: "I direct that my two acres of land at Drax Hall, St. George, shall not be sold. It shall be occupied by my wife for her lifetime and thereafter pass from seed to seed to the true and lawful heirs of my body." They also have good expressions like the true and lawful heirs, but such things as the rule against perpetuity do not exist at all. Things like the Rule in Shelley's case of which I do not think any member of this House — (An Hon. MEMBER: "What is that?") — I hear an hon. member saying, "What is that?" I do not think any member of this House could tell you of the Rule in Shelley's case. These things are so complicated that I do not think hon. members are interested.

The hon. member for Christ Church West may recall a case four or five years ago in the Supreme Court of California where it was held that an action for negligence against a Solicitor for making a bad will failed not because the frustrated legatee did not have the right of access to the Solicitor — a separate legal point — but because the point in law was so difficult — the rule against perpetuity was involved — that there was no negligence in his getting it wrong. I think it was a bad decision, but that is the position. It is a very difficult aspect of the law, and I do not believe that country lawyers should make wills. The case of someone making his own will is not covered by this, because he is not acting as an attorney-at-law when he makes his own will.

Now, the case of someone on his death-bed calling the Ward Sister at the Hospital and asking her to copy down something — I believe the Ward Sisters would be very careful about this, but I think they still do it in the District Hospitals — to the effect that being of sound mind but of infirm body and being about to commit my spirit to Almighty God and so on, I leave all of my property to my dear wife, and then he signs it and the Ward Sister signs it that is also protected. A person employed merely to engross any instrument or proceeding, or a person writing or typing upon instruction or typing out from a manuscript — engrossing really means no more than that and certainly no less. What I would support the hon. member in saying is that a will is too important to be left to laymen. It is not that you are fighting for work, because a will is one of the cheapest things a lawyer does; it is as cheap as a complaint. It is too important a matter to be left to country lawyers.

Mr. WALCOTT: Mr. Chairman, I do not know if I can call them country lawyers, but I saw a will last week from a poor man and the people can get what he has left. I have to deal with a lot of poor people. If a man is ill and he calls some of his relatives to make a simple will, I do not see why you should not leave it for them to do. As soon as you begin to write in things, you will also begin to write off people. If the man cannot do that, then nobody else can do it for him. You are talking about somebody pretending to be an attorney-at-law. Take, for instance, a man who cannot read and write; he calls his son, who goes to school, and tells him to write down what he wants done. Do you want to exclude those persons? Some of those people make up their mind to make a will when the doctor is giving them the last word.

Mr. ADAMS: On a point of order, Mr. Chairman, we are not excluding someone who takes down what a testator wants, and his only action is mechanical. As I understand it, he is a person employed merely to engross the instrument. What we are excluding is someone going and saying: "I will make a will for you for \$30. Whom do you want to leave your money for?" We are talking about the people who discuss the matter and put it into legal language. That is what I would like to see excluded. In any case, I am sure the hon. member would prefer to see lawyers deal with certain things that go on.

Mr. WALCOTT: Mr. Chairman, I am not protesting against it, but there are people who seem to be afraid of going to lawyers, because they feel that everybody will know what they have. They prefer to go to people that they know. What about Cheeseman and so on? Some people are making a living as a result of people coming to them to do certain things. If a will is so simple and you want to cut it out, then you will not be giving the fellows a chance. I would say that the lawyers are very good trade unionists, and they are fighting for a closed shop every inch of the way. They are not even leaving a crevice open. I think they will have to leave a little "berry" for these country lawyers.

Now, when Chief Justice Gomes came here and he decided to cut out all the complaints and so on, this is what was left for them. If you cut out this, they will start encroaching somewhere else. Water will find its level, so you have to leave something for them.

Mr. BOLDEN: If we cut out all of these things, they may band themselves together and become a part of the union.

Mr. ADAMS: Mr. Chairman, I would move that Clause 1 of paragraph (c) of subsection 4 be deleted, and Clauses 2, 3 and 4 be renumbered 1, 2 and 3.

Mr. BOLDEN: I beg to second that.

Mr. FORDE: Mr. Chairman, I cannot agree with this. This matter again, was well considered by the Bar Association and the Law Society. What my two hon. and learned friends have said would be quite correct in an ideal situation, and it is the ideal situation that we should, eventually, aim after. My friends must be aware of the fact that holograph wills have been accepted in the law of wills and in the law of this land for several years.

10.30 p.m.

My friends must be also aware of the fact that because of some of the archaic rules of which we heard so much today, Barristers could not or should not have been advertising, nor should Solicitors individually. I believe that there is an area in which the Law Society as a law society and the Bar Association as a bar association should have advertised, and I believe that the new Bar Association will have as a part of its duty to the public to get on the radio, used the television, use the radio and use other means of telling people about making wills, and of the dangers of having home-made wills done without taking legal advice, and the amount of money they can save an estate by paying \$20 to get a will properly made rather than afterwards allowing it to be eaten up in large fees by lawyers, because eventually the cost comes out of the estate or out of the particular fund. I do not think that in the present context of circumstances the time is ripe for that.

As I understand this subsection, in any event no person who draws a will or an agreement under hand will be allowed to charge a fee, because subsection 3 is excepted from the section; so that they would not be allowed to charge a fee in any event, and I believe that this section is similar to a section in some of the English provisions. We considered all the arguments which my friends have advanced, and the profession as a whole looking at all the circumstances including some of the circumstances adverted to by the hon. member for St. Michael West believes that this was the correct position. I have not changed from this view. I would like to move eventually to the ideal circumstances adverted to by both my friends, but I do not think at the moment that we can do that.

Mr. ADAMS: Mr. Chairman, I do not want to take too much issue with the hon. member for

Christ Church West. With great respect to him I do not remember him speaking in the Bar Association at all upon this section, because what I am suggesting is that he really must not speak for it. I do not think it is appropriate in here to say what went on. What I remember of the Bar Association, — and I was reminded of it, even if I could have forgotten, by the hon. member for St. Joseph, — was that this above all caused the Bar Association a great deal of difficulty. The debate about the agreement underhand alone must have gone on for an hour, and I recall that that matter was referred, but that the referral never came to anything. I do not think it is fair to say that the Bar Association considered this and agreed it was all right. Mr. Hanschell and myself were the two people who spoke most about this, and I have a very clear memory of it; so I do not want the House to be over-awed by authority on this matter. What I am going to suggest to the House is that if it is desired that wills be subject to more laxity and control than for example deeds, although wills deal with a great deal more property than the average deed — a man may leave all his property by will, but he may only sell a portion of it during his life-time — if it is going to be suggested that this should be controlled in the same way that the Wills Act — unlike the Wills Act of England — preserves holograph wills, in the same way that the Landlord and Tenants Act allows non-lawyers to appear in court on behalf of landlords, because that is still the law and will still be the law, and it will still be possible for people who are not attorneys-at-law to go in court on behalf of a landlord to collect rent, get people off land or whatever, in the same way that specific acts deal with that. I would suggest to the Leader of the House and the hon. member for Christ Church West that the Wills Act itself be amended, but a stand must be taken somewhere, and I am suggesting to the House that wills should no longer be drawn for reward by people who are not attorneys-at-law.

The member for Christ Church West is mistaken if he says you cannot charge a fee. You cannot recover a fee in court, but you can ask for a fee in advance to make the will and keep it. Do not fool yourself. Non-lawyers are in the same position today about making wills as barristers are. Barristers cannot sue for their fees now anymore than anybody who makes a will can sue for his fee even at the present stage. I am urging that this permission for persons who are not lawyers to make a will be deleted and if necessary the Wills Act can subsequently be amended to set out the circumstances in which persons who are not lawyers may assist their father, their relative or whatever. I personally think that a relative assisting a person about to die is a most dangerous thing.

I think that is one of the most dangerous things that can happen, for a son to go and help his father make his will. That is one of the most dangerous situations which can arise, because the mother or the sister or cousin or whatever, no matter how decently the will is made, who was not there objects, and I am sorry in a way that the hon. member for Christ Church West raised that as an analogy for something good. It is all this you wish to avoid.

The point about advertising is well taken, but with respect not much to do with the matter. A will is one of the most positive acts of disposition of property that most people make during their life times. A man may go through his whole life and buy land, but never sell it, and therefore where it comes to disposition the only way he may ever dispose of property is by making a will. I am suggesting that this should not be an exemption. When it is right in the Act as an exemption that you do not need to be a lawyer to make a will, when people pick up the Act and read that, they will start making wills; they will take this as a charter and an encouragement. That is exactly what it will be taken as, an encouragement to go and charge people money for making wills. Agreements under hand, I am afraid of that too. The hon. member for Christ Church West talks about how all these things were considered. If a note was kept of this in the minutes, he will remember quite carefully that the Bar Association spoke for a long time about amending that agreement under hand only. Mr. Hanschell, the President, and I worked out a formula: "an agreement under hand where made by one of the parties thereto", and that formula was put forward. So it cannot be said that the Bar Association agreed with what is here. "Where made by one of the parties thereto" was put forward by Mr. Hanschell and I, and it went forward as far as I knew until I saw it here when I first read this. As far as I knew that is what was going to be put forward by the Bar Association. So all these matters are not so automatic by any means.

I appeal to members of the House not to give will makers a charter. I am taking money out of my pocket when I deal with this. I would not like to tell hon. members the fees that have been paid in my knowledge in will cases. After all the hon. member for Christ Church West will recall certain will cases outside Barbados where hon. members formerly of this House but not now of this House drew and were authorised to draw amounts of \$20,000 for appearing in will cases down the Islands. The Registrar taxed the cost at \$20,000 for a gentleman and Mr. Tajul Sehasane was actually paid \$27,000. This is what happens

when a will is badly made. As I said, this is money coming out of our pockets, not going in because you get more from the occasional will dispute than you get from making wills. All the wills I have ever made in my life as a Barrister would not amount to \$500 and I would not do a disputed will case now for less than that, and I am doing some at the moment. All the wills I have ever drawn or ever likely to draw in the rest of my career as a Barrister I doubt will reach \$2,000, and for an estate of substance that would be close to the minimum fee that would be charged for appearing in it. So it is not to a lawyer's financial interest to prevent non-lawyers from making wills. They bring us money. When the Solicitors make them, they bring us money too. The worse the wills are made, the more money Barristers will get in the long run; so when I appeal to hon. members to remove this, I am not appealing in order to concentrate money in the pockets of the great trade union of lawyers.

Mr. BOLDEN: Mr. Chairman, I would like to join with the hon. member for St. Thomas on this. I would say that if this is removed it does not prevent somebody at home from making a will or calling in a friend to assist him in making a will. What I am looking at are the persons who today operate around the country who pretend to know all the law about making wills, and then at the death of the testator the beneficiaries find that the estate has been whittled away because of disputes which have been created by the non-legal people who charge hefty fees for doing such a job.
10.40 p.m.

It does not worry me one iota because all of us who have any understanding and who know what the hereafter means make our wills long before we think we are going to die. I am only trying to help the poor man outside so that he will have some sort of guidance.

I register my non-agreement with that section and the agreement under hand only which the hon. member for St. Thomas touched on a few minutes ago. I remember when this discussion came up we sat down and discussed how we should draw an agreement for a certain sum of money in advance of getting into the main deed and let the fees in the agreement be the preamble before you get to the deed, and it would be an agreement under hand. This was discussed because somebody raised the question of hire purchase deeds where a clerk in a store fills out a hire purchase deed, signs it on behalf of a company and then the hirer signs the other side, and this is why it says agreement under hand only. The hon. member for St. Thomas said

that it should be where one of the parties is a party to the agreement. That is not included in the definition. The hon. member for St. Michael West seems to think that the lawyers want to create a closed shop, but I want him to know something — When the Severance Payment Bill went to a committee and came back to the House, as soon as I got outside somebody came to me and said that we sat down in here and allowed this to be done when it is not right, — so you were caught between the devil on one side and the deep blue sea on the other.

Mr. WALCOTT: Mr. Chairman, — the way the hon. member for St. Joseph is getting on about wills — he is acting now that the time when you go to court with a will is when you go to court with country lawyers. The case to which the hon. member for St. Thomas referred did not include any country lawyer, you do not get country lawyers in that kind of money. It is the interpretation of the will when you fight in court at this stage. Some people say at this stage how they want the court to interpret the will. As I said last week, a man left something for a son, and the son had the idea that he left it for his wife and at the wife's death it should go to the son. The son was interpreting this that if he dies before the wife his son will get it. I told him that I am not a lawyer that that is the end when it comes to him. It did not mention successors, because he was looking for his son to get it, but that is why people go to court. He had the idea that because his father left something for him, that when his wife died his son and his son's son would get it.

I would like to say to the hon. members over there that the problem with the wills is not only the question of how the wills are drawn, but sometimes how the families would like to interpret them. Even when the lawyers draw them up they would like them interpreted the way they want. Sometimes it is more or less the interpretation of the will rather than the will not being prepared properly. Sometimes eminent people prepare the will and the family will fight over it, but I agree that we do not want to have legal things being done by other people. When it comes to these matters you have to think in the context of your own social position. Where Barbados is at this time I know that people rely on this sort of assistance, if I may call it that, to help them out and I do not think that the hon. member for Christ Church West has done this, lawyers do not advertise this, and people are still afraid of lawyers unless they are in trouble. When they are not in trouble they feel that they cannot tell the lawyers that they have all this property to share out, they have to go and tell somebody near to them. It is a sort of peculiar

fear with people. When there is no trouble it is a different thing, and you have to think about those things.

Mr. BOLDEN: Mr. Chairman, I would like the hon. member for St. Michael West to know that it says "a person drawing or preparing a will or other testamentary instrument." We are not dealing with the interpretation of the document, because as long as there are human beings in this world there will always be a dispute between families who want to interpret the will to suit themselves. There is nothing which will stop certain people from believing that because they were the favourites of the family they should get the whole property or 90% of it. We are trying to eliminate that person who pretends to know so much about drawing wills and goes into a house and draws a will and when they are finished and the person has died, when it comes to the Probate and the interpretation of the will it does not make sense and they have to carry it to the court to get an interpretation of it. That is what we are trying to avoid, not trying to avoid the ideas of the family as to who should get what. It is like the agreement made by the Trade Union and an employer. When a dispute comes down the Union would try to interpret it their way when it suits them best, and the employers want to interpret it their way, but the legal terminology might be as clear as ever but everyone wants the best for himself. We are not dealing with that situation.

