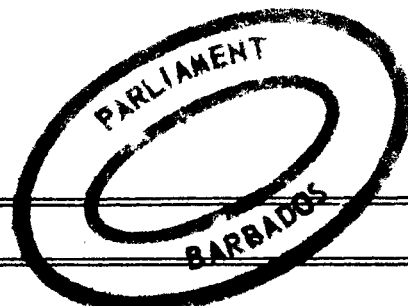


THE House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1981 - 86



HOUSE OF ASSEMBLY

Tuesday, July 13th, 1982

Pursuant to the adjournment, the House of Assembly met on Tuesday, July 13 at 12.20 p.m. o'clock.

PRESENT

His Honour W.C.B. HINDS, J.P., (Speaker); Hon. L. S. CRAIG, (Minister of Parliamentary Affairs and Leader of the House); His Honour C. L. BOLDEN, LL.B., (Deputy Speaker); Hon. H. deB. FORDE, Q.C., M.A., LL.B.; Hon. L. B. BRATHWAITE, (Minister of Health); Mr. J. G. ODLE, B.Sc., (Chairman of Committees); Mr. B. M. TAITT, B.A., (Hons.), M.A., LL.B. (Hons.); Hon. DeL. O. BRADSHAW, (Minister of Housing and Lands); Mr. L. L. SISNETT; Hon. Dr. R. L. CHELTENHAM, M.A., M.Sc. (Econ.), (Minister of Agriculture, Food and Consumer Affairs); Dr. R. C. HAYNES, M.B., Ch.B., F.R.C.P. (Edin); Mr. R. E. BRATHWAITE; Mr. L. A. WEEKES; Mr. M. A. KING; Mr. W. O. FRANKLIN, A.I.A.S., J.P.; and Mr. A. TRUSS.

Prayers were read by Archdeacon F. A. Cayless.

Hon. H. B. St. JOHN, Rt. Hon. E. W. BARROW and Rt. Hon. J.M.G.M. ADAMS entered the Chamber and took their seats.

MINUTES

Mr. SPEAKER: The Minutes of the meeting of Tuesday, June 22, 1982.

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that the Minutes of the meeting of Tuesday, June 22, 1982 be taken as read.

Mr. SPEAKER: If there are no observations by Hon. Members, let those Minutes stand confirmed.

PAPERS LAID

Hon. H. B. St. JOHN: Mr. Speaker, I am commanded to lay the following:

The Air Transport Agreement between the Government of Barbados and the Government of the United States of America.

The Annual Report and Financial Statements of the Barbados Tourism Investment Corporation for the year 1981.

Hon. L. S. CRAIG: Mr. Speaker, on behalf of the Minister of Labour, Social Security and Sport, I am commanded to lay the Trade Unions (Fees) Regulations, 1982.

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, I am commanded to lay:

The Resolution to approve the compulsory acquisition of land at Danesbury Court, Paradise, Spring Garden and Walmer Lodge, Black Rock, St. Michael for road improvement.

GOVERNMENT NOTICES

Hon. L. S. CRAIG: Mr. Speaker, I beg to give notice of the following:

The Customs Tariff (Amendment) Order, 1982.

The Public Officers Loan and Travelling Allowances Regulations, 1982.

Resolution to approve the compulsory acquisition of land at Haggatt Hall, Two Mile Hill, St. Barnabas and Mount Friendship, St. Michael for the construction of the Samuel Jackman Prescod Polytechnic Access Road.

A Bill to establish a stock market for the trading of Securities in Barbados and for other consequential, supplemental or related matter.

A Bill to amend the Consumption Tax Act.

A Bill to amend the Pesticides Control Act.

A Bill to amend the Marriage Act.

A Bill to amend the Barbados National Bank Act.

A Bill to grant an additional sum of money out of the Consolidated Fund and appropriate the same for the service of the Island for the financial year ended 31st March, 1982.

Mr. H. A. BLACKMAN entered the Chamber and took his seat.

FIRST READING OF BILLS

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that a Bill to establish a stock market for the trading of Securities in Barbados and for other consequential, supplemental or related matters be now read a first time.

Hon. L. B. BRATHWAITE: I beg to second that.

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

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that a Bill to amend the Consumption Tax Act be now read a first time.

Hon. L. B. BRATHWAITE: I beg to second that.

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

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that a Bill to amend the Pesticides Control Act be now read a first time.

Hon. L. B. BRATHWAITE: I beg to second that.

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

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that a Bill to amend the Marriage Act be now read a first time.

Hon. Dr. R. L. CHELTENHAM: I beg to second that.

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

Hon. L. S. CRAIG: I beg to move, Sir, that a Bill to amend the Barbados National Bank Act be now read a first time.

Hon. Dr. R. L. CHELTENHAM: I beg to second that.

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

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that a Bill to grant an additional sum of money out of the Consolidated Fund and appropriate the same for the service of the Island for the financial year ended 31st March, 1982 be now read a first time.

Hon. L. B. BRATHWAITE: I beg to second that.

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

STATEMENTS BY MINISTERS

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, Sir, I have to report to the House and to the nation that 1982 has been as catastrophic a year for the sugar industry as was 1981.

In 1981 the problems were those of a late start of the crop and unseasonable weather conditions which hampered reaping from April onwards. In addition, the free world market prices for sugar declined sharply and the exchange rate between the dollar and the European currency unit, in which our EEC sales are priced, turned against us. The combination of a small crop and low returns from foreign sales resulted in a large loss for the industry as a whole.

In 1982 the problems appear to be those of morale in the widest sense, rather than any visitation of weather. The industry did have physical problems occasioned by the nature of the standover canes which were left in the fields at the end of last year's crop and it appears that the problems involved in harvesting these canes were much underestimated.

But the overall problems went further than this. There was spectacular resort to burning during the year and the cane firebug has been as destructive to the economy of Barbados in 1982 as if someone had decided to burn down a hotel or two to get the insurance, without caring what happened to the tourist industry.

There were other matters destructive of morale. The wages dispute at the start of the season, although mercifully settled in a relatively short time, left as much bitterness as other disputes in the past.

The racial card was freely played, for, Mr. Speaker, sugar in Barbados still suffers grievously from its history, and the Government's honest and sincere attempts to help the industry and its workers were wantonly characterised as entering into "a musty alliance with the white people". This, despite the fact that it is widely recognised that there would be an enormous loss to the taxpayers if the Government were to attempt to buy out the sugar industry and run it itself.

Under these circumstances, it proved very hard to motivate the country to see the sugar industry for what it is: a most vital component of Barbados' prosperity.

It is the considered opinion of the Government and my own, Mr. Speaker, that without a strong and viable export agriculture Barbados will stagnate economically for many years to come. The earnings of the sugar industry abroad correspond almost exactly with the available cash foreign reserves of Barbados and have done so for many years.

In 1975 sugar was sold at a very high price and the foreign reserves reached record levels. In 1980 sugar was produced in abundance, prices were good and the levels of foreign reserves reached yet new heights.

Mr. Speaker, in saying that Barbados needs a strong export agriculture in order to develop I must put the position of sugar squarely before the public. It is useless to think that the country by planting different crops will be better placed than by planting the single export crop in which we have expertise and to which both our production and marketing methods are geared.

The botanists and the energy economists tell us that sugar cane is the most efficient converter of solar energy into utilizable vegetable matter of any plant commercially grown. The ecologists tell us that the island of Barbados is suited and conditioned to large scale growing of sugar cane, and that its entire environment will be radically altered, for the worse, if the island were to go out of sugar production. The economists tell us that without the earnings of the sugar industry we can expect to fall back into the relative stagnation that has affected many islands and territories in the Caribbean. The Government tells the public, in all seriousness, that unless we are all prepared to support the sugar industry we can expect a very bleak future in the medium, and perhaps, long term, for Barbados.

I must therefore announce, Mr. Speaker, that the Government has decided to take the step which forms the basis for perhaps all really successful export agricultures in developed economies.

We have decided to offer a support price for sugar starting with the current year 1982. For 1982 this price will be approximately 92½ cents per kilogram of sugar, or an average price of \$76 per tonne of cane.
12.40 p.m.

An amount of about \$20 million will be made available as a soft loan to the Barbados Sugar Factories Limited, the company which owns all the sugar factories in the island and in which the Government in its own right and through the Agricultural Development Corporation now has the largest share. The Government has nominated two directors to the Board and I am satisfied that in this, the most essential component of the sugar industry management structure, the Government wishes are respected. Co-operations between Government and private directors is creating an atmosphere of mutual trust and understanding, in which the interest of workers and the people of Barbados are well represented.

Details of the distribution of the funds and conditions by Barbados Sugar Factories Limited and conditions of repayment will be announced later.

