
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1981 – 86

HOUSE OF ASSEMBLY

Tuesday, September, 14, 1982

Pursuant to the adjournment, the House of Assembly met at 12.15 p.m. o'clock on Tuesday, September 14, 1982.

PRESENT

His Honour W. C. B. HINDS, J.P., (Speaker); Hon. L. S. CRAIG, (Minister of Parliamentary Affairs and Leader of the House); Rt. Hon. J. M. G. M. ADAMS, Q.C., M.A., (Prime Minister and Minister of Finance and Planning); Hon. H. B. ST. JOHN, Q.C., LL.B., (Deputy Prime Minister, Minister of Trade, Tourism and Industry); Mr. L. E. SANDIFORD, M.A. (Econ.); Hon. Miss B. A. MILLER, (Minister of Education); Hon. L. B. BRATHWAITE, (Minister of Health); Mr. J. G. ODLE, B.Sc., (Chairman of Committees); Hon. V. L. JOHNSON, M.A., (Minister of Labour and Social Security); Mr. B. M. TAITT, B.A., (Hons.), M.A., LL.B. (Hons.); Hon. L. R. TULL, Q.C., M.A., (Attorney General and Minister of Foreign Affairs); 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); Mr. P. M. GREAVES; Mr. R. E. BRATHWAITE; Hon. Dr. D. G. BLACKMAN, (Minister of Transport and Works); Mr. L. A. WEEKES; Mr. M. A. KING; Mr. N. K. SIMMONS; Mr. H. A. BLACKMAN and Mr. A. TRUSS.

Prayers were read by Archdeacon F. A. Cayless.

MINUTES

Mr. SPEAKER: The Minutes of the meeting of Tuesday, July 27, 1982.

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that the Minutes of the meeting of Tuesday, July 27, 1982, be taken as read.

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

Dr. R. C. HAYNES entered the Chamber and took his seat.

ANNOUNCEMENTS

Mr. SPEAKER: I have to announce that I have received the Report of the Accountant General for the financial year 1981–82.

I have also received copies of the Accounts and Statements for the month of May, 1982, as prepared by the Accountant General.

Similarly, I have received the Accounts and Statements for the month of June 1982, as prepared by the Accountant General.

I am also to inform this Honourable House that on the 26th August, 1982, the Clerk of Parliament submitted his resignation from his post proposing 28th February, 1983, as the effective date of cessation of his duties.

The Debates Committee met on 1st September, 1982, and resolved to accept the resignation from the Clerk with that date, 1st September, 1982, as the effective date of the cessation of his duties.

Mr. Kelman has been notified accordingly.

In view of the foregoing, it is anticipated that appropriate measures in connection therewith will be placed before this House at an early date.

PAPERS LAID

Hon. L. S. CRAIG: Mr. Speaker, I am commanded to lay the following:

The Wireless Telegraphy (Amendment) Regulations, 1982.

The Wireless Telegraphy (Mobile Aeroplanes Model Racing Cars and Model Trains) (Amendment) Regulations, 1982.

The Wireless Telegraphy (Amateur Transmitter) (Amendment) Regulations, 1982.

The Wireless Telegraphy (Land Mobile and Fixed Radio Telephone Services) (Amendment) Regulations, 1982.

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

The Customs Tariff (Amendment) (No. 3) Order, 1982.

Statements showing Net Customs and Excise Receipts for 3 months ended 30th June, 1982.

The Civil Establishment (General) (Amendment) (No.2) Order, 1982.
12.25 p.m.

Hon. L. R. TULL: Mr. Speaker, I am commanded to lay:—

The Prisons Annual Report for the year 1981.

Hon. Dr. R. L. CHELTENHAM: Mr. Speaker, I am commanded to lay:—

The Annual Report and Financial Statement of the Barbados National Standards Institution for the year 1980–81.

Hon. DeL. O. BRADSHAW: Mr. Speaker, I am commanded to lay:—

The 7th Annual Report and Statement of Accounts of the National Housing Corporation for the year 1979–80.

GOVERNMENT NOTICES

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

A Resolution to approve the Civil Establishment (General) (Amendment) (No.2) Order, 1982.

A Resolution to amend the Explanatory Note to Subhead 2 — Grants and Subventions Part (b) of Head 36, Ministry of Health.

A Resolution to grant the sum of \$36,576 from the Consolidated Fund and to place it at the disposal

of the Government to supplement the Estimates 1982–83, Part II — Capital as shown in the Supplementary Estimates 1982–83 No. 3 which form the Schedule to the Resolution.

A Bill to amend the Registration Office Act.

A Bill to amend certain enactments relating to statutory boards.

A Bill to provide for the imposition of a registration fee on operators of certain vessels in respect of those vessels.

A Bill to amend the Fiscal Incentives Act.

A Bill to provide for the establishment of a fund to support the price of sugar and for related matters.

FIRST READING OF BILLS

On separate motions of Hon. L. S. CRAIG, seconded by Hon. DeL. O. BRADSHAW, the following Bills were read a first time:—

A Bill to amend the Registration Office Act.

A Bill to amend certain enactments relating to statutory boards.

A Bill to provide for the imposition of a registration fee on operators of certain vessels in respect of those vessels.

A Bill to amend the Fiscal Incentives Act.

A Bill to provide for the establishment of a fund to support the price of sugar and for related matters.

ORDERS OF THE DAY

Mr. SPEAKER: Government Business is the Instant Order of the Day.

SUSPENSION OF STANDING ORDERS

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that Standing Orders Nos. 6, 16, 18, 20, and 42(5) be suspended for the remainder of the day's sitting.

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

The question that those several Standing Orders be suspended for the remainder of the day's sitting was put and resolved in the affirmative without division.

GOVERNMENT BUSINESS

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that Government Business be now taken, and that Order No. 1 be the Instant Order of the day.

Mr. SPEAKER: Order No. 1.

Order No. 1 was called – To move that the House resolve itself into Committee of Supply to consider the grant of sums of money for the service of this Island.

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

COMMITTEE OF SUPPLY

Mr. CHAIRMAN: The House is in Committee of Supply.

SUPPLEMENTARY ESTIMATES 1982–1983 No. 1

HEAD 15 – CABINET OFFICE

SUBHEAD 1 – GENERAL ADMINISTRATION

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, Sir, this is an unfortunate matter. During the hearing of a case in the Magistrate's Court on November 4, 1980, a Miss Margaret Demerieux, a Lecturer in Law at the University of the West Indies, and a Barrister-at-Law, apparently objected to the conduct of a Magistrate in adjourning a case.

Words were exchanged with the Magistrate, Mr. Keith Simmons, as he then was, and the Magistrate committed the lady to the Psychiatric Hospital – an act which he had no right to do. There is no power in a Magistrate to commit a witness who he suspects is guilty of contempt of court to the Psychiatric Hospital.

I cast no particular opprobrium at the Magistrate in this forum. It is not given to everybody to be a brilliant lawyer. It is not even given to every lawyer to be a good lawyer.

12.35 p.m.

It perhaps says more about the system if a person is able to be appointed to the Bench with so slight a knowledge of the law of contempt of court and so great a wish to assert himself against the liberty of the subject, that he makes a mistake such as committing a person to the Psychiatric Hospital unlawfully. Well, as I say, that is the system which has allowed him to be there. Fortunately for the administration of justice, he is no longer there.

Arising out of this case, the Government was, for the first time, sued under the Independence Constitution for redress for deprivation of liberty on account of a wrongful committal to prison. This is the first case, and so far the only case, ever brought against the Government of Barbados since Independence for wrongful interference with the liberty of a subject under the Constitution.

I hope that Amnesty International and all others who may care to view this as an interruption of the Liberties of Barbadians take note that no member of the Government, or no lawyer acting on behalf of the Government, made any representation whatsoever which occasioned the magistrate breaking the law in this most unfortunate manner.

Unfortunately perhaps for the magistrate, the gentleman concerned, there was nobody next to him, a little older and wiser in the ways, of the Bar to counsel him against so doing.

I remember on one occasion, when I was appearing in the court of Holetown, the same magistrate expressed himself very strongly against a young man who had gone into the Sunset Crest beach facility, and he sentenced, or purported to sentence this young man to prison.

On that occasion I leaned from where I was at the Bar Table and told the magistrate, he is the honourable Member for St. James South, "You have no power to send people to prison for petty trespassing." And he asked me, and I said, "check the Act – you will find that the penalty is a fine of \$9.60."

I took the view at the time that the magistrate concerned, being interested in a hotel in St. James, perhaps took a more severe view of people trespassing on hotel properties than he otherwise might have, and that this allowed his view of the law to be clouded.

He got the young man out of the cell and corrected the sentence. And 'live and let live' being the spirit of Barbadians, the young man did not bring a case of wrongful imprisonment as he could have – he could have under Section 24 – having been sent to the cell for a half hour or so. Otherwise, this matter might not have come before us. The magistrate might have been made more careful.

On this occasion, it has cost the Government \$24 452, because Miss Demerieux succeeded with her suit in the High Court. Judgment was awarded against the Crown for \$15 000 damages, and we have to pay the cost of her lawyers of \$9,452.

I have gone into this matter at some length, Mr. Chairman, since it impinges on the liberty of the subject, and I think the House would want an explanation, and

some sort of reassurance, that no Government lawyer, no Crown Counsel, not even a policeman, intervened to assist the magistrate in the breaking of the law to the tune of \$24,000. As far as the reports go, it was entirely the fault of the magistrate and no blame is to be assigned to anyone else.

The young lady in question had to put up with the indignity of being committed to the Mental Hospital when she perhaps, as the court may have found, may have behaved in an unruly manner in the court. But certainly since she was not an accused person, and she was not a person subject to committal to "Jenkins", as Barbadians put it, a wrong step had been taken in her case.

The judges had before them her general conduct in court, and if they had considered that it weighed so heavily, that the deprivation of liberty perhaps could be mitigated by her conduct, they would have awarded less damages. But, so far as I know, these are the largest damages awarded for wrongful detention in Barbados. The court was showing the disapproval of the magistrate's conduct by the size of the award.

I can really say no more, Mr. Chairman, except that I have enquired if there is any possibility of surcharging the magistrate concerned. Public officers can be surcharged. (*Laughter*)

Mr. Chairman, I hear laughter from the opposite benches. I hear some of it coming from somebody who, if he ever goes on the Bench, may rest assured he is just as foolish and will make just as many mistakes — the honourable Member for St. Michael North. It may very well be that he would not wish to see a foolish lawyer punished. It may very well be that he may wish to establish a principle that fools are to be at liberty at the Bar.... And I am glad that the honourable Member for St. Michael West is now suppressing his own laughter, which was beginning to peal out in the earlier stages. (*Asides*)

I hear another honourable Member, who I believe has faced the court once or twice in professional misconduct, whether he has been able to hush it up or not. And I will just tell the hon. Member I have no intention of talking about the death of Lionel Riley's niece today — if we are going to hear remarks which perhaps will only serve to drag the debate down.

Mr. Chairman, \$24 452. I beg to move that this Head stand part.
12.45 p.m.

Mr. M. A. KING: Mr. Chairman, the right honourable Member for St. Thomas spoke in very measured tones, very piously giving the impression that

the magistrate was a wicked magistrate. I think that is the conclusion that must be drawn from the tenor....

Rt. Hon. J. M. G. M. ADAMS: No — never wicked, just ignorant. I never suggested that the magistrate committed the person to the Psychiatric Hospital knowing that he had no power to do so. No, I accused him of ignorance, not wickedness.

Mr. M. A. KING: Gross ignorance and breaking the law, as if it was something deliberate and pre-planned. Unfortunately, the right honourable Member was guilty of a few misstatements in his presentation, because his recollection of the background to the matter is not entirely accurate. I will deal with that in due course.

One of the errors the right honourable Member made is in stating that the person who brought the case against the Government was not an accused person at the time when the magistrate committed that person to the Psychiatric Hospital. That is not entirely accurate, Mr. Chairman.

I have a copy of the judgment, which is a public document. At the time when the person was committed to the Mental Hospital by the Magistrate — and I read from page 6 of that judgment where the learned judge made this comment:

"I now turn to the Order for committal to the Mental Hospital. The events leading up thereto are chronicled in the testimony of Police Officer Fields who stated: 'I was present when WPC 690 Onita Goodman'

Rt. Hon. J. M. G. M. ADAMS: On a point of order, Sir. This document will be made a document of the House.

Mr. CHAIRMAN: It is a document of the House.

Mr. M. A. KING: The judgments of the courts are public documents. Mr. Chairman.

'I was present when WPC 690 Onita Goodman was escorting her to the Charge Office of Central Police Station. While proceeding there I saw the applicant tugging away from the officer and kick her. I went to the officer's assistance and took the applicant to the said office where she was charged with assaulting and resisting a police officer.'

The applicant, Mr. Chairman, is Margaret Demerieux. (Hon. Dr. R. L. CHELTENHAM: That was after). This is the background leading up to the committal to the Mental Hospital.

'I was in court when the magistrate read the charge to the applicant. She turned her back on him and did not plead. She further stated that she did not want to hear anything from him or his so-called court.'

'The magistrate stated to the applicant that if she did not plead. . . . ' (Don't you plead to a charge? If you are a witness you do not plead. If you are a defendant you are asked to plead). . . . 'The magistrate stated to the applicant that if she did not plead he would have to send her somewhere where she would have someone to look after her. She kept her back turned on the magistrate and did not say anything. The Magistrate then made his decision to send her to the Psychiatric Hospital.'

So at that time she was an accused, and not as the right honourable Member for St. Thomas said, not an accused person at that time.

Now, to the other important point about this matter, which is not reflected in the statement made by the right honourable Member for St. Thomas. He said that the applicant had objected to the way in which the magistrate was handling an adjournment, or something to that effect.

The decision of the learned judge sets out the background of the matter, and I read from page 3. (Rt. Hon. J. M. G. M. ADAMS: Are you criticising the judgment?) I am not criticising the judgment, I am putting it back in its proper perspective so that one sees the total background.

'In this case the events that day had their origin in the applicant's being required to wait for a while before the magistrate dealt with the matters in which she was concerned. This displeased her and she gave full vent to her displeasure. Before long she had, according to the police officers, misbehaved in a variety of ways. She spoke in a loud voice, "flared" her hands, remained sitting when the Magistrate took his place on the bench, refused to stand when requested to do so by the magistrate, remarked to the magistrate that power had gone to his head, referred to the court as "his so-called court", refused to face the magistrate when he was addressing her, and, as Station Sergeant Foster put it, "stupsed" when the Magistrate was addressing her.'

The learned judge goes on:

'Such behaviour would provide ample grounds for proceeding for contempt, and there could be no complaint if the magistrate had properly proceeded

against the applicant for contempt against such a background.'

Now, the important thing which we should understand is that there was an applicant, who, in the view of the Supreme Court Judge, had done everything which justified a magistrate in committing her for contempt, but what went wrong with the learned magistrate on that occasion was that he did not follow the correct procedure which was required. (*Cheers*).

You are saying and cheering as if that is something so unusual in the law courts. The whole point about the system of appeals in the courts which we have is that judges make mistakes; judicial officers at all levels make mistakes.

Witness the case of *Maharaj v. the Attorney General of Trinidad and Tobago* of 1977, a case where a lawyer was committed for contempt by the Supreme Court judges of Trinidad and Tobago. In the judgment of the Privy Council the judges had this to say:

"In charging the appellant for contempt, Maharaj J. did not make plain to him the particulars of the specific nature of the contempt with which he was being charged. This must usually be done before an alleged contemnor can properly be convicted and punished.

"In their Lordships' view justice certainly demanded that the judge should have done so in this particular case. Their Lordships were satisfied that his failure to explain that the contempt with which he intended to charge the appellant was what the judge had described in his written reasons as "a vicious attack on the integrity of the court vitiates the committal for contempt."

The error which the magistrate made in this *Demerieux* case is precisely the same error that a judge of the Supreme Court of Trinidad and Tobago made. He did not make it plain to the person the reason for which she was being committed for contempt. That is his error; that is the error about which honourable Members on the other side are saying was such a gross ignorance of the law.

Mr. Chairman, throughout the history of the law, the law books are replete with issues and cases where judicial officers, at first instance, have made wrong decisions.

12.55 p.m.

These decisions are taken to the Court of Appeal and sometimes a Court of Appeal decision is appealed to the highest court, the Privy Council or the House of Lords, and those decisions may be overturned, even

at the highest levels. Sometimes the House of Lords' judges say that their brothers in the House of Lords are wrong and that their decisions need to be corrected.

What is the point of having a system of appeals if it is not but to recognise that judicial officers are capable of making mistakes? And some make some very elementary mistakes.

Only recently a case went to the Privy Council where the decision of the Court of Appeal of Barbados was overturned. Are you saying that those judges were ignorant of the law in not knowing how they should apply the law? Are you saying they are ignorant because the Privy Council overturned them? Are you saying that the magistrate in this case is ignorant because he made a mistake?

The right honourable Member for St. Thomas would be indicting all magistrates whose decisions are overturned by Superior Courts, indicting them all, even the Chief Justices of these lands, and calling them ignorant because their decisions have been reviewed by superior courts.

The error which the magistrate made was a procedural one, which is no different from errors which are made so often in so many courts all over the world.

Now it may be that the learned magistrate in this case may or may not have been following a practice which he may have witnessed in other courts.

I was present in a magistrate's court on one occasion, not many years ago, where a man was charged with beating his wife. I think my learned friend, the honourable Member for St. Michael North was there also. The man was charged with beating his wife. The woman was giving evidence from the witness stand. She had given her evidence and the magistrate asked the man to cross-examine her. Both sides were unrepresented.

The man was in the dock standing. In the magistrate's court at District "B", unfortunately the dock is not very far from the witness stand, so the man began to put questions to the woman. He said, "You say I beat you?" She said, "Yes". He said: "You say I beat you?" She said, "Yes", and the man promptly leaned over and gave the woman one slap and knocked her out of the witness stand. He said: "You say I beat you? I now beat you!"

The magistrate promptly there and then committed the accused, the man who was charged, for seven days for contempt of court, a contempt which was clearly evident.

Perhaps in those days — I think they were the days before these constitutional procedures were enforced —

if the constitutional provisions which we have now were enforced, he, too, may have recovered compensation from that magistrate, who is no honourable Member of this House, for locking him up for seven days without formally putting to him the reason why he was being committed for contempt.

You see, Mr. Chairman, presiding in the courts where judicial officers are from time to time confronted with situations, as in this particular case, the Demerieux case, the magistrate did not even have a chance to get through the words to the witness, because she was carrying on at such a rate that perhaps the magistrate felt, as the Supreme Court Judges decided quite wrongly, that he had no choice but to sentence. He obviously felt she must have been mad to be behaving that way. The judges found it was wrong.

But the point I am addressing is that one should not look at an isolated instance like that to criticise the magistrate and to talk about fortunately for the administration of justice, that magistrate is no longer there; that the magistrate was breaking the law in a most unfortunate manner.

All those I suggest, Mr. Chairman, are unnecessary aspersions on the magistrate, who, like other magistrates, like other judicial officers, made a mistake as a result of which the case came before the Court.

Now what I would imagine the right honourable Member for St. Thomas should be concerned about is the other aspects that this kind of case revealed.

I think it is good for the jurisprudence of the country that at least we have had a constitutional case on record and we know where we stand. It will cost the Government \$24 000, but you know there are so many other areas, Mr. Chairman, where taxpayers' money has been wasted in this country by Government. Look at the many commissions of enquiry which we have had, the Duffus Commission and so on. We have had commissions which have exhausted taxpayers' money to the tune far in excess of \$24 000, but what this \$24 000 did do was to put on the Law Books of the country a principle. It cost something.

But what the right honourable Member for St. Thomas should be concerned about was the evidence of Demerieux herself who said, from page 10 of the judgment:

"After a while the door to the cell was left unlocked." (I go back).

"After that the door to her cell was left unlocked, she was allowed to walk around the ward during the day. At night the door to the cell would be locked. There was screaming all round her....."

Mr. CHAIRMAN: Would the honourable Member give us the page of the document which he is reading?

Mr. M. A. KING: The pages are a little blurred, so I am just trying to decipher them clearly. On page 19.

Rt. Hon. J.M.G.M. ADAMS: On a point of order, I am going to make a submission in this matter, a judgment of a court cannot be a public document in the sense in which the honourable Member refers. It is only when it comes to be gazetted that anything is a public document.

What a judge says on a bench, even if the judge reduces it to writing and signs it, is accessible in the Law Library, it is accessible if you have an appeal, if you happen to be in court and hear it, you can repeat it; but it is in no sense a public document.

A public document has a definition in law, as the honourable Member for Christ Church West Central well knows, even if the honourable Member for St. Michael West does not, and there is no way that a judgment which formed a part of a record of a case going before a court can be a public document to be noticed by Parliament.

The House of Assembly has to notice absolutely nothing that does not appear in the Official Gazette. The Official Gazette and the records of Parliament are the only documents to be noticed by the House, and I submit you cannot have selective reading from what somebody says is a judgment of the court anymore than you can have selective reading from a newspaper.

A newspaper is a public document because you can go and buy it, in the layman's sense of public. A judicial statement from a bench is not a public document which is to be noticed, and the House of Assembly cannot admit selective reading from a document that has not been laid on the Table of the House.

I submit this very very strongly. This is not a casual submission because it will have some importance for the future. Somebody else, ignorant of the law, where the honourable Member now speaking can hardly be said to be ignorant of the law, will make the same kind of submission about something being a public document.

The only things that the House of Assembly have to notice are matters that are gazetted, previous papers of the House, Acts, subsidiary legislation and matters of that sort.

There is no superior power of notice in the House of Assembly to the power of notice which exists in a court. A court has to notice public general Acts, gazetted Supplementary Resolutions. A court cannot even notice the Debates of Parliament unless they are certified by the Speaker, and we cannot notice a document which an honourable Member picks up and says is a judgment and let him read from it. 1.05 p.m.

I submit that the entire proceedings of reading from the document are out of order unless the document is available for all honourable Members to see. That is what is meant by laying a document on the Table of the House.

The honourable Member has given no reference to a public place in which the documents can be found. We have only his own word that he is reading from a statement of a judge and, in those circumstances, to protect the House from unscrupulous Members, even a scrupulous Member like the honourable and Learned Member for Christ Church North Central is required to make documents from which he reads available to the House.

I think it would be a very sad day if we allow the entry into the House of any concept of notice other than of the House's own Papers and the *Official Gazettes*. And I submit that the Rules of Parliament do not allow it.

Mr. CHAIRMAN: Order.

Mr. B. M. TAITT: Mr. Chairman, on a point of order. I submit, Sir, that the point of order by the honourable Member is not valid. I agree with him that the House must be protected from unscrupulous Members.

Mr. CHAIRMAN: Just take your seat for a while. I do wish before the honourable Member for St. Michael West continues further on the point of order, but I think it is very much in order that I make a comment on the submission of the honourable Prime Minister and the matters which he has drawn to the attention of the Chair.

I do wish to say that the honourable Member for Christ Church West Central is in error in stating that the document is a public document. But under Standing Order 28(1), he may read extracts from books or papers. To that extent he is in order.

Mr. B. M. TAITT: And, Sir, to continue my point of order, there has blown up in this Honourable Chamber from time to time, on the basis of points made by honourable Members, some understanding or some apparent misunderstanding that the mere calling for a document to be made a document of the House, is followed by a decision to make it a document of the House.

May's Parliamentary Procedure is very clear that the honourable Member may or may not make it a document of the House, and if the honourable Member is reading from a public document or a document which he says is a Judgment of the Court, he has no obligation under May's Parliamentary Procedure to make it any document of this or any other Honourable House.

And further to the point, Sir, the honourable Member is not entitled, while making a point of order,

to cast aspersions on the character of any other honourable Member. If an honourable Member in this House says that he is reading from a document that is a judgment of the court, the Rules of this Honourable Chamber require that, because he is an honourable Member, it must be accepted that what he says is correct and any other honourable Member who challenge that must do it specifically under the rules.

Mr. CHAIRMAN: And I would like further to draw to the attention of the honourable Member for Christ Church West that his time has expired.

Mr. M. A. KING: May I just finish my sentence, Mr. Chairman?

Mr. CHAIRMAN: Well, one minute more.

Mr. M. A. KING: Mr. Chairman, I was making the point that the judgment of the court contains matters about which we should all be concerned. At page 18 of the judgment where the applicant said that she was "sentenced to a cell full of urine, squalor and dirt and with a foul smell. She was kept there for about two and a half hours. She was hungry and in a state of shock, for she had never been locked up in a cell before."

Those are matters which we should be concerned about, and we should be grateful that a judgment like this has seen the light of day.

Hon. Dr. R. L. CHELTENHAM: Mr. Chairman, Sir, I really had no intention of participating in this matter even though, to some extent, the events that led to the unfortunate imprisonment of this lady started as a result of an application which I made before the same learned magistrate.

I think that in trying to set the records straight and put the matters in perspective, as the last honourable speaker set out to do, that he further distorted the sequence of events in the sense that he omitted a very important stage of the proceedings to which I was a party. I therefore consider it my duty, Sir, to indicate clearly, precisely what took place.

Before I do so, however, I think it is a pity that the last honourable Member who spoke, in attempting to set the record straight should have emphasised the innocence of the magistrate in saying that he only made a procedural error and that that is what Appeal Courts are for, for magistrates and judges always make errors and so on, because even though the magistrate in question was not the most learned magistrate that I have had the fortune to appear before, it is a fact that he was a hard-working magistrate who was attending to duty and he was a considerate magistrate and I did not think,

Sir, that the parading of his innocence by the last honourable speaker, Sir, was really necessary.

And I should just like to correct him, before I proceed to set out the background, when he said that his errors were only procedural. There are times when procedure and substance merge and become a unity, and the errors made in this case were so fundamental that there were in effect errors of substance and not errors of procedure.