Mr. ADAMS: While it is true that it is wills made by lawyers that give rise to the most litigation, if a lawyer is negligent in making a will it is my opinion that at the very least the personal representatives of the deceased person can sue for loss to the estate — it has not been decided in an English Court — but even frustrated beneficiaries may be able to sue the lawyer. If a person who is not a lawyer but for example has drawn a fee for the making of a will I do not see that any action can lie, but that is just speaking off hand. Secondly, it is by no means true that — although most litigated wills were made by lawyers — all were. As far as I can recall, the most recent massive litigation they had over the interpretation of a will was a series of cases arising out of the Jones's will in Black Rock. Some matters went to the Privy Council, many went to the West Indies Court of Appeal, others I believe may have gone to the Privy Council and succeeded if there had not been underhand dealings.

10.50 p.m.

In the last big case of which I know, the will was not made by a lawyer. I am trying to recall the will cases that are actually before the Courts at the

moment of which I am aware. I am aware of two cases, and in only one can I recall where a will was made by a lawyer. (*Asides*) I should have said wills recently before the courts. There was a case where a man made a scribbling will, and in another case somebody brought a will form from overseas and filled it in. There are three cases that I can recall this year. Look at the percentage of unsuccess. There are two cases that I can recall and are known to me personally, and in two cases it was not a lawyer who made the will. I think that the estate is going to be consumed in one of them, because the amount was so small and the litigation so protracted that it is still going on now after a year in court. There were a number of hearings and the people are waiting for a decision now. That is a case in which I appeared. I believe that the lawyers are going to consume the estate. Because the testator would not go to a lawyer himself, his wife is going, very unfortunately, to lose the possibility of the inheritance because the will was so doubtful. This is the sort of thing that I am urging hon. members to protect the public against.

Mr. CHAIRMAN: The question is that.....

Mr. ADAMS: On a point of order, Mr. Chairman. I have moved an amendment that the thing about the wills be deleted, and the hon. member for St. Joseph seconded it. I am sure if the Clerk refers to it, he will find it.

Mr. BOLDEN: Mr. Chairman, the hon. member for St. Thomas moved that c(1) be deleted. I spoke on c(1) and c(2). I started to move an amendment and I withdrew it. I said that I would not worry to proceed with my amendment, but I would just register my objection to c(2). I also said that removing c(1) would not prevent persons from drawing a will.

Mr. ADAMS: Mr. Chairman, I am indicating that there is a free vote on this side of the House on this matter, and I hope that the Leader of the House will allow a free vote on his side, too.

The question that the words proposed to be deleted stand part was put and resolved in the negative, the Committee dividing as follows:

AYES: Hon. C. E. TALMA; Hon. L. E. SANDIFORD; Hon. P. G. MORGAN; Mr. WALCOTT; Mr. GREAVES; Mr. MORRISON and Mr. WEEKES - 7.

NOES: Mr. ADAMS; Mr. BOLDEN and Mr. FORDE - 3.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Your Honour do now report progress and....

Mr. BOLDEN: Mr. Chairman, Clause 12 has not yet stood part.

The question that Clause 12 stand part was put and resolved in the affirmative without division.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Your Honour do now report progress, and ask for leave to sit again.

Hon. L. E. SANDIFORD: I beg to second that.

The question was put and resolved in the affirmative without division. Mr. CHAIRMAN reported to Mr. SPEAKER who resumed the Chair accordingly.

SUSPENSION OF SITTING

Hon. C. E. TALMA: Mr. Speaker, I beg to move that this sitting be suspended until 12.30 p.m. tomorrow.

Hon. L. E. SANDIFORD: I beg to second that.

The question was put and resolved in the affirmative without division, and Mr. SPEAKER suspended the sitting accordingly.
11 p.m.

On resumption:-

Mr. SPEAKER: The sitting is now resumed. When the sitting was suspended last evening the House was in Committee on the Legal Profession Bill; to that it now reverts.

Mr. SPEAKER left the Chair and the House resumed Committee. Mr. LOWE took the Chair.

Clause 13 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 13 stand part.

Hon. P. G. MORGAN: I beg to second that.

Mr. MOTTLEY: Mr. Chairman, this is one of the very important clauses in this Bill, in that it provides for the making of rules by the Judicial Advisory Council in respect of the keeping and operating of bank accounts of clients' money by

attorneys-at-law. This is something which has caused much dissatisfaction in the past, and perhaps it is this part of the practice of law more than any other part that has led to the recrimination — if I may use that word — against members of the legal profession. It certainly is dealing with the clients' money that you will find that members of the legal profession have from time to time found fault with the law, and for this reason this is why we on this side feel that this section is indeed very important, and we hope that this section would in future remove any sort of allegations that attorneys-at-law or Solicitors or Barristers have in any way been guilty of any misconduct. I might say here that this section really in the past would not have applied to Barristers but mostly to Solicitors, but now that the professions are to be fused and all members of the legal profession will be able to draw conveyances, for instance, it is going to mean that from time to time large sums of money will be deposited with them to hold on behalf of their clients, and for this reason the Bar Council and the Council of the Law Society were very concerned that the rules which are required to be made under this section would come into force as soon as the Bill comes into force.

The Judicial Advisory Council has not in the past been as active as it should have been. One can only look at Acts like the Workmen's Compensation Act which was passed as long ago as 1963 and which required rules to be made by the Judicial Advisory Council, but to date no rules have been made under that Act. There are a number of Acts which empower the Judicial Advisory Council to make rules, but there have been defaulters and as such no rules have been made. We on this side share the concern expressed by the Council of the Bar Association and the Council of the Law Society that as soon as the Bill is brought into force it can only operate efficiently if at the same time the rules dealing with accounts and the rules that are required to be made under this section are brought into force at the same time. The position is that if this Bill comes into force and these rules are not made you will find that in the interest of the profession itself that allegations are going to be made against members of the legal profession, and I think that this is why they have asked that this Bill comes into force at the same time when these rules are made. If not, you are not going to have anything governing the conduct and the handling of accounts by attorneys-at-law, and for this reason for the purposes of this section it will be necessary, because you are now, as I said, without making any allegations against anybody, going to find that Barristers as distinct from Solicitors will now be able to handle clients' accounts.

I think you must recognise that as Barristers our training was not in this aspect of the rules in that we have never done trust accounts, and in the past we have not been called upon either here or in England to keep separate clients' accounts. For this reason I would hope that the Judicial Advisory Council will not be in default here as they have been in the past and will make sure that the time when this Bill is brought into force by proclamation that the rules required to be made under this section are in fact made. I think that without being too critical of the role of the Judicial Advisory Council something should be done to stimulate this body into action. I think the only thing they have done recently of any significance — and this is as a result of recommendations and the efforts of the Bar Association and Solicitors — was to revise the legal costs. Even the rules of the Supreme Court are going to require consequential amendments as a result of the coming into force of this Bill, and although the Government as such cannot really force the Judicial Advisory Council to make these rules, but in as much as I think that they must report to the Attorney General, I think he should use his good offices to ensure that every effort is made not only to bring into force the rules as regards accounts and deposit interest of clients, but also the consequential amendments and the revisions that are required under the Supreme Court rules.

If I may indicate what I mean, under the rules at the moment only Solicitors are allowed to accept service of documents and to issue service of signed writs. There must be consequential amendments of the Supreme Court rules to allow Barristers to do this when the fusion comes about, and overall you will find that there must be consequential amendments, and I would ask the Government to have the Attorney General urge the Judicial Advisory Council to make these rules as soon as possible.

12.45 p.m.

Mr. Chairman, I know that there are certain sections of the legal profession who feel that the Bill should not be brought into force until all of these things are done. At any rate, I know that the Bar Association and the Law Society in their own interest and in the interest of the public are very concerned that at the time when this Bill is brought into force the Rules relating to the keeping of accounts and the deposit interest Rules should come into force at the same time. In the interest of the profession and in the interest of the public, this must happen, Sir.

The question that Clause 13 stand part was put and resolved in the affirmative without division.

Clause 14 was called and passed.

Clause 15 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 15 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. MOTTLEY: Mr. Chairman, this Clause deals with clients' accounts where improper conduct is alleged. This has been the bugbear of the legal profession for the past ten or fifteen years, and it may very well be the reason why you find — and I offer this as no excuse, Sir — that the Prime Minister in introducing this Bill yesterday stated that he had the misfortune to belong to this profession, which he considered to be a dishonourable profession. In his introductory remarks he mentioned something about complaints being made against members of the Bar and members of the legal profession and nothing was done about it. He said that he wrote to the competent authority, or he wrote to the Registrar, and he did not have the courtesy of a reply and so on.

I think that the Prime Minister seems to have overlooked the fact that at the time those complaints were made to the Attorney-General he was the proper authority to whom those complaints should have been made and that he had, as is preserved under this legislation, common law power to take action against those members of the legal profession who had dealt improperly with clients' money.

The hon. member for Christ Church West has said that the only case in which the Attorney-General moved to have anyone disciplined was as a result of a case in which the member for Christ Church West and myself were involved. As a result of the disclosures made in that case, the Chief Justice directed that the papers be sent to the Attorney-General for him to take the necessary action.

Mr. Chairman, I do not think it is fair to the members of the legal profession to have allegations made against them while the Attorney-General had the power to do something about the matter. When the complaints were made to him, the Attorney-General had the power to apply to the Court for the purpose of taking disciplinary action against those members of the Bar. It is in the interest of the members of the Bar to see to it that members of the legal profession, who are guilty of professional misconduct or are guilty of the improper use of clients' money, are not allowed to practise in this

country. If they are allowed to practise after they are found guilty, then they will give the whole profession a bad name. This sort of thing has been happening over the past years.

Mr. Chairman, nobody will deny that one or two members of the legal profession were guilty of professional misconduct, but people have become so frustrated at the lack of action on the part of the Attorney-General against those few individuals, who can be numbered on one hand, that it has resulted in a general feeling of distrust towards the members of the legal profession. That is annoying, and it is necessary, under Clause 13 which deals with accounts, to have these things brought into force as soon as possible. We in the legal profession want to make sure that those members of the legal profession who, by their conduct, want to drag it down, are removed from the profession.

Mr. FORDE: Mr. Chairman, I should like to emphasise a few points on this Section without necessarily repeating what the hon. member for the City has said. The first point is that this Section is breaking completely new ground. I think members should be aware of the fact that nowhere else in the Commonwealth, as far as our research goes, has this provision been made in any legislation, and it gives to the court very wide powers to freeze the accounts of an attorney-at-law against whom the court believes there is a *prima facie* case of either professional misconduct involving fraud committed either by himself or by his servant or agent. This is an added protection for the public. It is additional to the normal criminal proceedings which could be taken, and it is also additional to the proceedings for striking the attorney-at-law off the Roll.

The second issue that I should like to draw to the attention of members of the Committee, and this is more advice to the Leader of the House, relates to Clause 15(5). You will note, Mr. Chairman, that Rules of court may prescribe as to the form and procedure of any application or proceedings made or brought under this Section. I should like to say that this Bill like this Section can only be properly worked if the Rules, which are asked for under this Act, are made before the Bill is brought into force. The profession, the Court and the public at large would be at great disadvantage if we seek to implement this legislation immediately before we have revised the Rules of the Supreme Court and before we have made provision for Rules such as these, and made provision for Rules for keeping accounts in relation to people's funds. I think it is most important in the light of some of the things which have gone

wrong in the legal profession. It is most important that those Rules should be made and promulgated.

I can state to the Government that, so far as this Bill is concerned, we have appointed a Joint Committee of Barristers and Solicitors to liaise together to see what consequential amendments are necessary. Only this morning I was trying to ask people in the profession who would be willing to serve on the Committee. Myself and Mr. Christopher Blackman are joint conveners of that meeting, and I have undertakings from people like Senator Asquith Phillips, Mr. Collin Williams and some of the other Solicitors and Barristers that they will serve. Perhaps the Government will make available to us the drafting expertise of the Chief Parliamentary Counsel or one of his other colleagues.

12.55 p.m.

I think we should emphasise very seriously that unless the rules are made, the Act will not work properly.

The question that Clause 15 stand part, was put and resolved in the affirmative without division.

Clause 16 was called and passed.

Clause 17 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 17 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. FORDE: Mr. Chairman, Clause 17 refers to providing a system of law reporting, and I am glad that for the first time there will be specific legislation placing on a Minister the duty of providing for a proper system of law reporting. I think members should know that there is a set of reports called the West Indian Reports which are printed and published by Butterworth & Co. Publishers Ltd., but these reports are still not completely adequate to contain the full reports of all cases of any great legal significance which are adjudicated in the Courts both at magisterial and judicial level first instance court and the Court of Appeal. I believe that Barbados can learn from some of its neighbours in this respect. Trinidad and Tobago, Guyana and Jamaica have their own law reports. They do this, Mr. Chairman, by publishing in the *Official Gazette* a copy of the judgements given, and it seems to me that it would be not very expensive to the Government if each issue of the *Official Gazette* or each appropriate issue of the *Official Gazette* should contain the published decisions of the Divisional Court, the Court of Appeal, the Judiciary and some of the very

skilled decisions given by some of our very good magistrates. I can instance His Worship Dudley Johnson who has not only a judicial manner, but has the learning of a very erudite and distinguished lawyer.

I would hope that the Minister would use this opportunity of publishing the reports regularly, to have them bound and sold at the end of the year to the profession as a whole both in Barbados and in the West Indies and to other persons overseas, and we commend this idea to them. It is not an idea that is original to anyone of us in this Chamber or to anyone of us in the profession. It is an idea that the profession as a whole has put forward, and I am not claiming any special encomiums for this at all, but we are commending it to the Government and I hope the Leader of the House will convey these sentiments to the Minister.

The question that Clause 17 stand part was put and resolved in the affirmative without division.

Clause 18 was called and passed.

Clause 19 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 19 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. ADAMS: Mr. Chairman, I rise to make a point which may be somewhat tendentious, but I hope hon. members will accept it in the spirit in which it is put forward to the House. Clause 19 says that, "any client or any other person alleging himself aggrieved by an Act of provisional misconduct (including any default) committed by an attorney-at-law, other than the Attorney General or the Director of Public Prosecutions" I much fear, Mr. Chairman, that it is impossible for me to concur certainly in the first of the exemptions and it is very difficult for me to concur with the second.