I would however want to say, Mr. Speaker, that, the money will be advanced only if the Government is satisfied that the cane pricing formula adopted for 1982, or such other formula as meets the same ends, is retained in 1983 and subsequent years — unless the Government agrees to its modification or abandonment.

The 1982 formula basically is an income equalization scheme within the industry, designed to help marginal, but efficient, estates to stay in production. These are the estates which provide a good crop whenever weather is favourable, and which, as I have said on a previous occasion, are vital for the long term future of the industry.

I have dealt with the decision for 1982. The Government is also working on the situation for 1983 and will review the support mechanism, later in the year when the pattern of prices and crop outlook next year appear more distinctly. The support will ultimately be linked to an expansion of production, since the Government does not intend to make it possible for anybody to put his hands on a support loan and then leave the industry and abandon his fields. All this will be among the details of the distribution to be announced.

Mr. Speaker, it will be necessary for all of us to pull together in this effort to maintain the sugar industry in the face of the very unfavourable returns which sugar is bringing from foreign markets, and to

which I have already made a reference. It is intended that the Barbados Workers Union will be consulted in respect of the interest of the 4 - 5000 workers in the industry.

We expect that the industry will take prompt steps to modernise and improve its management structure and practices, to address itself to the problem of cane fires and fulfill the commitment given earlier this year at the time of the wages negotiations to look at the general job reclassification.

But without the support of the general public at all levels the industry may yet falter. I will therefore be appealing to the owners of capital in the country, in the banking and commercial sectors, to support a loan which the Government intends to raise by way of a special bond issue which will shortly be placed on the market by the Central Bank. I intend to write to the forty or fifty biggest firms in Barbados personally and request their subscriptions to the bond issue. I will be writing all the foreign banks and all the large merchants, since their earnings and profits rise and fall with those in the sugar industry just as the general prosperity of all of us depends on the maintenance of this industry as a viable unit.

These bonds will be offered at a very favourable rate of interest so that we will be inviting businesses to *save* rather than to *subsidise* the sugar industry.

In closing then, Mr. Speaker, I would say that I am sure that with the goodwill of all of us, even in the face of the temporary collapse of sugar prices overseas, we will save our industry and keep Barbados afloat on the basis of what its people have done so well for so many years.

ORDERS OF THE DAY

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that Government Business be the instant order of the day. Item No. 3.

Mr. SPEAKER: Government Business is the instant order of the day.

BILL TO AMEND THE MENTAL HEALTH ACT CAP. 46

Order No. 3 was called - To move the Second Reading of a Bill to amend the Mental Health Act, Cap. 46.

Hon. L. B. BRATHWAITE: Mr. Speaker, in moving the Second Reading of this Bill, I just want to briefly say that this is a matter which, in the normal

course of things, should not even be before the House. As a matter of fact, it is my view that the question of fees should be in Regulations. But with the Bill as it is now, and until it is amended or until the Mental Health Act comes into being, we will have to work it this way.

BAMP, which is the organization that represents the medical practitioners in Barbados, in 1980 sought to have an increase in the fees which the doctors get for the services which they render. Before that the last increase was made in 1976, springing from a request made in 1975.

The request made was considered to be reasonable in the light of inflation, in terms of cost of doctors getting to and from patients and the question of other costs which are involved in the services rendered in this regard. The Government considers that these fees are reasonable and in the light of the request made, we consider that the amendments will have to be made to the Act in order to bring these fees into light.

The amendments are simple and straightforward amendments and I do not think we need to go into much detail - at least I do not think that I have to - in presenting the amendments to the Honourable House. But if any information is requested I would be willing and happy to give such information.

With those few words, I again move that this Bill be read a second time.
12.50 p.m.

Hon. L. S. CRAIG: I beg to second that and reserve my right to speak.

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

On the motion of Hon. L. B. BRATHWAITE, seconded by Hon. L. S. CRAIG, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. ODLE in the Chair.

Mr. CHAIRMAN: The House is in Committee.

Clauses 1 to 4 inclusive were called and passed.

Clause 5 was called.

Hon. L. B. BRATHWAITE: Mr. Chairman, I beg to move that Clause 5 stand part.

Hon. L. S. CRAIG: I beg to second that.

Mr. L. A. WEEKES: Mr. Chairman, I would like an explanation from the Minister in respect of this particular

section which says: "Sections 2, 3 and 4 have effect from the 1st October, 1980."

It appears to me that this situation must have been seen before, or, on the other hand, the way the management of that particular hospital is being run may very well be responsible for this lapse in bringing this kind of amendment before this House.

I certainly would like to get the principal reason why we have to backdate these particular fees from October, 1980.

Hon. L. B. BRATHWAITE: Mr. Chairman, in 1975 when a similar request was made for increases in fees by BAMP, they never came into being until late in 1976.

In the course of negotiations these problems always rear their ugly heads, and, no matter which Administration is in office, there is the question of the approach which you have in these matters — the negotiations, the consultations, and matters going to and fro.

As far as the Ministry is concerned, we were quite amenable to the increases, we thought they were quite reasonable increases.

What is important is that it is not a question of not paying from the time. The money will be paid anyhow, and sometimes people like to get a reasonable amount of back money into their hands.

I know the doctors are people who can live reasonably well, and certainly they are not waiting particularly, I imagine, on these small fees, but they do find that when these fees come as a lump sum they are very useful.

I assure the honourable Member that there was no sinister reason for holding the matter up. It was just a question of delays and discussions and all of that. As a matter of fact, I, myself, regret the time it has taken, and I would hope to see more speedy action taken by Government Departments in future as far as these negotiations are concerned.

I do not know if I have said as much as the honourable Member would wish me to say.

Dr. R. C. HAYNES: Mr. Chairman, I presume that the honourable Minister who has just sat down has conceded that his Ministry has been rather negligent in dealing with this matter over a period of time, and I wonder whether he would take this opportunity.....

Hon. L. B. BRATHWAITE: Mr. Chairman, I made no such concession as far as my Ministry is concerned. As a matter of fact, if I am to put the honourable Member in order on this, the Ministry of Health does not

negotiate conditions of service within the Government structure. As soon as he becomes a person sitting in one of the Minister's seats he will understand where negotiating powers are.

Dr. R. C. HAYNES: I take the point, as the honourable Member has pointed out to this House, that it is not his responsibility, but that the delay really has been caused by the Ministry of Finance. I take the point.

Hon. L. B. BRATHWAITE: Again, I have not said so, Mr. Chairman. I do not know that the Ministry of Finance is the negotiating section of the Government either. It is for the Hon. Member, on coming to this Parliament, to acquaint himself with the various establishments of Government and the functions which they perform.

Dr. R. C. HAYNES: Well, if the honourable Member does not know, the honourable Minister of Finance does not know; nobody is responsible. If you do not know who is responsible, it is very difficult for us to know who is responsible.

I will take this opportunity to enquire, under this clause, whether there are any other outstanding fees negotiations which have been causing some problems within the Health Service.

Hon. L. B. BRATHWAITE: At the moment I am dealing with the amendment to the Mental Health Act. I do not know if the honourable Member is dealing with the Psychiatric Hospital. If he is aware of problems there, and he can draw them to my attention, I may be able to get the necessary information for him. (Mr. CHAIRMAN: Or perhaps through a Parliamentary Question). I am not aware of these problems.

Mr. B. M. TAITT: Mr. Chairman, with all due respect, Sir, you cannot talk about a Parliamentary Question when we are discussing.....

Mr. CHAIRMAN: The honourable Member is out of order.

Mr. B. M. TAITT: I am on this section Sir.

Mr. CHAIRMAN: Are you referring to a remark made by the Chairman?

Mr. B. M. TAITT: No, Sir. I am talking to the Minister, Sir.

Mr. CHAIRMAN: Clause 5. You must address the Chair.

Mr. B. M. TAITT: I am addressing the Chair, Sir.

The question that we are dealing with here, first of all, is that we have retroactive legislation. The Minister has attempted to explain why we have the retroactive legislation. We on this side are saying that it is not a desirable thing to have amendments time after time for retroactive legislation.

The Minister himself indicated that he thinks it might be desirable to put these kinds of things in Regulations. If he so believes, why does he not get the appropriate Ministry, the Attorney-General, or whomever, to make a proper amendment to the Act so that these fees can be fixed by Regulation, so that this Honourable House is not detained by this kind of clause, Clause 5, and subsequent clauses, the very next time we have negotiations such as these.

1.00 p.m.

Arising out of that, we wish to find out from the Minister whether there is any likelihood of other retroactive legislation as a result of negotiations, which are going on, concerning the Ministry of Health. That is the question that is being raised, Mr. Chairman. We wish to ask the Minister if he knows of his own knowledge. He must not be misled by his colleague, the Minister of Agriculture, who does not know anything about health or agriculture. He must not be misled by the Minister. I am asking the Minister a proper question and I believe the Minister understands what I am raising.