Let me proceed, Sir, to give the background to this matter. I was representing a young man who was charged with driving without due care and attention as a result of an accident which took place at the junction of Culloden Road and Collymore Rock. He was driving a car and the lady for whom we are seeking \$15 000 compensation was the driver of another car — both cars were involved in an accident — and the gentleman whom I represented, the young man, was charged with what is an offence — careless driving.

The matter had come up several times. On a few occasions I did not find it possible to be in attendance at the court and on this particular occasion I wanted an adjournment. Miss Demerieux was in attendance as a witness, the principal witness for the prosecution, on each and every occasion.

In making the application for the adjournment which the magistrate granted, the lady overheard the application sitting in court, as she was doing, and she indicated that the date that was under discussion, the proposed adjourned date, did not suit her because most likely she had to be involved in examinations at the university.

She was sitting when she addressed the court and she was speaking in very loud tones. She was obviously angry over the fact that she was coming to the courts so often and the case was not being heard.
1.15 p.m.

The magistrate was attracted to her noises and her seemingly unruly behaviour and he told her that she must conduct herself properly, and so on, or words to that effect, and she continued to carry on protesting.

I whispered to him, perhaps he does not recall the sequence of events, that perhaps he should ignore her. But she continued to carry on and he told her that he would send her down to the cells, or words to that effect.

At that point she was a witness. That is the important thing. She was a witness in the court; she was not the accused person.

She was subsequently taken away by the police to the cells as a result of her carrying on. At that point the

magistrate had not charged her. He just asked the police perhaps to take her away, and when she was being taken away she apparently kicked the policeman in protesting, as indeed she had a right to do. (*Asides*) Can't say so, that is how I speak even to them. She had a right to do it, because the arrest, at that point, was unlawful. No mind the kicking of the policeman; that is not the worst thing in the world. There was an interference with her liberty and it was as a result of that.....

Mr. CHAIRMAN: Order, order please.

Hon. Dr. R. L. CHELTENHAM: It was as a result of that that she was carried to the Charge Room and she was charged for assaulting the policeman and so on. And when she came back to the court, she was no longer a witness — she was an accused person, and it was in the course of that I was no longer in the court. I had gone at that point. But according to what was read by the last honourable Member it was then when the charge was read out to her that she carried on, she refused to answer to the charge and as a result she was sent to the Psychiatric Hospital.

Now in a way, much as I am sorry for the wretched lady — she was very luckless indeed and I am sorry for her — it is a good thing that it happened, because it has served to alert members of the Barbadian public who have got to use the courts, and the magistrates too, to a long-standing practice which is tantamount to an abuse of the rights of the people to appear before the courts.

From the time I came to the Bar, magistrates have been locking up people in this country and sending them to the Psychiatric Hospital without just cause, and in a manner which is contrary to law.

Just let me indicate one or two things that used to happen for many years. Many a man left home a morning to go to court and by the time he came back from court he had to report to his wife, relatives and friends that he was on a bond. He left home as a witness and he came back on a bond, because it was a widespread practice, depending on the mood that the magistrate was in, to put the witnesses, the accused person, the informant and everybody on a bond.

That thing went on in this country for years until the Deputy Prime Minister, in a case reported in Volume XII of the West Indian Report brought an appeal for a gentleman called Carter, Commissioner of Police *v.* Carter, in which the same Justice Williams made it clear, even though Section 99 of the old Act says you could do that, that certain procedural steps had to be gone through before you could displace a man so on a bond — and that was a widespread practice when I first came to the Bar.

Mr. C. L. BOLDEN entered the Chamber and took his seat.

The second one that was very widespread was that as soon as a man behaved in a strange way — and strange was very elastic; what was strange varied from the perception of one magistrate to another — the magistrate would send a man down to the Mental Hospital and ask for a report on him within seven days. So then many a man left home to go to court on an offence for which he could not be locked up and ended up in the Mental institution. That was also a very widespread practice.

Until we had the case of Roger Seymour, which went on appeal, it was again a widespread practice for persons to come before the courts on immigration appeals and have the magistrate lock them up in the way which Roger Seymour was locked up that morning.

Indeed, when I went to the cell in order to get him to sign the appeal forms on behalf of senior counsel, he was in there, literally crying, because a person in the cell had urinated on him. All of these things are matters of fact.

So I am very glad, in a way, that this matter has come before the House; because people need to be aware of their rights — members of the public.

I have been in danger on many occasions. Magistrates have threatened to lock me up too because I have always stood in the way of magistrates abusing their power in relation to persons whom I have represented in this country.

But it is still going on, and I saw an editorial in the *Nation* a few weeks ago, the point of departure of which way a statement made by the General Secretary of the Barbados Workers Union about the fact that people appearing before the magistrates court are not treated with dignity in this country.

I have always made that point to the magistrates themselves. Many of them abuse their power, and that is precisely what the girl told the magistrate when she was brought back, not as a witness but as an accused person — that he had abused his power, it had gone to his head. And though that was not something that was characteristic of his style — I say that in all honesty; I have appeared before him many times and have enjoyed it — it is a fact that, generally speaking, there has been a lot of abuse of power on the part of the magistrates.

So that this particular case, I believe if the magistrates read it...because there is also a feeling very widespread among the magistrates of this country that they

are not supposed to read any law as soon as you come to a Magistrate's Court as a lawyer with books, they tell you, "keep the books for the High Courts. The money that we get as magistrates do not allow us to read any law." That is what they tell you. So it is very possible that no magistrate sitting will read or have read this judgment, and that in a few years the very procedure that was adopted here, which we know to be wrong, will be adopted again in other cases.

Mr. Chairman, I just thought I would make this brief introduction so as to give the House the background of this matter and so to alert the public, for the record, as to their rights. I hope that magistrates will read the judgment and appreciate that for years they have been proceeding in error and have been abusing the rights of people who come before them.

Mr. N. K. SIMMONS: Mr. Chairman, I am happy to see that this Resolution has come before the House because it has given a number of persons an opportunity to vent their feelings in certain respects, and, indeed in some respects, to try to interpret the law.

The honourable Member for Christ Church East, in giving what he thought were the facts, was also incorrect.

He stated that he was the person who asked for an adjournment, which is right, because he had to go to another court, and he left. But before he got that adjournment, if he can remember, he suggested a date of the 4th of December and the lady was asked, as all other witnesses, if the 4th of December was suitable to her, because in the courts, I believe magistrates try to accommodate all persons — not only the accused, but witnesses and attorneys-at-law. At that point the lady said she had to work and the reply was that we all have to work but we are only trying to accommodate everybody. But the magistrate said, "Okay, you relax a bit and we will come back and set a date."

At that point he left. He does not even know what went on. I do not want to get involved in that, because I do not think it is for me to explain anything.
1.25 p.m.

I just want, however, to refer to something which the honourable Prime Minister had to say. In his opening remarks he talks about this costing the Government \$24 000, and this is a charge on the people and that there are fools at liberty at the Bar.

Yesterday, in some news release the same Prime Minister said that it cost the Government \$26 million more for the Heywoods Project than they had anticipated. If there was a fool at the Bar, there is a fool at large on the country, because \$26 million is much more

than \$24,000, and therefore if there is a fool at large at the Bar there is also a fool at large on the country, because you are talking about costing the taxpayers money and costing the taxpayers money. That is all I have to say to that.

It seems to me that what has been revealed today in this Honourable Chamber is that all magistrates are fools, or all magistrates are ignorant of the law, because all magistrates seem to adopt the same procedures for these matters. But I do not like to get involved in that type of debate, because, to my mind, it is not worth it. I just felt I would like to put that clear.

Also, I think that this House must not be misled by any honourable Member. It is a lie to say that the woman was not an accused.

And in my recollection, the honourable Member for St. Thomas has never had to advise me about not locking up or locking up some person, but most of the people of this country can judge whether I am telling a lie or he is telling a lie. We know who would tell a lie.

Mr. CHAIRMAN: Nobody tells lies.

Mr. N. K. SIMMONS: No one tells lies, there are just misunderstandings. Those are the points I wanted to make.

And talking about ignorance, do you know there is a standard joke in this country? You meet people and you greet them and they ask you what is happening. You reply to them that you do not know what is happening, and they say to you, "you are not the only one, the Prime Minister does not know what is going on either." So if people are ignorant, it seems that we are all ignorant, and these are things we have to be careful about, and I am happy to see that it is not as the Honourable Prime Minister wants people to believe.

Mr. B. M. TAITT: Mr. Chairman, I do not believe that one has to get into this matter in finite terms or in micro terms. I do not believe that discussing this matter along the lines which the honourable Member who introduced it decided to go is in the interest of this country as a whole.

I believe that when a man sits in a position, whether that position is magistrate or whether it is school teacher or whether it is an officer of this Honourable Chamber, or whatever position he holds, I believe that when that man has discharged his duty or his responsibility honestly and in a manner commensurate with his own beliefs of what is honest, that criticism of that man ought to be in the context of the way he performs his duty and not a criticism of the individual.

Very often in this country the tendency is to go what the arguers call *ad hominum*, discuss the man as opposed to discussing the particular issue or the principle concerned.

I am very glad to see that the honourable Member for Christ Church East put the matter somewhat in perspective when he indicated that there were certain practices in the Magistrates' Courts which were widespread, and therefore a magistrate who might join the Bench prior to the decision of the courts, as we heard read earlier today, and who was observing the practice as it exists in Barbados, may very well have believed, sincerely believed, not only that he had the power, but that the power could be exercised in a particular way.

It may be argued, quite correctly, that it is the duty of everyone on taking up a particular post to become familiar with all the ramifications of that post. But the fact is, Mr. Chairman, that when one goes into a professional post such as magistrate one is guided to a large extent by the practice which preceded one in the exercise of that particular function.

Mr. Chairman, it must be made clear that the law does give the magistrate power. What is at issue is not whether he had the power, but whether he did it in the manner which the law requires that he does it in.

In other words, the honourable Member made a very facile point that sometimes procedure and substance will merge. I think that to those who are not familiar with it it may seem substantial, but the fact is that when procedure goes wrong it becomes substance in the law, so we are not arguing that.

What is important is that a man who is a magistrate or a judicial officer is required under the law to carry out his duties in a particular way, and the only defence which the citizen has against the system is that whenever or wherever a judicial officer or a person who is exercising a judicial process does not do it in a particular way, then the only defence available to the citizen is to appeal to the fact that the procedure was not carried.

Sir, I recall in another debate which we have had and are having in this country concerning certain procedural matters, we heard that this is only a matter of procedure and therefore we are not to worry too much about it. This case has demonstrated that sometimes the only defence available to the citizen is to insist that the procedure is followed.

Sir, from time to time the right honourable gentleman from St. Thomas has a way of attributing ignorance to all those who do not agree with him, or attributing ignorance to those who have been described as ignorant

professionally in such a manner as to suggest that the persons are malevolent.

Not everyone who is ignorant is stupid, Mr. Chairman, and the mere fact that a particular judicial officer does not carry out a particular procedure cannot mean that that judicial officer is to be maligned merely because he moved from the position of judicial officer to a position of politician.

If the honourable Member was not an honourable Member of this Chamber, chances are that this Resolution would have passed this Honourable House some time ago without other than a passing comment from one side or the other. The chances are, Sir, that the \$24 000 would have been found, as other monies to pay for other things have been found in this present Administration, without all the hullabaloo, but the concept of dropping some lashes in the honourable Member is one which appeals — I do not wish to say to a perverted mind, Sir — to the type of political tactics which are prevalent in Barbados.

1.35 p.m.

So we bring it in this Honourable Chamber and today would have been the day when the honourable Member would have been dragged to the dogs in so far as it is possible under the Rules of this distinguished Chamber to drag someone to the dogs.

I wish to submit, Sir, that the basis of the legal system which we have allows for error to be made by judicial officers. And I wish to say that it is not always appreciated that a magistrate in the court and I agree with all that has been said about those magistrates who tend to misuse their power; not only magistrates — functionaries in Barbados generally tend to misuse their power and persons who are associated with them in the particular profession tend to make it part of what I call the *noblesse oblige* to allow that misuse of power, so that it is good when from time to time we examine it.

But, Mr. Chairman, the point I am making is this: in this Barbados, when a judicial officer makes an error, he is falling in the same category of judicial officers all over the world. There are a number of cases which can be cited to demonstrate that erudite, legal luminaries, while practising in a judicial capacity, have made not only procedural error, but substantive error.

I do not believe that it is in the interest of justice in this country for the person who holds the very distinguished position of Prime Minister to seek, while criticising a particular decision, to cast the maker of that decision into the role of fool, idiot, in the category of magistrate.

I do not believe it is in the interest of justice in Barbados for a Prime Minister to do that, and I do not believe that making a political point as a Prime Minister is worthwhile if in fact what we are seeking to do is what the honourable Member for Christ Church East calls for — providing a place in the system where people can go and get their rights in dignity.

If those persons out there come to feel that the magistracy can be staffed with people who are just short of being venal, they have every right to feel that the system itself is one that is made just short of being venal.

Mr. Chairman, there is a case called the *Nat Bell Liquors* in 1920 in Canada, and it was decided by the Privy Council, and the Privy Council established, as has the House of Lords established in other cases, that when it comes to the exercise of discretion by a judicial officer, no one can exercise that discretion for that officer; not even the Privy Council, not even the House of Lords. They will accept to question the decision on procedural grounds and substantive law, but the exercise of discretion cannot be questioned by a higher authority.

In that particular case, a principle was laid down and continues to be accepted in the English jurisprudence today that where a judicial officer at the lower level makes a decision that is entirely within his discretion, it cannot be questioned.

The error which might have been made, or which has been made from time to time, which will be made again, not necessarily on a matter of fundamental human rights, is an error where an officer may believe that he has within his discretion certain powers, and that he can make decisions that are discretionary decisions only to discover that there is a procedural aspect of the decision which has not been followed.

Mr. Chairman, as you yourself know this is the essence of legal procedure up and down the line from the lowest part of the courts to the very highest authority.

There are some people who believe that unless you have yourself been steeped in the procedure of the court that it is impossible to understand them. Mr. Chairman, you and I know that that is not necessarily so.

But what all of us, whether we have practised in the courts or whether we have opened the Law Books intermittently, must understand, is that in a society like Barbados the law which allows a Madame Demerieux to question whether her rights had been trampled, and which allows a Madame Demerieux to be told that she was improperly incarcerated in the Psychiatric Hospital, does not by definition mean that the person who caused her to be

incorrectly, and that is the proper term that ought to be used, 'incorrectly' incarcerated is necessarily a villain, is necessarily wicked, is necessarily any of the adjectives which, for political purposes, it may be thought useful to employ.

Mr. Chairman, we can have a debate in this Honourable Chamber that can go on *ad infinitum*. The main point, and perhaps the only point I wish to make, is that it will not fall well from the mouths of any of us on either side to take the opportunity of the circumstances which saw one of the honourable Members in this Chamber moving from the magistracy to the political arena; it does not fall well from the mouths of any of us, whether it is on this side if it had happened over there, or from that side if it happens over here, to use that opportunity to destroy or to attempt to destroy the character or the integrity of any honourable Member in here, or indeed, more particularly, any Barbadian.

I hope, Sir, that the rest of this debate, if debate there must be, will continue, bearing in mind the necessity for those of them outside of this Honourable Chamber who look at us to understand that it is not a crime or a sin to move from one profession into what ought to be, and what from time to time is called, the noble profession of politicians.

The honourable Member will have to get some lashes somewhere some time. I submit that this occasion is not the time nor the place.

Thank you very much.

Hon. L. S. CRAIG: Mr. Chairman, I have listened so far to the legal boys in this business today. I have heard all about 'letter and better', I will soon hear about Lord Denning, I will hear of what has been cited, the Constitution; all of these things I have heard. It is a simple fact of life today that the honourable Member for St. James South, out of his legal ignorance, sentenced a woman to the Psychiatric Hospital. That is a fact of life, and our business here this morning, among other things, is to have the vote supplemented by \$24,452 to pay to that lady due to the ignorance of the honourable Member for St. James South while acting in his capacity as a magistrate. Those are the hard, stark facts. That is all it is.

I am ignorant in many things, some people may say in all things, but that is a matter of opinion. But this is not a matter of opinion; this is a fact of life, that the honourable Member for St. James South displayed his ignorance of the law and cost the taxpayers \$24,452.

Now I will tell you, Sir, that if she was my sister, I would beat him. I will tell you why. Can you imagine this young woman, unmarried up to that time, going out — and like any other woman, I would daresay, would hope

to get married at some time — to be told by her boyfriend, "I am not interested in you, you are a mad woman, you went into the Mental Hospital."
1.45 p.m.

That is sheer destruction, a moral and psychological destruction of that woman out of the ignorance of the magistrate at that time. But that is not really so important at this moment, Sir, because that can be banded about by the lawyers. You know my view on the lawyers already, Sir, you know my view on them, Sir.

I have heard all sorts of opinions. The Member for Christ Church West Central, Sir, has a different opinion. You see how they operate, part of the page, Section X and Section Y. You have now the Member for Christ Church East on a different section. You have the Member for St. Michael West, he is a lecturer, so he can lecture to everybody in law. All of them are lawyers on this occasion.

Let me tell you what is important, Sir, the final remarks of the Member for St. Michael West, when he said that the character of the Member for St. James South should not be attacked and he then appealed to both sides to forget this type of character assassination.

He referred to the Prime Minister as "distinguished", but we well remember the character assassination led by the distinguished Leader of the Opposition and backed by the distinguished President of the Democratic Labour Party against my colleague, the Minister of Housing, across the entire country — unprecedented, unheard of, Sir — and at that time he did not interfere with the course of justice. He was not ignorant of the law.

He was accused as a murderer. The member for St. Michael South Central hammered this country, hammered it with abuse of the Minister of Housing. Now today we are hearing, 'please do not attack the character of the ignorance of the Member for St. James South.' But it was all right then with my colleague, who did not go before the law courts, neither as a witness or accused, to be hammered into submission by that crowd. Look at them. They are devils in public. That is what I call them. They are devils of the public.

He lost a wife, he nearly lost a child, his children going to school were told, "Your father is a murderer, we cannot play with you" — the destructive element headed by the distinguished Leader of the Opposition and the distinguished President of the Democratic Labour Party and the distinguished Member and doctor and the pigeon head Finance Shadow Minister of the other side.

Across this country the newspapers carried it; in Trinidad and in North America, in all those places it was carried. The Prime Minister was attached to it as an accomplice. My colleague, the Deputy Prime Minister, his son was in it. Every single one of them in here, and not one of them, Sir, went before the courts here (a) as an accused, or (b) as a witness, but now this morning I hear the plea coming from the Member for St. Michael West that we should not attack the character, the political character, or otherwise, of the Member for St. James South.

Why, he himself was in the vanguard of destroying the character of my colleague. I heard him, I have him on tape, I heard him destroying the character on an alibi which, at the end of it, the court found was wicked.

And you talk about a Commission? It costed the tax-payers of this country almost half million dollars to lay once and for all that my colleague here and others, according to the Commission's Report, were no way involved.

I recall very well, Sir, an argument the Member for St. Michael South Central and I had at Toronto Airport when he looked at me and said to me, "Craigie, I am sorry, man, but you know that Bradie really do damage." Do not push up your finger. I have no truce with you today here. It could be after today, but not today. Do not let me read you out.

Now, Sir, what am I hearing? That in here where you are to have the thrust and cut of debate, where we are to oppose, to attack and to defend a Bill coming from here, or a Resolution, all of a sudden there is a cry of mercy, a white flag going up — do not attack the Member for St. James South in his ignorance of the law for causing the country \$24,000. If it is an error of judgment, as was said on the other side, so many of us make errors every day.

I heard of an error on television. I consider this here ignorance again. Not only have you attacked the Barbadians, my colleague, if you say we have attacked the Member for St. James South, the President of the Democratic Labour Party attacked the North American visitors to this country when he referred to them as "trash" coming to this country, who were responsible for crime.

You see the attack? Ignorance, people whom you invite to your home to spend their money, to help prop-up the economy, you refer to them as trash. And the very Member who attacked the visitors to this country from North America was fortunate to get his education at the hands of the very people.

Why the attacks? Ignorance — "Trash coming to the country is responsible for crime", said the President of the Democratic Labour Party in his address to their conference.

Before they sit down and examine themselves and prepare for years to come, they are looking, Sir, at people you invite to spend their money, the same people who have helped the Barbados Tourist Board to go on trips overseas to woo the North American visitors here, you turn and attack them and refer to them as trash who are responsible for the crime in the country.

Now today we are hearing, Sir, on a simple Resolution, out of ignorance that we should not attack the Member for St. James South, his character.

When you are in public life — and I believe, Sir, that sometime this month will be 21 years that I would have celebrated with this great political party; 21 years sometime this month, Sir — I happen to know that when you are in public life you are open to public scrutiny. When you are in here you are open to attacks and you are to defend yourself, Sir. And I believe that never in the history of this country again would there ever be such a brutal attack made on the character of any one man by any political organisation as was made on my colleague, the Minister of Housing, Sir.

Mr. B. M. TAITT: Mr. Chairman, on a point of elucidation. The honourable Member obviously did not understand.

Hon. L. S. CRAIG: On a point of elucidation? Sit down already! I am not in any man-of business with you.

Mr. CHAIRMAN: Please, please, order. Let us have some order, please.

Mr. B. M. TAITT: Mr. Chairman, I said on a point of elucidation. The honourable Member sat down.

Mr. CHAIRMAN: I think the honourable Member sat the moment you stood up but when he discovered that it was a point of elucidation he decided he would not give way. That is quite in order. You will have to sit.

Hon. L. S. CRAIG: I do not understand? I do not want to understand anything. I heard you myself. I can believe you can.....

Mr. B. M. TAITT: On a point of order, Sir.

Mr. CHAIRMAN: The honourable Member is on a point of order.
1.55 p.m.

Mr. B. M. TAITT: There is a rule which says that an honourable Member should not mislead the House. The honourable Member stated that I said that the tourists who come to Barbados are trash. That is not correct. What the honourable Member apparently has not done is to read, or listen to what I said. What I said is that his Government introduced garbage into the country, the garbage from North America. (*Asides*) The Mafia, the one armed bandits — that is the garbage.

Mr. CHAIRMAN: I cannot have two honourable Members on their feet.

Mr. B. M. TAITT: Yes, Sir, what I am saying is that if you refer to the criminal connections which have been introduced as garbage(*Asides*)

Mr. CHAIRMAN: The honourable Member please take your seat.

Mr. B. M. TAITT: Naturally.

Hon. L. S. CRAIG: I am so glad that he said "garbage". I was just kind when I said trash — garbage. We introduced into this country, since we came into office, North American garbage. The Burger Bee business is a North American business. It is a local business with North American connections. (*Asides*)

Mr. CHAIRMAN: Order. It is now 2 o'clock and I should report progress. (*Asides*) Oh, it is suspended; sorry about that. Please continue.

Hon. L. S. CRAIG: Yes, Mr. Chairman, I am so glad he said garbage, Sir, because I said trash. I was kind. Imagine that! At the very hands of people from North America, you were fortunate to get your education and you still go back there to lecture at the university or the college up there.

It is your government that appointed Mrs. Faith Marshall-Harris. It is your government that appointed Stan Carter. It is your government that set up the Tourist Board and had all of these trips overseas that were wooing the tourists from North America. If you call it the Mafia tourist; I don't know, you would know that. It is your government that introduced the one-armed bandits, all of these things, Sir, your government introduced in this country. All of these things, and you are talking about not attacking the character of one of your colleagues. All of a sudden you are a priest. You are always pushing your feet into things that you cannot survive under.

My submission today on this matter is that it is an unfortunate error by way of the Hon. member for St. James South. It is an error of judgement, some tell me

ignorance of the law. But as a lawyer, I believe he should have known better. It is unfortunate for the young lady, and it is unfortunate for the taxpayers to have to pay out this type of money for that type of error. That is all I have to say, Sir and it has my fullest support.

But never let me hear you again ever asking for any peace in here not to attack anybody. You have a Ph.D. in putting attacks on people — a Ph.D. The attacks made by the Leader of the Opposition on members of this party is something that is unheard of. No wonder that you all got together and broke the poor old man's foot at the last moment.

Rt. Hon. J. M. G. M. ADAMS: Mr. Chairman, Sir, you know we have had a great deal of comment in here from both sides.

Mr. B. M. TAITT: On a point of order. What is the position? The honourable Member introduced the Head and I am just seeking your guidance as to whether, when he is finished, if other honourable Members will be allowed to speak.

Mr. CHAIRMAN: A Member may speak for fifteen minutes at any one time.

Mr. B. M. TAITT: You know, Sir, you have ruled that when the Member who introduced it is winding up.....

Mr. CHAIRMAN: I do not consider it winding up.

Mr. B. M. TAITT: Right, Sir.

Rt. Hon. J. M. G. M. ADAMS: Sir, honourable Members on both sides have somehow managed to grasp this procedure argument about this matter. And I thought that in my introduction, which, after all, contained no more than is appropriate to deal with an honourable Member who once accused me, at the Commission of Enquiry, when he could not be sued for slander, with interference in the course of justice — and I challenged him to repeat it outside, and he never has — I was doing no more than setting his judgment against the incident which took place.

But honourable Members have now glorified this whole thing and compared the sending of a witness in court to the Psychiatric Hospital with the making of an error by a Judge or a Court of Appeal which has to be corrected by the Privy Council. This is of course, Mr. Chairman, nonsense.

No judge can be sued. The Government cannot be sued if the judge takes a mistaken view of the admissibility of the evidence. There is no question of paying damages to somebody who spends a year or two

in prison before the Privy Council says that he was wrongly convicted.

There are mistakes for which a judicial system of appeals exists. Section 24 of the Constitution, on actions for wrongful imprisonment, are parts of the judicial process for mistakes that go beyond procedural admissibility or mere error of law.