To deal with the second first, as I understand it, the Director of Public Prosecutions must by the Constitution be a lawyer and he cannot be removed except under a procedure laid down in the Constitution. This means in effect that if the Disciplinary Committee should find that the Director of Public Prosecutions had committed an act of grave professional misconduct and should disbar him that the Constitution might have been got around in so far as he would no longer have the qualification to fill the post. This argument has

been put forward to me, and while I do not entirely accept it since disbarment is not the only penalty that can be inflicted on a lawyer, yet I must confess that the argument has some force. There is in my suggestion to the House absolutely no force in any argument that the Leader of the Bar should be exempted from the penalties attached to grave professional misconduct. I very much hope that no attorney-at-law will be guilty of misconduct of any sort and in the nature of the office, the Attorney General obviously cannot be guilty of misconduct relating to the keeping of monies and the handling of clients' monies. Nonetheless, especially when there is a political Attorney General it must be realised and appreciated that there are a number of acts which are improper in barristers and may be improper in an Attorney General. I do not wish to draw any local example; that perhaps would be carrying things too far, but in the last five or six years the Attorney General of England, Sir Peter Rawlinson had charges laid against him for grave professional misconduct alleging that he lied to the House of Commons about the receipt of certain assurances from the Government of Nigeria relating to Chief Ton Enahoro who after the Attorney General had given a pledge to the House of Commons that should the House vote for the return of Ton Enahoro to Nigeria he would not be imprisoned. Of course he was imprisoned on his return and the Nigerian Government said that they had never told Sir Peter Rawlinson any of the things which he had told the House of Commons. For that Sir Peter Rawlinson very nearly lost his wig and gown and in my opinion would have been properly deprived of his wig and gown.

Hon. C. E. TALMA: If the hon. member would give way, I know he is a very erudite and well read lawyer, but he might have lost sight of what is written here. Has the Attorney General a client as such? Clause 19(1) says, "A client or, by leave of the Committee, any other person....." Who is his client? His employer, the Government? I think the hon. member is not on good grounds for now.

Mr. ADAMS: The Minister has not read the section. It says "client or any other person alleging himself aggrieved". I do not think the Leader of the House has read the section properly. I would be aggrieved if the Attorney General came in here and told a lie. I cannot tell a lie if I am a barrister in court. I can't tell a judge a lie if I go in court. I can lose my wig and gown for that; so why should the Attorney General be able to come into the forum where in effect he practises and tell a lie and get away with it? Sir Peter Rawlinson very

nearly lost his wig and gown for telling a lie to the House of Commons which led to the imprisonment of an unfortunate Nigerian refugee and I am sure that hon. members do not wish to relieve anyone from the consequence of misconduct in his professional capacity.

We have heard so much in here about what lawyers do that is wrong and wicked. I am sure that hon. members do not seriously want to give any lawyer the opportunity of misbehaving himself with impunity. I can see no reason whatsoever for the exemption of the Attorney General from this Clause. It was not discussed at all as far as I can remember before the Bar Association. When we saw this clause originally it contained merely the name of the office of the Director of Public Prosecutions.

Now hon. members will have to bear with me if I draw not actual examples, but theoretical examples. Any lawyer who appears in court has a certain well defined duty as a Barrister in relation to the court. He must not conceal facts from the court; he must not state facts that are not true. I cannot go through the whole code of conduct, but a practising Barrister has to keep these things at his fingertips and know them instinctively. Does not the Attorney General appear in court? Does not the Director of Public Prosecutions appear in court?

1.05 p.m.

The Director of Public Prosecutions is subject to such disciplines as are laid down in section 105 of the Constitution which says: "The officer may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour." Tribunals may be appointed and may inform the Governor-General. The Chief Justice may be removed from office for misbehaviour upon the recommendation of the Prime Minister if approved by the Privy Council in London. Any Judge may be removed from office for misbehaviour upon the recommendation of the Chief Justice and the approval of the Privy Council in London; why should the one attorney-at-law, who can go into court and be not removed, be the Attorney General? There are so many things you can do in court — you can appear in court and tell the Judges a lie — I believe it is the moral sense of most Barristers which prevents them from doing this on ordinary occasions, but should morality fail there is always the sanction of disciplinary proceedings. Why should the Attorney General alone, why should he be the only person

under our system who cannot be disciplined? The Judges can be disciplined, the Director of Public Prosecutions can be disciplined – albeit none of them by the Disciplinary Committee – ordinary Barristers may be disciplined, any Crown Counsel may be disciplined, but not the Attorney General. The only discipline which can be exercised over the Attorney General is presumably discipline by the Prime Minister. Suppose the Prime Minister happens to hold the job of Attorney General himself, he will be a person entirely responsible to no one, in terms of professional conduct.

I would urge hon. members to consider this. If the Leader of the House wishes an opportunity to make an observation, we on this side will be glad to afford him such, because I believe that the Attorney General himself upon a mature consideration of the matter would prefer not to be placed entirely above the law. Why would a man wish to be placed entirely above the law if he has no intention of breaking it? Why would a man seek to have an exemption for him and him alone so that he is the only lawyer in the whole of Barbados, whether holding judicial office or not, who is not to be subject to disciplinary proceedings of any sort? And I would urge the Leader of the House not to try to pick points that do not exist out of section 19 subsection (1) because there are any number of people who are aggrieved by acts of professional misconduct, not only clients. I would urge the leader of the House to make contact with the Attorney General and ask if he insists on this; otherwise, Mr. Chairman, I regret that I will be forced to ask that the words "the Attorney General or" be deleted from this section. Accordingly I would move that further consideration of section 19 be postponed for this purpose.

Mr. MOTTLEY: I beg to second that.

Hon. C. E. TALMA: Mr. Chairman, the hon. member has made a contribution, but his contribution needs further examining. The whole point is that the Attorney General and the Director of Public Prosecutions have no clients as such; they are not in private practice. Of course the hon. and learned member, the Leader of the Opposition, held on to the second alternative, "by leave of the Committee, and any other person alleging himself aggrieved by an act of professional misconduct..." The whole fact is that the Attorney General and the Director of Public Prosecutions are not in private practice, they are not attorneys-at-law practising law as such, so that they have no clients and have no one who may become aggrieved as a result of any action of theirs, so it is only natural you should grant exemption in these two cases. For that

reason the Director of Public Prosecutions is the officer who can even prosecute the Attorney General; why did not the hon. member say that? The Director of Public Prosecutions has the right to prosecute anybody in the country. He can prosecute the Attorney General, the Prime Minister, any Minister, any member of Parliament or anybody in the country. The person having these full wide powers is the Director of Public Prosecutions and not the Attorney General, so the Attorney General is already disciplined in the general way as all of us are, because we stand on equal footing and *pari passu* in the eyes of the law, and the Director of Public Prosecutions can prosecute any of us and does not have to account to any Government, Parliament or anybody at all, he has this perfect right and duty to perform. On this score I do not believe we will ever agree even after consultation with the Parliamentary Council or the Attorney General's Department to send down one of the experts.

Mr. ADAMS: Mr. Chairman, I did not quite understand what was said. The last thing I heard was something about having to wait until the department sent down some experts. If a Barrister is convicted of committing certain offences in the ordinary way he may be struck off. This section 19 says that the Registrar or any member of the Committee may make an application to the Committee concerning any criminal offence which is committed, except for the Attorney General. Does that mean that the Attorney General can go out and commit murder and still remain a lawyer? It requires a reading of the section which I do not think the Leader of the House is able to give his normal mature analysis to today. It is not as easy a matter as the Leader of the House today thinks, and I am urging on the responsible Ministers present to make contact with the Attorney General for this purpose. This is not indeed a mere theoretical matter either, I may mention, the Attorney General does appear in Court. The argument made by the Leader of the House about their not having private clients is foolish, none of the Crown Counsel has private clients either.

1.15 p.m.

All of them are persons who cannot have private clients, and that argument does not hold any water at all. I believe that Attorney-General has been inserted in here without proper thought being given to the matter. It is obvious that there are the greatest safeguards possible. Suppose the Attorney-General gives a malicious opinion. That is possible. Suppose the Attorney-General appears in Court and makes a false statement; suppose he makes a false statement of law to a jury or something like that. All of these are matters which can happen.

There has not been complete satisfaction expressed with all persons who have held the office of Attorney-General in Barbados.

Mr. Chairman, I do not want to draw a Barbados example; I want to draw an English one. I have drawn one from England and there could be others. Many persons considered that in the year 1909 the conduct of the then Attorney-General, Mr. Rufus Isaacs, in allowing his brother to purchase for him and for the Chancellor of the Exchequer certain shares in the American Marconi Company when they knew that the British Marconi Company and its associates would soon be given a Government contract which would make all the Marconi shares go up in price was not right. Many people considered that Rufus Isaacs should have been struck off as a Barrister and Lloyd George as a Solicitor at the time. I am taking examples from the history of a country which is well documented and available to all of us. These are actions which could be carried out and should not be condoned, and I would urge that further consideration be given to this matter.

What do you want? Do you want a situation where the Attorney-General appears in Court; he gets into a quarrel with a lawyer on the other side; and the lawyer gets up and says: "You feel you can do as you like, because you cannot be disciplined." It will happen; I have heard allegations made in Court against the Director of Public Prosecutions in those terms. I have heard, with my own ears, allegations of misconduct made against the Director of Public Prosecutions, but they were not, in my opinion, justified. Anyway, I heard them. Do you want a situation now where added edge will be given to those allegations by reason of the fact that those persons are above discipline? These are people who appear in Court. Why should they be able to do as they like if we who appear against them cannot do it? I am urging on the responsible members of the Government to treat this matter with the weight which it deserves.

Hon. P. G. MORGAN: Mr. Chairman, I cannot help but feeling that the Hon. Leader of the Opposition is underestimating the intelligence and the ability of the Attorney-General. The present Attorney-General must have been involved with the development of this Bill for the last fifteen months or so. He, certainly, must have approved the draft before it came to Cabinet; he presented the draft to Cabinet and, as far as I know, he was present in the Other Place when he introduced the Bill and must have been fully aware of all of the implications of this Bill. Therefore, to suggest, at this stage, that this Honourable Committee should

defer the matter until we have consulted again with the Attorney-General seems to me rather pointless.

Mr. ADAMS: Mr. Chairman, the Hon. Attorney-General was present in the Senate Chamber and for the last 15 months has been familiar with the passage of this Bill. He was aware of a recommendation from the Bar Council that he should not be Chairman of the Disciplinary Committee, and although he was aware of that he still introduced it into the Senate, and he will still have to deal with it later on today, because an amendment is going to be moved removing him from being Chairman of the Disciplinary Committee. The contribution of the hon. member for Christ Church North Central is only pouring boiling water on troubled waters. It does not take us any further. All of the arguments which he has just applied were present in respect of the later Section of the Act, which the Prime Minister says is going to be amended. You can introduce an Act of 50 Sections and not be aware of all of them. I am suggesting that no lawyer should be placed above the law. That is, broadly speaking, what I am suggesting. Nobody should be placed above the law.

Dr. the Hon. R. B. CADDLE: Mr. Chairman, I should like to ask a question as a matter of information. Can the hon. member state if the Attorney-General can be disciplined under the common law?

Mr. ADAMS: Certainly.

Hon. C. E. TALMA: Mr. Chairman, I am not here to sit until midnight. Before the hon. member replies to the question raised, I should like to state that under Clause 23 the matter is set out quite clearly:

"Notwithstanding anything in this Act the jurisdiction, power or authority vested in any court immediately before the commencement of this Act —

(a) by the common law to discipline; or

(b) by any enactment to deal with contempt of court committed by,

Barristers or Solicitors shall continue to be exercisable after such commencement in relation to attorneys-at-law."

In other words, no matter what was said before this, it simply means that both the Attorney-General and the Director of Public Prosecutions will be controlled and disciplined by the common law as in the past.

Mr. MOTTLEY: On a point of order, Mr. Chairman. This may apply to the Attorney-General, but it certainly cannot apply to the Director of

Public Prosecutions. The Director of Public Prosecutions is entirely a creature of the Constitution. He is governed by the Constitution, and not by any common law power.

Hon. C. E. TALMA: Mr. Chairman, the hon. member did not allow me to complete what I was saying. He is not only governed here, but also in the Constitution. Both officers can be disciplined: one by common law and the other by the Constitution. That is the present situation, Sir.

Mr. ADAMS: Mr. Chairman, the Section which the Leader of the House has read out has not been read out in full or, apparently, understood in its comprehension. That Section applies only to the power of a court to discipline a Barrister or Solicitor appearing before it. That is all. In Barbados, as it happens at the present time, if you wish to discipline the Attorney-General, as I conceive it; I cannot say this is definite, but I believe that this arises out of an occasion when a Barrister of now 22 years standing fell foul of the Judges and disciplinary proceedings were sought to be taken against him, and a decision was handed down that there are, in fact, no proceedings which can be taken by the Barristers' Inns of Court in respect of a Barrister's behaviour in the face of a court in Barbados. I do not know if that is good law or not.

As it happens in Barbados, the practice is that only the Attorney-General can move the court for a Barrister or a Solicitor to be disciplined. If only the Attorney-General can move; therefore, in the ordinary way, I think hon. members will appreciate that the common law they are speaking of in Barbados is that it is the Attorney-General who has to institute disciplinary proceedings before a court and there is nobody, as far as I know, who can institute disciplinary proceedings against the Attorney-General in a court, since the Inns of Court have declined the jurisdiction in Barbados. I only know that from hearsay.

Mr. Chairman, I know that I myself have been present in the Privy Council in a case in which Mr. Dingle Foot — I was acting as one of his juniors — was defending a Barrister for having conspired to pervert the course of justice somewhere out in the Persian Gulf, and that the Barrister's unsuccessful appeal was followed by disciplinary proceedings, over a part of which Mr. Dingle Foot presided, and he was struck off by Grays Inn. That is what I know.

1.25 p.m.

I know that the Inns of Court do in fact in certain circumstances strike off overseas barristers, but I would just suggest this: there is no possibility whatsoever of the Inns of Court striking off a Barbados attorney-at-law because he would not be practising as a Barrister at all. Indeed to some extent you lose your status as a Barrister of England once you become an attorney-at-law under this Act, and if there is any residual jurisdiction in the English Inns of Court to remove a Barrister practising in Barbados, it will vanish entirely when this Act comes into force, and I know of no one who can move the Court to punish an Attorney General. These are matters which can be verified by telephone or enquiry. Do not take them from me if they are doubted. I know of no authority that can punish the Attorney General here, and I am suggesting that no office should be placed so far above the law.