He has indicated that negotiations are not done by his Ministry. He has indicated that he, himself, might not be aware of all that is going on with regard to negotiations in his Ministry. We are seeking information from the proper person in this Chamber, whose responsibility it is for the Ministry of Health. Therefore, when my colleagues ask a quite reasonable question, we believe it is a question which the Minister should advert to and give this Honourable House information. That is the basis on which we seek information from the Minister.

Mr. CHAIRMAN: The honourable Member, in my view, is seeking to gain information, to discuss and debate a matter, which does not arise under Clause 5. That is my ruling please..... The honourable.....

Hon. L. B. BRATHWAITE: This is not my final reply. I am replying to the honourable Member.

I think that with respect to the first part of the question by the honourable Member, dealing with the tightening up of the Act and putting the responsibility into the correct area and putting it in its true perspective, the Ministry is looking at that. I respect his view as put forward. I agree entirely with you. We think it should be tidied up and the Ministry is looking in that direction. Therefore, the need to go through all of these various channels in future will not arise.

Now as far as the idea of retroactive legislation is concerned, this is retroactive in the sense that the negotiations started in 1980 and therefore you have got to provide the funds to pay for that time. It is not that you are creating something retroactive legislation that tends to affect the citizens in an unfortunate way, like a tax revision or something like that. When it is a question of providing funds for citizens, you do not see this in terms of dangerous legislation and therefore you say it should not be retroactive. All Governments have had to do this from time to time.

In terms of negotiations I will only say this: I know that the Government is at the moment carrying on negotiations with respect to Unions dealing with all Government employees. If that is what the honourable Members were trying to get, that is what I know, and that is a matter that the public is well aware of.

I, myself, am not aware that there are any special people within my Ministry that negotiations were taking place with.

We know that the National Health Service is one day coming into being and obviously there have been discussions with the doctors in this matter. I do not know if that is what you are concerned about, but as far as I am concerned there is nothing to hide about that. Negotiations are taking place. This is a matter that is in the public domain and I think that the Honourable House is entitled to know that negotiations are taking place.

Negotiations are not at a point where I am involved. There is a person who is looking after those negotiations and I would hate to think that anything would be said by me or any other honourable Member which would tend to prejudice the negotiations which are taking place.

Rt. Hon. E. W. BARROW: Mr. Chairman, this is what really puzzles me, and I would like an answer from the Minister. If the negotiations started in 1980 why is the Government seeking to pay backpay from the 1st October, 1975.

The Minister will have to answer that question because there is provision in this amending Bill to pay these practitioners money from 1975 and I heard from the Minister that negotiations started in 1980. There is such a provision in the Bill.

Consequential to that, there is a question of how much money is going to be involved. If the Government has been negotiating from 1975, instead of from 1980, then we would like an explanation about why the negotiations have taken so long. Even from 1980 is too long. From 1975 certainly is an inordinate length of time.

I appreciate, of course, that from October 1975 there is a 10 month period for which the Government would not be responsible, so let us say from September 1976. Why should it take from September 1976 to July 1982 to come to some kind of concordat in these negotiations?

I have not heard of any industrial strike or warfare going on over this so there must be some kind of dilatory behaviour on the part of the Ministry responsible. And I did not think that the doctrine of collective responsibility has been abandoned by the present Government.....except in so far as they intend to abandon the Minister at some time in the near future.

Hon. H. deB. FORDE: Mr. Chairman, Sir, it is interesting to hear the amount of discussion one would get on a simple section like Section 5 of this Bill.

Whenever persons in this House read legislation that has what is called a Retrospective Clause in it, they get it reasonably confused with legislation that is retroactive in the effect of placing taxation on citizens.

The constitutional principle against which most Parliaments usually turn their wrath, or which they guard with great jealousy, is legislation which is retroactive in the sense that it works adversely against a vested right in a particular party.

As I understand it there is no vested right here that is being affective at all. Instead, an additional privilege, an entitlement, is being given to the practitioners who have carried out work at the time on the basis of existing financial or fee structure. Therefore, the effect of this legislation is to make their position better — not to make their position any worse. That is a fact. The spectre of retroactive legislation is therefore one that people jump on without examining what really is the intent and purpose of a clause such as Section 5.

Mr. Chairman, having had four and a half years in the office of the Attorney-General, and having had a long look at a lot of the legislation in Barbados, let me say this quite clearly. Our legislation is replete with examples, in the first place, where this type of provision could have been in the Schedule of the Bill, or, rather than even being in the Schedule, as the Minister said, be regulated by legislation subject to Negative Resolution — which would not take up the time of the House unnecessarily except any particular Member needed to have a look and wanted to raise a particular point at the time of the Negative Resolution.

1.10 p.m.

Secondly, it will take some time in the law revision exercise to prevent this from occurring, because these Acts go back to the 18th century. They are not only the product of successive Governments from the time of,

let us say, self-government; they are the product of the style of drafting that pre-existed the 1980s.

Certainly during my time I set out, as a matter of deliberate policy, to recommend that fees were placed in Regulations rather than within the body of the Act. The reason for this — and I have said this in Parliament if people listened during the last five years — was simply because it had become expensive to print the Laws of Barbados, and every time you amend the Laws of Barbados, particularly where you were dealing with loose-leaf volumes, you were having therefore to print additional pages at a cost to the taxpayers.

The Law Revision Commissioners no doubt during the next exercise — or the Law Revision Commissioner, since the Attorney General is the Law Revision Commissioner — may well follow that policy which I clearly laid down as a guideline during the period of my office as Attorney-General.

The other point which I want to make, Sir, is that it is being made to appear today as though this time lag for paying, or increasing, fees is anything extraordinary. Certainly within my experience, again as Attorney-General, I found that the negotiations concerning the Fire Service and the Police, in relation to allowances, had gone on under the past Government for an extraordinarily long time.

It was my privilege to bring some of those negotiations to a close. They had, in some instances, exceeded five, six and seven years. Of course, it was because there was a difference in approach between the negotiating body for those organisations and the Government negotiating team. In some instances it was because there was no reply from the particular negotiating bodies. I am sure that if the Minister examines his files he will probably find that the medical practitioners, themselves, in a case like this, usually take sometimes over a year and two years to reply to a letter, and it is only at some unusual position that there is a follow-up. That happens sometimes.

As a matter of fact, (I am glad the honourable Member for St. Michael South Central writes a note) I remember once advising the medical practitioners, and there were delays, on both sides. It is not that there is any negligence on the part of anyone.

Indeed, if there had been this negligence, you would have expected the body of medical practitioners, who have now become one of the strongest trade unions, to have taken the matter up in the militancy that has become current in this country. Because if a fly squats on your nose and it happens to look like a fly that has passed near to a Government, or anybody in power, it is an issue that you march for.

People no longer seem to have any commonsense and sense of ability in order to distinguish between trivialities and reality in this country — and there are very few people who have got the guts to tell them about it. An issue like this, for instance, could possibly lead to talking about a strike and that sort of thing.

I think we have to be practical in here; and, rather than take up the time of the House — I believe I have taken up enough time on this point — recognise that no one is seeking, and the Government is not seeking, to penalise, but that the Government is seeking here to give benefits. It may well be that the fees should have been increased for some time; it has taken time to do so. The Government is not taking away a vested right; it is confirming an additional privilege on people. The Government is not doing them out of their money, nor has the Government done them out of their money for any period of time.

In any event I really cannot understand the complaint about the retrospective aspect of Section 5. If I really wanted to delay the House I could review a series of acts, including the Acts affecting private contracts like hire purchase, in which this House has had aspects of legislation of a similar character brought before the House over the past twenty years.

There is no fundamental issue here; there is not even a question of real serious principle. I think honourable Members really want to take a little turn today to see if they get another additional dig in the side of a Government that they believe is under stress. But this is a Government that has firing power to the front and firing power to the back; and can withstand, and is going to overcome any temporary difficulties in this country, and lead the country on as we have in the past. We will lead them on a little further with progressive legislation and progressive economic measures.

Dr. R. C. HAYNES: Mr. Chairman, the honourable Member for Christ Church West has made the point that the present Government has lead this country on in the past and will lead them on in the future. I hope that they do not continue to lead the country downhill — as they are doing at the moment.

I thought the honourable Member for St. Andrew dealt with the matter with much greater precision than the former Attorney General and dealt with the whole question of retrospectivity, if I may say so, in terms of benefits — retrospectiveness, very similar to “foundamental”. He dealt with it with far greater precision than the former Attorney General.