Now, I am hearing so much about procedure, and I am really wondering if honourable Members gave any thought to what actually happened to this woman, and if, let me put this as a hypothetical question, all the procedure had been followed we would be content to live in a Barbados in which a woman, who is herself a lawyer, a lecturer in law at the university, goes to court on many, many occasions to give evidence in a case, objects to the adjourned date and ends up in the Mental Hospital.

That is the real reason why \$15 000 damages was given in this case. It is nothing to do with procedure or error.

I am going to tell you that I would not want to be any part of a Government that tolerated a judicial system that would allow somebody who made a little noise in court to be sent to the Mental Hospital at the whim of a magistrate. And if there is a procedure which will allow it, I am going to look at the Mental Health Act again.

Fortunately, Mr. Chairman, if the honourable Member for Christ Church North Central had read out the whole judgment, he would have revealed that there is no procedure under which this woman could have gone to the Mental Hospital. There is no procedure.

She would either have to go under Section 56 of the Mental Health Act which says that where a convicted person is considered by the magistrate to need examination he can send them for a report from the Mental Hospital before sentence.

And there is another section which says that where a person of unsound mind comes before the court and the magistrate is convinced that the person is of unsound mind and that it is impracticable to hold an enquiry into the mental health of that person, there and then, they can be sent to the Mental Hospital.

Now, I venture to suggest that if the honourable Member for St. James South had said that he considered the woman to be of unsound mind within the meaning of section 18, the damages would be more than \$15 000, because nobody could have believed and that would have imported an element of malice into the case.

Now, you know what the judges said about this woman? Don't mind, Mr. Chairman, all the honourable

Member read out about she was an accused person, and what the honourable Member said. The judges said that the proceedings were wrong from the start to finish. What the honourable Member read out was not part of the judgment. What the honourable Member for Christ Church North Central read out was the affidavit the Police gave, and which the judge himself was reading from. That is the fact.
2.05 p.m.

At the bottom of page 4 and again at page 6 of the Judgment the judge read out Police Officer Fields' affidavit, and he then read the affidavit of Miss Demerieux which contradicted some of Police Officer Fields' and in the end he found for Miss Demerieux.

So the honourable Member, for all my tribute to him as for scrupulousness, turns out to have read out contentious matter and suggested it was the judgment of the court. That is why we wanted the judgment as a document of the House, and I am more angry now with the honourable Member than with the poor, foolish boy from St. James.

Mr. M. A. KING: On a point of order, Mr. Chairman. The right honourable Member for St. Thomas is misrepresenting what I said. I quoted from the judgment of the court and I started at page 4 by saying, "Police Officer Fields who gave testimony concerning the committal to prison, who was present in court at the time, stated...." and I went on to read what Police Officer Fields stated, and that is recorded in the judgment of the learned trial judge. So he cannot say I said that is what the learned judge found. The judge said Police Officer Fields said so.

Rt. Hon. J. M. G. M. ADAMS: The honourable Member before he read it out got up and said that I was not telling the truth — that she was not an accused person. And to support his accusation that I was misleading the House he then read out something contentious which formed no part of the Judgment of the court, but was merely an affidavit lodged in the court.

You try to read out something to give the public and the House of Assembly the impression that I was lying, and it turns out that at no stage did the judge adopt the affidavit, because he immediately followed the affidavit by reading out what the witness said, and the honourable Member for St. James South said the honourable Member for Christ Church East was not there.

The whole point is this: the woman was wrongly committed to prison. As is anybody's right when they are wrongly seized(A VOICE: To prison, or to the Mental Hospital?) To prison, the woman was committed to prison. The woman was committed both to prison and the Mental Hospital. She was wrongly committed to

prison, she resisted the wrong committal, and the judges have found she was right, because she got damages both for the cells and the Mental Hospital, so she could never have been an accused person, no matter what the police may have done at the Charge Room. In the eyes of the court she was never an accused person.

Listen to what is said about the cell, because this is what they talked under the damages. This is what the judge said, that she went to the cell, she went to the Charge Room, she was searched.

"Everything was taken from her. Hairpins and clips were taken from her hair, her jewellery was removed, she was kept there for 45 minutes, then she was taken back to the court where she had to sit and wait for about 15 minutes. When she was so seated an officer came to her and said: "You have a mental history? What is your mental history?" Shortly thereafter the incident occurred which resulted in her being ordered to be committed to the Mental Hospital. She was taken to a cell full of urine, squalor and dirt, and with a foul smell. She was kept there for two and a half hours. She was hungry and in a state of shock, for she had never been locked in a cell before."

This is what she got the damages for. And I am hearing today in the House of Assembly that it was a mere error in procedure, and if the procedure had been properly followed that that kind of conduct would have been justified.

I do not want to live in a Barbados where somebody goes to court in a morning to give evidence and could be sent to the Mental Hospital. I repeat that. That is the whole point, and that is what separates the honourable Member for St. James South from the judges who make errors, who make mistakes, who take a wrong view of the law.

I say, without any intention of ever going back on it, that I have too great a regard for the liberty of the subject to have any idea that this could be a procedural matter.

Honourable Members have to defend their colleague. I will tell you this about your colleague that you do not know. Your colleague is a man of a long and vengeful spirit.

I hear people paying him tributes of not being harsh. In my experience on the Bench, since we are all giving experiences, on the whole he was the harshest magistrate that I remember, though others tell me that there is one harsher, but I got on very well with him, the same magistrate in the Roger Seymour case, I got on very well with him, and I could not find, except in that case, harshness.

But you could always rely, in my experience, for harshness from the honourable Member for St. James South when he was on the Bench. People are charged with cursing on the highway, which carries a fine of \$10. He would remand you in custody for a week. Now, nobody ever gets sent to prison for cursing on the highway. He would remand you in custody for a week at Glendairy Prison, and then when you come back out he would convict, reprimand and discharge you.

I have seen that happen. He knew that if he had sent the boy to prison for a week the Court of Appeal would say he has done wrong. So he used the discretionary power which he had to remand him in custody for a week and then did not even fine him.

I honestly believe that the Attorney-General should be looking at laws which make this possible. I believe that.

The honourable Member does not want me to be able to look him in the eye and say, "How could you deny the incident with the boy who trespassed at Sunset Crest," so he says he does not recall it, and then goes on to say the public will judge who is truthful and who is untruthful. The honourable Member had better not appeal, because the higher monkey go, the more he showing he tail.

The honourable Member is not now in a position where he is immune from criticism. He will not be able to get at any Commission of Enquiry and say the Prime Minister interfered with the course of justice, and have no answer. He is in a forum now where he is going to be told a few things.

I admire his courage in coming here today because normally he hides from the House, since, in my opinion, he well knows he has nothing to contribute, but I think that on this occasion he should be congratulated for coming today to take the blows in person. And they are severe blows, they are not any procedural blows.

A lecturer in law went to give evidence in a court and ended up in the Mental Hospital. Something is wrong with that no matter what the intervening procedural and non-procedural matters are. It should not happen. It should not happen in a country that prides itself on liberty.

And I will tell honourable Members this about anybody can make a mistake. When you are a lawyer you make mistakes about things which relate to evidence, the effect of a Statute, even procedures, even matters of contempt of court procedures, but where it comes to locking up people you do not make mistakes.

It is like the batsman always having the benefit of the doubt in a cricket match. The subject must always have the benefit of the doubt. You must always avoid, in my opinion, doing anything to cause somebody to be deprived of liberty. If you think you are not sure, do not do it.

The Mental Health Act is a very complicated Act in its interface with court proceedings. We have recently seen in a case which has come before the courts as a result of a young man coming in here in full view of all of us. It is *sub judice* so I will not go too far into it, but in a similar case we have had a judge saying that total and complete mistakes were made by the people down at the Mental Hospital. It may very well be that a submission in the same direction is going to be made in this matter about the judicial officer's own view about the Mental Health Act.

If it is a matter of controversy, at every level, how far you can send people to the Mental Hospital if they appear before a court, surely any judge should step extremely carefully in purporting to exercise powers that will allow him to send somebody to the Mental Hospital.

Now also in the judgment, Mr. Justice Williams gave some emphasis to the fact that when the woman was taken to the Mental Hospital no enquiry whatsoever was held into the woman's condition. She was given no medical examination, nothing was done to find out if she was mad.

2.15 p.m.

In other words, this is the most shocking thing to me of all: the people at the Mental Hospital well understand that people are sent down there sometimes as their punishment from the courts, and that is also going to inform the review that I intend to undertake about the old and the new Mental Hospital Act.

The correct thing to have done when she went down there was for the Medical Superintendent to tell the magistrate, "This woman is not of unsound mind, we are not keeping her here".

They find it very easy to release people who are of unsound mind to go out and rave and throw gasoline on people and so on, and they had to keep a lecturer in law down at the Mental Hospital for a week, when they knew nothing was wrong with her, the magistrate knew nothing was wrong with her, the police knew nothing was wrong with her, the general public knew nothing was wrong with her. That is the disgraceful thing, Mr. Chairman, and that is what is indefensible.

The honourable Member for St. Michael West made an admirable speech and we should all listen to it.

Let us beware, perhaps, of letting personal motives inform speeches which we make in here on matters which come before the House. But this transcends any question of a personal motive. We are not to live in a country where such abuse of power is possible.

At this stage, I think honourable Members perhaps would like to move that Your Honour do now report progress and ask for leave to sit again.

Mr. SPEAKER resumed the Chair.

SUSPENSION OF SITTING

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that this sitting be suspended until 3 p.m.

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

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

On resumption:

Mr. SPEAKER: This sitting is now resumed.

COMMITTEE OF SUPPLY

Mr. SPEAKER: When the suspension was taken, the House was in Committee of Supply. To that it now reverts.

Mr. SPEAKER left the Chair and the House resumed Committee of Supply, Mr. ODLE in the Chair.

Mr. CHAIRMAN: The House is in Committee.

Mr. P. M. GREAVES: Mr. Chairman, it had really not been my intention originally to get involved in this Resolution that is now before the House, but the way that this debate has developed, I think it is important that some contribution be certainly made by me.

I must say, Sir, that we have had some balanced speeches; not many from that side. I cannot count more than one balanced speech from the other side, but we have had some balanced speeches on this particular Resolution.

The matter that really concerns me is that from time to time we have been lamenting the lack of discipline in this country, and we have been lamenting the lack of discipline in this country from almost all levels, and here we have a case before us today of a lecturer at the university, a person whom one would normally

consider to be a responsible person, who goes into a court in this country, herself, I understand today for the first time, being a barrister-at-law, and someone has said to me, a former magistrate — whether that is true or not I do not know — I was told on this side that she was a former magistrate — and you got this type of behaviour that emanated from that person where when the magistrate entered the court and took his seat she refused to stand. She had been a magistrate before.

Does it matter after anything? Here is a responsible woman or a supposedly responsible person. It does not matter after anything that a certain code of conduct and discipline has got to be observed at all times irrespective of the circumstances, and she, a magistrate, must know, when she was on the Bench, what she expected of the witnesses, of the accused persons and other persons in the courtroom. She must know of this, and I think the behaviour of this lady is inexcusable.

From time to time we talk about young people in this country lacking discipline. Mr. Chairman, young people lack no more discipline than some of the older people, and even some of the people in this very august Chamber here. That is what is important.

People must have discipline at all levels, and this is my point here today. We have a responsibility to show to the rest of this country, the younger people, the older people and those in between the kind of conduct and etiquette that are expected to be observed at all times.

This lady, what does she do? She goes into the court, she speaks with a loud voice — the magistrate cannot even hear himself. She is there competing with the magistrate. Is that the behaviour of a sane person, who had herself been a magistrate?

Rt. Hon. J. M. G. M. ADAMS: Mr. Chairman, there are Rules of the House which say that people's behaviour must only be criticised in respect of their public duty, and that the names of people who are under attack must be submitted to the Chairman before.

We cannot possibly, effectively, reflect on a judgment of the court, because if you are saying that the woman's behaviour was such and such, you are reflecting on the judgment of the court which gave her \$15 000 damages for mistreatment.

There are two cases. I have not come in here to put her case. Nobody should come in here to be critical of the woman who is a lecturer in law at the university unless they have supplied you with the information and so on. I did not know she was a magistrate before.
3.10 p.m.

We really will get down to personal discussion of which is worse — if a magistrate misbehaves on a Bench and a member of the public answers him back, which out of the two cases the judges should have looked at.

We are faced with the fact that the judge looked at the two people, at Mr. Simmons and Miss Demerieux, and chose Miss Demerieux, and I do not believe that she should be subjected to character assassination in this manner. I do not believe so, especially since there are a lot of assumptions that may or may not be correct.

I personally think that oppressive behaviour from the Bench sets the worst example to you than perhaps a witness standing up for her rights in court, but I do not believe that it should be canvassed in this way.

Mr. CHAIRMAN: I take note of your submission.

Mr. P. M. GREAVES: Mr. Chairman, I had no intention of opening up this lady's character in the same way that the honourable Prime Minister opened up the honourable Member for St. James South. I do not intend to do that. I will not be doing that.....

Mr. CHAIRMAN: Order, order.

Mr. P. M. GREAVES: I wish to make this clear. I will not do that. All I am doing, Sir, is merely asking questions. Is it the act of a responsible and sane person to sit when the magistrate enters the room? Is that the act of a sane and responsible person? I am really asking the question.

Rt. Hon. J. M. G. M. ADAMS: I really do object to this. Nobody in here would allow me to get away with asking if such an act by the honourable Leader of the Opposition is the act of a sane man, the act of an honest man or something like that. You cannot get away from it. That is a lot of childish sophistry that the honourable Member should know better than to pursue.

You cannot by asking a question escape either in law from the consequences of slanderous implications in the question — not escape in the House — from the consequences of improper criticism.

I really do, with some force, submit that it would be very wrong of us in here to allow the criticism of an individual not in a position to answer, and who no notification has been given with the supporting evidence as required by the Rules of the House to you, Sir, in respect of. I really do submit that, strongly.

Mr. CHAIRMAN: I do accept your submission. But I must say that the honourable Member in pursuing

the line of discipline in general is in order, but I would prefer that you do refrain from this sort of trial effect that we are having.

Mr. P. M. GREAVES: I do not have the lady on trial, Mr. Chairman, and if I abuse the lady, no doubt she will retaliate against me in the way she has retaliated against a distinguished member of the Bar, Mr. Waldo Ramsey. Perhaps she would want to do that.

Is it the act of a sane person to slap a member of the Bar? I would like to know that.

Mr. CHAIRMAN: I do not know that these are.....

Mr. P. M. GREAVES: I am dealing with generalities. I am not accusing anybody of doing anything. I am dealing with generalities. I am asking, is it the act of a sane and responsible person to slap a distinguished member of the Bar? Is it the act of a sane and responsible person to snatch tax papers from the Tax Department and to be convicted for that? Are those acts of sane and responsible persons? I would like to know that.

Mr. Chairman, Sir, I am not drawing or bringing into criticism the ruling of the Appeal Courts, but the rulings of courts must be criticized. I want to make this clear. Whether it is the Magistrates' Courts, the Appeal Courts or the Privy Councils, they must be criticised from time to time. That is what makes law Statute Law, because we do not agree with the effects, maybe. The rulings might be quite sound but the effects we might not agree with so we have to make Statute Law in order to take care of that.

But that apart, when a Court of Appeal takes an appeal, it takes an appeal of the Magistrate's Court or the High Court, for that matter, and criticises that other court. The Privy Council does likewise.

I am not calling into question the decision of the Appeal Court. The Appeal Court, I believe, made what was a correct ruling. I honestly believe that, because I believe that the procedure should have been followed, and this is where I disagree with the right honourable Prime Minister. The procedure that should have been followed was not followed; that makes a procedural matter.

But everybody can make mistakes. Judges have made mistakes and their judgments have been overturned. The Courts of Appeal have made mistakes. We had a very recent one, one which was sent to the Privy Council, and those judgements have been overturned. Nobody was awarded any money.

The Prime Minister has made mistakes and that mistake which the honourable Member for St. James South, as a magistrate, made, which will cost the Government \$24,452, pales into insignificance to the mistake made by our Prime Minister, which has cost this country \$54 million.

And if anybody is to be surcharged, he is the person to be surcharged, to the tune of \$54 million. Let that be the surcharge he is talking about.

There was some divisory talk about surcharging somebody in these circumstances. I know the Minister of Finance has powers to surcharge, but in certain circumstances it is only divisory talk about surcharging somebody. Let him surcharge himself. He has the power to surcharge, for \$54 million. Let him surcharge.

Mr. Chairman, let us get this thing in perspective because the whole thing is out of perspective, and....

Hon. L. S. CRAIG: Mr. Chairman, on a point of order. I am hearing about this \$54 million. I wonder if the honourable Member would explain to the Committee what this \$54 million is all about, because I think we on this side may be ignorant of the \$54 million you are talking about. Please help us. We know the \$24 452, that is \$54 million.

Certain remarks made by the honourable Members for St. James North and St. Michael North were ordered to be expunged from the records by Mr. CHAIRMAN at this stage.

Mr. CHAIRMAN: Order, please.

Mr. P. M. GREAVES: The point is that it is my honest belief and indeed as indicated by the honourable Member for St. Michael West, that this matter could have been dealt with in a different way. It has been particularly chosen to be dealt with in this way because some honourable Members wanted to deal with a particular Member. Okay, well, once one has chosen that course one knows what one has opened oneself up to. Therefore I am not surprised at the tone of debate here today but I am saying — let us consider it in perspective.

The Member for St. James South as Magistrate may have made a mistake. The Court of Appeal said so, and I can accept that and I can live with that. All Magistrates make mistakes; the honourable Member for Christ Church East was right. From the time I came back here in 1963 I have seen magistrates committing people to the Psychiatric Hospital. It has been a practice. I have seen it done time and time again. I have seen it done.

Because it has happened on this occasion, I agree that this could possibly have a preventive effect. Could. I

must here again agree with the honourable Member for Christ Church East that after a few years it might lapse into the old practice again.

3.20 p.m.

Sir, I believe that out of this can come some good. That is my belief. But let us keep this in perspective. Let us remember that at all times we have to be responsible. If that lady had remembered this, I do not believe, Sir, that this matter would be before this House here today.

Dr. R. C. HAYNES: Mr. Chairman, I rise to make my contribution to this very important debate. I consider the manner in which the right honourable Prime Minister introduced this Resolution to this House to be a tragedy.

There are certain standards, Mr. Chairman, of professional conduct, and inter-professional conduct, which one expects to be upheld at all times, and I prefer to say that perhaps his remarks as Prime Minister of this country has done a considerable amount to damage all of the principles of law and order to which this country is committed.

Sir, the honourable Member for St. James South has enjoyed a reputation in this country not only as being a fair and sympathetic magistrate, but also someone who has always placed a constructive interpretation on the laws of this country in seeing the law as a vehicle of social progress and social development in Barbados, particularly as it relates to youth. That record, Sir, remains unchallenged by anyone in the history of the legal profession at the magisterial level.

And when today, Sir, we see a situation, which is a very common situation, where a decision taken by one judicial officer is overturned by a superior court, and when we see this being challenged in this way — overturned may not be the precise term — but I speak as a layman in this matter — there are several areas when one examines that judgment and, Sir, it is a very important misinterpretation of the Rules of this House which take place from time to time.

The Rules of this House state that you may not discuss any matter that is *sub judice* in a manner which is prejudicial to a matter before the court. But any decision by any court, so long as that matter is no longer *sub judice*, can be criticised and can be challenged by anyone out in the streets of Barbados, or anywhere in the world.

In the Mother Parliament of this Commonwealth, not so long ago, a major decision was taken by a judge in a manner of what he ruled was contributory rape was raised in the Parliament of the United Kingdom.

So let it be clearly understood that there can be no ruling which says that a judgment by any court cannot be

discussed by any citizen in this country outside of this Parliament or in this Parliament. The Standing Orders quite clearly do now provide for that.

In my opinion, Sir, and on the basis of the evidence produced at that particular hearing by the Superior Court, if the Government had produced a proper transcript of what took place in that Magistrate's Court, then the decision might have been different, and indeed the Government should have been in a position to have appealed that decision on the grounds of law, and seek at some point in time to produce a full transcript of what took place in the Magistrate's Court.

And I say this, Sir, all of us, even professional people, Mr. Chairman,.....

Mr. CHAIRMAN: The honourable Member is on a point of order.

Hon. L. R. TULL: The honourable Member is misleading himself first of all, and the House, in saying that the decision of a lower court was overturned by a Superior Court. This matter never went to Superior Court on appeal, Sir. So he is mistaken, he does not know what is going on.

Mr. CHAIRMAN: I take note of the remarks of the honourable Attorney-General.

Dr. R. C. HAYNES: Sir, the way matters transpired within the Magistrate's Court on that particular day, I am submitting to this Honourable House that if a complete transcript and a complete record had been made available, then, I believe, we might have been facing a different situation today. And that is a matter for the Attorney-General to address himself to, and he probably could have appealed the matter.

Hon. L. R. TULL: On a point of order, Sir. The only person who would have kept a record of what happened in that Magistrate's Court that day was the magistrate himself. I wish the honourable Member to know that, that each magistrate keeps a record of everything that transpires in his court. And if there is an appeal, the transcript of the magistrate is what goes before the judges. But, as I point out yet again, there was no appeal from the decision of the lower court, and the honourable Member should stick to things that he know about and leave out things that he does not know anything about.

Dr. R. C. HAYNES: To continue, Sir, any decision is appealable, and on the basis of what I see in the judgment, I believe the matter should have been appealed.

I will continue, Sir. Quite clearly, in the circumstances of what took place in the court that day, for someone of a given professional standing, her behaviour was clearly abnormal and unusual. Now whether that behaviour amounted to a technical definition which would cause someone to be admitted to a mental hospital is certainly something that is highly questionable and resides really with other professionals within the community.

What I think went wrong was not the decision of the magistrate to send the person to the Mental Hospital, what I think is necessary is for us to look more clearly and see what happens when that kind of decision is taken; because, quite clearly, what should have happened at that point in time and I happen to know that several of her professional colleagues, who considered her to be mad anyhow, actually made contacts with the doctors at the Mental Hospital on the day she was sent down there, and they said that they were not in a position to determine in a short period of time whether or not she was insane and whether the matter should be referred back to the magistrate or the magistrate should be contacted on that day.

In other words, the professionals, themselves, had some difficulty in determining the extent of her sanity and she was sent to the Mental Hospital. That is an incontestable fact.

Rt. Hon. J. M. G. M. ADAMS: Mr. Chairman, I am in a great difficulty with this. I don't doubt that the honourable Member heard casual opinions from other doctors about somebody being mad. But are we really to have in the House of Assembly? Are you really to be allowed to come in here and say that another doctor told you that some third party was — you said other doctors, and they considered her mad anyway — are we really to have this — other professionals he said — in the House of Assembly and discuss what the doctors at the Mental said to somebody and all of that?

I don't actually believe that this has ever been done in here before — the honourable Member allowed himself to be carried away. I have never before heard it in here; anybody come and say that a doctor said so and so was mad, or not mad, or discuss the matter, or they think she was mad anyhow.

3.30 p.m.

To begin with, you cannot say it unless you are specifying it. This would have to be a case in which the honourable Member gave you details of who told him that, in their opinion, a named person was mad. I mean, we are opening the door to every conceivable thing now, if you are allowed to say this. It is not fair to the young lady.

I only now have to tell you what a lawyer told me about the honourable Member, or a lawyer told me about somebody outside, or a doctor told me about somebody outside. It is madness at one moment, it will be herpes at the next, God knows what at the third, and I am not saying it to be funny.

This is not the way, and I really am not trying to be contentious, I do think the honourable Member is carried away by his own mode of speaking. This is not the way to deal with a matter in the House of Assembly.

The honourable Member is not a lawyer, and I assure him that there is no transcript that could have gone before the court that could have brought this case before the Mental Health Act. He can take that as my considered opinion, who has had some reason to study the Mental Health Act recently. (*Aside*)

That is something separate, but when he goes on beyond that, to suggest that a person outside the House of Assembly is in the opinion of professional people mad, we are going too far. That is exactly what the public does not want to hear from the House of Assembly. If we said it about each other, it is all right; but not about a third person who can give no reply.

Hon. L. S. CRAIG: Sir, I really cannot support my colleague, the Prime Minister, on this, in his remarks about the Member for St. Michael South Central. I think the Prime Minister might not recall that the Member for St. Michael South Central discussed my medical history as well as the Attorney-General's medical history on public platforms. It is not beyond him to discuss the history of another person, it is his own style and pattern of life, Sir.

Mr. CHAIRMAN: I would like to comment on the matter before this Committee. It is indeed delicate and of a very personal nature, and I would certainly ask honourable Members to contain themselves somewhat in this respect.

Dr. R. C. HAYNES: Mr. Chairman, you may recall that I was speaking in generalities, and the general point that I was making is that if the circumstances which took place in that court on that particular day led a magistrate to believe that he suspected that the person might be guilty of contempt of court, and had the choice before him of following the procedures that follow on a contempt of court being committed, or in the alternate, in his own judgment, felt that the person should be given the benefit of the doubt, and that that person should have access to medical resources to determine whether or not her behaviour was conditioned by some aberration of the state of her mind, then I think that it was an act of humanity in sending the person to a place to have such an assessment done.

I think where the problem arises here, and where there is clearly an administrative problem, not only in respect of the law but also in respect of matters related to the Mental Hospital, is that when someone arrives there under those circumstances it ought to be possible for that person to be evaluated on arrival, and then at that point in time, whether the person is detained within the hospital, there could be sequential processes that could be taken, even under the Mental Health Act as it stands now, because I think it would be a terrible thing if someone could misbehave in court, and that person's behaviour amounted to contempt of court, and that person was admitted to prison when in point of fact the behaviour was a consequence of a mental illness.

So, it is quite clear that the situation that took place in the court on that day must have led the magistrate to believe that a person of such a standing, particularly bearing in mind that the person was a member of the legal profession, who understood the procedures of court, that there was some abnormality which should be investigated.