There is another point of which I am reminded on which I urge on hon. members. You get an elaborate argument sometimes that the Prime Minister appoints the Attorney General and therefore nobody else must be given the power to dismiss him. The argument is appreciated, I am sure, that in the same way as giving somebody else the power to discipline the Director of Public Prosecutions would be a way of getting around the Constitution, giving somebody the power to discipline the Attorney General would be a way of getting around the Prime Minister's prerogative of appointment. But I would point out to hon. members — I have been reminded of this point — that in fact in Barbados the Attorney General need not be a Barrister, that a man can be struck off as a Barrister and still be Attorney General. In other words, the two things are separate. The Director of Public Prosecutions must be a lawyer, but the law of 1961 which said that the Attorney General must be a lawyer has now been repealed. Anybody may be appointed Attorney General, and you see in the past that anybody has been, but at least they have been lawyers. At the present time the Minister of Health, the Minister of Education, the hon. member for St. Michael West or indeed the former junior member for St. Thomas, all of them may be appointed Attorney General if the Prime Minister sees fit. Therefore you are not infringing on his prerogative by giving somebody else or some other body the right to say that a particular Attorney General should not appear in Court.

Sir, I think I am being forced away from a position which I took up at the start of my speech. I did not want to draw examples, but I must draw one example if hon. members think this is theoretical. Not very many years ago a politically

appointed Attorney General, as it happened, objected to a particular judge trying a case in which the Attorney General was engaged, the implication being that the particular judge had political associations which were contrary to those of the Attorney General. This is not very many years ago. Now the Bar Association took up this matter with great indignation and Resolutions were brought forward. In my opinion the Resolutions were withdrawn in a somewhat cowardly way even although there was a clear majority in their favour, but that is neither here nor there. Resolutions were brought forward criticising the Attorney General for his conduct in Court in presuming to put forward innuendos to the effect that a judge's decision would turn upon his political opinions.

I know of no country where an Attorney General could tell a judge of a superior court "your politics are going to affect this case." Those people who read American magazines read every day the judgements of the American Supreme Court. I myself have never seen in the pages of a serious American magazine a suggestion that a particular judgement was given because a particular judge of the Supreme Court was appointed by Eisenhower rather than by a Democratic President. I know that in England it is most unlikely that a lawyer would appear in court and such a suggestion was made. It is improper conduct on the part of a Barrister. This is something that has happened, it is documented and was the subject of proceedings in the Bar Association. Are we now to be told that the original mould in which Attorneys General were cast has been broken and nobody will even be appointed to the post of Attorney General in future if there was not some long-stop to stop him forgetting himself in this way? I would urge on the Government to reconsider this matter.

Mr. MOTTLEY: There is one point here you can find, but I think that probably the only mention I can see of the Attorney General in the Constitution is in section 72 dealing with the assignment of responsibility to Ministers which states that "Subject to the provisions of this Constitution, the Governor-General, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government, including the administration of any department of the Government:

Provided that one such other Minister (who shall be styled Attorney-General) shall be assigned the functions of principal legal adviser to the Government."

Now, Sir, you can get a position as you have in Jamaica where the present Attorney General who is the Government's law officer has refused to become a Minister of Government. He is the politically appointed Attorney General of Jamaica, but as such he has refused to become a Minister of Government, and does not sit in Cabinet. This is the position you find in England. I think the Attorney General in certain administrations in England will be a member of the Cabinet, but he is not always. Certainly, Sir Reginald Manningham Buller was a member of the Cabinet in later days, but in certain administrations, you find that the Attorney General need not be a member of the Cabinet.

Here the Constitution provides that one of the Ministers shall be styled Attorney General and shall be assigned the principal legal adviser to the Government. This has always been the point of contention, that the Attorney General in Barbados need not be a qualified Barrister-at-law, because the original legislation which provided for the Attorney General in 1961, that is, the Attorney General's Appointment, Conditions of Service and Dismissal Act which provided in section 3 that any person being a Barrister or Advocate of Scotland may be admitted to practice in the courts of law, was revoked in 1963, and there has never been any legislation dealing with the qualifications of Attorney General, but it is only that custom here has it that the Attorney General has to be a Barrister-at-law, but there is nothing to prevent the Prime Minister one morning saying he thinks the Minister of Tourism would make a good Attorney General irrespective of his ability and knowledge of the law. In those circumstances what we are asking is not for power to remove the Attorney General from being Attorney General, but the power of the Attorney General as a Barrister-at-law should be subject to the same disciplinary procedures and sanctions as any other member of the Bar.

1.35 p.m.

Certainly the Attorney General, even if he is a Minister, and is guilty of some professional misconduct should be subject to the same discipline as any ordinary member of the Bar, because if he is guilty of professional misconduct he is even in a better position than the Director of Public Prosecutions, because according to the constitution the Director of Public Prosecutions can be removed from office if he is guilty of misbehaviour. The constitution provides for removing the Director of Public Prosecutions, but the position is that the Director of Public Prosecutions as a lawyer should still be subject to the etiquette of the Bar. What is the point of having the Attorney General as leader

of the Bar and not being subject to the same professional standards and professional etiquette as the members of the Bar that he professes to lead? We are not saying that the Disciplinary Committee can have the right to tell the Prime Minister he has to move the Attorney General, that is a matter for the Prime Minister, but as far as he is a Barrister who practises in the law courts and is guilty of misconduct, the fact that he is Attorney General and a Minister of Government should not mean that he should be above the law. That is what this section means, that as Attorney General he is above the law as regards the discipline of other members of the profession.

The Attorney General can get in court, as the member said, and behave as badly as he likes, and lie as much as he likes, he can do whatever he likes, but the etiquette of the Bar would not allow him to do this in as much as you would not expect any Barrister to do it. What we are saying is that as members of the Bar they should be subject to this procedure. What you will find is that as regards the Director of Public Prosecutions, if he is found guilty of professional misconduct by the Disciplinary Committee and they make recommendations, you may find that there will be a conflict because if he is disbarred and it is sent to the Court of Appeal then this would be an indirect way of getting around the Constitution, because the Constitution says that the Director of Public Prosecutions shall be a Barrister with the same qualifications as a judge. Inasmuch as the Attorney General is in a slightly different position, he is a Minister, his qualifications are not set out, whereas the qualifications of the Director of Public Prosecutions must be I think a Barrister of at least 10 years standing, which is the same as the requirement for a Judge. The Attorney General is even in a better position, there is no way you can remove the Attorney General if he misbehaves himself; this cannot be right. There is provision under the Constitution for him, because if he gets in court and misbehaves himself you can adopt the procedure under section 105 for the Director of Public Prosecutions, but what is the position with the Attorney General? You cannot move him because it is the Attorney General's duty to put to the court a motion at common law to have the person struck off or disciplined, so that it would seem that the common law jurisdiction of the courts has always been exercised on a motion made by the Attorney General, so to say that the common law jurisdiction governs the Attorney General is not quite adequate. What we are concerned with is the Attorney General as a Barrister, not as a Minister, and he cannot come in court with any immunity to get on as he likes.

Dr. the Hon. R. B. CADDLE: Mr. Chairman, I want to ask the Leader of the Opposition if he can enlighten me as to what happens in the following circumstances. He has stated that under the common law the Attorney General has to make a motion to the Court, and also that the Inns of Court have declined to exercise their authority to discipline, is it not possible that the aggrieved person can make a motion to the court in these circumstances?

Mr. ADAMS: The Minister of Health, who, sometimes I wish we could get him on this side of the House, so searching, so pertinent and so intelligent are his questions, has put one there to me that would give me a great deal of difficulty to answer without spending some hours in my chambers. As far as I know this is the practice of the Attorney General moving the courts of what I have to call the colonies — I do not use the word "colonies" in the political sense, but colonies in the sense of those who carried the law of settlers with them — this is something that you find in every colony although not in England, but I know of no other procedure. That is all I can say. I would have to look at Terry's law relating to the colonies, at the Barrister's Act and at the Solicitor's Act before I can say this, but I have never known of any one. If someone wishes a Solicitor removed in Barbados at the present time he is referred to the Attorney General. I believe it starts by a complaint to the Chief Justice which is of course processed by the Registrar and considered by the Chief Justice, and the persons are then referred to the Attorney General. The Attorney General writes a Minute stating that he has received evidence which shows a *prima facie* case, he calls upon the Solicitor, or I suppose it would be a Barrister to show cause why he should not be disciplined by the court. I do not know of any procedure by which a private person could do it, but in any case this whole procedure of being disciplined by the court is going to be superseded. The only function which the court will now have will be to punish lawyers for contempt of court in the face of the court or to arrest them as the case may be.

Hon. C. E. TALMA: Mr. Chairman, Sir, I think we will agree to the postponement of this clause temporarily to have some checks made and to give it more mature consideration.

The question that further consideration of Clause 19 be postponed was put and resolved in the affirmative without division.
1.45 p.m.

Clauses 20 and 21 were called and passed.

Clause 22 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 22 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. MOTTLEY: Mr. Chairman, a point raised earlier in the sitting last night was in relation to appeals under Section 5(2). I am speaking for the benefit of the draftsman. Section 22(1) says that the Court of Appeal on the consideration of any report submitted by the Committee may —

- (a) dismiss the application;
- (b) order the name of the attorney-at-law to be removed from the Roll and so on.

It went on originally to state that a decision of the Court of Appeal would be final. I wonder whether the Minister could assist us with information from the Legal Draftsman whether the removal of the words has been that there is an implied right to appeal to the Judicial Committee of the Privy Council. I just want that point cleared up, Sir, if not I would like to move an amendment to have certain things inserted. If the Government has been advised by the Legal Draftsman that there is no need to have it in the Bill and that the right is automatic, I will accept that.

Hon. C. E. TALMA: Mr. Chairman, I thought that point had been cleared sufficiently well by the hon. member for Christ Church West who has been a member of that Committee and is very knowledgeable on these matters. He has all the background information. He made it quite clear that the words "whose decision shall be final" had been deleted intentionally in order for the common law right, or the usual practice of appeal to the Judicial Committee of the Privy Council would remain. This Court of Appeal is not final. Apparently, the hon. member would like to have it doubly clear. Until such time as the West Indian Court of Appeals comes into being, the Judicial Committee of the Privy Council is still the final Court of Appeal. Is the hon. member afraid that he may get struck off?

Mr. MOTTLEY: Sir, I have been very concerned about this. I have served on the Committee with the member for Christ Church West, and this is one of the provisions that I have been fighting for all along. There should be a right for a Barrister or legal practitioner, who has been suspended, to have a final right of appeal as an ordinary citizen. I am merely seeking clarification.

Mr. FORDE: Mr. Chairman, I may state that this matter has been discussed with the Crown Law Officers, and my friend can be assured that they concur with this opinion, that the final right of appeal goes on. There is no problem in this matter.

The question that Clause 22 stand part was put and resolved in the affirmative without division.

Clause 23 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 23 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. FORDE: Mr. Chairman, this keeps the inherent jurisdiction of the courts. As I understand it, attorneys-at-law are now being made officers of the court under an earlier section in the Act. I have heard from the ante-room some of the arguments being advanced by hon. members on this side, but as I understand it every attorney-at-law will be subject to the discipline of the court in its inherent jurisdiction. If, for instance, an attorney-at-law, the D.P.P., or the Attorney-General, or anybody else should be guilty of contempt in the face of court that position remains. As I understand it, the court itself can move in its inherent jurisdiction. This is a particular legal argument, as you will gather, on which my friends may not agree with me. My understanding of the legal position is that the inherent jurisdiction of the court can touch the Attorney-General. I would hate to think that it would be otherwise.

As I understand the Section, the Court is delegating the inherent right that the court has always had at common law to the Committee to do a preliminary investigation and make a recommendation in instances where a complaint is made by a person aggrieved. The section says notwithstanding this delegation the court will keep all of its common law powers. Now, I did a report which I have referred to before in which the judgement of the Privy Council itself, and the judgement of one of our sister Commonwealth Caribbean courts, the judgement of Chief Justice Wooding, refers to this inherent jurisdiction. As I understand the law, there has never been any exception in this inherent jurisdiction made for the Attorney-General or any other prosecuting officer.

If Section 23, in my opinion, had exempted the Attorney-General and the Director of Public Prosecutions, then I would conclude and go as far as the other arguments have gone to say that this would be unfair and wrong. I think that Section 23 does not

exclude at all the rights which were exercisable before. The Director of Public Prosecutions, under the constitution — again with respect to the arguments, and I always bow to sound and legal arguments if there are sound — is only protected — when he is discharging his duties — from being subject to any higher authority in relation to the initiation of prosecutions. It does not prevent the Director of Public Prosecutions from being subject to discipline.

There is a provision, anyhow, in respect of Judges for the removal of the Director of Public Prosecutions, but in relation to the other matters, in my view, he is still subjected to the Court's jurisdiction. Otherwise the D.P.P. could go into Court, waive the Constitution in the Court's face, curse the Court in its face, for instance, he could disobey orders of the court in such circumstances. In my view this is not so at all, and I do not agree with that interpretation.

The question that Clause 23 stand part was put and resolved in the affirmative without division.

Clauses 24 to 26 inclusively were called and passed.

1.55 p.m.

Clause 27 was called and passed.

Clause 28 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 28 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. MOTTLEY: Mr. Chairman, under this clause the word "wilfully" again comes in which gave us such a great deal of trouble last night, and I do not know if the Leader of the House could assist us here by getting some advice from his legal experts as to the reason why the word "wilfully" is used in this section, or whether it is not redundant.

Hon. C. E. TALMA: If the hon. member would give way, after very mature consideration, I am more inclined to err with the Bar Association, the Law Society, the Law Professors at the U.W.I., the Chief Justice, the Attorney General and his advisers who have given great and mature consideration to this Bill and have vetted it over and over again; and I am advised that the word "wilfully" is in its right place in this context.

The question that Clause 28 stand part, was put and resolved in the affirmative without division.

Clause 29 was called and passed.