I wonder if the honourable Member for St. Andrew, the honourable Minister for Health, is aware that there are Hospital Fees Regulations where changes in hospital

fees payable to doctors can be made by Ministerial Order subject to Negative Resolution of this Honourable House, and whether or not he can inform this House whether that applies to all hospitals in Barbados or only applies to the Queen Elizabeth Hospital.

I also wonder whether or not he is aware that the medical practitioners at the Queen Elizabeth Hospital have been somewhat concerned over the fact that for many years now they have made repeated representations for some increase in the fees payable to them for their services in respect of private patients, but although Government has found it possible to increase, enormously, the charges payable by such persons to Government itself — for example, for the use of the equipment, the fees payable per day in private wards, Intensive Care Unit and so on — that there is a problem outstanding in relation to increases for the doctors.

He did not seem to me to be aware of the problem, but, as he has pointed out, he does not deal with such matters although they come under his Ministry. So he may not have been aware of that, nor may he have been aware of the fact that there is a Hospital Fees Regulation. But if that applies in respect of the Queen Elizabeth Hospital, I wonder whether he should not have taken the opportunity to come in here and amend the Mental Health Act in such a way that he could also make such regulations in respect of fees by negative or positive resolution, whichever way he prefers to do it.

When you get delays of this kind, I know only too well, in fact, that people are disadvantaged. There are many people who are employed in the Government Service who are employed on a contract basis, often on a three year contract. Many of these doctors might well have left the service, might well have left the country, might well have departed back to Asia or elsewhere from where they had come, and they would not even know that money is here for them in Barbados.

1.20 p.m.

I know that only too well. I have had to deal with this sort of problem, again and again, over the years. So it is not true to say that delays of this kind do not cause some degree of hardship to those people who have been the victims of the delay.

And there is no point coming in here and trying to whitewash the whole thing. You have been negligent in dealing with the matter. Years have past. At least come in here and apologise to the people who are the victims of your negligence and say that you have now got around to it and you are prepared to try and make some kind of amends. But do not come and say that this is a normal thing, almost saying that this is the way that Government finances should function, or that this is the way that it is ordained that it should be. Do not convey that kind of impression. It is no light thing.

The fact is that there are many circumstances. I do not wish to detain the Honourable House any longer, but I can cite a whole heap of examples where delays of this nature can cause considerable hardship to people. You take, Sir, a simple situation happening now, where doctors are being told by landlords to get out of the houses that Government has rented for them, because when they go to collect their cheques they are being told by the Accounting Officers that Government has no money for them.

Hon. L. S. CRAIG: Sir, on a point of order. (*Asides*) Why do you not allow me to respect you?

Mr. CHAIRMAN: Order, please. No cross talk. (*Aside*)

Hon. L. S. CRAIG: Why don't you let me respect your age? Are you going to be a rowdy all your life?

Mr. CHAIRMAN: Order, please.

Hon. L. S. CRAIG: I have no doubt, Sir, that the honourable Member is completely irrelevant to Clause 5, Sir. I draw this to Your Honour's attention, Sir.

He is now talking about doctors and houses and landlords. It is completely irrelevant, Sir, and I beg to draw it to Your Honour's attention. That is all I am telling you, Sir.

Mr. CHAIRMAN: I take your point.

Hon. L. S. CRAIG: The older you get...you don't know you should be a little mellow by now. Your toes are dropping off.

Mr. CHAIRMAN: Order, please.

Hon. L. S. CRAIG: What is wrong with you at all?

Mr. CHAIRMAN: Order, please.

Hon. L. S. CRAIG: You are bad behaved outside. You are bad behaved in here.

Mr. CHAIRMAN: Order, please.

Hon. L. S. CRAIG: Have a little respect for your age.

Mr. CHAIRMAN: That is irrelevant. Order, please. (*Asides*) Please. No honourable Member must speak. (*Asides*) Please be quiet. Please. (Rt. Hon. E. W. BARROW: Why do you not send him outside?)

Dr. R. C. HAYNES: Mr. Chairman,.....

Mr. CHAIRMAN: The honourable Member for St. Michael South Central is really dragging on matters which are not pertinent to this clause.

Dr. R. C. HAYNES: Please, let me finish.

Mr. CHAIRMAN: Please, let us get some order. The matters you are going into bear no relevance to the matter under debate. Please take your seat. The honourable Member cannot be heard any further.

Dr. R. C. HAYNES: Two Members have spoken to the effect that retrospectiveness does not talk hardship to people.....

Mr. CHAIRMAN: Please take your seat. (Hon. Dr. R. L. CHELTENHAM: You said that already. You are repeating yourself.) (*Asides*)

Dr. R. C. HAYNES:.....and I am giving examples of it.

Mr. CHAIRMAN: Please take your seat.

Dr. R. C. HAYNES: Only because you say so, Sir.

Mr. CHAIRMAN: Please.

Hon. L. B. BRATHWAITE: Mr. Chairman,.....

Mr. CHAIRMAN: The honourable Minister may wind up.

Hon. L. B. BRATHWAITE: Mr. Chairman, in responding to the various points made, I want to thank, very much, the honourable Member for Christ Church West for a very lucid and eloquent speech, and pertinent too, to the subject under discussion.

I also am going to reply last to the Rt. Hon. Member for St. John and I want to tell him — I am going to reply to you — it is sometimes good, when you are making speeches, to just guide your tongue. You have used it as a weapon over the years to the point where it has not always done you the best and I want to tell you that mine is equally a weapon.

I heard what you said just now when you were making your speech in winding up about the doctors and me. But I have no quarrel with the doctors. I want to tell you that. I have no quarrel with the lawyers, the doctors or any.....

Mr. B. M. TAITT: Mr. Chairman, on a point of order, Sir, Your Honour just ruled with regard to relevancy and Section 5.

The honourable Member can only be replying to Section 5, and I am submitting that what he is saying now is irrelevant.

Mr. CHAIRMAN: Please take your seat. I will decide that.

Hon. L. B. BRATHWAITE: Mr. Chairman, imagine that.

Mr. CHAIRMAN: Please take your seat.

Hon. L. B. BRATHWAITE: What rudeness, Mr. Chairman.

Mr. CHAIRMAN: The honourable Minister, please wind up.

Hon. L. B. BRATHWAITE: I am winding up, Sir. I am quite capable of winding up.

The honourable Member for St. Michael South Central dealt with the question of Hospital Regulations. There is such a thing as Hospital Regulations and the Minister has certain (Dr. R. C. HAYNES: Hospital fees regulations.) functions as far as regulations are concerned. Hospital Fees Regulations.....say whatever you like.

As far as the Psychiatric Hospital is concerned, there are certain fees that are in the Act — I have already adverted to that — and until the Act is amended or entirely revamped, we would have to come in here from time to time, if there are changes to be made.

As far as the question of fees for consultants or doctors at the hospital are concerned, there are probably problems.

Doctors, like most people, can be greedy and whenever they see money they like to have some.

I have not had any representations made to me with respect to doctors' fees and when representation is made to the Ministry it will be forwarded to the correct powers. I suppose by now that all Members in here should know that the Establishments Division of the Government is the area of responsibility for negotiations on these matters. It is not the Ministry itself, although the matters will come to us. We still have to forward them on. Therefore, you have to know exactly what is your line of communication, and that is the problem.

Let me reply to the Rt. Hon. Member for St. John. Now, Section 6, we were dealing with Section 5 — Section 6 was not call at all — Section 6 itself addressed the matter to which the Rt. Hon. Member is referring because that in itself says what the position was, and Mr. Chairman(Asides)

Mr. CHAIRMAN: Order, please.

Hon. L. B. BRATHWAITE: The fees were.....
(Asides)

Mr. CHAIRMAN: Order. The Chairman must not be.....Please.

Hon. L. B. BRATHWAITE: Why do you not have manners?

What I am trying to say, Mr. Chairman, is that the matter is covered in the amendment to the Bill.

As far as the negotiations of 1975 are concerned, the matters were dealt with then. These are different matters. Those matters and those fees were settled then. The fees then were raised to \$20 in some cases; private mental hospital, \$15 per doctor per patient and so on. The fees are here.

What I am dealing with now is the increase in fees from that time to now. The current fees are for certification of mentally ill patients \$25 as against the current fees that came into being in 1975–1976 of \$15 — an increase of \$10. In relation to the inspection of private mental hospitals, the proposed fee is \$30 as against the current fee of \$20, a \$10 increase or 50 per cent increase. The domiciliary district medical officer's visit, by day, is now \$20. That amount was \$15 in 1975–1976. Those were the negotiations for that time. An increase of \$5 or 33 $\frac{1}{3}$ per cent. Domiciliary district medical officer's visit by night 1800 hours to 0600 hours — \$30 proposed, and that is what we seek to give now. The existing amount, is \$20 so that is a \$10 increase or 50 per cent. (Asides). Eighteen hundred hours.