The problem, I believe, centres around what the Prime Minister refers to as the interface between law and medicine in matters relating to mental illness. That is the central problem. So that the procedural problems not only relate to what happened in the court, but what happens when a person is sent to the Mental Hospital in that kind of situation.

Now, another important point. When you have that kind of confused situation in court, where a magistrate in his own judgment believes that a person might be in need of psychiatric assistance — and I am not a lawyer, but I understand that if someone is charged, then the procedures that should be gone through should be that you will have to indicate to the person what is the charge, etc. etc. — and it is reasonable to assume that you will have to indicate it and at the same time presume that the person fully understands and comprehends what you have told them — now, what would a magistrate do in the situation?

If he is satisfied in his own mind that this person is behaving in a manner which requires psychiatric aid, can he at the same time take a position that when you put the appropriate questions, as required under the procedures in respect of the law, that the person fully understands the situation?

In other words, what I am trying to get across to this Honourable House is that this is a serious predicament in which any magistrate can find himself, and that in point of fact that the magistrate in those circumstances has to act in his discretion, and on the spur of the moment.

Another court, at another time, where someone is suing for damages, might well have had the benefit of a full psychiatric analysis that might have come to a different conclusion in respect of the mental health status of the individual.

So I do not even admit, Sir, that there is a clear-cut area of a mistake made by the magistrate. I do not even admit that, because I can appreciate, and as a doctor let me tell you something.....

Mr. CHAIRMAN: You have one minute to tell us.

Dr. R. C. HAYNES: Even as a professional you are often faced with situations where you are asked to countersign or initiate documents for the temporary admission of patients to the Mental Hospital, and in many cases the situation is very, very blurred, and one has to exercise the greatest caution, even as a professional with some experience in this area.

I think you require two practitioners of more than five years' standing, and you also need a psychiatrist on admission, and that kind of thing — even for a temporary admission.

So I would like to submit that if you can cast your mind back and imagine what was taking place in that court at that time, I would say that it was an act of humanity on the part of the magistrate not to follow the line of contempt and commit the person to Glendairy but rather send the person to some place where the person could have had access to help.

The problem there, which also constituted part of the damages, was the inadequate services provided on admission at the Mental Hospital, and secondly, the state of the room in which the person was put — the urine and all that kind of thing — which is a reflection on the health services.

3.40 p.m.

I wish to develop that point further, because it represents a serious area that we must address ourselves to. If you were a magistrate you might well have made the same decision, and you might have done it and relied on the judgment of the medical profession.

Mr. CHAIRMAN: The honourable Member's time is up.

Rt. Hon. J. M. G. M. ADAMS: Mr. Chairman, in fact I regard the speech of the honourable Member who has just sat down as an important one in the course of conducting the debate, because it has taken us away from the personalities involved. He is concerned in defending his colleague, and I admire him for it, but there is a larger issue.

For one thing, very few lawyers, or indeed the general public in Barbados, would agree that going to prison is a worse fate than going to the Mental Hospital.

Speaking as a lawyer who has perhaps as many times as he had to consider the mental health of people I was dealing with, I have never once, except in a murder case, seriously considered taking any course of action that would cause my clients to go to the Mental Hospital instead of prison.

And in the only murder case where I ever defended an insane man — he was insane and is, I believe, in the Mental Hospital — I considered that I had a defence on the facts and I succeeded in getting him acquitted, although about a year after I think he attacked a policeman with a cutlass and is now in the Mental Hospital.

I do not think it accords with the spirit of Barbadians to believe that a lecturer in law, or anybody else, would prefer to be sent to the Mental Hospital than to prison. There is no disgrace to be convicted of contempt of court. There is at least one honourable Member in the House who has been so convicted, and there are several who have been threatened.

I am going to give the honourable Member a hypothetical example, and I am going to call the name. I am not really reflecting on it, but I am going to call his name because it is a part of the story: Mr. Chezley Boyce, a former Clerk.

During the course of a day — this is something of which I speak with knowledge — a lawyer came to the conclusion that Mr. Boyce was making mistake after mistake of law, and the lawyer waited until one minute past four and drew to Mr. Boyce's attention, without the consent of the accused, that he could not continue the proceedings.

Mr. Boyce ignored the lawyer and went on taking the depositions, writing things, and the lawyer said to Mr. Boyce "Look, I want you to understand something. It is after 4 o'clock, you have broken the Rules, you are no more Your Worship, you are Chezley Boyce, a blasted idiot sitting down there breaking the law and confusing the course of justice, and I am telling you that in your court." There is a little more to it, but I will just give you the essential parts, but those words were used.

Now, according to the argument of honourable Members on the other side, the mere fact that a lawyer said so, a man with many years' practice, a man not known for lunacy, the mere fact that he said so, is that enough then to say that that man is a lunatic?

It may very well be that a former magistrate, if the lady was a former magistrate, knowing how she used to

conduct affairs, knowing that she would not allow adjournments to go on until the purpose of justice was frustrated — and that is a terrible thing in our courts — and I will leave the arguments about that in the hands of the Leader of the Opposition whom I have heard say in here that if you want justice, do not go to the courts of Barbados — she may have become very frustrated, she is attached to her duties.

In Barbados, you know you treat doctors very nice. Doctors do not go to the court. They send all kinds of excuses and they do not go. Occasionally, a lawyer threatens to lock up a doctor for non-attendance at biddings when that has happened, but they never do it to the Barbadian doctors; they always seem to do it to the poor foreign doctors. The doctors sometimes respond. Are they mad because they do not like the idea of having to go on and on going to court?

It is a very dangerous thing to interpret what may appear excessive conduct in response to a perceived piece of legal obfuscation as lunacy.

Very few people are of unsound mind, and it is a terrible thing in Barbados if you go before the court and are convicted to go to the Mental Hospital, because you will never be released again until you become sane. So if you curse on the highway, for which the penalty of \$10 is imposed, and the magistrate decides instead, because you are patently insane — madmen do curse on the highway — to send you to the Psychiatric Hospital, he is sentencing you to a life sentence rather than ten dollars.

The question of whether somebody needs to be in the Mental Hospital for his own protection is a slightly different matter, and for the public protection is a slightly different matter. There are margins, as witness the fact that somebody, whom the Medical Superintendent of the Hospital told me was the most dangerous lunatic he had ever had to deal with since he came to Barbados, got a licence to come out again.

I am telling you something again within my experience within the last two years. Therefore, the Mental Hospital is nowhere to play with. Doctors may like it, but lawyers should keep away from it. Lawyers and magistrates and judges should do that.

Judges do not easily send people to the Mental Hospital for observation. The number of cases where I can remember a Supreme Court judge sending anybody to the Mental Hospital for observation I believe I can count on one hand. You go up there, you do things which, by their enormity, would appear to the public could only be the acts of a madman, and the Supreme Court judges do not send you to the Mental Hospital. They sentence you to a period in prison and it is up to the prison doctors to find out whether you are legally insane or legally sane.

While I think that the speech of the honourable Member is important for putting a point of view, I would not want anything to get into the minds of our magistrates, because it would not be the judges, that the Mental Hospital is a pleasant alternative to their duty under the ordinary principles of sentencing. Somebody can be sent from Glendairy to the Mental and a doctor will be the person who will decide on it, not a magistrate, and I think the magistrates, as far as possible, should keep away from the concept of the Mental Hospital.

So far from agreeing with the honourable Member that if the whole transcript of the case had gone to the judge that they might have changed their mind, I believe he would have awarded more.

If the entire background of the case, if the sentencing practices of the magistrate had been analysed, as they would have been in America, if every time that he had remanded somebody in custody on offences that then did not carry a custodial sentence and all of that — in other words, if you could look at the mental history of the victim, look also at the mental history and the previous professional history of the judge — if all of that had been in it, the damages might have been more.

The honourable Member is defending a colleague, and in putting a valid point of view should not I think take his eyes off the essential liberty of the subject — it was not a time of emergency that morning in the court — and the essential convenience of people which the court should exist to serve.

Magistrates do not sit in the afternoons, so nobody adjourns a case in the morning to the afternoon. Magistrates go to work at 9 o'clock and leave at 12 o'clock, some before, therefore you get all these adjournments, you get these frustrations in the public.

We do not have a lot of cases for the number of magistrates, nor do we have as many mentally unsound people as go down to the Mental Hospital for observation as a result of court orders, and I would impress on honourable Members, particularly the honourable Member for St. Michael North, whose five years in the wilderness has in no way abated his authoritarian attitude towards people, that we must try to have a Barbados without brutality, and without petty authority, and without arbitrary pushing around of people.

It is an unfortunate part of our colonial heritage. If we had not been a British colony, we would not believe in hanging, we would not believe in flogging, we would not be thinking that there are some circumstances in which somebody can go to court as a witness a morning and end up in the Mental Hospital the evening. And the honourable Member for Christ Church East said you can go to court in the morning and go home on a bond.

Goodness gracious! We are hearing some kind of defence for a procedure, a possibility, that would allow somebody sane enough to be a University lecturer to go to court in the morning as a witness to spend a good part of the afternoon in a cell filled with urine — very disgraceful and it should not be so — I agree that if the Government can be faulted on this matter, we should be faulted on the condition in which we keep the cells — spend a couple of afternoons in a stinking cell, and then the next seven days in the Mental Hospital. This is the point which shorn of all the personalities I am trying to make.
3.50 p.m.

We are already authoritarian. We have adopted all the authoritarian habits of the British in the days when they had to build an empire. They have got rid of them and we are still carrying them on. There are people sitting on a Bench who feel that as a punishment — no doubt it was a punishment — a girl who won't get up in Court, and turns her back on a magistrate, would then go and be taken away by four men in white to the Mental Hospital to disgrace her with the students she had to teach — the students are all our children — at the university. And that is the real point.

I really think the honourable Member for St. Michael West should be congratulated for pointing the debate along the right lines and that is why I think the honourable Member for Christ Church South Central — I am still angry with him, not only did he do a smart one with the reading out of the judgment, but he also, in introducing the concept of procedure — if the procedure had been different it would have been all right. I say no. If the procedure had been different it would be more wrong.

And if I hear that if any magistrate had sent an ostensibly sane person to the Mental Hospital because the person quarrelled in court, I would invite an investigation into it to see what the Government could do (a) about the Mental Health Act and (b) whether the sending of a sane person to the prison is an act of apparent punishment and not merit an *ex gratia* award to the Government anyhow.

Mr. CHAIRMAN: I believe this matter has been fully ventilated.

Mr. B. M. TAITT: Mr. Chairman, I have a fairly....

Mr. CHAIRMAN: Yes, please carry on.

Mr. B. M. TAITT: short intervention to make on this one, and it arises out of the speech which the Prime Minister just made towards the end, where I thought he had moved away from the question of procedure as opposed to substance.

I believe that part of the difficulty comes from a — and I am not being pejorative — a not quite ample appreciation of the public law argument as opposed to the criminal law argument. But the fact is that in the judgment.....I think also, Sir, that with the possible exception of the honourable Member for Christ Church West Central, all other honourable Members who have spoken on this Resolution are labouring under the difficulty of not having studied the judgment, and so may be guilty of making statements which they honestly believe, but which do not accord with the judgment itself.

At page 4 of the judgment — and I am now told that the Government side has a copy of the judgment — the judge, in fact, establishes the procedural point. On page 4, and I am quoting from page 4, the judge says, after having made a point:—

“But counsel brings into question the procedure of the magistrate and contends that he acted unconstitutionally. He submits that the magistrate acted in breach of Section 18 2(b)” (and I do not wish to read that out) —

which provides that every person who is charged with a criminal offence shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged.”

And later on, he makes the actual judgment. This is the actual judgment now on that point. I am quoting from page 5:—

“In my Judgment the failure of the magistrate to inform the applicant of specific provision of the law which she was alleged to have breached and the particulars thereof vitiated the order for committal to prison.”

He based the judgment on Maharaj, and in Maharaj — Maharaj is the case in Trinidad where the lawyer was sent to prison for contempt of court — what the Privy Council said after a long argument was that they were not making judgment on whether the acts performed by the barrister before the court were themselves worthy of a contempt — they may or may not have been — but so long as the judge decided that he was going to send him to prison for contempt, the barrister then fell into the category where he had to have the charges for which he was going to be sent to prison read to him.

So basically.....

Rt. Hon. J. M. G. M. ADAMS: On a point of order. He does not have to quote Maharaj. He can quote the case of the Crown v. Errol Barrow. That is how the Leader of the Opposition escaped on one occasion. It

was exactly the same thing. The charge was not read to him. (*Laughter*).

Mr. B. M. TAITT: I really do not see what that has to do with this. The point is, Sir, that he did not base it on that case, he based it on Maharaj. What I am saying is — and the Attorney-General is getting very agitated because one is explaining why the honourable Member for Christ Church East and I dealt with procedure — the Prime Minister, when making his point, said that it was not procedure, and I am seeking to make the point that in public law procedure is substantive because the procedure itself is the substantive part of the requirement in whatever the action is.

So, on the question of the Mental Hospital incarceration of the lady, the judgment takes another tact — it says that the magistrate acted *ultra vires*. It does not use those terms, but it said that the magistrate acted outside of any of the statutes which would provide for him to commit her to the Mental Hospital.

Now that is basically the argument which we have had today, — and I raised that because the Prime Minister constantly dealt with the substantive issue as if, when we said it was procedural, we were saying that it was a mere specious thing that occurred. But saying that it was procedural, we accept that the procedure itself was a substantive error made by the magistrate in question.

I do not know what kind of Daniel has come to judgment to have it to fall out of the mouth of the right honourable gentleman for St. Thomas that they should be no brutality; there should be no pushing around.

I must say, Mr. Chairman, these are salutary words coming from the Prime Minister. If I could, by some stretch of the imagination, believe that that is now his conviction, that that is now his feeling, that he is a born-again politician, or a born-again member of the political fraternity, there is hope for the people of Barbados; because to hear him saying that what has emerged from the colonial exercise has led Barbados to a sort of venality, based on pressure from the top on people at the bottom, I would like the Press and everybody else in Barbados to take those words and make them as a big headline banner on the front of Broad Street, so that all those connected with the right honourable gentleman, in any form, would be able to understand that Barbados is not a place where people ought to be pressured and bullied, and where brutality should be the norm.

It is a salutary thing. I am very glad that this case has come before this Honourable House, because, at

last, the honourable Member has joined with us in our quest for a just Barbados, if what he says is based on his convictions, if what he says is valid, not only on the face of this particular argument, but for all times. Unfortunately, Sir, based on past experience in his capacity as the head of the Government, we will have to accept that with a large degree of reserve.

4.00 p.m.

Mr. Chairman, it is ironic that he mentioned Chezley Boyce. I recall the pain, shock and horror when Chezley Boyce was dealt with, harshly, with brutality, pushed around, dismissed after twenty six years of service. Mr. Chairman, he was going to be fifty years old the day after he was dismissed and lost all of that service. I beg your pardon, Sir.

Mr. CHAIRMAN: Are you reflecting on.....

Mr. B. M. TAITT: No, Sir, I am telling you about my own feelings. No, Sir, I would never reflect on a decision of this Honourable Chamber. I could not do it. I am telling you about my own feelings just like the Prime Minister said what kind of Barbados he wants to see.

I am saying that when I realized that the day before his fiftieth birthday Chezley Boyce bit the dust, after having bitten the bullet; when I realize those things, it causes me a certain amount of discomfiture, Sir, and that is why, from time to time in the public domain, I have spoken with such passion on that and other similar matters.

I am very happy to hear that the Prime Minister is not in favour of brutality. And I believe that he is serious when he says it today. I believe on this issue, when he realized that there are cells in Barbados where urine is the norm; I believe, as he said, once you have an ounce of christianity in you that is bound to rub you the wrong way.

What we have to do now is to start looking at all the other areas where there is the hypothetical — I put it that way — filth in the corners, where people are the victims, sometimes not of their own choosing. There are people who leave home in the morning to go to work — they go to work as workers, and by the end of the day they go home as beggars.

Mr. Chairman, I would not go any further on this one, but I thought that the Prime Minister's statement triggered — I am trying hard not to be political — I am seriously suggesting that we need as a people to examine those things in the kind of detail and with the kind of motivation with which we hear the right honourable Member for St. Thomas speak today. I wish to say that I

agree with the larger part of what he said in his submission.

Mr. CHAIRMAN: The question is that Head.....The honourable Member for St. George South.

Hon. L. R. TULL: I am prepared to give way to the honourable Member for St. Michael South Central, because I like coming after him, Sir.

Dr. R. C. HAYNES: Mr. Chairman, I have a few more points to make because, you see, this is a matter that not only impinges on the liberty of the subject, but it also affects the role of various professions in the execution of their duties in terms of depriving people of their liberties in given situations.

Now, for example, I believe that in Barbados, almost every day, people in Barbados are denied bail in situations where in the United States and the United Kingdom bail would be automatic – and that is a serious infringement of the rights of individuals – that there are many people in Glendairy today, denied bail in circumstances where they would have been granted bail automatically in many other more developed jurisdictions in the world.

I think it is a strong condemnation of the lawyers in this country that they are not paying more attention to various aspects of social justice as it affects the law in Barbados. Recently, I saw a very strong criticism of the Bar Association, and this is one area in which they should be directing their attention.

But, Sir, I want to take issue again with the honourable Prime Minister on the whole question of what one does when one is faced with the situation as a profession where you are not sure whether a person is committing an offence and that that person is of sound mind, or whether or not that person is committing the offence and the person is of unsound mind – you are not sure.

What I am saying is that our system here in Barbados is defective in that if there is any question of doubt the honourable Prime Minister thinks that what should be done in a situation like this is that the person should have been sent to Glendairy for committal for contempt of court, that he should be admitted to prison, that he should be then examined by doctors and it be determined whether he is of sound mind or not.

I take a completely different view. I feel that in that kind of situation that there should be some mechanism whereby if a magistrate suspects that a person is of unsound mind, and that person behaves in a manner that is tantamount to contempt of the court, that that magistrate should have some avenue available to him

where we can be informed as expeditiously as possible as to whether the person is of sound mind or not.

If the person is not of sound mind, the person certainly should not be sent to prison. If the person is of sound mind then they should pay the penalty. But you do not have the streamlining of the administration process here in Barbados to deal with these matters expeditiously.

Now it is my understanding that in the United States, for example, that you would have various psychological and psychiatric counsellors actually attached to several courts, where, in a matter of a short period of time, you can adjourn the court and you can ask for such an opinion in order to guide the trial judge or trial magistrate as to the decision that he should take in a particular matter.

I honestly believe that in the circumstances in this case, reported to me from many persons who were there at that time, that the magistrate behaved in a reasonable manner, and, probably informed by his humane approach in legal matters, tried to seek a medical evaluation of the person rather than taking the line of committing them to prison for contempt.

Now, in the judgment itself, it states that the behaviour of the person amounted to contempt of court, and where there is the blurring, and it is a serious blurring, relates to what procedures should be followed by the magistrate.

I am saying that in the instant circumstances it seem to me that the magistrate took the right and humane decision, but where the whole thing broke down is that when the person got to the Mental Hospital there should have been some mechanism whereby that person could be evaluated within a matter of hours, and then the medical processes would take over. That is, if the doctors decide that the person is of sound mind, then the matter could be referred back to the magistrate. If they decide that the person is of unsound mind, then there are mechanisms under the Health Act where the doctors themselves can take initiative.

Sir, if you were to look at the law itself – and I don't wish to quote this – Chapter 116, Section 56 – you will see a situation arising where even when the magistrate invited the accused to enter a plea, and you are talking about a legal person, that the accused refused to enter a plea. Now how do you proceed from there?

You are saying that what should have been done was that you follow the procedures and you admit her to prison, and you call in the psychiatrist. That is what you are saying.

Rt. Hon. J. M. G. M. ADAMS: A proper procedure is for the magistrate to enter a plea of not guilty. That is laid down in all books on criminal procedure, and the magistrate did not even do that.

Mr. CHAIRMAN: And our procedure will soon be informing us that the time is running short for the debate. We only have a few minutes more.

Dr. R. C. HAYNES: This is a matter that is going to affect decisions taken by magistrates tomorrow, the following day, and the day after, and I must be concerned for myself that I would hate to see a situation where people who are mentally ill are admitted to Glendairy rather than put in a situation where they can have access to mental care, because I do not think that people who are mentally ill should be sentenced to prison. I think that they should be given the benefit of medical help and use such detention measures as are provided for within the laws of Barbados.

4.10 p.m.

I am not entering into a legal argument, I am trying to deal with this matter from the common sense point of view and from a humane point of view, and I think that when you look at all the circumstances you can only come to the conclusion that this is not even a matter where you can say that a magistrate made a mistake; maybe a mistake in law, but if you just imagine what was taking place at the time, you can see the kind of problems that the magistrate must have been faced with. I wonder what any of the lawyers on the other side would have done in the same circumstances.

I can tell you what we do in the same circumstances. When we are faced with a situation where we cannot as professional people determine whether somebody is mad or not, or requires admission to a mental hospital, we round up as many people as possible and get as many opinions before we sign any documents to deprive them of their liberty, and certainly we get the statutory minimum number of people, but you do not even have the facility within the law courts to do that, and very often you have to take a decision on the spot.

So when you come in here castigating any member of the legal profession or any magistrate because what has been said today about the honourable Member for St. James South can be said of any magistrate in Barbados, and that is why I felt that the right honourable Prime Minister was highly irresponsible in the way in which he introduced this matter. He has since calmed down considerably when he was forced with the logic of argument from this side.

But I certainly would hope to see a situation where out of this debate today the difficulties that magistrates face in this kind of situation would be recognised and

that there would be a proper inter-facing of the legal aspects and the medical aspects of this kind of problem so that it can be dealt with expeditiously and in such a manner that would not make it necessary for the Crown to pay damages of this kind in the future.

In fact, Mr. Chairman, what I am trying to say is that when you look at the totality of the circumstances here, you can hardly say that it is anybody's fault other than the disgraceful behaviour on the part of a lawyer, who is supposed to be a university lecturer, before the courts of Barbados. Her behaviour must be totally indefensible, and if we can come in here and try to defend that kind of behaviour, and even go to the extent of endorsing a situation where policemen can be kicked around in Barbados, then, I say, something is definitely wrong.

Hon. H. B. St. JOHN: I just want to answer one question out of a certain amount of experience in how to handle these things. Listen to what I would have done if I were the Magistrate, and we would not have been in here today.

I would have told the lady that her behaviour was such that it gave cause for the Magistrate to instruct the Police Officer to draw up a charge of contemptuous behaviour before him in accordance with the law. I would have adjourned, let the police bring the charge, and then the onus would have been on her to plead insanity, because we could have dealt with her for the purpose..... (*Aside*). That is in the Act. Look at the Act. Where contempt is committed in the face of the court, there is a clear instruction as to how it must be dealt with. You have to bring an information against the person accusing them of being..... (Mr. C. L. BOLDEN: Not the police). The police can do it, it is in this Act. A Police Officer prosecuting can lay a charge, and the charge would be that her behaviour in the presence of the Magistrate was such that it would amount to contempt. Then you would deal with that.

That is the point you have to deal with, the bad behaviour, but you must not, because of the bad behaviour, presume that she is insane and then act on the assumption that she is insane and remand her.

That is all. There is a big difference between the two.

Hon. L. R. TULL: Mr. Chairman, I really had not intended to get into this debate, for one very good reason, because the Attorney General of Barbados was the defendant in this case. The writ was filed on me, Sir, I had to prepare a defence, I had to get statements from all the principals — I got a statement from the honourable Member for St. James South, I got a statement from all the officers who were in court — and on the basis of that

the Attorney General of Barbados, who was sued in this matter, had to put a defence in.

Mr. Justice Williams came to a decision in the matter, and it is no part of my duties or responsibilities to further challenge the decision of the Judge in this matter.

Now, this is for a number of reasons. The principal one is that as Attorney General of this island I have a responsibility to make sure that the rights and the privileges and justice are accorded to all people in every spectrum of the society.

I am not, in the course of my job, to show any partiality, either between one person and the other, between a magistrate and a witness in his court. That is the traditional position of the Attorney General in this island, Sir, and it is for that reason that I had no intention of getting into the debate.

I have been apprised of all the evidence, of all the statements and of all that transpired both in the Magistrate's Court and in the Supreme Court, more than all the honourable Members in here put together, and I have my own views on what happened and whether what happened should have happened, and so on.

I cannot again place myself, Sir, in the position of being critical of a magistrate who operates under my general administration. The magistrates in Barbados fell under my area of responsibility and I really do not want to get here or anywhere else, publicly, and make the type of criticisms that perhaps were made in here today. But I was dragged into the debate by the highly irresponsible statements made by the honourable Member for St. Michael South Central, as usual, Sir, because I really was not going to talk.

When he makes the point that it is the fault of the Government that it did not have a full transcript before the court, he is impugning not only the integrity of the Attorney General, he is making an attack on his efficiency, and I really have to put that straight. There was no appeal from the judge's decision on the magistrate.

Dr. R. C. HAYNES: On a point of order. I was making no attack on the Attorney General, on his competence or otherwise. I was merely referring to the fact that within the courts of Barbados we do not have the continuous transcripts which you have in other jurisdictions where you have special machines and special equipment, where whatever is said is recorded on a complete through-put basis for the entire day.

4.20 p.m.

It is the system. It is nothing to do with you. It was there hundreds of years ago and it is going to be there for another hundred years to come. It is no personal attack on you.

Mr. CHAIRMAN: Please sit. That is no point of order.

Hon. L. R. TULL: Mr. Chairman, the courts of Barbados, whether judges or magistrates, are required, by law, to record every single part of the proceedings of everything that is heard before them. I do not know what the honourable Member is talking about.