Clause 30 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 30 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. MOTTLEY: Mr. Chairman, Clause 30 subclause (1) reads:

"An appeal against an order of the Disciplinary Committee on an application made under section 29 lies to the High Court at the instance of the person with respect to whom the application was made and such appeal shall be made within such time after the date of service of a copy of the order on that person, in such form and shall be heard in such manner as may be prescribed by the rules of court."

Then subsection (2) says:—

"The decision of the High Court on an appeal made under subsection (1) shall be final."

I do not know why it is that there is this desire to limit the right of appeal of any person like this. Even at this stage this is being limited to the High Court, and there is no chance to go to the Court of Appeal. One judge sitting in the High Court from time to time has been known to make an error of law, and I think it is only right that even if you want to limit it to the Court of Appeal and not give them the right to go straight to the Privy Council, you should at least have the right of appeal to the Court of Appeal, and I would like to move an amendment that subsection (2) as presently drafted be deleted and the following words be substituted therefor:

"An appeal lies to the Court of Appeal from the decision of the High Court made under subsection (1)."

Dr. the Hon. R. B. CADDLE: If the hon. member would give way, I would like to know from him how fundamental is this issue. Is this not a procedural matter? Can you enlighten me on it, and why you would want to move that an amendment be made? Do you not think the High Court should decide the procedure that the appeal should take?

Mr. MOTTLEY: A High Court cannot decide any procedure for an appeal because there is no appeal from the High Court because the section says that the decision of the High Court on an appeal made under subsection (1) shall be final.

Subsection (1) deals with an appeal against an order of a Disciplinary Committee. In other words, this is virtually the same procedure which a Barrister would go through, but the Barrister instead of reporting to the High Court, would go from the Disciplinary Committee to the three Judges of the Court of Appeal, and then there is a further appeal to the Judicial Committee of the Privy Council; whereas here you go from the Disciplinary Committee straight to the High Court where there is one judge and that decision is final.

Mr. FORDE: I will say this, Mr. Chairman, section 29 deals with the control of employment of certain clerks who may have been employed by attorneys-at-law. It says:

"Where a person who is or was a clerk to an attorney-at-law but is not himself an attorney-at-law —

(a) has been convicted by a court —

- (1) of larceny, embezzlement or fraudulent conversion, or
- (2) of any other criminal offence in respect of any money or property belonging to or held or controlled by an attorney-at-law by whom he is or was employed or any client of that attorney-at-law; or

(b) is reasonably suspected by the Bar Association of having been a party to any act or default of the attorney-at-law to whom he is or was a clerk in respect of which an application against that attorney-at-law has been or might be made to the Disciplinary Committee under this Act,

an application may be made to the Disciplinary Committee with respect to that person by or on behalf of the Bar Association."

On the hearing of the application it is open to the Disciplinary Committee to order that the person shall not be employed by an attorney-at-law in his practice thereafter, and this order is filed with the Registrar and kept by him.

Subsection (5) provides that a probation order made under the Act can be deemed to be a conviction, and then it goes on to deal in subsection (b) with what happens on the death of an attorney-at-law. It gives an appeal of such a clerk from the order of the Disciplinary Committee to the High Court.

I think there are two sides of this coin. It may be argued, as I thought my friend was arguing, that

he should be treated in no different position from an attorney-at-law. On the other hand there are these considerations that the person may already have been convicted of larceny or embezzlement or of a criminal offence in connection with the money itself. I think the strength in my friend's argument which would relate to (b) is that he need not have been convicted under (b), but he may have been suspected as having been a party to an act of a default of an attorney-at-law.

2.10 p.m.

In other words, an attorney-at-law cannot hide behind his clerk by saying that he had nothing to do with the money being stolen, because not only would the attorney-at-law himself be liable but likewise the clerk himself can be made liable and may be prevented from practising for a period of time in those circumstances. I think there is something fundamental about it, in that it relates to a man's right to work, and he may feel in instances which come under 29(b) that both the Disciplinary Committee and the High Court have erred on the facts, and he may say he does not see why he should be treated any differently from the attorney-at-law. Those are all the considerations I think this House should advert to and then come to a final decision as to whether the man should have a further right to appeal.

Mr. MOTTLEY: I think that if we are talking about legal rights we cannot really sit here and say that the Barrister is in a better position than his clerk, because the Barrister even if he is convicted of fraud or embezzlement still has the right to go to the Disciplinary Committee and to the Court of Appeal and has the further right of appeal.

Hon. C. E. TALMA: If the hon. member will give way, I think that amendment will be accepted to bring everything on all fours so that equal treatment will be meted out to the clerk as in the case the attorney-at-law. I will accept that.

Mr. MOTTLEY: The amendment I would suggest is to delete the present subsection (b) and substitute "An appeal lies to the Court of Appeal from an order of the High Court made under subsection (1), and the decision of the Court of Appeal shall be final." I beg to move that further consideration of Clause 30 be postponed so that I could get the final words drafted and consult with the legal draftsman.

Mr. ADAMS: I beg to second that.

The question that further consideration of Clause 30 be postponed was put and resolved in the affirmative without division.

Clause 31 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 31 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. MOTTLEY: This really deals with offences under section 29. It states: "If a person in respect of whom an order made under section 29 is in force seeks or accepts any employment by or remuneration from an attorney-at-law in connection with the practice of that attorney-at-law without previously informing him of that order, he is guilty of an offence and liable on Summary Conviction to a fine not exceeding \$1,000."

I think that this Bill may be somewhat deficient in that there should be some sort of Roll kept by the Registrar and some duty should be placed on the attorney-at-law to inform the Registrar who is employed with him as his clerk, so that if a person is convicted of some offence or is brought before the court, that person cannot say that he was not employed by that particular lawyer, and that the duty should be placed on the attorney-at-law to notify the Registrar of the names of persons employed with him from time to time as his clerk. This is so that a lawyer cannot get up and say he was not this person's employer, and if the public is to be protected and the legal profession improved, I think that some sort of provision could be made whereby a duty is cast upon the attorney-at-law that at the same time he applies for a practising certificate he notifies the Registrar of the names of his clerks. The duty should be placed upon the attorney-at-law to notify the Registrar when a person has left his employ, if not you are going to find that a lawyer would get up at some time after that and say that the man is not employed by him, because of the haphazard way in which the legal profession is going on.

Hon. C. E. TALMA: If the hon. member would refer to Clause 31(5) I think it is dealt with there. "No proceedings under subsection (1) may be commenced by a person other than the Bar Association or a person acting on behalf of that Association except with the consent of the Director of Public Prosecutions." The Registrar will give a certificate as evidence to prove to the court that this person has been guilty of an offence, so I think it is sufficient to cover it.

Mr. MOTTLEY: The reason for this is that you can easily find that a person is employed with a legal practitioner and commits an offence. The

legal practitioner says he was not employed by him because of the situation in which he finds himself, that he may be responsible under this Act for the conduct of the Clerk and say that he just used to come around the office, whereas if you had a Roll of Clerks in the same manner in which we are dealing with legal practitioners, through a Disciplinary Committee, this would be better.

Dr. the Hon. R. B. CADDLE: Are the Clerks now articled to Solicitors' offices registered?
2.15 p.m.

Therefore your argument is that a clerk is in a comparative capacity, say, with an Attorney-at-law who was not a Solicitor before.

Mr. MOTTLEY: Mr. Chairman, Articled Clerks cease under this Bill. The point is that from October this year, Sir, no person can be articled as a Solicitor. There can be no Articled Clerks in the future. I am saying that if you are purporting to deal with clerks in the same way in which you are dealing with Barristers in the Disciplinary Committee, then it should be a duty placed on the Barrister to give to the Registrar every January the name of his clerk or clerks. That statement given to the Registrar, who should keep a Roll, should be *prima facie* evidence that the person is an employee of the legal practitioner. It may seem hard, Sir, but it is in the interest of the legal profession to have it.

Mr. Chairman, you may have a man hanging around your Chambers who may be fooling people that he is working with a lawyer. On the other hand, he may be working with a lawyer and as soon as something happens the lawyer may deny that the man was working with him. You would be left with the lawyer saying that the man was not working with him, and the man saying that he was working with the lawyer. The only way to prevent that is to deal with him in the same way as you are dealing with Barristers. There should be a Roll kept of those persons employed by Barristers as clerks.

Mr. WALCOTT: Mr. Chairman, where is the definition for a clerk under this Act? How can you write into the Act, by prescription, the name of a post for which you have no definition? You are going to say a clerk meaning — who? Slims? Mahon, Fat Pork and so on? Are you going to call all of these legal characters we have in Barbados clerks? If a Barrister is employing them, that will have to be proved in the normal manner like you have to prove employment now in any other case. The employment Act applies to a Barrister employing a clerk, a maid, a shoemaker and so on, and

he has to go to court and prove that that person was not working with him. The onus of proof of employment is on the person who is going to say that he was employed by the Barrister. Employment is already defined and the court understands what is meant by employment. You cannot say that a man is knocking around your office year by year, day by day, you are giving him money, and then you go and tell the court that he is not working with you. The court would not accept that. You do not have to have any receipt for payment of wages. He would not even have to employ a lawyer to show that he was working with you. He could employ me to do that.

Mr. MOTTLEY: Mr. Chairman, I think the danger of not having the Attorney-General define what is a practising Barrister is being made evident now by the hon. member. You may find situations where the clerk is going into court. What will be the position where the clerk or the supposed clerk has left the Island, and the client tries to bring an action against the attorney-at-law in order to recover money? How is he going to prove at that stage the relationship that existed between the attorney-at-law and the clerk?

Mr. WALCOTT: Mr. Chairman, Clause 29(1) says: "Where a person who is or was a clerk to an attorney-at-law...". Clerk is in common letters and is not defined. A clerk is an ordinary person, an employee. It does not say that a clerk must be someone to whom you give law books. It does not say that a clerk is a person practising law. A clerk means someone working in your office whom you can send to the Post Office to buy stamps and so on.

Mr. MOTTLEY: Mr. Chairman, you must appreciate that we are dealing with the legal profession. When the term "clerk" was used in the past, as far as I understand it, you were dealing with two types of clerks: You dealt either with an Articled Clerk who was studying to be a Solicitor, or with a general clerk in the terms of a person who was a managing clerk who carried out the function of filing documents and so on, and he was distinct from a person articled as a Clerk.

Mr. WALCOTT: Mr. Chairman, that has gone by the board. We no longer have Articled Clerks. I believe that the Bar Association has done this so that he is not to be a practising attorney-at-law while he is performing the duties of a clerk. I think the Bar Association wants it both ways. The Bar Association wants to scratch out the clerk so that he cannot make a will; he cannot be a country lawyer, and he cannot do anything because he is a clerk. The other clerks would be able to do

certain things and get along. The clerk will now be an ordinary employee. When this Bill is passed he can only tell people that he is working with a Barrister; he cannot pose and say that he is an Articled Clerk.

You may be a lawyer-salesman. You are working as a salesman in a legal office. From what the hon. member for Christ Church West has said, I do not see the clerk here in this capacity to be any different from a clerk in an office. It cannot be defined that the clerk cannot be a lady who is dealing with cash and typing letters. There is no definition here to show the difference between a stenographer and a clerk. All I can say to the hon. member is that if he is employing any person now and he says that person is only knocking around by his office, if that person has to come to me he will see the position. I have heard that sort of argument from certain employers. When I am dealing with severance pay, I will deal with it. I would not say that the hon. member for Christ Church West advised his firm. They say that they do not employ a man. They take up an old trash man and you call him a contractor, because you are only going to pay him when he finishes the work, but he has no contract of service.

2.25 p.m.

I want to know how a man can be working for you everyday and you can tell me he is not working with you. Is he a taxi driver? That is a contract for service. You have a man coming to work in your building everyday at 8 O'clock, you can dismiss the man, and now some big firm comes along and says it really does not employ the man, he is a contractor. So the Barbados Workers' Union can now start to call me a contractor; they give me the money at the beginning of the year and I pay all the other people; so they do not employ me. How you pay a man has nothing to do with it, because you can pay a man once a year or once a week. It is the terms of his employment with you. If he is coming out to work with you every day of the year like any other servant, you cannot come with any smartness and say he is not working for you. If you are going to say that the person only knocks around by you, you do not employ him, you do not even know he is out there, the next thing you know is that something falls on him and he gets a hand broken, and when he talks about workmen's compensation, you say you do not even know him. (Asides) The lawyers will do that, but the courts are not going to agree with them. The lawyers may say they do not know if the man is working there, but the onus to prove that is on the man. If you employ me, the onus is not on you to prove that you are employing me; the onus is on me and I would go into court and prove that you are. I do

not think the clerks should be in any danger. If they are in danger, they should join the Barbados Workers' Union.

The question that Clause 31 stand part, was put and resolved in the affirmative without division.

Clauses 32 to 41 inclusive were called and passed.

Clause 42 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 42 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. WALCOTT: Mr. Chairman, I have no objection to Clause 42. All I would like to comment on is that now that we are going to enshrine compulsory unionism in the Legislature, I hope I do not hear any member of the Bar say that anybody's rights are being taken away if in other circumstances to join a union or to become a member of the union is an automatic thing. The Bar Association is only an association of people. (A VOICE: Look at Clause 44.) I am looking at Clause 42; I cannot get to Clause 44 yet. Clause 42 says:

"An attorney-at-law shall, on each occasion on which a Practising Certificate is issued to him, pay to the Bar Association the annual subscription....."

The question that Clause 42 stand part, was put and resolved in the affirmative without division.

Clause 43 was called and passed.

Clause 44 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 44 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. WALCOTT: Mr. Chairman, I do not think it makes any difference because the whole sub-head deals with compulsory membership of the Bar Association, and the Bar Association is not any different from the Barbados Workers' Union. You can only become a member of the Bar Association after you have qualified, but you are not bound to; so therefore you are now making it that unless you become a member of the Bar Association you

cannot work in Barbados. I am not vexed with it, but do not let me hear any of the lawyers get up and talk about the fundamental rights that the union is taking away because I am going to have legislation like this drafted, using the same words, in a couple of weeks' time and bring it here and see what will happen. The Government cannot refuse it either because the Government cannot pass legislation alone saying that barristers are compelled to join the Union. Suppose you do not like the President, or suppose you get a Barrister who is a member of the Closed Brethren and he says he does not want to join because he cannot be unequally yoked? I am in agreement with this; but I personally feel that if you want to practise your profession and draw fees like the others, you should do it. All I am saying now is that you cannot talk with your tongue in your cheek now or talk any more stupidity that the union wants controlling, they are getting too much power, and we should pass legislation to curb the Union. Who is going to curb the Bar Association. Far from that you are making the Bar Association a little court within itself, because before the court begins to try a Barrister, the Bar Association must try him first, unless the Attorney General wants to go outside. You would never get an Attorney General unless he is a lawyer going to take up a case against any of them without talking with any of them in the Association.