Rt. Hon. E. W. BARROW: Sir, on a point of order. I would just like to give the honourable Minister an opportunity to correct a statement which he either misread, or they had misprinted. He said that it was \$1 800 at one time and then \$600. Is this correct? I just want to know whether I was hearing correctly or whether they had misprinted what you were reading. I think the Minister was inadvertent on that.
1.30 p.m.

Hon. L. B. BRATHWAITE: Mr. Chairman, I was dealing with the question of time. I said domiciliary district medical officers visit by night, 1800 hours to 0600 hours. I was not dealing in dollars and I don't know how I could.....

Rt. Hon. E. W. BARROW: The Minister was not dealing in dollars, but he said dollars, and I accept his explanation. He made a mistake, he said dollars. I just wanted to give him an opportunity to get — (Mr. CHAIRMAN: Please) Don't tell me please, I am assisting the Minister. (Asides)

Hon. L. B. BRATHWAITE: Mr. Chairman, I thank the honourable Member for his assistance. I thank him for his assistance. When he wants to be nice he can be very helpful, and I thank him for his suggestion. He is not often very nice, but he can be helpful.

I believe that I have given honourable Members the information which they require on this matter, and I hope.....

Mr. B. M. TAITT: On a point of order. It has been bothering me, and I think the Minister is continuing to explain what is in the Mental Health Act Cap. 46. Now, Mr. Chairman, I wish to draw to your attention that this Bill which the Minister is explaining Section 5 of the Act may be cited as the Mental Health (Amendment) Act, 1982 and it seeks to amend Chapter 46. Chapter 46. But Chapter 46 is repealed by the Mental Health Act, 1980, and what he is now quoting comes from, as I understand it, is the position that was. I would like the Minister to be aware that there seems to be some difference from what he is explaining.

Hon. L. B. BRATHWAITE: Mr. Chairman, I don't know what Act he is quoting from. I don't know if he is quoting from a new Act; I don't know. Mr. Chairman, I have said all I want to say on this matter.

Mr. CHAIRMAN: The question is that Clause 5 stand part.

Rt. Hon. E. W. BARROW: Mr. Chairman, ...

Mr. CHAIRMAN: On what point does the honourable Member rise?

Rt. Hon. E. W. BARROW: I am rising on Clause 5.

Mr. CHAIRMAN: The honourable Minister has wound up the debate on Clause 5. The honourable Member has lost his chance to make a further contribution. *(Asides)* Please take your seat. *(Asides)*

Rt. Hon. E. W. BARROW: I am asking the Chair a question, because I want.....

Mr. CHAIRMAN: The honourable Member cannot ask the Chair that question. Please take your seat.

Certain remarks made by the Hon. Member for St. John were ordered to be expunged from the record by the Chairman at this stage.

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

Clause 6 was called.

Hon. L. B. BRATHWAITE: I beg to move that Clause 6 stand part.

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

Rt. Hon. E. W. BARROW: Now has the Minister wound up on Clause 6, Sir?

Mr. CHAIRMAN: The Rt. Hon. Member for St. John.

Rt. Hon. E. W. BARROW: Can I ask whether Clause 6 has been wound up, because he spoke on Clause 6 and sat down?

As I understand the Minister — he was not arrested in the course of his remarks — I don't mean physically impeded, Sir, I meant that he was not asked to desist from discussing a clause which was not under consideration — the honourable Member said in anticipation that Clause 6 refers to an existing position. In other words, Sir, Clause 6 says that, "Notwithstanding Sections 2 to 5, the fees payable (not which have been paid but payable) to a medical practitioner during the period of October 1, 1975 to 30th September, 1980 or as follows....." And then they go on to specify the fees which are payable for period.

I was trying to follow the honourable Minister in his reference to Clause 6 in which he said that he was replying to me. But I never mentioned Clause 6 at all. I just mentioned Clause 6 in respect of the period retroactivity. I did not talk about Clause 6 at all. I just said that the Bill provides for payment.....

Hon. L. B. BRATHWAITE: Mr. Chairman, on a point of order. The Rt. Hon. Member dealt with the question of non-payment of the medical people from 1975 and that is why I addressed that point. I want him to say he did not say that.

Mr. CHAIRMAN: The Chair now waits for the contribution of the honourable Member for St. John with respect to Clause 6.

Rt. Hon. E. W. BARROW: There is no point in my going back to say that I did not mention Clause 6 at all. I mentioned that there is provision in the Bill for payment from 1975. The Minister has now informed us during consideration of Clause 5 that the reference to payment from 1975 is an existing position. If that is an existing position, that there was legislation for the payment of these fees before this Bill was introduced into the House, I should like to ask the Minister why is it necessary to stipulate in this Bill that these are the

fees which will be payable from 1975. That is a simple, simple question.

You see, when he is being briefed by the gentleman, the Member for Christ Church West, the Member for Christ Church West should first assure himself that the person to whom he is giving instructions is capable of receiving and understanding the instructions to their fullest legal implications and make the contribution himself. Therefore, if he would like to come to the rescue of the honourable Minister now, I have no objection, because we are here for enlightenment; even although you have declined on a previous occasion today to give me information which I requested. But that is your prerogative. But I know that the honourable Member for Christ Church West will always jump to the occasion to give an explanation.

There is provision in this Bill for payment from 1975. If the Minister is arguing that this is what was being paid before, there is no need to put it in the Bill that these are the fees which are payable, because Clause 5 makes provision from the 1st October, 1980 and Clause 6 ends on the 30th September, 1980. That is what I am pointing out to the honourable Minister. Therefore, it would appear to me, inferentially, that the negotiations have been going on from 1975.

When the honourable Member for Christ Church West was dealing with the principle of retroactivity, he did not have to give us a sophomoric lecture on the constitutional principle of retroactive taxation. We in Barbados know the consequences of that because the whole Fédération broke up on the principle of retroactive taxation. It broke, under the leadership of the Barbados Labour Party, on the whole question of retroactive taxation.

The point we are making about retroactivity is not whether it was beneficial or whether it was deleterious or harmful to the subject. The point we were making was the length of time it was taking. And we support the idea that if we have been negotiating for a certain period of time, that the persons who have been negotiating are entitled to expect that from the time they initiated the negotiations that they will be compensated if there is going to be any beneficial results from those negotiations. It is very simple. So for us to be treated here to what I described previously as a sophomoric lecture on retroactive taxation is not really dignifying the proceedings of this Chamber.

Finally, I just want to say to the Minister that every time you ask the Minister a question they take it as a personal affront or a personal attack. What I do not understand — maybe my understanding is deficient — is if these fees were being paid from 1975, why do we have to insert it in the Bill that these fees will now be

payable if they were being paid and have been paid already? It is as simple as that.
1.40 p.m.

Mr. B. M. TAITT: Mr. Chairman, earlier I raised the question and apparently Your Honour did not take fully the point I was trying to make. The Minister continues to talk when he is replying in the context of information which he has on file. For us who are trying to follow what he is saying, it is extremely difficult.

This amending Bill we are looking at talks of Chapter 46. Chapter 46 of the Laws of Barbados deals with mental health. The old Chapter 46, a copy of which has been given to us at the Table, has that Chapter 46 crossed out and it has that it has been repealed by Act 1980-57, that means Act No. 57 of 1980. When one looks at the Act No. 57 of 1980, it does deal with mental health; but one is unable to find, for example, if one looks at section 33 of that Act, that section 33 of that Act deals with anything which this Act purports to amend.

What I am trying to suggest is that there seems to have been some confusion an/or error, according to the information which we have, and in any case if you look at this amending Bill, section 6 refers to sections 2 to 5. Section 2 says in the side note: "Amendment of section 6 of Cap. 46." In that same section it says: "Section 6 of the Mental Health Act, in this Act referred to as the principal Act, is amended by deleting the words 'five dollars' *et cetera*."

Now, the Mental Health Act would have been the whole Cap. 46, otherwise you would have to refer to the Mental Health Act, 1980, because the citation for that Act in clause 1 says: "This Act may be cited as the Mental Health Act, 1980" and it repeals the old Cap. 46.

I am not trying to create any impression that the former Attorney-General does not know what he is saying, I am not trying to create that impression at all, I am seeking some information so we can follow what the Minister is saying. If someone on that side will get up and explain to us we will be very happy.

We wish to know what it is we are amending, and I submit that, based on what we have before us and what we have heard, it is not clear what we are amending. I would appreciate some guidance on this matter.