From the time a man appears in the dock, the magistrate has to take and record the plea, he has to record the charge, he has to record all the evidence, he has to record all the submissions. I do not know what the honourable Member is talking about. And the transcript of any hearing in any court is the responsibility of the presiding magistrate or the judge.

In this case, the honourable Member for St. James South can bear his colleague out that there was a careful record of what transpired in that court that day. I have a copy of it and I have read it. The honourable Member for St. James South recorded, faithfully, all that happened in his court in relation to this matter, and therefore the honourable Member for St. Michael South Central has no right to get in here and say that the transcript of the court was inadequate.

He does not know that, and he has no right to say it, and when he makes the statement he really is not impugning the integrity of me — I was not in the court — I have not been in the court for six years — he is impugning the integrity of the honourable Member for St. James South, who was the presiding magistrate.

Now I want to say one other thing in relation to this business of locking up people and sending them to the Mental Hospital. I sign more warrants in this country to send people to the Mental Hospital than anybody else. The Attorney General of Barbados is required to sign warrants to send people who are in custody to the Mental Hospital, and they come on my desk.

One of the things I am extremely careful about is that I operate in each case in total compliance with the law. Although I know the law now on how you commit people to the Mental Hospital, I always double check. I get advice from the Solicitor General or somebody in his Chambers. I, myself, pull out the laws of Barbados and I check that everything the law requires for committing a person to the Mental Hospital is complied with before they get my signature, because it is imperative that the liberty of the citizens of Barbados be properly protected.

I said I did not want to get into the merits of this matter, but it is a simple fact that a woman who appeared in the court was sent to the Mental Hospital. I am not judging the facts. In the judgment of the court, however much it has been twisted by members on the other side, let me say parenthetically that I would prefer to err on the side of Mr. Justice Williams in matters of law than I would on any honourable Member on that side, and Mr. Justice Williams sat on this matter, he heard it, and he said that that young lady was put into the Mental Hospital against the laws of Barbados.

Now it is easy for a lot of fine waffling speeches to be made on the other side, but sometimes you have to ask yourself what if it was your wife, your daughter or your son who left home to give evidence in a court and ended up by some magistrate or somebody putting him or her in the Mental Hospital, then to hear a judge after you had been in there for some time say it was entirely wrong, it was against the law, because \$15 000 do not make up for the pain and the humiliation and ignominy of spending time in police cells or in the Mental Hospital. Therefore, it is incumbent on all people who have these powers given to them to use their utmost good sense and discretion before they make this kind of order.

One other thing by the Opposition startled me. They are the same people who get over there, and get all around the country, and say that it is the most wicked and outrageous thing for a Government to have power in a state of emergency to detain somebody whom they suspect is a danger to the country.

Now that is what the Opposition has been telling the people of Barbados — to have power that if there is an emergency, and somebody is suspected of being a dangerous person, undermining civil order, and a threat to the peace of this country, is a dangerous thing for the Government to have. But they get today now talking out of the other side of their mouths and ask what is the problem.

The Government cannot have the power when things are really bad and the country is in disorder, but a magistrate should have the power and nobody should say anything about it — I am not dealing with any particular matter — a magistrate or a judge should have the power to decide without an enquiry that somebody should be put in a Mental Hospital.

The honourable Member for St. Michael West talks so much that he does not hear what anybody else says. I am not prepared to expose the honourable Member who said it, but that was said by the Opposition in here today; so let them get up and challenge it, that the magistrate has to make these decisions, and he makes

a decision, sends you down to the Mental Hospital and they decide down there if you are mad or if you are not mad and that is it. As easy as all that.

I do not want to get into the business of giving personal experiences. I worked all the Magistrates' Courts in Barbados up and down for a number of years, and I know the practices in them. I have never seen a judge in Barbados in the Supreme Court send anybody to the Mental Hospital for any period of time unless it was decided by a jury that the person was unfit to plea by reason of insanity. I have never heard them say, "Well, look, I do not like how you are behaving, go down to the Mental Hospital".

I have seen it happen in the Magistrates' Courts. I have seen it happen far too often for comfort, and I have heard defence counsel, on several occasions, literally quarrel with magistrates who decided to send people down to the Mental Hospital.

But the law is quite clear; it is set out in the Magistrates' Jurisdiction and Procedure Act, 1956 — the circumstances under which a magistrate can take that kind of action. It is circumscribed by the law because the liberty of the subject is important. What is set out in the Magistrates' Jurisdiction and Procedure Act is so circumscribed that it is difficult, in any circumstances, to get somebody committed to the Mental Hospital.

Somebody says it is a salutary lesson. Somebody on the other side was sufficiently insensitive to say that maybe it is a good thing it happened because we now have a constitutional case decided in Barbados.

Now do you want anything more vicious than that? It is a good thing that an innocent person was put down in the Mental Hospital just so that you can have a matter of constitutional importance on the record of the decided cases in Barbados. That is exactly what was said by people on the other side.

We have people on this side who have expressed profound disgust at the fact that these things can happen in Barbados. I want to add my voice to that, Sir.

If this case has done one good thing, it has brought home to the Ministry of the Attorney General the complete inadequacy of certain procedures in the Magistrates' Court in relation to the liberty and the rights of the individual, and I will be taking a close look to make sure that this type of wanton power in the hands of magistrates will not continue.

I want to go further, Mr. Chairman, because I said I really did not want to get into the merits of the case, I want also, Mr. Chairman, to take a look at Government's

responsibility when public officers act outside the lines of their power. In other words, when they perform acts that are *ultra vires*, that are beyond the scope of their responsibility, I want to take a look at how far the Government or the taxpayers should be responsible for picking up the tabs in such circumstances.

Mr. Chairman, you have intimated that my time is up, and I beg to move that Head 15 stand part.

The question that the Resolution do now pass, was put and resolved in the affirmative without division.
4.30 p.m.

SUPPLEMENTARY ESTIMATES 1982-83 No. 2

HEAD 75 - MINISTRY OF ATTORNEY GENERAL

Hon. L. R. TULL: Mr. Chairman, Sir, the volume of work in the Attorney General's Office in the section of the Chief Parliamentary Counsel has been increasing rapidly over the past two years.

There is a lot of work that has to be done that is repetitive in terms of the typing and so on and we therefore decided that we would seek to acquire a word processor that will minimise the amount of repetitive work done in the Chambers, and therefore we are seeking this sum of \$18,500 for that purpose.

I beg to move that Head 75 Subhead 6 stand part of this Resolution.

Hon. DeL. O. BRADSHAW: I beg to second that.

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

HEAD 77 - MINISTRY OF FOREIGN AFFAIRS

Hon. L. R. TULL: Mr. Chairman, Sir, under Head 77, the Ministry of Foreign Affairs decided that it is about time that the large number of Barbadians in the United Kingdom be set up in their list in a systematic way, particularly in view of the fact that maybe the majority now are those who were born outside of Barbados.

The big movement of Barbadians to the United Kingdom was the 1950s and a number of the children were born to the initial immigrants from Barbados. We are having problems in keeping a proper record of all of our Barbadian nationals in the United Kingdom....(Asides) I will not be side tracked, Sir.

In view of the fact that we now have new immigration legislation that has affected the whole question of registration of Barbadians who were not born in Barbados, those who are in England at least, we feel that if we computerise all the names we have got so far, and ask for new registration in the United Kingdom and add them to the computer, we would better be able to service the demands made on the High Commission in Barbados in relation to all the problems of Barbadian nationals in that country.

We are seeking, in this Resolution, the sum under Head 77, Subhead 1 to acquire this mini-computer for the Barbados High Commission in London.

Mr. L. E. SANDIFORD: Mr. Chairman, I have listened very carefully to the Minister of External Affairs on this, and I must say that on this side the arguments advanced so far do not appear to be that cogently put as to convince us, at this stage, that this amount of money is really necessary.

We have some queries to raise. For example, why is this particular computerisation limited to the Barbadians resident in the United Kingdom? Why not Canada, why not the United States, why not Jamaica or St. Lucia or whatever? I am asking the question, and I am expecting an answer.

I am asking why is this necessary and what is this particular situation that has developed that they do not have proper documentation? Is it that the authorities are not issuing them with the customary documents or is it that the Ministry of External Affairs is not advising their own High Commissions and other embassies abroad as to the many changes that take place in the law from time to time? What exactly is at the base of all of this?

You know, we are all very concerned when we hear about these computers and all of this information going on to the computers, and the use to which the information may be put, because you know we may be told on one occasion that it is for this particular purpose and then it may end up being used for another purpose.

All I am saying at this stage is that full particulars have so far not been given to this House as would satisfy the Opposition, at this stage, that the purpose for which this sum is being passed has been explained to our satisfaction, and we are asking for some more and better particulars.

For instance, did the Minister of External Affairs himself have to go to Britain to explain the situation as

to what is happening in these new changes in the law or whatever it is? Have the Barbadian residents in the United Kingdom been misinformed? Has any Minister or Junior Minister or whatever, or Minister of State or anybody else, been sent to Britain to try well, I do not even know how to put it. Are there problems in Britain? What is the nature of these problems?

I think the Attorney General will have to explain a little more to us before we can give any support to this particular measure.

Mr. B. M. TAITT: I have a couple of questions too, Mr. Chairman, not too many. The first thing I wish to draw to the Minister's attention, and I wish he would pay attention when he is doing the people's work, is that on some occasion I raised this matter. The cost of equipment is £9,200. I believe that it would be in the interest of accuracy if he would put the equivalent of £9,200.

I feel that since we have established that the correct currency in Barbados is the Barbados dollar, that we ought not to pass legislation in this House that talks about £9,200. If you want to say the equivalent of that, put it in. I want to suggest to the Minister that he amends this to read the equivalent of £9,200.

You might say it is a trite point, but I feel very strongly about it. I feel that if we have a Barbados dollar, let us pass legislation in this House that deals with Barbados dollars, because as you know the pound does not mean anything in real terms from day-to-day if you are looking for an exact amount.

The second thing I wish to ask the Minister relates to what my colleague said. There are some people who have raised questions in their minds as to whether we are going to have overseas voting one of these days. There are a number of submissions that have been made concerning the desirability of having our Barbadians overseas cast a vote.

I would like to know if this computer has anything to do with registering Barbadians? I wish to know from the Minister whether Barbadians who are born in the United Kingdom, who are registered as Barbadians at the High Commission, received a national identification number.

4.40 p.m.

It is a point which emerged recently when I was helping a returning Barbadian to fill out an application for a passport, and the passport form calls for, I think, the national registration number; and obviously if you are born in the United Kingdom, you are a Barbadian; but you do not have a national registration number.

I wish to know if it is the intention of the Government to find a system for giving Barbadians born outside of Barbados registration numbers. If they are not going to be given registration numbers, what is the alternative they would have as identification cards? And this is done by other countries that acknowledge citizens overseas.

Now, in the light of Mrs. Thatcher's — that is the Prime Minister of Britain — very harsh legislation concerning citizenship, I would like to know if we can expect a policy statement from the Government on this whole issue of Barbadian nationality vis-a-vis United Kingdom — born persons.

According to the Constitution, as I understand it, if you are born of a Barbadian mother and father, in an area which the Barbados Government recognizes allowing you to hold dual nationality, it is entirely possible that you can be deemed a Barbadian — that area seems to be unclear and I would like the Minister of Foreign Affairs, if he is now able, to make the position clear and let us know what the law is and unto how many generations this extends — and whether the question of paternity or maternity is relevant to the acquisition of citizenship if you are born outside of Barbados in areas of the Commonwealth.

I know what the position is if you are born in the United States, but in the light of the new United Kingdom legislation, I believe that Barbados, and other Commonwealth countries who have systems similar to Barbados, may be required to examine their own law on the question of citizenship.

Otherwise, it is entirely possible that persons born of Barbadian citizens, where the citizens are residents in the United Kingdom but where the children themselves may not have been born in the United Kingdom, can find themselves stateless. Their parents not having qualified under the British legislation to pass on British citizenship to them, and their parents having Barbadian nationality by process of law, it may very well be that those persons could be stateless in the "mish-mash" that is now considered international law as it affects the question of nationality.

I believe that it is a matter which requires some thought, and if the Government has been thinking about it and has come up with an answer, I believe that a White Paper on this issue would be worthwhile, because, according to the policies of the current British Government, as I read about them, it is entirely possible that a substantial number of people in the United Kingdom may soon be seeking to return to what they consider to be their native land. How they are going to be regarded here is a matter of some concern.

I believe, also, that Barbadians who were born here, who arrive at the airport with British passports, have had some difficulty, or, rather, the Immigration Authorities have had some difficulty dealing with them, because obviously if you are travelling on a British passport at your point of entry you should be treated as a Britisher. But when the person produces his Barbadian birth certificate, our law requires that he be treated as a Barbadian, and there has been some difficulty at the airport from time to time.

I don't think that I have to belabour the point. I would like the Minister to address himself to these matters and provide some clarification for us as to what the state of play is.

Rt. Hon. J. M. G. M. ADAMS: I will give way to the Attorney General. We want to increase the sum as a result of....(A Pause)..I can move it, Sir, there is no harm.

I beg to move, Sir, that the Heads be amended by increasing the amount from \$23 920 to \$50 000, Sir. This is to cover the purchase of furniture for residences abroad to replace what has recently been condemned — curtains and carpets. Sums of money are needed for furniture and renovations.

It has arisen since this Resolution reached Cabinet and since it was lodged in the House.

I beg to move that \$23,920 be deleted and \$50,000 substituted.

Hon. L. R. TULL: Mr. Chairman, Sir, if I may just answer one or two of the questions raised by honourable Members on the other side. The honourable Member for St. Michael South wanted to know whether I had gone to Britain to explain some new policy to Barbadian nationals. No, I have not. No, I have not visited the United Kingdom to explain anything to any nationals of Barbados...and if the honourable Member is suggesting that we put in an additional sum now into this Resolution for that purpose, he can move it, but I have not been to Britain to explain anything to nationals there.

Now I know that the question again is raised as to what is the real purpose of this Resolution. Now I cannot do better Sir, I have explained to honourable Members what it is all about, but they obviously do not take that. Well, that is a matter for them.

Just let me repeat. We are acquiring this mini-computer for the purpose of recording the names of Barbadian nationals in the United Kingdom, for passports issued to them and other consulate data in a systematic fashion. That is what the mini-computer is for, Sir, and we will also use the computer to store other important consular data. That is the sole purpose of the computer.

Now I can understand the fears of the honourable Member who asked about overseas voting and if we are going to use this in relation to that. He need not have any fear about Owen Eversley. Owen Eversley will show up on the computer, too.

I have not heard anything about the overseas voting and if the honourable Member has information that I am not privy to, as friends he can share it with me, but I don't know anything about it.

The question was also raised by the honourable Member. This is a very small point, but it is a non-point because he says the Resolution states the funds in terms of pounds. What I see here on my papers, and I believe the honourable Member has similar papers to mine, is a figure of \$23 920. I don't see any pounds here.

Mr. B. M. TAITT: If the honourable Member would give way. We are in Committee. Mr. Chairman, I don't believe that the honourable Member needs to be unnecessarily contentious. If he turns over the same Resolution he looked at, he would see that it is £9,200.

I feel that if we are going to discuss how much money I am to vote for to buy the thing, I would like to know how much money it is, and we have a currency in Barbados. That is all I am suggesting to him. He need not be contentious about it.

Hon. L. R. TULL: Mr. Chairman, it is not a question of being contentious, it is a question of lack of understanding by the honourable Member. This Addendum, this Explanatory Note, is saying the figure was intended initially to be £9,200. An error was made when it was passed at Estimates and 9,200 dollars was inserted, when the figure that they really had was £9,200 and the supplementary now is to bring up the figure from 9,200 to the equivalent of £9,200. I cannot understand how the honourable member finds that so difficult. 4.50 p.m.

The question was asked about whether the Government would make a public statement on the British Citizenship Act. I thought that was a little bit *passe*, because that is a year ago, and I am surprised that the honourable Member waited until now to ask the Government of Barbados to make a statement.

Further, he raised the question of nationality. I believe that any Member of this Honourable Chamber should set about, for the first time he is coming in, to make himself acquainted with the Constitution of Barbados. When the honourable Member has been a member of the Legislature from October 1971 and is asking me in September 1982 who is entitled to Barbados citizenship, I really think he is either playing games..... (Mr. B. M. TAITT: No, Sir). He says no, Sir.

Mr. TAITT rose.

Hon. L. R. TULL: I will give way, Sir.

Mr. B. M. TAITT: Mr. Chairman, I am satisfied there is something bothering the honourable Member today. Prior to the issuance of a statement or a policy by the British Government, the matter was very clear as to who was a Barbados citizen. A Barbados citizen, so far as Barbados is concerned, is very clear. A United Kingdom citizen, so far as the United Kingdom is concerned, has now been changed and they talk about patriarchy. You have to demonstrate some relationship with a male descendancy.

It means that there are some persons in the United Kingdom who wish to opt, under Barbados law, for Barbados citizenship, some who wish to opt for United Kingdom citizenship, and some who opt for both. But there are rare persons who may have the difficulty of not satisfying a United Kingdom requirement even though they were born to two citizens of the United Kingdom, and I wish to know what is the Barbados Government's position on this.

If the High Commission in Britain has been on top of the situation, the question of its coming a year later would not be relevant, because that is the question that is occupying the minds of most of the other Commonwealth countries in the Caribbean. I do not understand why you are so casual about this.

Hon. L. R. TULL: Mr. Chairman, I really find some difficulty in understanding the honourable Member today. Maybe it is because he is a little bit tired.

If the honourable Member is concerned only about persons' rights in relation to Barbados citizenship, that has not changed. If, as he says, new legislation in Britain has made some people who were born in Britain not British citizens, that is another matter.

I want the honourable Member to know that the Barbados High Commissioner in London has been the Chairman of Commonwealth High Commissioners in London dealing with the Home Office on exactly the points related to citizenship of Barbadians in the United Kingdom or in Barbados.

I have myself — not as the honourable Member for St. Michael South said: gone to discuss some new system — but I have had discussions with the Home Minister on the status of the British Nationality Act as it affects Barbadian citizen. (Mr. B. M. TAITT: I am asking you to tell us what is the result).

The honourable Member is asking me what is the result. The result is not something that I can, in a few

moments in the course of this Resolution, spell out to him, because the British Nationality Act, as it affects persons such as he is describing, would involve a whole long dissertation; but I can give the honourable Member, if he wants me to do so, a whole list of the discussions and the decisions taken in relation to the difficulties that he has envisaged.

But also let me point out that the British Government has been fairly unrelenting in the decision it has taken about citizenship in the Nationality Act, and therefore a lot of what Commonwealth countries have been asking for, in relation to their own nationals, has not been met by the British Government. I have the information and I can make it available to the honourable Member any time he wishes.

Finally, Sir, the whole question of national registration numbers. It is not the present intention of the Barbados Government to assign any national registration numbers to Barbadian nationals living in the United Kingdom.

I beg to move that this Head, as amended to read \$50,000, do now stand part of the Resolution.

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

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

On the motion of Rt. Hon. J. M. G. M. ADAMS, seconded by Hon. L. B. BRATHWAITE, Mr. CHAIRMAN reported the passing of two money Resolutions with amendments, and Mr. SPEAKER resumed the Chair and reported accordingly.

On separate motions of Rt. Hon. J. M. G. M. ADAMS, seconded by Hon. L. B. BRATHWAITE, the Resolutions were read a first and second time and agreed to.
5.00 p.m.

Rt. Hon. J. M. G. M. ADAMS: Order No. 4.

THE ROAD TRAFFIC (LICENCE TAX) (VALIDATION) ACT, 1982

Order No. 4 was called — To move the second reading of a Bill to validate the payment and receipt of certain motor vehicle taxes.

Rt. Hon. J. M. G. M. ADAMS: This Bill arises out of changes made between the Financial Proposals of the 21st September, 1981 and the Budgetary Proposals of the 31st March, 1982. The Attorney General has advised that a Bill should be enacted to validate the collection of the September 21 fees, because I think that probably when

the validation was eventually passed, the new fees were put in and not the old, and the Collector of Rates and Taxes has accepted, in some cases, fees at the old rate rather than the new rate.

Therefore, so as not to cause any difficulty, we have to validate the old rates so that you would not now have to go and call for more money on taxes that were not in fact imposed until March.

I hardly understood it myself, I must say, Mr. Speaker, when it was pointed to my attention, but I am advised that the Collector of Rates and Taxes, to make assurance doubly sure, would be glad to have this validation so that he can clear his books.

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

Hon. H. B. ST. JOHN: I beg to second that.

Dr. R. C. HAYNES: Mr. Speaker, I am a little unsure as to exactly which category of taxes the honourable Minister of Finance is referring to. Is he referring to the road taxes relating to the mini-buses, for example?

I believe that there was an error somewhere along the line where in the Mini Budget or certainly the Proposals of September 8, that no increases in the road taxes were imposed at that point in time, and to the best of my recollection they were not imposed in the 1982 Budget, but the mini-bus operators were asked to pay an increased road tax which was not approved by Parliament.

Now, this, as you know, has created serious problems with the minibuses operators, and I would like to make a special plea to the honourable Minister of Finance to review his position in relation to the road taxes on minibuses, and I say it for this reason.

Whatever the evolution of the policy is in relation to a public sector component of public transport, it is important that where this area is still a matter of flux, in the sense that there is no clear decision made as regards what will happen to the mini-buses in future, and where, in fact, there might well be a policy evolution based on external factors, and domestic factors, which might lead to a need to reduce or to continue to try to reduce the subsidy to the Transport Board, this might well involve some element of miniaturising the fleet of the Transport Board and an expansion of a private sector component of public transport.

Now if you look very carefully, Sir, at what is happening in this area, the capital cost of those vehicles plus the cost of initial permits, transfers and renewal permits are all extremely high.

Generally speaking, the calibre of vehicle which comes into Barbados is not one which would enable the

operator to generate sufficient income, meet the permit levies and save enough money in order to replace the cost of his vehicle, anticipating inflated values over the next five to seven years, which would probably constitute the normal life span of that type of capital investment.

In those circumstances, I believe that Government's taxation policy in regard to the minibuses should be such that it should not prove burdensome. It should take into account replacement costs, it should take into account fact that many of these vehicles, though very expensive at the moment, are in fact unsuitable for the kind of work they are doing, because of the wear and tear on the vehicles in relation to such matters as their gear box, transmission and so on, and that also the roads themselves happen to be in a state which will contribute considerably to the rapid depreciation in value and also the increase in maintenance cost of those vehicles.

Therefore, Sir, I believe that it is quite short-sighted, in a situation where you do not have a clear policy, to impose heavy taxation on the minibus operators who seem to be providing a service, which requires some degree of regulation, but certainly with a high degree of compliance and acceptance by the people of Barbados.

And whereas I would not wish to deal with any wider aspect of public transport policy, and will confine my remarks entirely to the financial aspects of this Bill, I believe that there is a strong case to bear in mind all these factors — of original costs, maintenance costs, type of vehicle, problems of roads and ultimate replacement costs — otherwise you might find that you may not only have a crippled transport fleet, but you may have a problem in relation to the private component of your public transport costs if you make these costs too high.

I have set out various factors which I think you should take into consideration when you determine these matters. A general principle applies, Sir.

And whereas in a *sotto voce* remark I heard something about the Electric Company, no one disputes or argues about replacement costs; the only argument is who is to pay for the replacement costs, and in this case I believe that the shareholders, not the consumers, should, but if the consumers have to, then the consumers should be shareholders as individuals and not only Government being the major shareholder.

I think there has been some misunderstanding by the Minister of Finance of a very well thought out and original proposal which I made recently and which I think will be the subject of adjudication before the next Public Utilities Board hearing. Anyhow, Sir, that is another matter.

But I am sure that if you keep these impositions at that level, you are going to run into problems in the long run in that area. And I think it is reasonable to say, from the sort of debate which I have heard emanating on the Floor of this House, that the situation in respect of mini-buses is by no means clarified, and it looks as though they might certainly have a permanent role in the transport system of Barbados, so then I think we really need to look at the tax imposed.

5.10 p.m.

The second point, Sir, which is not as fundamental as the serious financial argument which I have just presented, relates to the question of validation of the taxation after such taxes have been imposed.

I believe that this is a bad principle. It is happening too often. And even where it happens, Sir, in the context of the Provisional Collection of Taxes Act, which describes a limit within which taxes and other levies may be made on the population, there is a prescribed limit — I think, of 120 days or thereabouts — and even if Government exceeds that 120 days, as it has done on two occasions in the not too distant past, at least the taxes and the levies were contained in Budgetary Proposals, both of which were the subject of debate within Parliament.

The situation in respect of the increases, that is increases not relating to permits or renewals or transfers in relation to the mini-buses, were not even the subject of a Ministerial Statement in this Honourable House, nor was it the subject of a debate. It may have been an omission.

I think that if you check the statement of September 8, 1981 that you will not find any increased levies in terms of road taxes in relation to mini-buses and if you check your Budget of 1982 you probably find it is not there. Now I have not been able to find it (*Asides*). I do not think it is in the Budget.

I know that the Minister of Transport did make a statement that these taxes were announced, but I think that he was not aware that there were several different taxes involved. I do not think that either in the mini-Budget or in the Budget was there any statement in relation to the increases in taxation.

I think the honourable Minister of Finance will agree that this is the kind of error that should not be made when you are raising taxes of this kind, because I believe that these things should be subject to parliamentary debate where you can get a complete and full ventilation of the impact of such taxes, not only on the individual operator, but on the community as a whole.

I certainly looked through in the past — I have not checked it last night or over the weekend as I normally

would. — and I have been unable to find any indication, Sir, that such a tax proposal was contained in any Financial Statement.

So it really represents a new tax, which is being subject to debate now for the very first time, and I am appealing to the Minister to abandon this kind of tax imposition, to ensure that these matters come before Parliament, unless, of course, he is operating in the context of an instrument where, by Ministerial Order, he can vary minor things.