However, Mr. Chairman, I am very pleased to see that the lawyers have been so emancipated that they have seen the light. The doctors already had it. You cannot become a doctor unless you comply with certain of their trade union functions. Now the lawyers are doing it. It is going to spread, although it should have been so a long time, and I hope now that when it applies to the many that there will be no talk about democracy and people not having their rights. I am very pleased to support this measure because I think that if people are willing to get the sweets and the rewards from this Association, they must be willing to pay.

Mr. FORDE: Mr. Chairman, I should not like the hon. member to sit down having made a devilish speech and really teased us into conceding to him that the Bar Association is a trade union. I think the hon. member is well aware that we have neither his privileges, nor his rights, nor indeed his powers. Indeed if we had the power of the Workers' Union today, the Bar Association would be the Government of the country, but it is not. As the Hon. Prime Minister has said quite clearly, all that has happened here, and really we should make this quite clear, is that for the control of the Bar vis-a-vis the public, it is necessary that the

Bar Association should have some control over its members to this extent vis-a-vis the public.

2.35 p.m.

I think we should make this quite clear that all that really has happened here is that for the control of the Bar vis-a-vis the public, it is necessary that the Bar Association should have some control over its members to this extent, not for bargaining for rights for the Bar Association. The Bar Association does not bargain for rights for its members in any respect; as a matter of fact, part of our complaint is that the Bar Association at present does not even lay down rules fixing the fees for its members, and to that extent you may find that the junior members of the profession are being kept down financially in some respects because according to seniority and according to experience some lawyers can almost dictate their fees and hog the whole field of economic activity of lawyers. Such is not the case in the Trade Union. In the Trade Union if you are in one sector of the economy and negotiations have taken place by the Union, headed by its General Secretary in each case, that is the end of the matter. The Union at least says that you get \$X and it is \$X and he is prepared to fight for you and strike on your behalf if necessary; not so with Barristers, and the position is really not on all fours. Some of us would wish they would become a union, but you know people who have become middle class or upper class, they are too decent according to their so-called standards. They are not prepared really to fight for their rights, so to this extent I would have thought the hon. member would have asked us to join the Workers' Union after we have got this type of provision to give him all the assistance that he wanted, not really to say that because of this now we are in a stronger position than the Workers' Union. We are not even as strong as the weakest link of the Workers' Union, he will be sorry to hear. We wish we were, if we were indeed there would be quite a lot of legislation which he himself would welcome, so to this extent I do not think there is any breach.

There is only one point I really would like to go on to make. Although this legislation is being passed I would expect that somebody may well challenge on another score compulsory membership in relation to the fundamental rights provision. It may well be challenged, it looks to me *prima facie* to be all right on the face of it, but it is again open to challenge because it is really not a Trade Union right as such, and I think we should make this quite clear.

Mr. WALCOTT: Mr. Chairman, when we talk about power, power is only relative. If there were 30,000 lawyers in Barbados they would have the power that 30,000 people should have. If all the lawyers in Barbados are going to be in an association and are going to be compelled to be in that association, the lawyers would be holding down such power because nobody in Barbados would be able to exercise that power outside the legal profession other than that body. I have no quarrel with that, so you cannot have a little lawyer thing outside, the Bar Association now will be controlling lots of things in this Island. All I am saying is, and the hon. member made the point, that this legislation gives compulsory membership to a voluntary organisation by statute. All I am saying is that the Bar Association is a voluntary organisation, but now you are saying by law that to practise as an attorney-at-law in Barbados by prescription you have to be a member of the Bar Association, so all I am saying is that this is something I agree with and that the Human Rights provision is all right. We have a compulsory provision here, there is compulsory provision in Australia and New Zealand, and I am not opposed to it because this is the first time you have compulsory provision by legislation. I do not want the lawyers to say when this is done elsewhere that it is an infringement against the fundamental rights or anything that the United Nations has done.

The question that Clause 44 stand part was put and resolved in the affirmative without division.

Clause 45 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 45 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. FORDE: Mr. Chairman, I beg to move an amendment to Clause 45, to substitute as 45(3) the amendment which reads as follows: "A practising certificate issued to an attorney-at-law shall be of no effect until the annual subscription required by Section 44 has been paid". This point follows on from what was said under Section 44. Section 44 makes membership of the association compulsory and it provides in the proviso that the association itself cannot prevent anybody from becoming a member, so that if a person becomes a member he need not under any of the Sections pay his subscription but he still remains a member of the association, and in those circumstances it seems that there should be some obligation on him to pay the annual subscription which is being fixed by the Bar Association.

I have with the help of Parliamentary Counsel drafted the amendment, and it fits in without disturbing the Act. All it says does not make him guilty of professional misconduct or anything of the sort, it says merely that the practising certificate should not be valid until the subscription has been paid under this Section. You will see a little later under Section 49 when we come to deal with the payment of the contribution to the compensation fund there is an obligation also on him to pay that, and the practising certificate is not issued to him until he has paid the subscription. The point is that we are conferring rights on them here and saying that they cannot challenge, the Bar Association cannot suspend you from membership of the Association even when you do not pay to be a member of the Association, but this amendment ensures that there is payment of the money by means of the practising certificate.

Mr. MOTTLEY: I beg to second that.

Hon. C. E. TALMA: Mr. Chairman, I would like to say we are quite willing to accept this amendment as moved by the hon. member for Christ Church West.

The question that the amendment be made was put and resolved in the affirmative without division.

The question that Clause 45 as amended stand part was put and resolved in the affirmative without division.

Clause 46 was called and passed.

Clause 47 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 47 stand part.

Dr. the Hon. R. B. CADDLE: I beg to second that.

Mr. FORDE: I think we have already spoken in general about this fund, but I think we should make the point that it is unfortunate in my opinion that no stipulation as to the amount of the fund has been set out under Section 47 or the sections which follow thereafter, but I trust that the Bar Association as reformed will be realistic and make the contributions from Barristers and from attorneys-at-law annually to be a reasonable sum so that a substantial fund can be built up to be used for the purposes set out in the following section.

2.45 p.m.

I believe that, where we have people in the profession who have made mistakes, to some extent, we should provide for their mistakes. It may well be that it may be necessary for Barristers and attorneys-at-law to insure themselves for their own protection, but in addition it is hoped under this Section that the Association will be able to use the funds for insuring Barristers or attorneys-at-law who are in default of their obligations, and also to build up sufficient funds to satisfy any claims which may be made on it.

The question that Clause 47 stand part was put and resolved in the affirmative without division.

Clauses 48 to 54 inclusive were called and passed.

The First, Second and Third Schedules were called and passed.

The Fourth Schedule was called.

Hon. C. E. TALMA: Mr. Chairman, hon. members will recall that when the Prime Minister was making his second reading speech on the Bill he seized the opportunity at the time and was granted permission to make certain amendments to the Fourth Schedule. I think that the amendments are well known to the Clerk and to members generally.

Mr. MOTTLEY: On a point of order, Mr. Chairman. When I got up yesterday and sought to make a point, the Speaker quite rightly stopped me. These amendments were not laid, and I want to get the full list of amendments, at this stage, regarding the Fourth Schedule.

Hon. C. E. TALMA: Mr. Chairman, in view of the fact that there are numerous amendments to this Schedule, and in order to comply with the request of the hon. member, it may be better for us to postpone consideration of the Fourth Schedule until after lunch by which time copies of the amendments would be prepared and circulated for the benefit of hon. members. We will now proceed to the Fifth Schedule.

The Fifth, Sixth and Seventh Schedules were called and passed.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Your Honour do now report progress, and ask for leave to sit again.

Dr. the Hon. R. B. CADDLE: I beg to second that.

The question was put and resolved in the affirmative without division. Mr. CHAIRMAN reported to Mr. SPEAKER who resumed the Chair and reported accordingly.

SUSPENSION OF SITTING

Hon. C. E. TALMA: Mr. Speaker, I beg to move that this sitting be now suspended for one hour.

Dr. the Hon. R. B. CADDLE: I beg to second that.

The question was put and resolved in the affirmative without division, and Mr. SPEAKER suspended the sitting accordingly.
2.55 p.m.

On Resumption:

Mr. SPEAKER: The sitting is now resumed.

Hon. C. E. TALMA: Mr. Speaker, the position is that certain amendments are being drafted and cyclostyled for the benefit of the Committee so that everyone would be quite clear as to what the amendments are. They are not ready yet, and in view of that we can probably proceed with some other measure which I think the Hon. Minister of Health and Welfare would like to deal with, and there is another measure which I would like to ask permission to deal with on behalf of the Minister of Housing, Labour, Lands and National Insurance. If there is acceptable to the Acting Leader of the Opposition, we can proceed and save time.

Mr. MOTTLEY: I hope the Hon. Leader of the House is not suggesting that I am Acting Leader of the Opposition because I am the only Opposition member, and that that is the only time I can become Acting Leader of the Opposition. But I have no objection at this stage to doing the Druggist Act if the Minister of Health wants to deal with it.

THE DRUGGIST (AMENDMENT) BILL, 1972

Mr. SPEAKER: The next Order of the day stands in the name of the Hon. Minister of Health, to move the second reading of a Bill to amend the Druggist Act, 1894.

Dr. the Hon. R. B. CADDLE: Mr. Speaker, an amendment to this Act has become necessary following the introducing of the new Medical Registration Rules which came into operation on the 1st November, 1972. Section 7 of the Druggist

Act, 1894, provides for medical assessors under the Medical Registration Act, 1911, to make regulations in respect of examinations, syllabuses and so on in relation to pharmacists. Under the new Medical Registration Regulations there are no longer any medical assessors. The place has been taken by the Medical Council and the Medical Council was not given this special power to conduct examinations and prescribe syllabuses and so for pharmacists. As a result of that it is necessary to amend the Druggist Act of 1894 to make provision for the institution of a Council which will carry on the powers or duties previously carried on by the Medical assessors.

The Government in the meanwhile is making every effort to prepare a more comprehensive Druggist Bill which we will introduce sometime in the new year. In the interim therefore I am asking this Honourable Chamber to agree to the amendments as proposed to the Druggist Act, 1894.

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

Hon. C. E. TALMA: I beg to second that.

Mr. MOTTLEY: Mr. Speaker, the only point that one would like to raise on the question of drugs in Barbados is that some comment must be made on the high cost of drugs that exists at the moment in Barbados, and what this party is concerned with is the high cost of drugs and to enquire what efforts or steps are being taken by Government with a view to seeing that the cost is reduced, because nobody can gainsay the fact that at the moment there is in some cases as much as 200% or 300% mark-up on drugs as sold by druggists in this country. I know that the Queen Elizabeth Hospital provides some drugs, but we hear so much of the little man and we must concern ourselves with the fact that this is the man who has to pay the very high price for drugs today, and I would like some statement from the Government on this question of the high cost of drugs.

I remember the present Minister long ago dealing with this question before he was a member of this House, and this was back in 1966 on a platform. Now that he is in a position, not that he is Minister of Trade or anything like that, but now that he is Minister of Health and a member of the medical profession, I think that perhaps he can enlighten us on what steps, if any, the Government will take to ensure that the price of drugs is controlled or reduced.

On the question of drugs, I think the Government must give serious thought to the question of dangerous drugs. I think that the legislation at the moment dealing with dangerous drugs is in dire need of revision, and I should hope that the Government will give this urgent attention.

The question that the Bill be now read a second time, was put and resolved in the affirmative without division.

On the motion of Hon. C. E. TALMA, seconded by Dr. the Hon. R. B. CADDLE, Mr. SPEAKER left the Chair. The House went into Committee on the Bill. Mr. LOWE took the Chair.

Clauses 1 to 4 inclusive were called and passed.

On the motion of Dr. the Hon. R. B. CADDLE, seconded by Hon. C. E. TALMA, Mr. CHAIRMAN reported the passing of one Bill in Committee. Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Dr. the Hon. R. B. CADDLE, seconded by Hon. C. E. TALMA, the Bill was read a third time and passed. Its title was agreed to.

THE SUGAR FACTORY WORKERS
SEVERANCE PAYMENTS
(REPEAL) BILL, 1972

Hon. C. E. TALMA: I beg to move that the Bill to Repeal the Sugar Factory Workers Severance Payments Act, 1965, be the next order of the day.

Mrs. EASTMOND: I beg to second that.

The question was put and resolved in the affirmative without division.
4.05 p.m.

THE SUGAR FACTORY WORKERS
SEVERANCE PAYMENTS
(REPEAL) BILL, 1972

Hon. C. E. TALMA: Mr. Speaker, as the Objects and Reasons of this Bill set out, this Bill would repeal the Sugar Factory Workers Severance Payments Act, 1965 (Act 1965-7) in the light of extension to sugar factory workers of the provisions of the Severance Payments Act, 1971 (Act 1971-24). This Bill seeks to repeal the Sugar Factory Workers Severance Payments Act, 1965 consequent on the recent enactment of the Severance Payments (Amendment) Act which brings sugar factory workers within the scope of the National Severance Payments Scheme. Due to

an oversight this Bill was not dealt with at the same time as the Severance Payments (Amendment) Act, and no hardship will be placed on sugar factory workers by the abolition of their own severance payments scheme, since the terms of the national scheme are more favourable. For instance, the national scheme provides payment of four weeks' pay for each completed year of service up to a maximum of 33 years' service, while the sugar workers scheme provides three weeks' pay for each year of service up to a limit of 34 years.

The scope of the national scheme is also wider, giving entitlement to a severance payment to a worker if he is redundant or if he is laid off or kept on short time for prescribed periods, or is dismissed as a result of a national disaster happening in the place where he works. Payment under the sugar factory workers scheme is restricted to termination of employment as a direct result of the permanent closure of a sugar factory or of a cane syrup plant.

Finally, under the sugar factory workers scheme a person can qualify for a severance payment only after three years of service, while under the national scheme that same person can qualify after two years service. In repealing this Act no undue advantage will be taken in that there will be an improvement of the lot of the workers concerned. I beg to move that this Bill be now read a second time.