Hon. H. deB. FORDE: Mr. Chairman, the Mental Health Act 1980 has been enacted by Parliament but it was to have been brought into being by a proclamation. The Act has not been proclaimed. It has obviously not been proclaimed, because there have been some problems on doing the necessary Regulations. (Dr. R. C. HAYNES: Another one?)

The honourable Member asked if another one. When the present Minister of Education became Minister of Health, she found that the Mental Health Act had been before the former Government for upwards of 12 years and nothing was done about it. We managed to bring the Bill to a conclusion and bring it into the House, the Regulations were drafted, then the medical practitioners themselves had different ideas about it and they wanted an opportunity to look at the Regulations which had been drafted. That is the sole reason why that Bill has not been implemented since it was passed in 1980.

Dr. R. C. HAYNES: On a point of order. Is the honourable Member saying that in the context of the Mental Health Act, 1980 there are Regulations which would accommodate changes in fee structures? Are you saying that? If so, you will be wasting the time of this House.

Hon. H. deB. FORDE: The honourable Member likes to hear himself. If the honourable Member cannot understand what I say, I think that at the risk of being told again in this House that I am delivering a lecture, I will repeat it quite simply for him.

The honourable Member for St. Michael West asked this question as to whether or not the 1980 Act was being dealt with by way of amendment. The simple answer is that it has not been proclaimed, and I was explaining to him that Chapter 46, the existing Chapter, therefore remains in being. When that Act is proclaimed it will still become Chapter 46, because what we do with legislation is that unless it is a new Bill completely it becomes the same Chapter, as it was before, but it has not yet been proclaimed.

I think the honourable Member understands me quite clearly on that. That is why we are still going through the existing Chapter 46.

Rt. Hon. E. W. BARROW: Mr. Chairman, this is a very alarming situation. I hold in my hand the Laws of Barbados for 1980. On my left here is Volume II of Barbados in which the Mental Health Act is enshrined, Chapter 46. The Government Printery has gone through the expense of printing the Mental Health Act of 1980, Chapter 57. I do not accept, with all due respect, the explanation given by the former Attorney-General who now rejoices in his position on the back bench as being the Member for Christ Church West, both lucratively and otherwise.

He is telling me, as one of the older, if not senior, members of the profession, that an Act which is going to be repealed by proclamation of the 1980 Act, which is already on the Statute Book of Barbados, is going to automatically take the place and revert to Volume II of the Laws of Barbados. Now, this is not how we understand the numbering of Acts in this island, maybe my understanding is different from his.

But you see, what is unfortunate about this is that all that the Government had to do with this Bill, if the honourable Member is aware now that the Act has not been proclaimed, is, number one, it should not have been on the Statute Book until it was proclaimed. This is the first point which I would want to make.

A Bill is not an Act until it is proclaimed. They had no right printing that law as part of the Laws of Barbados, because it is within my knowledge, information and belief, and I am sure the honourable Member is aware of this too, that people have been acting under the provisions of the 1980 Act because it has appeared on the Statute Book of Barbados.

I have further information of a matter which the honourable Member should be more intimately concerned with, that in the Registration Office of Barbados they are collecting fees and acting under legislation, a plethora of legislation, which has not been proclaimed.

Now, Sir, proclamation is a simple procedure. You go to bed on Wednesday night, on Thursday morning the Official Gazette has the Bill 1980-57 is proclaimed. It is as simple as that. You go to bed on Sunday, and Monday morning in the Official Gazette there is a proclamation.

Now at the time when this Bill was being discussed by the Cabinet, I am suggesting to the former Attorney-General, as he likes to be called,.....I once had to remind one of my Ministers who kept on telling the Cabinet that as Acting Minister of Home Affairs that he was advising the Cabinet of so and so. I said, "you do not have to remind us that you are Acting Minister of Home Affairs — (you are already a Minister and you are also Attorney General of Barbados.) You do not have to go on telling us you are Acting Minister and showing us your authority." But the honourable Member is merely showing the position of authority from which he was speaking.

Now when this matter was being discussed in Cabinet, I am sure that the honourable Member for Christ Church West must have been aware that the Bill was not correct. It was his duty as a responsible member of the Cabinet to point out that the Act had not been proclaimed, but had already been printed, and get the proclamation brought in.
1.50 p.m.

We come in here and in the official copies of this House red lines have been put right through Chapter 46 of the Laws of this island. Now how are we to know in these circumstances, in the light of the fact that the Mental Health Act have already been given the designation of Chapter 57 of the Laws of Barbados, 1980, that they had not taken the trouble to proclaim the amendment which completely repealed the Law of 1980.

I am suggesting that they go and look at all of those other laws in which fees are being collected in the Registry illegally, demands being made by the Registrar from the

medical practitioners that they should do this and do that and do the other, certificates being printed and forms being charged for by the Registry and printed illegally.

We have discovered, as I am sure he has discovered, that a lot of these laws have not been proclaimed. So we will have to pass validated legislation for all of those things which have been "technically" wrongfully done.

But you know, Mr. Chairman, this is a very serious matter. It is true that sometimes we overlook things, but how do you get to the stage where you go and print a law that has not been proclaimed?

Hon. H. deB. FORDE: Honestly, I have great respect for the honourable Member's former legal knowledge, as well as for his position, but I am sure that he really made a speech that on reflection he would not have made from the legal training that he has had.

The first point the honourable Member must know is that every Act passed by this House must be printed in the annual volume regardless of whether that Act comes into being, in force by proclamation immediately. That is the first point the honourable Member must know. If he does not know it, well then he wasted his time for 15 years as a Prime Minister and 25 years as a Member of this House. It is such a simple thing for him to know.

The Member also must know, having been in the Cabinet himself during the time that we did the law revision exercise, that the position is that at the end of a year, when an Act has been proclaimed, the Law Revision Commissioner brings that Act into the existing laws under the existing chapter — unless it was not provided for before. Therefore the honourable Member would see that when the Mental Health Act of 1980 becomes proclaimed, it is substituted as Chapter 46.

If the honourable Member takes the trouble to read the introduction at the times when the volumes are brought into being he will notice that whoever is the then Attorney General writes a preface explaining which laws have been excluded from the consolidated volume and which are not excluded from the consolidated volume and the reasons therefor.

For instance, the honourable Member will know that Private Bills are usually not included; just as subsidiary legislation, legislation that has been sent, is not included. If the honourable Member is forgetting his legal knowledge, well then he must go back up to Cave Hill and get another refresher course. But he should not come in here trying to poke fun.....

Rt. Hon. E. W. BARROW: I know the honourable Member is getting agitated because it is getting under his skin. I will like to inform the honourable Member that I never went to Cave Hill. I did not had the advantage of going to Cave Hill; therefore I do not know about these new-fangle notions the honourable Member is talking about. I know what I learnt in the United

Kingdom at the Honourable Society of Lincoln's Inn. That is what I know.

Hon. H. deB. FORDE: Well I never went to Cave Hill. I taught at Cave Hill but I went to the Honourable Society of the Middle Temple as well as Cambridge University, if the honourable Member wants to know.

Sir, if he is going to talk — the honourable Member was an Island Scholar, I was a Barbados Scholar. But we are not on that.

The point is that the honourable Member must not come in here and talk foolishness and expect to get away with it in an effort to seem as though he is poking fun.

Rt. Hon. E. W. BARROW: The honourable Member is very thin skinned. I am not poking fun. I am making a very serious contribution and I am on a point of order.

An honourable Member may disagree, but he is not entitled — no matter what Inn he went to — he does not have to aspire to Lincoln's Inn — to come and tell another honourable Member that he is talking foolishness just because he went to Middle Temple.

Hon. H. deB. FORDE: The honourable Member is being bothered about my going to the Middle Temple. He is bothered about so many things, Sir. The honourable Member and I have our differences on it and I do not want to go to and fro on slight things, Sir.

The position is that the honourable Member must not give the impression here that something fundamentally wrong is being done with the Statute Book of Barbados.

I think the honourable Member for St. Michael West asked a legitimate question — are we dealing with the new Act or are we dealing with the former Act? The answer is we are still dealing with the former Act, because despite the fact that a new Act has been passed and enacted on the Statute Book, the proclamation in respect of it, so that it can commence, has not yet been promulgated. That is all that has happened, Sir. The honourable Member would know or he does not remember.

Take the Education Act. If you look at when the Education Act was passed under the former Government it was not immediately proclaimed. Although it would have occurred in the 1975 legislation, it was not proclaimed immediately. I believe it came in by proclamation sometime afterwards and therefore it would still have appeared until it took its place in the annual volumes.

We are a bit behind in up-dating the annual volume. The last up-dating of the annual volumes is up to December, 1978. There is currently with Eyre and Spottis Woode, the publishers, an up-dating of the annual

volumes up to December, 1980. (I understand that the up-dated supplements should shortly be available).