If you look very carefully, Sir, at the legislation in Barbados, you will see that the Minister may have the authority, say, to vary the rates which you may charge people for parking in Independence Square, or something like that.

But that is a very different category of imposition from the one which involves large sums of money, which affects the viability of the operations of a large number of small businessmen, and which, Sir, indeed, I think, goes contrary to the whole principle of fiscal management which we accept as the norm in Chambers of this kind.

I believe that there was an Order in preparation — I do not know whether the Order has been made as yet — but I suspect that this Validation Act is a Validation Act to validate an Order that was made previously. I understand the Order was in preparation. Maybe the Order was abandoned and instead the Validation Act is being used. But I hope that we will not be faced with this kind of situation in the future in this country because it does not speak well for our financial management and people, Sir, generally speaking, need to have time.

There are certain Budgetary Proposals which one appreciates that a Minister of Finance cannot give anybody notice of and so on for obvious reasons, but to suddenly find yourself landed with massive taxation which has not been approved by Parliament, which your own representative has not had an opportunity to make any inputs into, must be a matter of concern, and I think the Government, Sir, is making far too many lapses in this area of financial management.

You know, there is one thing having revenue problems and trying to grab every single cent that you can get, but it is important that the matter should be done in accordance with the general principles accepted not only by Parliament but accepted by the community in general; and that such taxation should bear some relation to some relevant policy. In other words, tax policy in any given area should have an objective beyond raising revenue.

What is the point in imposing massive taxes on the mini-bus operators and then find yourself in a situation where they either cannot pay their taxes or you have vehicles that are lying down on the road because they cannot meet maintenance costs? You create greater inconvenience for the passengers and all that sort of thing.

So I think the whole question of taxation in relation to mini-buses certainly needs to be reviewed, and I think such a review has to take place in relation to a policy position as to the role of the mini-buses and our public transport system, because, Sir, you find a very contradictory situation where, through the Barbados Development Bank, the mini-bus operators can get concessionary financing.

I believe that it is a reasonable assumption that, as an agency of Government, and providing such concessionary financing, one would assume that it is Government's policy to encourage the ownership of mini-buses and the participation of the private sector in the provision of public transport.

So, on the one hand you have one Government agency encouraging this development and on the other hand you have a Minister, who is responsible for the same agency, imposing taxes which I think would make the operations of those mini-buses non-viable.

This not only compromises the Government's own financial institution, namely the Barbados Development Bank, but ultimately it may well alter the whole structure and the potential of delivery of transport in the non-public owned sector, namely, the mini-buses.

5.20 p.m.

So I would hope that the Minister, having recognized that there was an error here, probably should exempt from this Validation Act such levies as have been made on the mini-buses and to postpone any consideration of that until such time as a Budget is produced in this House, whether it comes next March 31 or it comes before then on the instructions of the International Monetary Fund.

Thank you very much.

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

On the motion of Rt. Hon. J. M. G. M. ADAMS, seconded by Hon. H. B. ST. JOHN, 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.

Clause 1 was called and passed.

Clause 2 was called.

Rt. Hon. J. M. G. M. ADAMS: In moving that Clause 2 stand part, I would just mention the difficulty as far as I can clarify the point made by the honourable Member.

The difficulty is that in June an order was made with the new rate, and no order was ever apparently validly made with the old rates. I hope that I have made myself clear.

A Bill was passed following the proposals of September. No Order was made covering the old rates, but an Order was made. By the time the Order came to be made new rates had come into force and therefore the validation is needed for the purpose of finishing the old rates in the book so you won't have to collect at the new rates.

If honourable Members look at the Order in June, honourable Members would see that it does not speak of a date at all, as far as I can see. Just let me see; I signed it. Yes, it does not have a date at all in effect, Sir. It just really reflectively goes back to the Budget, and this is the reason.

We have listened to what the honourable Member has said about the privatization of transport, the desirability of maintaining the private connection. As I say, I take note rather than answer it.

But on the matter of the rates and the road licences and so on, that appears to be the answer. It does seem, in fact, that an order perhaps may even have been sent down to Parliament without some of the intermediate formalities. Once it gets to Parliament it is valid, but it may have been sent down without the intermediate formalities.

I am only hoping that we don't ever have to come with the Validation Act to validate the collection between April and June. This Act validates up to the 1st April. I sincerely hope that we have got it right this time and that they do not, at some future stage, have to validate between April and June. In other words, whether the combined operation of the Provisional Collection of Taxes Act and an order can validate the collection since the 1st April. I think it can.

Mr. CHAIRMAN: The question.....

Dr. R. C. HAYNES: I am not making a big issue of it except about the general principle involved. But I really

would hope that between now and April that you really come to some firm policy position in relation to public transport in Barbados, and look very clearly as to what is happening in different directions.

I don't know if you are fully aware that perhaps, as I understand it, and from statements made on the floor of the House, a hundred buses or something like that were being bought for the Transport Board.

It would seem to me that an inordinate amount of time is passing when you will probably find that if they are bought in the European area that the price will float up considerably over the next two or three months, when in point and in fact if it is done now you will probably save a considerable amount of money. And after all this is my barefoot tax that I have to pay, so I would like to see some kind of good fiscal management in that area.

We won't talk about interest rates today because I noticed you have accepted the position that we have taken on this side, rather reluctantly, but nevertheless I think you are beginning to understand the importance of interest rates and the function of the Barbados economy. It takes time to learn these things but you are coming along.

Clause 2 was passed.

On the motion of Rt. Hon. J. M. G. M. ADAMS, seconded by Hon. H. B. ST. JOHN, Mr. CHAIRMAN reported the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On separate motions of Rt. Hon. J. M. G. M. ADAMS, seconded by Hon. H. B. ST. JOHN the Bill was read a third time and passed.
5.30 p.m.

Mr. SPEAKER: Item No. 5.

THE SPIRITS ACT, 1982

Order No. 5 was called — To move the Second Reading of a Bill to repeal the Rum Duty Act in order to make better provision for the distillation of spirits and related matters.

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, Sir, this Bill now before the House is the result of, one could say, five years' consideration of the legislation in Barbados governing the production of rum and other spirits. When the Rum Duty Act was passed — I have forgotten how many years ago now, Sir — but going back to the early days of this century or before — Barbados was still a traditional producer of rum and of nothing else, so that all spirits in Barbados were defined as rum;

so indeed if you made gin, whiskey or brandy in Barbados, in a technical sense, under the law you are still making rum.

We have become much more sophisticated since those days. We make other spirits in Barbados. We use alcohol, or we would wish to use alcohol for commercial purposes. Under some extraordinary circumstance we could bring commercial alcohol into the island duty free and use it, but you could not use locally produced alcohol until the duty and the excise had been paid. There were great difficulties. You could only make rum during certain hours when the Customs Officers, who kept the keys to the warehouse, came out to the warehouse, and so on and so forth.

The very definitions of spirit were perhaps out of keeping with modern ideas.

It has taken a very long time, because in the ordinary way that honourable Members would understand there were many interests to be consulted, and the makers and sellers of rum have all had to be consulted very closely on this new Spirits Act. But we have got the best Act that such consultation, assisted by examples which draughtsmen had before them can produce, and, although nothing dramatic will happen as a result of the passage of this Act, I am assured on all sides that the distillation and production of alcohol in Barbados and the making of spirituous liquors will be facilitated.

There will no longer be any discrimination against the local product, which, in fact, has been in force for many years. CARICOM liquors can come to Barbados completely duty free to compete with Barbadian liquors that have to pay excise duties. All of these anomalies, we hope, are either directly eliminated or can be eliminated by further Order.

The question of the keys, Sir. You will notice that we are now allowing the owners of stills to keep the keys to the spirit stores subject to their giving bonds to pay the duties. Authorised persons will have total powers of inspection without actually having to become part of the process of making the liquor themselves. This, I think, Sir, will facilitate the rum trade in the island.

Rum, I dare say, is still our single most distinguished product, a product by which Barbadians are best recognised in many countries abroad.

I had the unexpected pleasure, Sir, of drinking some rum in the province of Ontario in a large bottle with a green label right across the face of which was written Barbados. I was told it would taste like nothing, but I must say it tasted quite good; it was well up to the standard of the best rums you get in Barbados, with a little less of the undesirable after effects as well,

depending on where you get the local rum, it is made in Ontario, I hope and trust from liquor supplied by the Barbados industry. (*Aside*).

How much did I drink? I will tell honourable Members it could not have been bad rum, because it was drunk down before the other drinks that rested on my liquor cabinet during a week in which there was much necessity for consultations in my then premises, Sir.

Anyway, this will enable us to produce Barbados rum a little bit more efficiently, substantially more efficiently than in the past.

Now, the Act before the House does not have any charging provisions in it. They will come in by Order, because the Act will come in by proclamation. An Order charging all excises that have to be charged will be made so that it will come into operation simultaneously with this Act.

It is not intended to increase taxation on liquor, or indeed to reduce it, but some adjustments may be made. I have had some representations about the effect of budgetary measures and it is possible — I go no further than to say that — that we might make small changes. It will be necessary to make some in the computations anyhow.

We might make small changes in the amount of excise and perhaps also I may make a change or two in the Consumption Tax Act, particularly referring to blended drinks. That would be downwards rather than upwards, but it will really not be anything substantial.

Honourable Members need not worry that there will be any sudden upsurge or reduction in the price of liquor when eventually this Act comes into force and the new Orders are made.

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

Hon. H. B. ST. JOHN: I beg to second that.

Dr. R. C. HAYNES: Mr. Speaker, just one or two things that I noted here. In the interpretation of the Act alcohol is strictly defined as pure ethyl alcohol, and to the best of my knowledge, when you think of the wider ranges of spirits, they will involve the combinations of alcohol, such as butyl alcohol and other higher alcohols, so I do not know whether this will be affected by this particular Bill.

5.40 p.m.

I do not propose to make any significant contribution at this time because I will wait until we get to the Sugar Bill where I would wish to deal with certain matters related here when we get to that.

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

On motion of Rt. Hon. J. M. G. M. ADAMS, seconded by Hon. H. B. St. JOHN, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. ODLE in the Chair.

Parts I, II and III were called and passed.

Part IV was called.

Rt. Hon. J. M. G. M. ADAMS: Mr. Chairman, I beg to move that Part IV stand part.

Hon. H. B. St. JOHN: I beg to second that.

Mr. B. M. TAITT: Mr. Chairman, I have a question. What I have to ask could come under either Part, and I might as well take it here. This is to the Minister responsible for E.E.C. affairs; I am not sure which one it is.

We have had some difficulty with the description of rum as it affects our trade with the E.E.C. I have not been able to discern whether this Bill will assist us in our definition. Did you give any consideration to defining rum in the light of our problem so that we will escape the difficulty which seems to dog us in terms of breaking into that European market?

It seems to me that if the Minister was giving consideration to, as it were, a new approach to the question of manufacturing rum, that perhaps an effort should have been made to re-define rum to accord with the definition especially that the French and Germans would like to see. I wonder if there is any thinking on this.

I do not want to delay the House if that is a matter that is being looked at under different legislation, but I wonder if any consideration was given to a re-definition of rum because we in the Caribbean accept the definition of rum which the Europeans have fought against or which they interpret differently from us. We see that our rums fall within the four corners of the requirements of Lome 2, but they continue to resist. Perhaps they are not resisting anymore, but I have not seen anything which suggest otherwise. I wonder if the Minister could give me a word on it, please.

Hon. H. B. St. JOHN: The honourable Member has raised a very interesting question, because the domestic laws of all the countries in the European Economic Community deal with spirits as a whole, whatever the nature of the spirit, whether it is rum, whiskey or whatever. It is only for the purposes of the Lome Convention that they sought to separate a particular form of alcohol or spirit, namely rum.

They, themselves, have not been able up to now to agree on a definition of rum, because France wants to define rum in such a way as to exclude all rums which are not produced in the manner in which Guadeloupe, Martinique and Reunion produce them, but nobody else would agree on it.

So in this Bill we have treated the problem of alcohol in the same manner in which they have treated it, and we look at it from the point of view of spirits, and as you see there, spirits are so widely defined as to include mixtures.

Now for taxation purposes it may be possible in the schedules to have different tax rates in relation to different spirits, and then you will come to a definition of rum; but we have been very careful to do nothing in our domestic law in relation to rum until the position in the EEC is settled.

I will say there is a lot of progress. The West Indian Rum Producers' Association has had meetings at the technical level and there is a lot of commonality of view as to a correct definition of rum, and the definition, a general definition which is agreed by most people except the French, says it is a product which arises as a result of distillation of sugar cane — not necessarily the juice, because the other people have continuous stills — and that is the one that will meet the internationally accepted definition of rum.

But there is no unanimity within the European Economic Community up to this day on the definition of rum. They have not been able to bring a common organisation of the alcohol regime into effect, so we are still on the old quota system, but an improved quota system, as a result of the new Lome Convention, and we are in a position slightly better than 1975 in that everybody honours the licensing except France.

France still does not give any licences, but the one that we used to have problems with, Germany — that went to court actually and the European court has ruled that the Germans were discriminating — well, that is all over now.

Now the Commission is putting the French before the court because they refused to allocate the quotas, so that is no problem with them at all. We are not getting into that at this stage. When they settle their situation then we will get into it.

Mr. L. E. SANDIFORD: Mr. Chairman, I wonder if either the Prime Minister or the Minister responsible for Trade could give some information on this.

My experiences are perhaps in one way similar to those of the Prime Minister; he saw and experienced

this rum in some part of the province of Ontario. I also did see such rum with a Barbados label on it in a part of the province of Ontario, but he is more adventurous than I am. I did not sample it.

I must admit over the years that in places where you could not get Barbados rum, it is now appearing on the shelves in the United States. It is now on the shelves more widely distributed, but I must say that the price, however, is not competitive with other rums because it is being sold at the price of the more expensive brandies, not the cheaper brandies, and I wonder if this is part of the way in which the rum is defined — Barbados rum in particular, because other rums are selling at a cheaper price — or if there are some marketing arrangements which may be responsible for this. There is a problem here — it is becoming more widely available, but there is a problem about the price.
5.50 p.m.

Hon. H. B. St. JOHN: The honourable Member has raised a point which both this Government and the previous Government has consistently been raising.

It is the discriminatory duty that the United States Customs administer on the Barbados rum — it is higher than whisky. And even under the multilateral trade negotiations, in which Caricom made a concession for agricultural machinery, all we got was a percentage reduction in the duty — but whisky got a better percentage reduction.

It has nothing to do with producers here. It has to do with the protectionist attitude of the United States in relation to Puerto Rican rum and we have consistently told the United States Government that if they really want to do something for the Caribbean, they would treat the Caribbean rum at least as favourably as they treat whisky from their brothers and sisters in Scotland and in Ireland.

We have not got any movement. Even under the much vaunted CBI (*Asides*). Our position is that there will be some improvement in that — I am not sure what past the congress, because I believe that there is a lot of doubt in the United States as to what past Congress in relation to the CBI.

The lobbies at the time of the CBI objected to the proposal of complete duty free concessions for rum to make it equally competitive with rum from Puerto Rico.

My understanding is that a compromise proposal was put forward — I am not sure if it was passed; I am not saying it was passed — whereby for a period of time a percentage of your previous years exports would be allowed to enter duty-free. Thereafter, you would have to

pay duty on it. But that would only operate for a stipulated period of time, and if it was proven that the Virgin Islands or Puerto Rican rum declined by a percentage in that period of time where this quantity was let in duty-free, then the duty would come back on.

I cannot tell you, Mr. Chairman, what has passed Congress or not — because we are still trying to find out — because the American legislative system and constitutional system is completely different from the one with which I am familiar — although it may be a matter with which the honourable Member for St. Michael West is fully familiar — but they are tacked on to other Bills and marking up. I cannot understand it; I do not follow it.

We are trying to find out now what Bill the Senate and House of Representatives have passed with the requisite majority to over-ride the veto. When the Bill comes out, as they say, in the printed version, then you have to go through it and try and find the CBI provisions and we are constantly up there.

I must say this, that the honourable Member is quite correct. I think it is common knowledge now that Mount Gay marketing — and I make this point, because I was part of the decision — Mount Gay international marketing is now 60/40, 40 Barbados owned Mount Gay and 60 by a firm called Hennessy. It is an American firm anyway. They were the agents there. They have only bought the international marketing, and only 60 per cent.

The Government insisted that 40 per cent remain in here, and the Government also insisted that they could not buy the production. They cannot buy the rum. They cannot own distilleries in Barbados.

Now, as a result of this international agreement, there is no doubt that more money has been devoted to advertising, distribution outlets, not only in the United States, in Europe too, and there is a lot of advertising — but they have to advertise it under the titles or under the appeal that it is as fine as brandy and its price is in the same range. That is their only hope of getting across that it is a better rum than the rest of rums and that it is a fine drink.

If you look into the New Yorker magazines, all of the Forbes magazines, if you look all around in them you will see that it is really being exposed and I can say — I have not got the figures with me, but certainly as far as Mount Gay is concerned, and Cockspur too — that Barbadian rum is being exposed and the sales are rising.

Just think of what benefits we would have had if we had an equal opportunity to compete with the Virgin

Islands and Puerto Rican rum, and we have been pressing as hard. There has been some modification in the position, but when the exact position in relation to what parts of the CBI have been passed, then we will be in a much better position to inform the honourable Member.

I would say that in respect of rum, our problem is that our market in the European Economic Community is also growing; Germany, in particular, but it has not grown in Germany to the extent that one can do what is being done in the United States, certain provinces in Canada and in the U.K., that is export your rum without the water, cured, but without the water so that you are in a position to take advantage of the bottling cost in the consuming country.

With rum, the bottles cost more to the consumer than the rum itself, because we have to import bottles then to re-export. Now, if you can export the rum in bulk — I am not talking about raw rum, I am talking about cured rum — and at a higher proof, then add the water there and bottle there, we have a much better chance of being competitive.

Now, the German market has not reached that stage, but it has in the U.K., and I will tell you one other thing about rum in the U.K. Under the European Common Market Rules, there is this problem that you cannot move rum from the U.K. into another Common Market country. That is one of the problems that we are still up against, and there is no free trade. So although the United Kingdom market is sufficiently large for us to take advantage of the economics of exporting bulk rum and bottling it there, it is not so in Germany or on the continent yet.

In the United States we are doing it, and certainly I know that one West Indian distiller of Cockspur has now made a great break-through in that the Province of Newfoundland has allowed them to bottle rum there and some of the provinces in Canada are allowing importation from the Provincial Liquor Board of Newfoundland and therefore we are getting more and more competitive there.

Not all again. They have not got past Quebec nor Ontario. Ontario has not given that permission, because Ontario likes the bulk rum to do a little blending in Ontario.

The rum trade internationally is bedeviled with a lot of historical restrictions which were designed, I am sure to keep out a number of multinationals, and we keep trying to point out that Barbados is one of the few countries in the world in which the rum industry is not in any way dominated by Bicardi. It is not so in the rest of the Caribbean, because Bicardi has a large shareholding now in Fernandes in Trinidad. That is correct.

We are the last. I think Guyana and ourselves are probably the only two countries who have battled the international liquor market. We have battled it but we have to see marketing as opposed to the production. That is the position with it, but it a continuous fight that has been going on for a long period of time, and however critical we may be of the people who are doing the marketing of rum or doing the production of rum, they have had to fight a tremendous amount of odds, and they are doing better and better — but they still have these constraints.

Mr. L. E. SANDIFORD: One further statement, Mr. Chairman. The Minister is obviously very knowledgeable in this area and if his capacity to imbibe the particular liquor is as capacious as his knowledge of the marketing and production facilities this would certainly be a kind of a prodigy.

To be serious, Mr. Chairman, we have got to be very conscious of what steps we take in terms of what we do for industry and the impact which this might have on our export capabilities, because only a few weeks ago I heard on a telephone programme in the United States in relation to sugar, one of the lobbyists from an American territory, lobbying against the Barbadian interest, advancing the view that the Barbados Government had only recently heavily subsidized their sugar industry. This obviously followed upon a statement in this country from the Government about support for the sugar industry.

I am just showing you the extent to which the lobbyist keep up-to-date on what is happening and this was about two days after this statement had been issued here. It was being used on one of the television stations, one of the more literate of the programmes, the MacMilay Report, in this particular regard.
6.00 p.m.

We have got to be very, very careful that when we are making these points — yes, I think it was a statement by the Prime Minister that they were quoting — that what we do here we have to be quite certain that we can get up and respond to these things promptly, and to have a very strong lobby to counter any ill effects which such statements may have on our export capability.

Mr. B. M. TAITT: Just one question before the Minister gets up. First of all let me say that I am very pleased that the Minister in essence continues the policy on marketing of our product which we felt was the most efficacious, and I might point out that decision to market the rum at the higher cost will in fact get higher sales because of the emotional approach of the American consumer. I am not sure if it will work in Europe.

But I want to ask the Minister, in light of the very considerable tourist promotion which is shortly coming

about with the cricket match, if you are in a position to tell us whether you have attempted to link the promotion with rum marketing — if any attempt has been made.

It seems to me that you are anticipating 10,000 people to go to.....which Stadium is that — the Oval. (The Minister of Sport wouldn't know that). Kennington Oval. I understand you are anticipating 10,000 persons, even if you are wrong by 50 per cent you will still have 5 000 people.

It seems to me that an attempt ought to be made, even now if it has not been made, to link the whole extravaganza to the marketing of our rum as well. It seems to me that these kinds of promotion for our rum can be very effective and I raise that question not *per se* but to ask the Prime Minister a question.

For some considerable time it has been extremely difficult, if not impossible, for the rum manufacturers to use their rum for purposes of promotion without paying duty on it. They have an extreme difficulty because the duty is paid at the source and the drawback system is supposed to be used, and where they use their rum for purely promotion purposes, they have argued, and I think quite correctly, that they ought to be able to get a drawback on the duty paid for such rum as may be used for promotion purposes.

I recall that in my time the Ministry of Finance did not find the recommendation favourably. The Ministry of Finance seems to feel that every cent they can get from duty they have to collect. And I wonder if the Ministry of Finance has advanced in their views on this?

For example, if a rum manufacturer offer a drink of rum to every tourist who arrived in Barbados, it stands to reason that since the rum manufacturer is literally giving the rum away that any duty which he has paid on the manufacture of that rum ought to be returned to him. The Ministry of Finance has always had great difficulty acceding to a request of that kind.

I wonder if any progress has been made, and it is in that light that I am suggesting that a large quantity of our Barbados rums, Mount Gay and Cockspur; if these rums could be included, even as samples for the patrons who attend this extravaganza, it is bound to work to our advantage and to the advantage of rum.

But the rum producers are not going to agree to the shipping of this kind of rum for advertising purposes unless they are going to get a drawback on the duty which they pay at source. I wonder if the Minister could allude to that aspect of the rum problem?

Hon. H. B. St. JOHN: I have in my hands, Sir, one of the brochures at this famous promotion and in it there is a whole page advertisement, and it is a gold medal Cockspur, both brown and white. Inside, you will probably find that the Mount Gay have a comparable advertisement, if not in this brochure, in another brochure, because I understand a multiplicity of brochures have been prepared. It is obvious that all of the rum producers in Barbados are participating in this.

I understand, officially, that the producers on both sides will be distributing a number of cases. As to whether they are miniatures, I believe they would have to be miniatures. But I am positive judging from the fact that this full page has been taken by one of them, that they will be out there competing in trying to get across their product.

Now the question of the refund and the drawback. That is a very difficult question. I have always had difficulty in understanding the tardiness with which the Customs Department deals with this.

I know this, that two years ago government brought money into this House to computerize that system. They have their own computer. To my horror I only discovered, when I was acting for the Minister of Finance, that the computer is not operating yet; that they are now training people to operate the computer.

I was so annoyed, because I know it was two years ago that we voted that money. That is the kind of problem that politicians have to deal with and sometimes the will of politicians cannot always be realized, because the bureaucracy decides to proceed at their pace. But I have been reliably informed, as a result of the noise which was made, that the company which provided the computer is now in a position to provide the training.

These things happen all the time. But we see no reason why if you have a shipping document, and I say "shipping" this time, and not necessarily overseas, a document which indicates that it leaves the warehouse and it is for export or whatever it is, that they can be assigned numbers and the computers can churn out the numbers, the computer can compute the value and you can get the people drawbacks. So it can be an easy system, but it is true that we have had repeated complaints about the period of time in which the cash flow of a business which is eligible for a drawback is tied up.
6.10 p.m.

We have tried to introduce through the Ministry of Finance the hard ware and the soft ware necessary. I know it will come, but it will take a little time.

Within one year of my assuming office in the Ministry of Trade the rum producers argued about this Rum Act we are now dealing with, and it took us five years to get it done. All kinds of experts had to be brought in, everybody had to come in; they had to find out every law in every part of the world dealing with it just to prevent people from moving from one pipe to another. We had a system here where you moved from one pipe to the other. Although the rum is flowing down naturally, the Customs Officer had to sit there and watch it. There was no honour accounting system. We hope to remove all of that, and we hope to deal with all of these problems.

I agree there ought to be a rebate on a percentage. You do not even have to account for it. You could say a marketing percentage of one to two per cent of your export sales; you could give that away. We give you that allowance, you do not have to account for it. You are aiding people in promoting it, so we know that you would have to give it away free, and we are quite in favour of that.

Hon. L. S. CRAIG: Mr. Chairman, I rise to make a rather brief comment in relation to this Bill. I have no doubt in my mind that I am one of the people who travel from time to time, and when I go into countries I am horrified not to see any of the Barbados rum on the shelves of the liquor stores, and since we boast of some of the finest water in the world, I am told that part of the outstanding rum which we produce, whatever brand, is also due to our very good limestone water, whether this is true or not.

However, Mr. Chairman, whatever the Bill is set out to repeal can only be in the interest of those concerned. I would also like to concern my colleagues and this Committee with the growing concern of people who drive along the street in a drunken state. Barbados no longer is a country with just half a dozen vehicles. I cannot remember the figure off hand, but subject to correction, I think there are some 40,000 vehicles on our roads, and our roads are still relatively narrow and people seem to drive without due care and caution.