Dr. the Hon. R. B. Caddle: I beg to second that.

Mr. GREAVES: Mr. Speaker, I do not intend to prolong this matter for an unduly long period, but I thought that inasmuch as we are now in the process of repealing the Sugar Factory Workers Severance Payments Act, that I should make a few comments on this matter.

I think the first point of note is the fact that the Government had to find it necessary to bring down legislation of this kind to provide for workers who were thrown out of work, maybe because of the closure of a sugar factory. It is indeed one of the mysteries to us how you can have owners of plantations and factories who would on the one hand make provision for this kind of eventuality for their management personnel, but at the same time do not consider that this kind of arrangement should be extended to their other employees, and it was as a result of this that the Government was forced to bring down legislation to take care of these people. We know that the kind of provision to which I refer had been made or is made for the top management people in these factories, and this is an interesting

point because I think that some kind of investigation should be carried out into this whole kind of arrangement. What it means is that for some time one has been hearing that these sugar factories are not making money and all sorts of things, but no regard is paid to the fact that this kind of expense is being charged to the operation expenses of the particular factory, and as a result the people in a particular bracket are doubly benefiting in that they are benefiting from the provision which is made for them privately, and they were also benefiting from the provision which was made under this kind of legislation, because this legislation did not make any distinction, and one had occasions where factory managers were able to get large sums of money as a result of this provision. I thought that this point should be made because employers make provision for one kind of people and it should be extended to others.

This brings me to the point now that this Bill has been incorporated into the severance payments legislation which we have been told will come into operation from 1st January, 1973. There are still a number of outstanding cases of people who have not been paid their money under this legislation which is being repealed here today. I have a case in point where one of my constituents who was working at Spring Hall factory which was closed down at the end of 1970 and up to this day he has not been paid his severance pay. The reason given is that the matter had to be referred to the legal department for a decision on whether the money should be paid to him or not. This is something which I understand was referred to the Attorney General's Chambers since June or July this year and it is difficult for me — perhaps the members of the legal profession could understand it — to understand why this is so, because it would seem that this is one of the traits or characteristics of the legal profession, to hold up people's business for sometime. I cannot understand how a simple matter like this could take such a long time, and it is a matter of concern because of the delay and the hardship which this particular gentleman is encountering.

It is one thing to have this kind of legislation and then another thing to have it operating and working successfully in the interest of the people whom it is designed to benefit. Politicians and the Government will get the blame for these delays, but little do people realise that often it is the people who are in charge of executing the policy decisions which are made who are really causing the trouble, and this matter is being shuffled between the Labour Department and the Attorney General's Chambers with no kind of result and the man is not benefiting, he has no means of income, and I sincerely hope that the Leader of the House will give me

an undertaking that he will investigate this matter so that we can get an expeditious settlement.
4.15 p.m.

I think that this is something which should be looked into. I also think that in those cases where people have not yet been paid their severance pay under this Bill an effort should be made to do something about the matter. I know that they will not lose their money and they will get it later, but I think it is almost scandalous that this kind of a situation should obtain.

There are one or two other points which I should like to make. This is a point which I made in here some time ago, and it has been made by others, too. It is the fact that the records kept at the sugar factories and the records kept in relation to daily workers were not kept in a proper manner and, as a result, a lot of problems have come about in establishing the length of time people have worked at factories or plantations and the amount of money they have worked for. This has caused a considerable amount of concern and disappointment to the people who were supposed to be the beneficiaries of this kind of legislation. I would hope that every effort would be made to see that this situation is put right as soon as possible, and that the people who are supposed to benefit from this legislation will be dealt with as soon as possible. Most of these people who are entitled to severance pay are no longer young people, and they have found it difficult to get another job.

Mr. WALCOTT: Mr. Speaker, I would not like my hon. colleague to be singing a solo in this matter. I do not know who is the Minister in charge of this Bill, but I should like to say bluntly that there is too much stupidity in this Island whenever you pass laws to help poor people. There is always a lot of bamboozling; some people cannot find the papers; they do not know where to find their birth certificates and so on, and in the end you will find that the people for whom this law was not passed will get a lot of money.

You will be surprised to know, Mr. Speaker, that plantation managers fought like anything against the workers in this country all over the years. Do you know that when we pass severance pay legislation that those are the people who get money and quarrel about it? Some of the civil servants in Barbados are so dumb that they do not even know that the employers in Barbados have insurances for certain people. An Overseer came to me who has received \$4,000 already from the plantation where he is working. All of these plantations

and firms in Bridgetown have made provisions for the executive and people above to be paid.

Now, we have passed a severance pay law and our civil servants are so dumb that they do not know how these people are going to be able to pay and where they are going to get money from. Do you know that the Government has not yet acquired any money from the severance pay because the civil servants are so dumb that they do not know how to go about these things? You will have to send them back to school. If a director of a firm and so on should get a stroke tomorrow those people would go home and draw salaries all the time. I can call the name of a man who is dead. Sometimes these firms would not allow a man to resign. The former Manager of Plantations Limited drew his salary as Manager up to the time of his death, because there was no law to tell them to appoint another Manager. Those people were allowed to hold on as long as they could, but as soon as poor people get something other people will say that it is too much money for them to get; you are going to bankrupt the Government; the people do not have the money to pay and so on.

We had a problem when Fogarty was burnt down, and it took a long time before we could get a few cents to pay the people who were out of work. Even in this Bill we are passing it as a compromise, but in order to get it passed we had to cut down and make it 25 years. Formerly it was 104 weeks as a maximum, but now it is 100 weeks. My idea about it is that in legislation of this nature you do not do anything to make anybody who would have been getting 104 weeks get 100 weeks. The man who was entitled to 104 weeks before the legislation was passed should not be entitled to something less after the legislation had been passed.

Mr. Speaker, I have some very revolutionary views when it comes to paying out money to people in these circumstances. I would take away money from those who have and give it to those who do not have any money. You put up money for a man who has money in the bank and can save money, but when it comes to the man who could not have saved a cent some people find it hard to pay him. You have a lot of civil servants who cannot get things worked out. When members of the Government take on ministerial responsibility, they must let the civil servants understand that matters of basic policy are matters for the Ministers to control. If you have a law that says this is going to be the maximum the civil servants cannot work it out.

Mr. Speaker, we have today in this country too many young Fascists who should have been in Italy in 1939 and not in Barbados in 1972; young people who have sprung up from the working-class movement; people who have been educated out of the people; people who have made sacrifices, and these are the people now working in Government. When we create a Bill like this we are finding more work for people.

So far as the Severance Payment Bill is concerned, you will get a lot of complaints coming here. You pass legislation for the working man and you will always get a lot of trouble. When it comes to putting it into practice, it is a different thing altogether. I am not going to pay lip-service to this. I know the plantations and the sugar factories in Barbados have made provision for some of the people whom they employ to give them severance pay out of the operation of the businesses that they conduct and, as a result, it means that the people who are working in those places have to pay for these things and the other people are not making any particular contribution to them.

4.25 p.m.

The Government servants do not make a contribution towards their pensions. The state makes a contribution, and I am bold enough to say that if we can do this for the public servants, we have to be clear in our minds that these people do it also. In the same way that the State is going to do that, the employers will have to be called upon to make it. It is the employers' business to make a contribution towards the people they employ. In the same way they have to make a contribution towards the machinery and the things they have to put in, they have to make a contribution towards the people whom they employ without the man paying a cent. I have not come out with this, but do not believe that because we accept this compromise business that I believe in the principle that a man as a matter of right must pay towards his own pension. I do not believe in that. It is the business in which he works to make a contribution because he is making a contribution with his own resources, he works there and therefore the business must make a contribution towards his retirement and not say that he must make a contribution towards his own retirement and replacement.

I am going to have more to say about these matters on some other occasion, but I do hope that the people will understand that we are not dense; we know what is happening and if the employers are making provision for some of their staff, and then we get this bogus argument that they cannot make provision for the others, we will

show them on another occasion how they can make provision for all. This is only the beginning of something and a hint to the wise is enough. We know that employers have made provision for some members of their staff. In Barbados today the plantations and factories have done it. Out of the sugar industry now they are making provision for managers and people who draw salaries higher than the poor people we are talking about; they get provisions and perquisites out of the plantation and factory. Some managers get perquisites and salaries equal to \$1,500 and \$2,000 in salary a month, but lots of people have the idea that managers on plantations work for a little bit of money, but I will tell you that they get salaries and perquisites that are sometimes valued over \$2,000 a month, and then they get these other provisions being made.

When we come to paying people 70 cents and 80 cents an hour as an A-class man and giving a man this kind of money, do not tell us in the end when you have to make provision for them that you cannot find it. We know the problems in some of these departments. The Department of Labour came up with some bogus figures the other day in dealing with the Provident Fund and said they were calculating for 2,000 people and it now turns out that we have 7,000 persons; so when you have these bogus figures you are bound to find yourself in trouble, because if you calculate to pay 2,000 people and it turns out to be 7,000, you will have to find money on the way. You get these mediocre people working in these offices who cannot interpret these things and create a lot of embarrassment to people, only walking about holding down one job today, looking through the window for another as soon as they can find one, and are not ready to do the work.

In the Union we are very grieved about these matters, but we are going to say more at another time. We have nothing against the changeover because we are satisfied that the National Insurance Scheme is a well equipped organisation to handle this matter, and we hope on this whole question of pensions and severance pay that one of these days the Government will set up some Committee that will go into these matters and we will have a National Insurance Scheme of such comprehensiveness that it will cover all aspects, and we would not have these bits and pieces, but a scheme that will go from place to place and from job to job so that a man and a woman would get the coverage that is appropriate to the contributions they have made in their working lives.

Mr. ADAMS: Mr. Speaker, I do not intend to give the House such a fiery speech as that of the

hon. member who has just sat down. All I will say of his speech is that I very sincerely hope that when he is attacking the plantations and inviting them to make provision for their displaced workers that he will pay particular attention to the following plantations: Sandford, Bagatelle, Norwood, Turner Hall, The Hope, Pickerings, Plum Tree and others which perhaps he knows better than me; but that is only by the way.

I rise to pay attention to the very admirable constituency speech made by the hon. member for St. Lucy when he stated that the Board of which I dare say the hon. member for St. Michael West is a member is taking too long to pay out money; it is referring things to the Attorney General and wasting a lot of time. That I take to be the burden of his speech and I have to agree with him there, but I have another matter where I had to say that the Board or the Chief Labour Officer is justified in referring the matter to the Attorney General and I have to take up cudgels on behalf of a constituent of mine. I will call his name too for the relevant office. His name is Mr. Rueben Foster of Jackson, St. Thomas, who was employed at Warrens factory, and I very sincerely hope that the relevant Minister will take a note of the name and investigate the matter. Mr. Foster has obtained a payment from the Provident Fund.

Now the Provident Fund Legislation states that if you have obtained a payment under the Sugar Workers Severance Payments Act that you cannot get Provident Fund money, but the Sugar Workers Severance Payments Act whose payments are more generous does not say anything about the Provident Fund. Nonetheless the Labour Officer did not feel it possible to recommend to the Board that the payment be made to Mr. Foster because even although Mr. Foster is willing to repay or rather to have deducted from his entitlement under the severance payment fund what he has already received out of the Provident Fund, the Labour Officer does not know whether he has legal authority to accept such a deduction. Now to my mind since the Severance Payment Act is quite absolute and there is an entitlement under it, Foster should get his money, all of it without any deduction. Foster is willing to do this exceptional thing, which is, since a mistake has been made in respect of the Provident Fund, even to take his severance payment short of whatever lump sum he has received under the Provident Fund. I have not got the file in front of me and I cannot give you the particulars, but the whole matter is being held up between the Attorney General's office and the relevant Board, and this poor old man, too old to work, deprived of a job because the factory has

closed down, is in exactly the same position as the former employee of Spring Hall factory mentioned by the hon. member for St. Lucy.

I would appeal to the Minister now that in effect the Sugar Factories Workers Severance Payment Act is being wound up to get this matter settled this year. Today is only the 13th December, and you have, I imagine, eleven or twelve more working days this year. Ask the Attorney General's office whether Mr. Foster is to get all his money or whether he can repay some or whatever. There can be no question of depriving him of the severance pay anyhow after 46 or 47 years at Warrens. Let Mr. Foster get his money as early as possible. It is fortunate that we have in the House the hon. member for St. Michael West whose sterling service on these two Boards is as well known if less publicised than his constant professions of being against the employers in his capacity as Secretary of the Barbados Workers' Union.

4.35 p.m.

Let him take note as well, I would respectfully suggest, and see if this unfortunate anomaly can be ironed out as soon as possible for the benefit of a citizen of Barbados who is entitled to some gratitude from those of his fellow citizens on whose behalf he has worked for so long.

The question that the Bill be read a second time was put and resolved in the affirmative without division.

On the motion of Hon. C. E. TALMA, seconded by Mrs. EASTMOND, Mr. SPEAKER left the Chair and the House went into Committee on the Bill. Mr. LOWE took the Chair.

Clause 1 was called.

Hon. C. E. TALMA: I just want to let hon. members know that the points raised have been noted and I will draw them to the attention of the appropriate authorities. I beg to move that Clause 1 stand part.

Mrs. EASTMOND: I beg to second that.

The question was put and resolved in the affirmative without division.

Clause 2 was called.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that Clause 2 stand part.

Mrs. EASTMOND: I beg to second that.

Mr. WALCOTT: Under Clause 2, Mr. Chairman, I would like to say to the hon. member for St. Thomas — because this is the relevant Act we are repealing which gives people entitlement — I would like to say that I intended resigning from this Board, but when I was made to understand that this repeal was coming there was no point in resigning. The Act stipulates that the Barbados Workers' Union should be represented, and there are also other Boards from which I have resigned because it is only a matter of time. I would like to tell the hon. member on the point that he has raised that the Union itself over the period of years from the time this Severance Payments Act was passed was represented, and one of the reasons which caused me to serve on this Board was because of my background knowledge. I felt that I could go there, I knew something about it, and I would like to tell him that on one occasion I disagreed with the Attorney General because this Act was left to be drafted by people but the interpretations excluded people.