I am sure that if the honourable Member had taken the trouble of reading the *Official Gazettes* he would see every proclamation is published in the *Official Gazette*. He wanted to know how he is to know which law is current and which is not. He gets a copy of the *Official Gazette* like any other Member of this House. I follow through the *Official Gazette* to make note of every proclamation which is a Statutory Instrument and appears on the subsidiary legislations of Barbados.

Mr. B. M. TAITT: Mr. Chairman, having raised this question originally, I do not propose to counteract whatever the honourable Member for Christ Church West says, but let us take this seriatim.

Let us assume that a person comes into Barbados and he wishes to know what is the Law on Mental Health in Barbados. There are not a lot of places for him to look, Sir. He looks to the Law Books, this one here, the blue one, and then he looks to this thing which is put out as the supplement to the Laws of Barbados. This is put out.

Now when the former Attorney-General gets up and tries to give the impression that you have to ring up Government House or ring up the Printery and ask them if a Law has been proclaimed, you mean every law then that you find in the book which says "it shall come into force by proclamation" you have to call somebody and ask if this has been proclaimed? This is the book you look into.

Let me ask a question, Mr. Chairman. Who is it in this Honourable Parliament that would have crossed these red lines through the old Chapter 46, and who is it in here that seeing red lines crossed through the Official copy would seek to go beyond the red lines to find out if in truth it has been repealed. It states categorically at the top here "Repealed by 1980-57". Therefore when the former Attorney-General attempts to go into a long lecture to give the impression that nothing is wrong, I am saying that he misunderstands the problem. The problem is a straightforward simple problem.

Parliamentarians coming here have a right to expect that the laws which are placed before them are laws that they can deal with. We have a Minister who comes down and says, in an amending Bill, that he is amending Chapter 46. Then we pick up the Laws of Barbados and find that Cap. 46 has been repealed; then lo and behold, like a revelation, we discover that the Minister may know — but the former Attorney General knows categorically that this law has not been proclaimed.
2.00 p.m.

Do you realise, Sir, that he is the only person in Barbados, certainly the only honourable Member in here, who can get up and state categorically that this Cap. 46 has not been repealed, and that 1980-57 has not been proclaimed. Now what kind of business are we running as a Parliament? How can we operate?

I am sure that the Minister himself would not have been aware of this particular problem, otherwise I would have to accuse him of not doing us the courtesy at the beginning of pointing out to us that he is dealing with the old Cap. 46. The problem would not have arisen.

But that did not preclude the difficulty to which the Rt. Hon. Member for St. John alluded. It is true that there is a compilation of Acts passed in the House of Assembly. It is also true that this booklet published by authority by the Government Printing Office is the booklet to which those persons who have to examine laws turn, including the Judges.

So if he is saying that we are to go through this booklet, when it is handed to us as the official document, and put a note to those which say "To come into operation by proclamation" and then seek to find out further information, then I say we are in a sorry state indeed.

I believe it would be worthwhile if the Honourable Attorney-General of the day would bring us down the list of laws which have been passed and not proclaimed so we will know where we are.

Mr. CHAIRMAN: It is now 2 o'clock and I must report progress and ask for leave to sit again.

Mr. SPEAKER resumed the Chair and reported accordingly.

SUSPENSION OF SITTING

Mr. SPEAKER: It now being after 2 o'clock, this sitting now stands suspended until 2.45 p.m. today.

On Resumption:

Mr. SPEAKER: This sitting is now resumed.

QUESTION TIME

Mr. SPEAKER: It is now Question Time.

I am advised that there are no replies to questions ready. This brings us to the end of Question Time, and we go automatically into Private Members' Business.

PRIVATE MEMBERS' BUSINESS

Mr. SPEAKER: Order No. 1 stands in the name of the honourable Member for St. Michael South Central whom I so not now see in his place.

Order No. 2 stands in the name of the same honourable Member, whom I do not now observe in his place.

This brings us to the end of Private Members' Business.

GOVERNMENT BUSINESS

Mr. SPEAKER: Government Business is the instant Order of the day.

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that Your Honour do not leave the Chair and the House go into Committee on the Bill which was occupying the attention of the House earlier today.

Hon. L. B. BRATHWAITE: I beg to second that.

The question was put and resolved in the affirmative without division, and Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. ODLE in the Chair.
3.00 p.m.

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

On the motion of Hon. L. B. BRATHWAITE, seconded by Hon. H. deB. FORDE, Mr. CHAIRMAN reported the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. L. B. BRATHWAITE, seconded by Hon. H. deB. FORDE, the Bill was read a third time and passed.

Hon. L. S. CRAIG: Order No. 2

Mr. SPEAKER: Order No. 2.

COMPANIES ACT, 1982

Order No. 2 was called —To move the Second Reading of a Bill to revise and amend the law relating to companies and to provide for related and consequential matters.

Hon. H. B. ST. JOHN: Mr. Speaker, Sir, let me say at the outset that it is not the intention of the Government to proceed with this Bill in all of its stages today.

This Bill is a Bill which has had a very long history and I appreciate that honourable Members on the Other side —as well as on this side — would wish the opportunity of a greater period of time to do a great in-depth examination of the several provisions of this Bill.

Nevertheless, I think it is important that at least a few of the salient provisions of the Bill should be explained at this stage before I move that further consideration of this Bill be postponed.

The present Companies Act of Barbados, enshrined in Cap. 308 of our Laws, had its origin in 19th century English companies' legislation. Since then, the Companies Law of the United Kingdom was modified in 1929, 1948 and again in 1967. The Barbados Companies Act was based on the 1908 English Act.

Both the previous Administration and this Administration recognised that it was necessary to modify the provisions of the law relating to companies in the light of the socio-economic and legal impact, which experience has taught all countries with modern company legislation was necessary after an examination of the particular principle of incorporation, after 100 years of incorporation.

Barbados, to a large extent, attempted to follow its own philosophy — mainly that company legislation was an area which was particularly suitable for harmonisation within the context of the Caribbean Economic Community. I think it is also fair to say that if one examines the provisions of the former Federal Constitution, which governed us well up to 1962, it was an area where everyone agreed that there should be harmonisation.

When the Federation broke up, it was always recognised that a common company law should be in existence in all of the Caribbean members of the Free Trade Association and, subsequently, of the CARICOM arrangement.

The Caribbean Economic Community set up a working party to produce a Draft Companies Bill which would be embodied in all of the country states of the Caribbean Economic Community.

I do not think anyone can blame either this Administration or the previous Administration for the delay in the implementation of a modern Companies Law Bill because Barbados, with its strong commitment to regionalism, always felt that we should await the report of the CARICOM working party.

Because of our dissatisfaction with the progress in this area, the former Attorney-General, in conjunction with the Ministry of Trade, set up a working party to work along with the consultant to the CARICOM working party.

The head of the division was Mr. Justice Williams. Mr. Justice Williams was a former draftsman in the Federal Legal Service and he was well familiar with the objectives which it was hoped could be achieved under the Federation.

3.10 p.m.

All I can say, Sir, is that after a considerable amount of consultation, at the regional level, a preliminary draft was prepared. This preliminary draft, having received partial approval from Cabinet, was submitted to a local Barbados committee.

I wish to say that from 1979 until now an *ad hoc* committee was set up — on September 26, 1979 — and this *ad hoc* committee was the most representative of the legal department, of the Crown Solicitors department, the Supreme Court through the Registrar, the private sector organizations through the President of the Chamber of Commerce, the Institute of Chartered Accountants, the Bar Association, the Ministry of Finance, and the trust companies.

I don't think anyone can claim that they have not had the opportunity since 1979 to consider the first draft, which first draft was arrived at after Mr. Justice Williams had had the most extensive consultation with the CARICOM Harmonization Company Law Committee draft.

I believe that the provisions of this Bill, which we have before us, are provisions in which everyone with a relevant interest at a technical level has had an opportunity for an input.

I believe, also, that now that we have had the final report of this extensive consultation, we should look, from the point of view of the rest of the public, at the company law reform situation in a macro-economic view point.

I want to say that this Bill is but part of a total reform system which will deal with the law of incorporation. It will deal with the law related to capitalization. It will also deal with the law relating to the fiduciary duties of directors vis-a-vis the public, and this is very important.

This Government is committed to the concept of tailoring of legal machinery to encourage a wider participation in capital formation in Barbados through the ownership of shares. We also are committed to the concept that, in our opinion, in a small country, the best and the most harmonious way of achieving that partnership between capital and labour, which is necessary for good industrial relations, should take place through worker participation in ownership, and in the fruits of ownership.