I know some of them find themselves driving under the influence of alcohol, and when they appear before the courts I would think that the maximum fine should be imposed on a person driving under the influence of alcohol.

There are school children crossing the roads today, Sir, you have large buses, on the streets, and you have a fleet of mini-buses now also operating on the streets. I want to deal with them I am glad I got here in time.

I do not know if they drink, but what I would say about the mini-bus drivers in Barbados — and I know a lot of the members on the other side, and maybe some on this side, are afraid to say what I am going to say about them — because a lot of people believe when you are a mini-bus operator, or a mini-bus driver, that you can sit back and you will be able to listen to what the mini-bus driver has to say, whether he has rum in his head or not.

They have no regard for the public, they are an intolerable bunch of bad-behaved road hogs. That is what I am going to call them, I know you are not going to call them that, but I am going to tell you why I consider the minibus drivers road hogs, whether they have in rum or not.

They stop around any corner, put down passengers anywhere. (Do not nod your head, get up and agree with me. I want you to support me calling them road hogs. I know you are frightened for the votes.) They play music loudly in the buses with no discretion for any person but themselves. Their hair wants combing, they drive without shoes, their shirt collars are torn off. These are the people that form part and parcel of our entire fleet of transport on the road.

I believe, Mr. Chairman, that in this very Bill — before you stop me and tell me I am not dealing with it — I would have liked to see some sort of heavy penalty imposed upon people who are driving under the influence of alcohol. Equally, Sir, a heavy penalty imposed on the mini-bus drivers when they break the law. I want to salute the police for running them off the road whenever the occasion arises.

I saw something on that Spring Garden Highway that almost frightened me out of my wits. Imagine a minibus is going to Grazettes, it takes the Spring Garden Highway — I believe the man must have had in rum — going north in the right lane and putting down passengers out of the mini-bus on the left hand side of the mini-bus. The point which I am making is that there is traffic coming behind the mini-bus and there were old women and young children skipping off that bus whose lives are in danger. Then it turned around and crossed over the division of the two roads.

Do not nod your head, get up and support me. They go through one of the gaps in your constituency and then go through Goodland. The number is B-143. I know you cannot get up and support me because you are frightened he tells the people not to vote for you. Listen, they have to vote for me, I am a good M.P., man. They have to.

Mr. B. M. TAITT: Mr. Chairman, on a point of order. The honourable Member has just come in, and

the only reason we on this side will not get up and support him is because we recognise that the Chair is giving a little latitude. We are really on Part IV of the Bill, you see.

Hon. L. S. CRAIG: I asked my colleague that, I asked my colleague if Parts were called, but I was being general.

The drivers of the Transport Board, whether they have in rum or not, have to comply with all the laws. They have to pull up at the bus stops or the police will report them. The Transport Board must find uniforms for them and they must keep themselves tidy when driving the buses and be as courteous as possible.
6.20 p.m.

The mini-bus operators and their drivers charge the same money, but have no regard for other people using the highways in this country, and I hope my colleague, the Minister of Transport, in his good wisdom and judgment, will set about to introduce some form of regulation, some code of conduct, for the minibus drivers in this country.

The President talked about having a strike because somebody pulled down a sign. He said they would withdraw the fleet. Let them withdraw it and see if the Development Bank does not come and take up their vans. Do not mind them with that foolish lot of big talk that they would withdraw the fleet. Withdraw what fleet? You only had to pull down a 'No Entry' sign or some bus stop and they said they were going to strike. Strike is a popular word.

I feel, Mr. Chairman, that in the light of supporting this Bill repealing the Rum Duty Act that I must say I have a great concern for people who drive under the influence of alcohol in this country. That is one of my greatest concerns.

I can also say that I at times sympathise with the police in carrying out their duties. They abuse the police, they threaten them and all sorts of things. They are a bunch of intolerable, no-good road hogs. That is what the mini-bus drivers are.

I know that when I get outside and the news tells them that, I will be outside to face them. Don't let anybody fool you. If I see a mini-bus driver get out of a bus and he has four hands and four legs and two heads, I am afraid of him, but if he has two hands and two legs, L. S. Craig is not afraid of him. You would be frightened now if you heard that one of them would not vote for you, but not me. I am not in that sort of cheap politics where nobody votes. I command the votes in St. James North. I do not have a bus load of votes walking around with. Would I have to be afraid if nobody votes for me?

No doubt they are doing a good service in assisting the Transport Board and the commuters in the country. We have complimented them on the floor of the House for doing that, but the time has come when they must get put in their place. They must have some kind of discretion for the motoring public. They do not own the roads, and most of them would not even pay the licence fees.

I am told that they have a few hundred thousand dollars outstanding in licence fees, which they would not pay. My colleague, the Minister for Transport is well aware of the fact that I do not mix matters when I feel very strongly about something, and I want to get this off my chest about them.

I have seen many things about how they conduct themselves on the road. They run from 6 o'clock or 7 o'clock on mornings and by midday they finish running and put up their chassis and buses at 7 o'clock or 8 o'clock, and then we hear them talking about all the Transport Board deficit, that you cannot get buses, that you cannot get this, when they have already creamed off the sweets in a lot of nasty clothes, running their buses anywhere.

There is no code of ethics at all, and they expect nobody to criticise them. I am going to criticise them until I see with my own eyes that they are conducting themselves in a manner which is befitting of any Barbadian at all.

On one race day I was at the Garrison and I saw a mini-bus driver come up the road in a swim trunk, a bath pants and bare back — with a mini-bus full of people. All he had to do was to play "Jack" and go by the beach and bath, because it is his beach.

This is the attitude of them, and I hope that you, Mr. Minister of Transport, although I may have said it cruelly or brutally, will look into this whole matter of some code of ethics or conduct for the minibus drivers in this country. They must have the same conformity as those of the Transport Board. They charge the same money, they are given a lot of incentives, they are allowed to borrow money from the Barbados Development Bank and therefore they must also improve themselves. This is what I have to say on this Bill.

I sincerely hope that if any of them go before the courts drunk that there will be a fine imposed on them.

Sir, let me say this: when I was a school boy — I did not have many years at school, but I was a school boy; I was not born old, I was born young — there was a man called Cyrus around here, and bus drivers and car drivers used to tremble if they heard Cyrus was on the road. Barbados wants another Cyrus or a few more Cyruses in the Police Force, a few more Coxes and some

Perrys to bring them to their knees and let them understand what is going on.

It is not North American garbage you bring down here. When you see standards rise, values start to fall. People think about money, money, money; that is all they are concerned with. The church will go through the door, and the priests and everybody are looking for money. So standards of living rise and your values start to fall. I would not be surprised if that happened today in the case of the honourable Member for St. James South.

Mr. Chairman, that is my very small contribution. I am sorry if I may have just stepped out on the minibus operators, but I am afraid, from the way they conduct themselves when they are driving, that they may drink rum also and drive the same way, and I would have hoped that the repealing of this Rum Duty Act would have had in something even stronger, or whatever is going to come before the House, to make sure that you make not only them, but all of us who may break the law when driving in this country, especially under the influence of alcohol, pay the full penalty.

The question that Part IV stand part was put and resolved in the affirmative without division.

Parts V, VI and VII were called and passed.

On motion of Hon. L. S. CRAIG, seconded by Hon. Miss B. A. MILLER, Mr. CHAIRMAN reported the passing of one Bill in Committee, and Mr. SPEAKER resumed the Chair and reported accordingly.

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that this Bill be now read a third time.

Hon. Miss B. A. MILLER: I beg to second that.

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

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, I beg to move that this Bill do now pass.

Hon. Miss B. A. MILLER: I beg to second that.

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

Mr. SPEAKER: Item No. 7.

PETROLEUM WINNING OPERATIONS TAXATION (AMENDMENT) (NO. 2) ACT, 1982

Order No. 7 was called — To move the Second Reading of a Bill to amend the Petroleum Winning Operations Taxation Act.

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, Sir, there is an unfortunate error, — I say unfortunate; trivial error — in the original Bill, Sir, which was passed earlier this year. The 7th July should have appeared instead of the 5th July and this Bill seeks to correct that. The whole matter was dealt with in April of this year when it came before the House in the first place.

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

Mr. A. A. TRUSS: I beg to second that.

Mr. B. M. TAITT: Mr. Speaker, Sir, this matter was canvassed in its present form, as the honourable Member said, in April, and I do not propose to cover ground that was covered then. But since this Honourable House rose, there has been public information which sought or seeks to indicate that the Government has purchased assets from Mobil concerning assets which relate to the oil holdings in Barbados.

Now, Sir, to this date this House has had no information from the honourable Minister responsible for Finance or the honourable Minister responsible for Energy. I believe they are one and the same person, Sir, but one is not too sure these days with the constant changing of portfolios, and therefore I can only say that no information as far as I know has come to this Honourable House.

Mr. Speaker, Sir, I recall the honourable Member for St. Thomas very early after 1976, giving this Honourable House an assurance, a commitment, that his Government would not purchase any assets without first seeking the approval of this Honourable House, and he said that at a time when he was castigating. I believe it was November, 1976, Sir, when an attempt was being made to set up a Commission to examine certain activities alleged by the Government, the previous Government.

Now, Sir, we are amending the legislation which governs the holding of petroleum products, or the winning of petroleum products in this country as it is called, and it is my understanding that under that legislation there are certain rights which the Government, for the people of Barbados, retains any minerals which may be found in this country; and I recall that the agreement between Mobil and Barbados, which itself was a successor to other agreements that had been signed down the years, which set out the rights, on the one hand, of the Government and the people of Barbados, and the rights, on the other hand, of those who would control the assets of Barbados.

Mr. Speaker, I do not seek to raise a question as to the desirability or otherwise in principle of the Government of Barbados owning petroleum or other mineral

finds in this country. Fundamentally, I accept that it is proper that where large finds of petroleum or petroleum products, or indeed any minerals, are made in Barbados, it may very well be proper for such to be owned by the Government for the people.

But I believe that especially after a commitment on the part of a Government that it would make all such purchases in the future available for examination by this Honourable House, that this House is owed an explanation by either Government as to what precisely has occurred between the Government and Mobil, as to what is the nature of the transaction between the Government and Mobil, as to what precisely are the assets, if any, that we have purchased, so that we in this Honourable House can assess whether the purchase is a fair one, whether the price is a reasonable one, whether the decision is efficacious, or whether, on the contrary, it is a matter with which we would wish to disagree.

We have been given no information and I thought that on the bringing of this amendment, which in itself raises a question in my mind; I thought on the bringing of this amendment that the Minister would have taken the opportunity to enlighten this Honourable Chamber as to the transaction which has been announced by the Government.

The wording of that announcement in itself left a lot to be desired. It may very well be that the system of purchasing such assets has changed since I have had responsibility for such matters. But I would think that the Government would wish to be a lot more candid with the people and not to attempt, either deliberately or otherwise, to obfuscate any transaction which would involve a sum of \$12 million or \$15 million, as it is alleged that this transaction involve.
6.40 p.m.

Mr. Speaker, the people of Barbados are inundated from time to time by rhetoric from both sides of this Honourable House and it may very well be that there are some people who believe that if enough rhetoric is hammered at them often enough, that they would come, after a while, to accept almost anything that is said, so long as it is said in the right mould and with the right choice of words.

However, Sir, there are still a sufficiently large number of Barbadians who feel that this country is theirs, and that they have rights insofar as how the Government spends their money, what the Government does in their name, and what the Government says on their behalf.

The questions I raise then, Sir, are in that category. The Prime Minister does not have the right, if he has borrowed the money to purchase these assets, to do so without telling us that he has done so. If he has borrowed

the money, as it has been alleged, from Trinidad and Tobago — I do not know it is so; it has been alleged, and since this House has not been given information, I have information like how all other people in the public domain have their information — if he has borrowed the money, he should have discussed it with us. If he was negotiating to purchase the assets he should have discussed it with this Honourable House because we were in session. He announced after this House rose that the transaction had been completed in principle the Monday before this House rose, and we rose the following Tuesday.

If the National Petroleum Corporation is engaged in a transaction or in negotiation on behalf of the people of Barbados, the National Petroleum has a responsibility, when it is going to complete the negotiation, to place the broad outline of the Heads of the agreement before the Parliament of this country so that we can agree or disagree, or at least make our views known on the desirability or otherwise of the particular transaction.

Mr. Speaker, because that was not done a substantial amount of rumour is now abroad in the community concerning the purchase of these assets.

Furthermore, Sir, because of intemperate statements made by those persons who, fledgling in their responsibility, bursting at the seams to create an impression, utter words that are not necessarily either (a) matured or (b) the result of serious contemplation and allowed the people of Barbados to immerse themselves in information that could not possibly be valid. As a result, false hopes are held up by people concerning the availability or otherwise of our petroleum products.

Then, we have the Parliamentary Secretary responsible for Energy going off to North America and, apparently, Mr. Speaker, making statements concerning the availability of gas, which, of course, does not square with the statements made by the Chairman of the National Petroleum Corporation and which does not square with the expectation which people who live certainly within the urban areas of the community have been led to feel that they can hold.

These are relatively small matters in the context of the larger issues in Barbados, perhaps, but for those persons who themselves have laboured for the last ten or twelve years in the hope that they will be able to get natural gas, these kinds of different statements, at different times, from different authorities, do nothing but confuse.

Mr. Speaker, at one time it was alleged in Barbados that there was a large oil find and I thought that the honourable Member for Christ Church East Central, the honourable Deputy Prime Minister, in a very lucid

statement in this Honourable Chamber had made the point crystal clear that saying that we have reserves in the ground in Barbados is not to say that those reserves are available to the people of Barbados now, or that they will be available in the short term, or even in the medium term.

Now, Sir, as I understand the Petroleum and Winning Act, if there is gas or if there is oil in the soil of Barbados; up to a certain point that is owned by the people of Barbados already. No one can sell, as far as I understand, a potential field of oil or gas — at least that is not the practice. The announcement which was made — and I do not believe in fairness that the Prime Minister made that announcement — I believe that somebody must have written it — but the announcement which has come to the people suggest that we have purchased a potential.

Now I know that in law you can purchase a promise. But in the purchase of fuel you either purchase the rights to exploration or you purchase licences that have been issued, or you purchase mineral that has been mined.

It is the first time I have ever seen an announcement indicating that the Government, or that a Government, was going to be buying potential. But as I said, Sir, we might be guilty; those of us who heard it in the marketplace might be guilty of having been misinformed and so I am calling on the Prime Minister, or the Minister responsible for Energy, to inform us, if he can, or if he feels like.

And I am suggesting, furthermore, Sir, that we ought to know whether they have purchased the equipment which Mobil has left behind, or whether they have purchased the equipment plus the oil that has been kept in the tanks, or whether, in truth, we have purchased the licences from Mobil — or whether we have come to an arrangement on an amount of money which will allow Mobil to depart in peace.

It is my understanding, Sir, that Mobil has reached the point where they were going to be leaving anyhow. It is my further understanding that Mobil did not live up to a substantial number of its commitments.

I recall asking the honourable Member for Christ Church East Central to account for the failure of the Government to impose penalties for failure of sea exploration, and I would say that the honourable Member for Christ Church East Central made the point that after serious discussions they decided to waive the commitment under the exploration of sea for General Crude. I stand subject to correction. But I formed the impression that the honourable Member said that when Mobil.....
(Asides) Exchange for deep drilling — Mr. Speaker,

I stand corrected. In exchange for their commitment for deep drilling the Government decided to waive the penalties concerning their failure to do sea drilling, and I accept that, Sir.

The Minister on the spot examining the situation determined that it was in the best interest of the country, and therefore I have no quarrel with that, although it took a long time for him to come and tell us what had happened.

The whole area of oil exploration is one which requires a certain amount of delicacy in the public domain and I believe that the Government has a responsibility whenever it is dealing in this area to make any information it has, that it can reasonably do so without imperilling the country's public, available.

I recall when Mr. Elliott Mottley used to sit on this side of this Honourable House he used to bewail of the fact that the Government of the day was making no information available merely on what the then explorers were doing. And I believed that arising out of those kind of enquiries a policy emerged concerning exploration, where information was given to the public concerning what we were doing with General Crude and in the whole area of exploration.

And in the light of certain grandiose claims that have been made, every week — I should not say every week Mr. Speaker, — at least once a quarter there is some new announcement concerning oil exploration in Barbados. Mr. Speaker, the only thing that has been consistent in the meantime is that our oil exploration has been going down.

6.50 p.m.

I do not quarrel with the Government for that, what I ask the Government to do is to tell us what is happening. Do not let me discover, via some innocuous half literate statement, that the Government has purchased a potential, or the Government has reached agreement to purchase a potential.... (Rt. Hon. J. M. G. M. ADAMS: 850 barrels a day).

He shouts '850 barrels a day', but that is what we were saying in 1973. We were promised a thousand barrels a day, each Minister has promised a thousand barrels a day every year for the last 15 years. We are not dealing with what is the production, we are dealing with whether the newspapers in Trinidad are to conduct the affairs of the Barbados Government. Why are we to get information from the newspapers in Trinidad concerning the purchase?..... (Aside)

Are you letting him confuse you? If the honourable member wishes to allow his Chairman to confuse him on this issue, let him do so, but my advice to the honourable

member would be to listen to his Deputy Prime Minister on these matters, because the Deputy Prime Minister, so far, is the only one who seems cognisant of how these things go, and ready to have an open mind on the whole issue.

In the meantime, all we have been getting are statements. I am not concerned with that, that will come out in the wash. What I am concerned with is that we have been reading information from the Trinidad newspapers about purchase of assets in Barbados.

We have read, as I said, a semi-literate statement allegedly emanating from the Government about purchase of assets in Barbados. In the light of the position which the Barbados Labour Party has taken on the purchase of assets from before they got into power, in their Manifesto, and since they got into power, a solemn commitment was made by the Prime Minister and his Ministers.

I remember the then Attorney General, each time he got up to make his single speech that he makes on every subject, he would say how we bought Bath and Seafoods and a whole host of other things without coming to Parliament, and that they would never do it, and the first opportunity they got to purchase an asset of any kind, that is precisely what they seem to do.

Mr. Speaker, I have made the point. There is no need for me to belabour the point. I expect the Prime Minister to get up and explain to this Honourable House (a) what it is he has done, if he has done it, (b), why he has done it the way he has done it, and (c) we would like to know what is the cost and what it is we have purchased.

We have a few more things to say about it, but we would prefer to keep that information to us in the hope that the Government will explain it before we put our version, because I do not wish to believe the version I have heard. I would be the last person to cast any aspersions on the transactions of a legitimate Government or any of its agencies, so I shall wait until the Government has explained itself and then we will ask questions if we consider it necessary.

Mr. Speaker, I am very disappointed that the Minister, in introducing this, sought to deal with it as a casual matter and did not take the opportunity to enlighten us as to the energy policies.

I would have liked very much if the Minister could have brought us up to date on the so-called wind project. We have heard about that wind project for a considerable amount of time.

I would have liked very much if the Minister could have brought us up to date on the wave project which was to be part of a substantial energy thrust emanating from the east coast of Barbados.

I would have liked very much if the Minister could have explained some of the statements which his Parliamentary Secretary has been making from time to time concerning this gigantic thrust in the energy field by this Government. But I suspect that they are not ready yet, so I can wait for statements on those areas.

But I would like, when he comes to amend the Petroleum and Winning Act, that he tells us about the petroleum and the winning that has gone on, and which he and his Government are about to purchase.

Finally, Mr. Speaker, I do not accept that it was a simple typographical error, but let me accept it for the sake of argument, because an honourable Member has said it was. So I accept it, even if with some reserve.

I wish to know what are the consequences of the 5th as opposed to the 7th. It seems to me that there is more to this. Why would we make an error? Why, Mr. Speaker, would an error be made on this question of petroleum winning as it applies to properties, as it applies to royalties, as it applies if you remember the amendments were made. How could we have made that kind of error through both of these Honourable Houses?

The Prime Minister says it was a simple error, I accept it. Is he in a position to tell us what has been the consequence of that simple error? Has anybody been discommoded as a result of the error?

Furthermore, there seems to be a day missing in the correction. It would seem to me that the difference between the 5th and the 7th has some significance, according to this Act which we are correcting. Why are we correcting it in the way we are correcting it, Sir?

It seems to me, Mr. Speaker, "by deleting 5th July, 1979 appearing therein and substituting the words '7th July, 1979.'"(Hon. H. B. St. JOHN: This is something to do with the list):

Mr. Speaker, I believe that the honourable Member *sotto voce* has answered the question which I seek to raise and I therefore will not go any further. I am sorry that he did not introduce this, because if he had perhaps we would have been enlightened.

Perhaps, Mr. Speaker, I could stop at this point and hear the honourable Prime Minister or any other views concerning this fantastic purchase which the Government is about to make, or has made, or has agreed to make, for a

small amount of money, according to them, for some large assets, which I contend may be assets which we already own, if the Press Release which was put out is correct.

Hon. H. B. St. JOHN: Mr. Speaker, I am not going to speak on matters which are not related to the Bill, but I think that when the Bill was passed petroleum and energy was under my portfolio, and I have to speak to that.

The position is that General Crude, in 1979, purported to sell the leases in Barbados to Mobil G. C. Corporation, as it was called at that time, a Delaware corporation. Pursuant to Delaware law they collapsed General Crude by what is called a statutory merger and they came to Barbados and told us that Mobil G. C. now owned the leases that General Crude owned in Barbados.

The file is replete with my objection to the fact that it was within the competence of Delaware law to determine the method of transfer of an interest in land — because I insist that it is an interest in land, it is either a lease or a profit *a compte* — and it took us two years to insist that Mobil comply with the laws of Barbados in respect to the real estate law.

7.00 p.m.

We got our legal opinion, we refused to recognise the transfer, they finally backed down after they hired local lawyers who told them that they not only had to have the Government's permission, but also had to have the Central Bank's permission, and also, what is more important, they had to pay Property Transfer Tax. Now all that has passed.

We found, though, that under the Taxation Act, that whereas if it were a series of individuals or partnerships, where one succeeded the other, that the Act provided for the carrying over of the unexpired qualifying expenditure and capital expenditure to be written off within a period of time that the Act allowed.

In the case of a company that did not apply, and they requested that we amend the law to place a successor company in exactly the same position as if it were a partnership or if it was an individual.

We got a legal opinion from one of the petroleum expert lawyers whom we knew was connected with the original drafting of our Petroleum Taxation Act, and it came from Alberta and from Canada — the first petroleum adviser Barbados had was from Canada, he was from Alberta, and all of the laws of Barbados in relation to winning operations and taxation were based on the

Alberta laws — and we found that our Act was similar to the Canadian Oil Tax Act and that Canada itself had provided for successor companies by an amendment in 1960 or 1962, because the same situation arose. So we agreed.

But the Ministry of Finance insisted that they were not going to amend the law to deal with general succession; that they would amend the law to deal with a specific succession, namely, the one in place. They did not want to generalise the amendment to the Income Tax law.

When it was being drafted the takeover date was incorrectly determined, because the takeover date was the date on which the statutory merger under Delaware law applied, and not the date of the agreement, and this is now to bring this law in line with that. When this law is passed, all that would happen is that any unexpired — and this is a matter for the Income Tax Commissioner, not for anybody; it is nothing to do with the Ministry.

Every year the Income Tax Commissioner has to quantify what proportionate part of the expenditure allowed by the Act is written off by the excess of income over expenditure that arises each year, and it comes down naturally once your production has risen and things like that.

So that is all this law is to do with. This is nothing to do with anything else. It is only to fix a date to implement what was agreed at the time.

I will also say that we also insisted at the time of that transfer that the leases must be ultimately held by a company originally incorporated in Barbados. It took us two and a half years to get them to accept our position.

That is the position. I do not know anything about anything else subsequently. That does not arise in this.

Dr. R. C. HAYNES: Mr. Speaker, it would appear that there is no intention of responding to the queries raised by my colleague on this side.

I want to make it absolutely clear that we on this side are fully aware of the problems associated with the exploratory operations not only of Mobil, but of many other oil companies in the Caribbean and in the Western Hemisphere.

We are also aware of the pressures they have brought on the banking system within the United States, particularly in relation to Savings Banks, many of whom

have been precipitated into bankruptcy because of their investment in exploratory operations of such companies.

I also want to point out that we will not be tolerating a situation where the Government comes in here and talks about an agreement subject to parliamentary approval.

There are many aspects of that agreement which, so far, as have been revealed, are highly suspect, and I would hope that the Government would come here with a Resolution or some instrument to provide for a proper debate not only in relation to that takeover, but also in relation to the general energy policy of this Government, because we are not going to comply with or be apart of any situation where taxpayers' money would be taken up or where this country would be involved in any further liabilities, actual or contingent, in a situation that is avoidable in the midst of a depression.

So let it be understood that these queries are not just idle queries; that this will be a major issue, and that it will have to be dealt with in this Parliament before Government concludes any arrangements with Mobil, because just as in Trinidad the Trinidad Government has been able to tell similar companies where to get off, because a lot of them, now that oil prices are falling and their costs of exploration are rising, are willing now to back out of these operations which they were very interested to get in in 1973, 1974 and before.

The Government will have to give a very good explanation why they might be buying what belongs to them already, and we are not going to be party to any wastage of taxpayers' money or any further, I repeat, 'any further', liabilities, actual or contingent, in relation to any purchase from Mobil.

I want to make it absolutely clear that we want an instrument in here for a debate before you sign that agreement. We do not want any debate that is predicated on the principle that you can go and make an agreement and because you attach to it the phrase "subject to parliamentary approval", that this complies with a solemn obligation that you made not only to the electorate of this country, but to this Parliament, on many occasions, that you would not conduct your affairs in this manner in respect of purchases of assets.