I think hon. members will remember that when Haggatts factory was closed down the people were out of employment, and the Attorney General ruled that the factory was not closed down permanently, that in the interregnum between the Government buying Haggatts and Haggatts not working that it was not closed down because it was reopened again, so on that matter a special Resolution came down which gave the people in St. Andrew the money. The reason for that was that one of the Ministers was a representative for St. Andrew and he had the people of St. Andrew breathing down his neck. I cannot remember even going to a meeting on this point, but this was done because there was some confusion between Ministers and the Act. There were Minutes stating that if a man got provident fund he could not get severance pay, if he got national insurance he could not get severance pay, and then they had to wipe out some, and now it seems that we have an occasion where if a man got provident fund it would not disqualify him from getting severance pay because he is still working. Provident fund means that if you reach the age of 65 and you are still working you can continue to draw provident fund. One of the lawyers ruled this, but this is a little different from my way of looking at it, because I consider that if you are continuing to work you will start to draw your pension after you retire.

I understand from the Act that a man can draw provident fund as long as he reaches 65 and he does not have to retire. It appears now that the factory is closed down and he is displaced they are saying now that because he was drawing provident fund money he cannot now draw severance pay, and they sent the matter to the Attorney

General. I have to read the Act, but again this is the Department of Labour and it is a matter for the Chairman, I am not the Chairman. One of the important things when you send things to the Attorney General and you do not get a decision it makes it difficult for the Board to make a decision when an opinion is pending from the Attorney General then it looks as if the Board made the decision without getting a legal opinion. As far as I am concerned, as a layman it does not seem to me that the intention of the Act was that any man who is severed — because there is no Act to deal with it, it is purely an agreement between the Union and the employers — and he is even drawing a pension and the factory closes down we will go and draw severance payment for this man. That is what we can get now, but so far as I am concerned as a member of the Board I feel that the man is entitled to his severance pay, and I hope that the repealing of this Act would not in any way mean that the man should not get his money, because this would create a very ugly situation. Sometimes the Union is not made aware of these things, and a very awkward situation could develop in the sugar industry if people are not paid their due under the Severance Payments Act. It can be very embarrassing.

The question that Clause 2 stand part was put and resolved in the affirmative without division.

Clause 3 was called.

Dr. the Hon. R. B. CADDLE: Mr. Chairman, I beg to move that Clause 3 stand part.

Mrs. EASTMOND: I beg to second that.

Mr. GREAVES: Mr. Chairman, there is one point which I think I should reiterate. This Clause talks about the date on which this Act is going to come into operation. I want to emphasise that at one time we heard it was going to come into operation some months ago and now we are hearing the 1st January, 1973. I sincerely hope that when this particular Sugar Factory Workers Severance Payments Act, 1972 has come into operation that the new Severance Payments Act will immediately come into effect, because it is going to mean that when we repeal this Act and the other Severance Payments Act does not take effect immediately there is going to be a hiatus and a period of uncertainty, so I hope that the kind of urgency which is necessary should be given to the implementation of this Act. 4.45 p.m.

Mr. WALCOTT: Mr. Chairman, I hope that the administration would not implement a repeal and create a hiatus, because this would be a very silly thing to do. You now have an operative Act. We

are going to repeal an Act. If you repeal it before the other Act comes into operation you will then have a hiatus and nobody will be paid. You would not be able to make payments because there would be no legal authority to make the payments. We can only plead with people. I hope the Minister responsible for this Bill will see to it that the repeal does not take place, or that the Governor-General does not give his assent and proclaim the Bill until such time as the other bit of legislation is in force. He should make sure that he signs both the same day. We do not want somebody to carry a paper to Government House to be signed and leaving the other one somewhere else. This is not unusual.

The question that Clause 3 stand part was put and resolved in the affirmative without division.

Dr. the Hon. R. B. CADDLE: Mr. Chairman, I beg to move that Your Honour do now report the passing of one Bill in Committee.

Hon. L. E. SANDIFORD: I beg to second that.

The question was put and resolved in the affirmative without division. Mr. CHAIRMAN reported to Mr. SPEAKER who resumed the Chair and reported accordingly.

On the separate motions of Dr. the Hon. R. B. CADDLE, seconded by Hon. L. E. SANDIFORD, the Bill was read a third time and passed.

Its title was agreed to.

LEGAL PROFESSION BILL, 1972

Dr. the Hon. R. B. CADDLE: Mr. Speaker, I beg to move that the House do now resume Committee on the Legal Profession Bill, 1972.

Mrs. EASTMOND: I beg to second that.

The question was put and resolved in the affirmative without division. The House resumed Committee on the Bill. Mr. LOWE took the Chair.

Dr. the Hon. R. B. CADDLE: Mr. Chairman, I beg to move that consideration of Clause 2 be now resumed.

Mrs. EASTMOND: I beg to second that.

Mr. MOTTLEY: Mr. Chairman, last evening when we were considering Clause 2, there was a problem about the definition of "practise law".

On page 4 we see:

"practise law" means practise as a Barrister or Solicitor or both as recognised by any law whether before or after the commencement of this Act."

There was much discussion as a result of certain recommendations made by the Bar Council and the Law Society. I think that the final draft arrived at, after consultation with the Government's Legal Draftsman, is that "practise law" means practise as a Barrister or Solicitor or as an attorney-at-law, or undertaking or performing the functions of a Barrister or Solicitor or attorney-at-law as recognised by any law whether before or after the commencement of this Act.

I, therefore, move that the definition for "practise law" as set out in the Draft Bill be deleted, and that the amendment, as circulated, which I have just read out be substituted therefor.

Dr. the Hon. R. B. CADDLE: I beg to second that.

The question that Clause 2, as amended, stand part was put and resolved in the affirmative without division.

Dr. the Hon. R. B. CADDLE: Mr. Chairman, the next Clause for consideration would be Clause 11 and then Clause 19, but the Leader of the House is not here and I do not know what instructions he has as regards those two Clauses.

In the meantime I would like to move that further consideration of Clause 30 be now resumed.

Mrs. EASTMOND: I beg to second that.

The question was put and resolved in the affirmative without division.

Consideration of Clause 30 resumed.

Mr. MOTTLEY: Mr. Chairman, Section 30(1) deals with appeals against orders of the Disciplinary Committee, and Section 30(2) provides that the decision of the High Court made under subsection (1) shall be final.

I beg to move that subsection (2) as printed be deleted, and the following subsection be inserted therefor.

"A party aggrieved by the decision of the High Court on an appeal made under subsection (1) may appeal to the Court of Appeal

whose decision on the hearing of such appeal shall be final."

4.45 p.m.

Mr. FORDE: I beg to second that.

Hon. C. E. TALMA: As far as this proposed amendment is concerned, I have received further instructions and I am not in a position to accept it. It is felt that the High Court is quite competent to deal with this matter, and if the Bill as drafted was agreed by all parties concerned who spent a long time drafting it, the Bar Association, the Incorporated Law Society, the Law Professors and the various Committees, and members who are here themselves were members of the Committee, and this was the final draft agreed on and passed by the Senate and agreed to by the Cabinet, I am not authorised to accept the amendment. That is my position.

Mr. MOTTLEY: I am not quite certain which one the Leader of the House is talking about. I do not know if his remarks are in relation to Clause 11 or Clause 13. As I understand it, Clause 13(2) has already been accepted. It is only a question of the final draft being worked out with the Chief Parliamentary Counsel. My only concern is that you are placing a legal practitioner in a much better position by giving him a further right to appeal to the Judicial Council of the Privy Council and you are discriminating against the law clerk by saying that it is all right for him to go to the High Court, and that is satisfactory. As the hon. member said, you are treating him like a yard fowl. Under the circumstances I have moved the amendment.

Mr. WALCOTT: Mr. Chairman, I understand that the Bar Association agreed with the Draft Bill. Let us put it the other way. If the Bar Association is going to be constituted only by attorneys-at-law, they have agreed to this already; so this is a closed shop. This is what you said you wanted and the Government has agreed to what you wanted. Are you now chickening out from among the number, and now it has come in the open you want something different? This is what the Bar Association sent to the Government; this is nothing the Government has put in. The hon. member for Christ Church West said yesterday that they spent a long time on this Bill and the Bar Association agreed to this. Now let me put it the other way. If the Association agrees to this and sends it to the Government and the Government confirms it, you would have to take this back to the Bar Association and let them send and tell us that this amendment that they put in they are not now in favour of, but you could not have one member using his privileged position in Parliament and asking to

amend something when he is a party to the Association that is the body that submitted this. My attitude to this is that you cannot have it both ways.

The hon. member said yesterday that the Bar Association was not in favour of the Attorney General's Clause and was pressing that it should be deleted. That was done, but I did not hear the hon. member for Christ Church West say that Clause 13(2) was one of the clauses that the Bar Association objected to. He was rationalising and saying that you could look at it this way or you could look at it that way, but the Bar Association itself did not object to this clause, because there are some clauses where the High Court decision is final. I heard from the hon. member for Christ Church West this morning that you were not now dealing with an original matter, you were dealing with something on which a decision had already been made and the court was now dealing with something on which a decision was made, and not that the court was acting in any original jurisdiction. My view about this would be that it is a matter for the Association itself if they want to change, but if we agree to the change that they asked for, I do not see why we should not vote. I am voting with the Association.

The question that the words proposed to be deleted from Clause 30 stand part was put and resolved in the negative without division.

The question that Clause 13 stand part, was put and resolved in the affirmative without division.

Hon. C. E. TALMA: Mr. Chairman, I beg to move that the Fourth Schedule as set out in the Memorandum of Amendments circulated, stand part.

The amendments are:

"The members of the Committee shall be seven Attorneys-at-Law of whom at least three shall be of not less than ten years standing in the legal profession, nominated by the Bar Association by instrument in writing addressed to the Registrar."

In paragraph 2 delete the word "nominated" appearing in the first line.
5.05 p.m.

In paragraph 3(2) "there shall be a Deputy Chairman of the Committee who shall be elected by the Committee from among the members of at least 10 years standing in the legal profession." In paragraph 4(1) delete the word "nominated" appearing in the first

line. In paragraph 5 delete the word "nominated" appearing in the first line. In paragraph 6 delete the word "nominated" appearing in the first line. In paragraph 7 and 10 respectively delete the word "nominated" in the first lines. With these amendments, I beg to move that this as amended be the fourth Schedule to the Bill.

Mrs. EASTMOND: I beg to second that.

Mr. FORDE: Mr. Chairman, I would like to state that these amendments to a large extent meet the point made by the profession as a whole. The profession was very concerned, as I said on the second reading on this Bill, that the Chairman should be somebody of standing in the community, a lawyer who is independent in all respects, and we were not averse to such a person being nominated by the Attorney General after consultation with the Bar Association. I think the Government has gone a bit further on this point and has left it to the Bar Association to choose the Chairman and the Deputy Chairman of the Committee. I have stated the feeling of the Bar and the majority opinion of the Bar on this matter. I am not moving an amendment in relation to the point which I am going to make now, but I myself have had reservations and I think I should state those reservations for the purpose of the record and should hope that the Bar in due course would see fit to invite the Government to amend the schedule in the manner in which I set out hereafter.

I feel that these associations which are concerned with the public should have among the members, people drawn from the public. Current thinking in the world today is in favour of bringing laymen on to bodies which deal with the discipline of the profession, because after all, we serve laymen and I can see no harm in having a Disciplinary Committee so constituted that at least two members of the committee could have been laymen appointed from a list of persons selected by the Attorney General after consultation with the Chief Justice. I know there is a lot of professional objection to this, but I think the better thinking of people who are concerned with the rules of natural justice and looking after the public interest is to move more and more towards this concept. It is not done in legislation dealing with nurses, doctors, dentists or any other persons. I think except in relation to dentists the Minister may have the right to appoint one person from among the medical profession and may in time

appoint somebody else; I am not sure whether he would choose to appoint a layman, but the better opinion today is that you should as much as possible bring on to these bodies people who are members of the public at large, and I look forward to the time when this will be done and I trust that the association will be progressive in this respect.

I am not prepared to move an amendment as I said, but I should certainly be arguing this point within the Bar Association from time to time at every Annual General Meeting in the hope that I can convince my colleagues of the rightness or righteousness of this position.

Mr. MOTTLEY: Mr. Chairman, it is quite obvious that he has not convinced the Bar Association on this, and I am one of the people who will not be convinced of the righteousness of the position which the member for Christ Church West mentioned. I think if you are going to have to set forward standards of etiquette and practice and procedure, then it must be the members of the Bar who are involved and had actual practice who should be the persons doing it. There can be no reason advanced, except that people do not trust lawyers, but there is no reason why you would want an amendment, but I think if the professional body wants to gain status and wants to maintain dignity I see nothing wrong with having a committee comprising members of the Bar for the purpose of disciplining themselves, and I will never accept that suggestion by the hon. member. We have always had this dispute within the Bar Association, and every time he raises it I am one of the people who oppose it.

The question that this as amended be the fourth Schedule to the Bill was put and resolved in the affirmative without division.

Clause 11 was called.

Hon. C. E. TALMA: In Clause 11 there is a very slight amendment. Clause 11(1) on the penultimate line reading "from such payment, but subject to section 49" that should now read "from such payment, but subject to sections 44 and 49," I understand the hon. member who had put forward the argument for this proposed amendment is no

longer insisting on having it. I beg to move that Clause 11 stand part.

Mrs. EASTMOND: I beg to second that.

Mr. FORDE: I am no longer insisting on that. With the amendment to section 45(3) it is no longer necessary, and I have discussed the point with the Chief Parliamentary Counsel and I am satisfied that the section as it stands can be passed.

The question that Clause 11 stand part was put and resolved in the affirmative without division.

Clause 19 was called.

Hon. C. E. TALMA: I am afraid I am not authorised to make any changes to Clause 19. I beg to move that Clause 19 stand part.

Mrs. EASTMOND: I beg to second that.

The question was put and resolved in the affirmative without division.

On the motion of Hon. C. E. TALMA, seconded by Mrs. EASTMOND, Mr. CHAIRMAN reported the passing one of Bill with amendments in Committee. Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. C. E. TALMA, seconded by Mrs. EASTMOND, the Bill as amended was read a third time and passed. Its title was agreed to.

ADJOURNMENT

Hon. C. E. TALMA: Mr. Speaker, I beg to move that this House do now adjourn until Tuesday next, 19th December, 1972 at 2.30 p.m.

Dr. the Hon. R. B. CADDLE: I beg to second that.

The question was put and resolved in the affirmative without division, and Mr. SPEAKER adjourned the House accordingly.
5.15 p.m.