Therefore, this Bill is but one of the legal tools which will be used to embrace (to effectuate) the Government's concept of wider participation in the ownership of the means of production, wider workers' participation in management, and already under the Income Tax Act — and this is something that I think many people have missed in this country — two Budgets ago and the last Budget in particular, tax incentives have been granted to encourage wider participation by employees in the ownership of shares in the companies with which they work.

We have also committed ourselves to providing a market for those shares through the creation of a Stock Exchange. And I am very pleased to announce that after I move the postponement of this Bill today, that by next week we will be in a position to bring down a Bill to regulate the creation of a Stock Exchange in Barbados.

We believe that in a small country people who work in firms must feel that they have a stake in the capital of that firm. We believe that if they are to be encouraged to invest in the capital of the firm in which they work, they must be assured that any savings they place in the capital of those firms are readily marketable — and they can only be readily marketable if there is a Stock Exchange which will provide a market for the sale and the purchase of these shares.

So the company law reform that we are introducing must be looked at as part and parcel of a series of legislative tools relating to company law reform, relating to a Stock Exchange and the amendment of the Income Tax Act, which has already been introduced, to permit tax-free distribution of profits via a bonus to employees in a company.

It is necessary, Mr. Speaker, if you are to really advance the concepts that we have, to ensure that there is confidence in the integrity of the management of these companies.

Gone are the days in this country, as in many other countries in the world, where the only criterion for a management position happens to be the coincidence of having been born in a certain family. Gone are those days.

The days of professional qualified management have reached Barbados. The days of a divorce between managerial control and ownership control have reached Barbados. The entré to top management positions in this country increasingly, Mr. Speaker, is being judged by competence and not by birth — and that is good.

Barbados, in order to compete, must be able to attract the best brains in management. Management is a

gift; you must have the qualities which must be fashioned by study, by experience, and things of that kind. We feel that the best management should be attracted to our companies and we feel that the criteria for selection of the best management should be the qualifications.

Now there are a number of technical areas. I would not wish to go into them at the present moment. I only wish to give a general background, because I want to have the companion Bill before Parliament where I can inter-relate the two Bills for the benefit of Members. I only wish to give a general outline, and I can summarise it as follows.
3.20 p.m.

Both the previous Government and this Government have recognised for a long time that the company law in Barbados needed reform. Barbados did not proceed for reform unilaterally. We felt that company law was an area which should be harmonised throughout the Caribbean Free Trade Association and throughout CARICOM. CARICOM created a working party which produced the original draft. Having looked at the original draft, we appointed a local committee to examine that original draft. Mr. Justice Williams was the Chairman of that Committee, the Company Law Reform Committee. Having decided that the draft they produced was in consonance with all the company laws in the other countries, we then appointed a local committee to adapt that draft to our peculiar circumstances without departing from the fundamental principles of harmonisation.

We are satisfied, after a committee of all of the relevant local interests examined this draft, that this Bill, if implemented, would not do violence to our overall conception of a harmonised company law, and that it is fit and proper to introduce it.

We also say that this Bill must be looked at in the context of the Barbados' view that company law must be used as an instrument to effectuate our objectives of greater participation by the community as a whole in Barbados, in capital formation. Also, that Company Law must be looked at in the context of our objective of a wider participation of workers in the ownership of the places in which they work, as is evidenced by our Income Tax concessions for bonus shares.

We say that we must look at these reforms as a fundamental plank of the Government in carrying out its objectives.

I do not want to continue any more, Sir. At this stage I have only given a few of the salient points of the Bill and I will move that further consideration be postponed. I know that honourable Members on the other side have only had this Bill ten days. It took nine years to produce this Bill and it is totally impossible for anyone to digest in ten days what it took

nine years to produce. I, myself, in my Ministry, have not had the opportunity of going through the printed version to see whether it reflects what the original version said.

Already I have a little note that there are some printing errors. Now, people may not know, but you cannot ask three or four people to go through and check 405 pages purely for printing errors. It cannot be done. If you decide you are going to do this, and the same four people do it, they will miss things. What you have to do is to take this down, break it up into 20 or 30 pages and then give it to various people so that you will get more accuracy. This is purely from the point of view of monitoring typographical errors.

I only wanted to give honourable Members an inkling of what is coming. I have not finished my Second Reading speech yet. I beg to move that further consideration of this Bill be postponed.

Hon. L. S. CRAIG: I beg to second that.

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

Hon. L. S. CRAIG: Mr. Speaker, that brings us to the end of today's sitting. However, there has been an amendment which came down from the Other Place. It has been recognised in this House that it is not quite necessary to have the amendment done. I am not familiar with that aspect of it and the parliamentary language which should be used when something comes down in error from the Other Place. I would prefer you to advise me, Mr. Speaker. We are not going to concur, because it is not necessary. You or the Clerks at the Table, Sir, can advise me on how to go about it. We are not going to proceed with it. It is on the Order Paper.

Mr. SPEAKER: It would be well for the Clerk to call the Item to which the honourable Leader of the House is referring. The Leader says that the Item is on the Order Paper.

AMENDMENTS PROPOSED TO THE AGRICULTURAL HOLDINGS (OPTION TO PURCHASE) BILL, 1982

Order No. 4 was called – To move that the House consider the amendments proposed to the Agricultural Holdings (Option to Purchase) Bill, 1982.

Hon. Dr. R. L. CHELTENHAM: Mr. Speaker, I beg to move that this Honourable House do not agree to the amendment as proposed by the Senate in this matter.

Mr. SPEAKER: Please, before the Minister continues, I do not consider that this Honourable House

could today witness a more improper approach to procedure in this Honourable House than to have a Message referred to this Honourable House from the Other Place included as a separate Item on the Order Paper for today as a Government Order. It is highly improper.

The matter should have already been disposed of by this Honourable House. I am of the view that we must dispose of it as quickly as possible and it is for that reason, and that reason only, that I am prepared to hear the Minister on the matter today.

This House must be prepared, in advance, to deal with its procedures. Wherever and whoever is responsible for the "shilly-shally" manner in which we have got to deal with matters in this place must be prepared to act.

Hon. L. S. CRAIG: Sir, I recognise Your Honour's ruling, but I am Leader of Government Business and I hope that that aspect of the shabby manner is not applicable to this side or that side. I just want to make this very very clear.
3.30 p.m.

As Leader of Government Business I share a degree of responsibility for the conduct of this Parliament, and I just want to make sure that at my ministerial level or my colleague's, and I even say on this side, Sir, that we are not responsible for that Item coming on the Order Paper. I was a bit surprised when I saw it, Sir, but since I made my position quite clear earlier that it was a new form to me, I was not familiar with it and therefore I was seeking Your Honour's advice.

Mr. SPEAKER: When this Honourable House received the Message from the Other Place it ought to have been dealt with on the day it was received, and when this House rose on that day the matter ought to have been disposed of. It is the failing of the duty of whose duty it is to draw it to the attention of the Leader of the House that the matter had not been dealt with.

Consequently, an attempt is being made now to make a fool of this Honourable House by making it an Item on the Order Paper. It has no right being there. I will hear the Minister.

Hon. Dr. R. L. CHELTENHAM: In moving, Mr. Speaker, that this Honourable House do not agree with the amendment as proposed by the Senate, may I point

out, Sir, that the amendment seeks to give the Cabinet power to fix the fees for all matters relating to the conveyance of the freeholds under the Act.

This matter is already provided for by Section 10 of the Bill, which was apparently overlooked by the Other Place. As it stands, Sir, the amendment is both superfluous and unnecessary.

As I understand it, by not agreeing with the amendment, the original provisions stand, Sir, and I am here moving that we do not agree with the amendment as proposed.

Mr. SPEAKER: The reason the Minister states is that it is superfluous and unnecessary? Is that what I understand the Minister to say?

Hon. Dr. R. L. CHELTENHAM: That is correct.

Mr. SPEAKER: Thank you, Mr. Minister.

ADJOURNMENT

Hon. L. S. CRAIG: That brings us to the end of — may I proceed, Sir? — Government Business for today and I beg to move that this sitting be now adjourned until.....(Pause).

Mr. SPEAKER: There can be no motion at this stage in this matter. The Other Place is seeking a concurrence of this Honourable House in a proposed amendment. This Honourable House perceives that the proposed amendment is superfluous and unnecessary and consequently rejects it. The motion is therefore not put, but what we do is we give the Honourable House the reason as referred by the Standing Order for rejecting their proposal.

Hon. L. S. CRAIG: I beg to move, Sir, that this sitting be now adjourned until Tuesday, July 20, 1982 at 12 o'clock noon.

Hon. L. B. BRATHWAITE: I beg to second that.

The question that the sitting do now adjourn until Tuesday July 20, 1982 at 12 o'clock noon was put and resolved in the affirmative without division and Mr. SPEAKER adjourned the sitting accordingly.
3.35 p.m.