I think the position of this side is absolutely clear. You can chose to remain silent on this occasion, but you can anticipate one hell of a row if you come in here without proper parliamentary approval beforehand in getting yourself involved in that kind of arrangement, racket or whatever we may call it.

Mr. C. L. BOLDEN: Mr. Speaker, I did not hope to get involved in this debate, but after the last speaker

started, I am forced to comment on his speech and the actions of the Government.

The last speaker said that he hopes the Government does not come in here with any agreement and that they would not be party of any liabilities, contingent or otherwise. But the first thing I would like to find out is whether he understands that this is the Government, and the Government must do what it considers best for the country.

When they were in power, they signed an agreement with Mobil in 1961 that Mobil has used effectively against the people in Barbados and the country, and nobody knew about that agreement until Mr. Fenton, the then Manager, drew it to our attention that the Government of the day had signed an agreement with Mobil. When I was Minister of Communications and Works, when the very Opposition was complaining about bad roads in this country, I researched the files at the Ministry of Communications and Works and found that in 1973-74 the then Chief Technical Director had informed the Government that the quality of road-making material had deteriorated and the Government did nothing. I called on Mobil for an explanation.

7.10 p.m.

I said to the Cabinet then, it is time we look to Venezuela or Trinidad for a better supply of roadmaking material and taking the criticisms off the Government. We discovered then that Mobil was saying, "We have an agreement which gives us a monopoly on the supply of roadmaking material in Barbados" — and that agreement was signed in 1961. Nobody came to Parliament with any agreement.

When your Government bought the boat that was out there in the Careenage nobody came to Parliament about that agreement so what are you saying now, that this Government is a second-class Government, that it must be ruled by the Opposition? When your Government set out to buy Bath Plantation and all of these, you never knew what was going on. You put a block vote in the Estimates for purchase of assets and it was only by rumours that people understood what your Government was doing.

I say now and I say clearly. The Government has made a mistake. They have made a mistake because they should be coming to the House to announce, "We have acquired all the assets of Mobil to pay them when we are ready!" That is what they should be doing.

I asked Mr. Fenton myself, "Mr. Fenton, why is it that in the United States, in Britain and previously in Barbados you used to get different grades of gasoline?"

He said, "That is for my Company, not yours." That is what he told me and I told him he was rude.

They produced something called Bunker-C fuel down there that several factories in Barbados have had to close with their boilers smoking. They change the specs. on the fuel without telling anybody, and then they will tell you, we are at liberty to do this.

I am surprised, I am disappointed that the Government did not acquire all of Mobil assets overnight, do not matter what you say about it, and teach all of them a lesson where Third World countries are concerned.

They make their agreements between themselves, outside of Barbados and the people of Barbados pay the penalty and the honourable Member for St. Michael South West, he knew this well in the 1973 crisis, he knew what they told him. He knew they told him, "we have the fuel outside for gasoline," when there was supposed to be a petrol shortage, "but we are not going to bring it until you give us the price we want." He knows that well.

You have it throughout the Caribbean, up in Antigua and those countries. You hear, there is no fuel; the oil companies holding until they get their prices.

All I am saying now is that the Government has made an error. They do not only take over their exploration agreements, you have got to take over the refineries like they have just done in Jamaica, and all you have to say is, 'we will give you bonds and pay you for it.' That is what you have to do. Take it over and run it yourself. Give them bonds. You have not expropriated their property without compensation. You have given them compensation to be paid within the time when you can pay.

They have taken the best out of these communities and therefore it is time that we marshal our efforts together and make use of them for the benefit of Barbados and not for the multinational corporations that seem to manipulate our very lives. That is what I am sorry about.

I do not understand you or anybody coming in here to say that any Government has got to give account of doing something that is beneficial to the people of this country. Give account, yes, but when? Give account to say, 'we have done it in our judgment; it is for the benefit of the country', and let you walk about and tell the people out there that they have acquired Mobil to bring down the price of gasoline.

Why is it that everyday in the United States you hear gasoline prices are falling, falling, falling, but every month you get a request from Mobil that gasoline prices

must go up, must go up, must go up. Why is it? You know why? Because we are in the stranglehold of the multinational corporation, a single monopoly that controls the lives of each and every one of us in here.

And you should be ashamed, because you always talk of multinational corporations; you always talk of the ineffectiveness of the Government and now the Government is seeking to show you the power it has, you are going to wash your hands clean of it. You must be Pilate — you are washing your hands clean.

But I am not washing my hands clean when it comes to Mobil. I am not washing my hands clean at all. I am full force. I am out front when it comes to Mobil and the other multinational corporations like that.

I would have been happy to stand up and congratulate the Government for having acquired all the assets of Mobil and sit down and let us now work out how we are going to run it for the benefit of Barbados and let the profits be used for enhancing the community. That is what I would like to hear. (*Applause*).

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

On motion of Rt. Hon. J. M. G. M. ADAMS, 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.

COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

Clause 1 was called and passed.

Clause 2 was called.

Rt. Hon. J. M. G. M. ADAMS: In moving that Clause 2 stand part, I would say very briefly that I was in error in indicating that this was merely a typographical correction.

The honourable Member for St. Michael South who *sotto voce* said "psychiatric", was obviously sitting down too close to the honourable Member for St. Michael South Central when he made his speech and his delayed action response has come at an inappropriate time.

The reason for the correction is as given by the Deputy Prime Minister. The merger between General Crude and Mobil took place by operation of law on July 6, 1979. The Mobil company then wrote to us and pointed out that we had given the benefits to the successor company of any merger that took place before July 5, 1979. They asked us to amend the Act to say

after July 5, 1979, which would have given them the opportunity of transferring a full benefit without the Government intervention at any time in the future, because if they had been given a general licence to transfer the benefits under the Act at any time after July 5, 1979, I venture to say that the present transaction would not now be going through such expedition and through such a form.

So we considered the matter and decided to just add on one day so as to restrict it to mergers that had taken place before this Petroleum Winning Operations Taxation Amendment No. 1 Act came into force by making it July 7.

So it is not purely typographical! That was a mis-description, but I think it has been very fully canvassed in the House.

I beg to move that this Clause stand part.

Dr. R. C. HAYNES: Mr. Chairman, we are very grateful for the explanation which shows that it was much more than a typographical error. But, Sir, the honourable Member for St. Joseph has a manner of being quite unable to comprehend the main thrust of an argument.

7.20 p.m.

Sir, we on this side are not entering into debate on the merits or demerits of any Government acquisition of any of Mobil's assets. (*Asides*) No, Sir, I am referring to this specific date. We are debating the principle of prior parliamentary approval.

Mr. CHAIRMAN: The Chairman cannot accept.....

Dr. R. C. HAYNES: Sir, the point I am trying to make is that if, for example, this had prior parliamentary approval we would not have had to come in here with this amendment now, because one of the luminaries on this side would have spotted the error.

Mr. CHAIRMAN: This is a Second Reading speech you are making. I cannot have it. The question is that Clause 2 stand part.....

Mr. C. L. BOLDEN: On a point of elucidation. Mr. Chairman, today I heard the honourable Member pontificating.....

Mr. CHAIRMAN: I have already put the.....

Mr. C. L. BOLDEN: I just want to explain something, Mr. Chairman. One minute, Mr. Chairman. I heard the honourable Member pontificating on law today, but he.....

Mr. CHAIRMAN: I have already put the question. The honourable Member has lost his chance. I am sure we would have been treated with a very excellent Second Reading speech again.

Clause 2 was passed.

Rt. Hon. J. M. G. M. ADAMS: I beg to move that Clause 3 stand part.

Clause 3 was called and passed.

On the motion of Rt. Hon. J. M. G. M. ADAMS, seconded by Hon. H. B. St. JOHN, Mr. CHAIRMAN reported the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On separate motions of Rt. Hon. J. M. G. M. ADAMS, seconded by Hon. H. B. St. JOHN, the Bill was read a third time and passed.

SUSPENSION OF SITTING

Hon. L. S. CRAIG: Sir, I beg to move that this sitting be suspended until 8. 30 p.m.

Hon. L. R. TULL: I beg to second that.

The question that the House be suspended until 8.30 this evening was put and resolved in the affirmative without division, and Mr. SPEAKER suspended the sitting accordingly.
7.30 p.m.

On Resumption:—

Mr. SPEAKER: This sitting is now resumed.

THE SHIPPING (INCENTIVES) ACT, 1982

Order No. 4 was called — To move the Second Reading of a Bill to make provision for the granting of tax and duty incentives to certain shipping companies.

Hon. H. B. ST. JOHN: Mr. Speaker, this Government has made it known that one of the areas of employment generation in Barbados is the provision of a series of incentives to the service industry.

We have passed a number of Acts to encourage the provision of services in Barbados to international business companies, to offshore banks, and we have passed a modern Shipping Bill which provides for the regulation of ship owners in Barbados.

This Bill follows this trend and it provides for the fiscal incentives which are to be granted to ships which are registered in Barbados.

We believe that the time has come when we should encourage the formation of shipping companies, both companies that specialise in the transport of goods as well as companies which specialise in the transport of passengers.

The form of the incentives will be similar to the incentives granted to industry, namely for a period of time known as 'a concession period,' for a stipulated number of years.

The object is to ensure that the capital costs are deductible and the dividends flowing from the profits, if any therefrom, are also not eligible for taxes. The Bill therefore can be seen as a complement to the other pieces of legislation.

The duty free concessions that are granted in the Bill are mainly a repeat of the existing duty free provisions of the present law. As long as there was an Income Tax Act in Barbados, both the Income Tax Act and the Customs Act always permitted the bringing into Barbados of ships duty free, provided those ships were engaged in international activities.

With respect to registration of ships, however, whereas foreign ships who come here and ply trade, the income they receive from Barbados is not subject to tax. Barbadian registered ships, in respect of the income they derive from Barbados, are subject to tax. The few ship owners that we have in Barbados therefore found it necessary to register their ships abroad, in the Caymans or in the Bahamas.

That, of course, was a legacy of the old imperial concept that the mother country's ships were not to be taxed in her colonies, but if the colonies encouraged their own shipping, the colonies should impose a tax on any profits they make.

Of course, theoretically, in the United Kingdom, ships registered in the United Kingdom are eligible to pay tax, but an examination of the allowances granted under the tax legislation of the United Kingdom would reveal that in truth and in fact, because of the generous initial capital allowances and things of that kind, that the ship owners never paid any tax.

Now, we have done a review of the whole of the laws of Barbados relating to taxation of shipping in Barbados and we have found that it would be better if we could embody in one Act the concessions which the Minister would be able to give.

And I may say, Sir, we have provided, under Section 3, for information with respect to the discretion of the Minister to come within the purview of Parliament similar to what is in the Hotel Aids Act, that is, that they are subject to a negative Resolution.

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

Hon. Dr. R. L. CHELTENHAM: I beg to second that, Mr. Speaker, and to make one or two observations.

I think we are on the right track in identifying the services sector as one which is capable of perhaps the greatest growth right now in the Barbadian economy. I am glad that we have moved in the direction of creating a new incentive regime both in relation to offshore banking, and shipping, and hopefully very soon in relation to captive insurance companies.

My concern, however, is with the organisational machinery which it is necessary to put in place in order to make this legislation operative, and the promotional support which it is necessary to give to all of these regimes which we are creating.

Mr. Speaker, you will recall that about two years ago we put offshore banking legislation on the Statute Book of this country, and on that occasion the Prime Minister was of the view — in my view, too optimistic a view — that we should move to the creation of something like 3,600 jobs as a result of offshore banking.

I tried to correct him, as it were, and suggest that his figures were too optimistic, that the start would be slow, we were coming in late in the day in relation to the establishment of an offshore banking regime, and that, more importantly, it was necessary to have Barbados vigorously promoted in European capitals and elsewhere where we have sources, and in the United States of America, the major sources of offshore capital.

As it turned out, Sir, the responsibility for this job has been given to the Central Bank of Barbados, and I am not satisfied myself that they have addressed this new responsibility with the vigour which it demands. As a result, after two years we only have three offshore banks registered in Barbados, and, arguably, they brought themselves and we did not go out and find them.

The point I am making, Mr. Speaker, is that I am not happy that we have given enough attention to the whole question of the promotional support that is necessary in order to make this investment pay the sort of dividends which we are looking to it to pay.

I fear, Sir, that in relation to offshore banking, in relation to captive insurance companies, and in relation to shipping, it will be very necessary to go overseas and promote Barbados in the same way that we have promoted it in relation to its being an offshore location for the establishment of manufacturing facilities.

8.40 p.m.

Much as I am reluctant to advocate the establishment of any more para-statal institutions in this country, we will perhaps have to investigate the wisdom of perhaps establishing another para-statal agency in order to service those three areas that I have mentioned.

I know that there are persons high up in the Central Bank of this country that would like to have every new department that is created in Barbados, and though in a small country professionals have to operate as general specialists, equally we would expect institutions to operate similarly, and so I think it was right that the Central Bank should be taking on other, in the Barbadian context, than strictly traditional Central Bank functions.

But I know there are some of them there who would like to take on the Stock Exchange, who were happy to have offshore banking, who perhaps would like to take on shipping, captive insurance and everything else that we can create in Barbados, and I think we have got to discipline them in their own interest, because there are some empire builders that are located over there.

The point I wish to make, without belabouring it however, is that while welcoming this measure, I think it is good that we should remind ourselves of the necessity not only to pass the legislation, but to put the support facilities in place so as to ensure that we get the most out of the legislation which we are now passing.

Mr. C. L. BOLDEN: Mr. Speaker, I want to join in the words of the last speaker in respect of what is happening in Barbados. Now it is clear that this Government has set about to turn Barbados into the international centre in this part of the hemisphere.

We have seen the passing of the International Business Companies Act, we have seen offshore banking, we have captive insurance coming about, there is a new Companies Act coming about, and there is a Securities Bill which is also in the offing. These are all financial packages which would bring to Barbados the sort of business that will create employment of a Special Category.

I, myself, am particularly worried about the organisation which the Government is thinking of, or has not yet thought of, to put these particular ideas into reality.

As the last speaker has said, I, as a member of the Bar Association, was invited to a meeting to meet two experts on captive insurance. Now these experts were brought to Barbados by the Central Bank. They were just told to meet with the Bar Association — and the experts are questioning the members of the Bar

Association about facilities without telling us exactly what will be required.

Now if the Government seeks to introduce these commercial activities in Barbados, in my view we have opened up an area that needs careful attention.

In shipping, I am finding already, and not only in shipping but in other businesses, that the response to queries of an international nature is very slow in forthcoming to people who are in the business world.

I am saying openly that these are commercial ventures which must be taken completely out of the hands of civil servants and quasi-civil servants and put into commercial operations where people can respond directly when queries are asked of them.

It is no use having a modern Shipping Bill, no use having financial incentives, unless you are going to advertise these in the areas where it matters.

We have gone into offshore banking. I have got a student in my office who has just spent two months in the United States in a special orientation course to do management studies at the University, and the first thing she said is that the attorneys-at-law who come to the University to give lectures are enquiring whether Barbados is yet in offshore banking, because they do not know.

We must recognise that we are a small and insignificant island stuck outside of the chain of the Caribbean islands. Our newspapers do not command that attention in big financial centres as the New York Times or the Times of England and the other commercial newspapers do, so therefore if we must get into it; you must do the necessary selling of yourself with the facilities you are offering.

But if you are going to put it in a quasi-Government department, if you take the Telephone Directory you cannot find a listing that you can pick up and see "Central Bank, Offshore Banking". You have to start calling every department and ask how do I get information on offshore banking. You are told to call 62107 and ask for Mr. Browne, but he will tell you, "Don't talk to me, speak to Mr. So-and-So", and that is how you go around and round in a circle. Now that is not business.

Somebody calls through on the phone or writes you a letter and says 'I am interested in moving 80,000 tonnes of shipping to Barbados, I want to have an answer to a, b, c, d and f; please call me in two days' time.' You need to call somebody and say, give me the answers to these, and call back and give him the answer. He says he is coming in tomorrow night; he gets on a plane and

flies to Barbados because he needs to wrap up his business in twenty-four hours. It is not the system that is adopted by the civil servants and quasi-civil servants in this country.

You cannot go into the modern business world with the lackadaisical attitude that persists in this country today. Even the Telephone Company that used to be the best in the west, you try calling 118 or 119 or any one of those numbers. You will wait for it to ring about 60 times before you get somebody to answer, and when you get an answer they are rude and impolite. But you can take up your phone and phone, direct dialling, to Miami, London or Cairo and somebody answers at the first ring, and you get what you want.

Now we cannot create Barbados as an international centre with this attitude. No way will you succeed.

You are passing laws. You are not advertising them, and you have not got the people to manage them. Even the banks in this country do not know how to manage international money. You let a client tell you he is moving money from a Swiss bank and it takes you two and a half weeks to find it in the banking system in this country.

I want to say something now, and I hope the newspapers report this judiciously. What I am saying affects Barbados and it is beneficial to Barbados.

I have just understood that the IRS of the United States has been able to persuade the Swiss Government to allow investigation of Americans holding accounts in Switzerland. There is panic in the United States. There is also a certain amount of anxiety in Europe to move money out of these places into safe havens.

But to do that, Mr. Speaker, if Barbados is willing to create the sort of jobs we need, we must have a banking system, we must have an administrative system that can facilitate the strict movement of money.

The next thing I come to is the staff to operate in these environments. Under captive insurance, as I understand it, the two experts said that what they would want is commercial staff, secretaries, clerks etc.

This is something I am saying to the Minister of Education. You must now devise a system in Barbados of monitoring the so-called secretarial schools that are masquerading around this country robbing young innocent girls of hard-earned cash.

There are a lot of these so-called secretarial schools charging high fees and turning out young people, with so-

called diplomas in their hands, on an unsuspecting public. They are knocking at the door every day asking for work and when you accept them, Mr. Speaker, you have horrors.

It is time that we put a limit to this sort of educational robbery. That is what it is.

People know that Barbadians are anxious to learn. We have no escape route for the number of people we have in Barbados today. Years ago you came out of school with GCE and a School Certificate and you went to England, and you went to the United States, so that the pressure at home was relieved. Today there is nowhere to go.

8.50 p.m.

The Government has created the environment to absorb that sort of person at home, the secretaries etc., but we must have the proper learning facilities to train these people so that when you bring the captive insurance and all of those commercial organisations here they can find the personnel they need to have their businesses run efficiently.

You have to look at the Polytechnic and all the schools of this nature, and you have to open them 12 months a year. It is useless shutting them down now for long holidays. It is hopeless to shut them down in the evenings as well.

If you are going to allow the so-called secretarial schools to exist, you must have a monitoring system to make sure that they are producing what they say they are offering to the students, because you cannot invite people to come to Barbados to find that they cannot find decent secretaries, they cannot find decent copy typists; but there are people masquerading and saying, "I went to so-and-so secretarial school and I have a diploma as a receptionist; I have a diploma as a typist". But when they come to your office, Mr. Speaker, and you put them before the typewriter, before the end of the day you have as much debris as if it was the Sanitation Department collecting debris from down Broad Street. The rubbers have gone and your typewriter is fouled up, and they are showing a certificate.

Upon that, too, they tell you that the teachers tell them that you must not work for less than \$800 a month; you are qualified. Qualified to do what? In my estimation — to create horrors.

As I understand it, the Far East is getting hot. The people with all the shipping are trying to get out of Monrovia and all of those places. They are looking for a stable community in which to place their businesses. Barbados has always boasted to be a stable community.

I know we have the Opposition that sometimes will get up and keep noise. That is the job of the Opposition party, but I do not genuinely believe that one of them over there will go outside and do something to damage the fair name of Barbados, because after us it will be them, even if they are different personalities.

Therefore, I believe that the Government should seriously sit down, look at the commercial law that has been passed within the last seven years, find out if it is being used effectively, find out if the Central Bank is using it effectively, find out if it is necessary to create some kind of an organisation to place this specialist legislation into that organisation that Barbados can really capitalise on what the legislators have done.

The legislators have developed a policy. We have passed them in the House. It is now left to somebody to really bring them into effect so that we can solve part of the unemployment in this country.

The areas of unemployment that will be affected by this sort of legislation, Mr. Speaker, are the areas of what I call "the great area". I call it "the great area" because of this.

Barbados is a very socially prejudice community. You have introduced free secondary education into this country, which means that my son, the carpenter's son, the scavenger's son and the Prime Minister's son are liable to sit down together in school, but if one came out as a Barbados Scholar and the other one failed, do not expect that other one to go and be a scavenger when his buddy is walking about the streets looking at him. So therefore we are going to have to find that intermediate job for those kind of people. (*Asides*). No I have daughters. Fortunately they might not have to work.

All I am saying is that we must now use the legislation effectively. We must use it in such a way that it is not just lying on the books with people hearing about it. You must go and tell the world what you have done. You must create the environment to benefit by what people are asking for.

Dr. R. C. HAYNES: Mr. Speaker, right at the beginning of this adventure.....

Mr. SPEAKER: Before the honourable Member begins, — just before the honourable Member begins his speech, — the time for interruption has arrived, and I am merely to enquire if the matter now under discussion is controversial. (*A Pause*).

The honourable Member may carry on.

Dr. R. C. HAYNES: Mr. Speaker, it is a strange phenomenon to recognise that the positions taken by the

Democratic Labour Party over the years in respect of the services aspect of the Barbados economy, particularly in relation to new financial aspects, has proven to be absolutely correct.

I, myself, have warned again and again on the opportunity cost, as the economists call it, in the introduction of services of this kind; also about promotional cost involved in the exercise in the enterprise. I have also warned that these matters were being introduced into Barbados in a situation where there were major changes taking place in the world that would tend to lead to a contraction in this area of business as far as it affects small countries.

Now, Sir, it is quite incorrect to state that the International Business Companies Act was introduced by the Barbados Labour Party. That Act was on the Statute Book since the 1960s, and the fact is that over the past six to seven years Barbados has had no more and no less than the expected growth on an international basis in relation to that particular aspect of international business activity. In other words, we got our proportion. The same share that we got post 1976 is the same share that we got between 1968 and 1976. I think 1968 was the date in which the Act was introduced into this Parliament.

9.00 p.m.

I have always taken the view, Sir, that the honourable Minister of Finance was mistaken in terms of the employment generating capacity of offshore banking business. He would have been more correct, Sir, if he had made such an assessment in relation to captive insurance business, which, because of the heavy domiciliary nature of the international activity, would mean the generation of a certain amount of job activity as distinct from offshore banking.

I rather suspect that the time that we wasted between 1976 and now would substantially reduce the rate at which we would be able to develop in the area of captive insurance business, and I say that for this reason.

The main source of such business would be the United States, and certain members might be aware that there have been certain corporate changes imposed, or certain changes imposed on corporations through the IRS, which, in fact, reduce the ability of large corporations, who can sustain their insurance business through offshore business activity independently, from so doing, in that it now requires one or more companies to own such an offshore operation in order to benefit from it.

This inevitably requires, Sir, businesses of light activity and businesses which almost certainly have complementary business activity, but yet, somehow or other, settling the matter in relation to competition.

So it would be more difficult to get into the captive insurance business now than even three years ago, and the effort which was being put in offshore banking in 1977 and 1978 should have gone into captive insurance business, and I have said this before, because the multiplying effect on the Barbados economy, particularly in employment generation, would be much greater.

As far, Sir, as offshore banking *per se*, it was always very wrong to suggest that it has any major employment generating capacity. I have done an analysis, Sir, in relation to the volume of business passing through the Bahamas and the Cayman Islands, the number of banks and the number of people employed, and I have done it in relation to Singapore, and I have presented those figures to this House.

And, Sir, in fact you can only identify about 0.3 per cent of the total spectrum of international business that can be said to be directly employed in relation to offshore banking.

So, in terms of employment generation, let us get it straight that offshore banking will never be a major source of employment in Barbados.

Sir, we have heard that we have attracted three banks. One bank, Sir, can have a through flow of \$50 billion that can involve one transaction or two transactions — and would not require a single additional person to be employed in order to handle that business.

So the amount of employment is not even related to the volume of the business that you get, and, correspondingly, you are in a competitive world, Sir, and it is very important to recognise that the rates chargeable for such business in respect of benefits to the Treasury would have to correspond to those of your competitors. So there is no major advantage there.

I need not bother to deal with the risks, except to point out that this area has been significantly tarnished by the activities in Montserrat, Anguilla and St. Vincent. It is tarnished to the point, Sir, that if you went to the West Coast with a cheque drawn on Barclays Bank, Barbados, the chances are that that draft would not be cleared in the usual manner. There would be several checks and balances. So that whole area has been severely tarnished.

I am not saying that it has happened in Barbados, but what I am saying is that I happen to know that several west coast banks in the United States, as distinct from the Eastern Seaboard that would make a distinction between Barbados, Trinidad, Jamaica and the other Eastern Caribbean countries, those banks in the west are not making that distinction. I speak in an area of

which I have considerable knowledge and expertise. I know what I am talking about.

I will also point out, Sir, that the growth area in offshore business was strictly related to the expansion of the petro-dollar market and strictly related to the Euro-dollar component of that petro-dollar, largely relating to the restrictions on the operations of the United States' banks in relation to statutes restricting them to operating within their own states. Therefore, to expand their businesses, they have had to move outside of the United States. And this business, largely led by Bank of America, based in Singapore and in the Far East, with large adjacent markets for the absorption of those petro-dollars, expanded tremendously between the late 1960s and 1970s.

Some very curious things have been happening recently. First of all, as you know, the Federal Reserve has relaxed certain restrictions in respect of banks in the United States, which are now allowed to do offshore banking in several states, including Florida, New York, and New Jersey, they have all taken advantage of that — I think through the IBS system — which means that there has been a significant re-import of Euro-dollars into the United States, particularly by the large multi-national companies, who were not primarily seeking tax evasion, but looking more for other avenues of financial benefit in the spread of the Euro-dollar risk.

The second problem that has occurred recently, Sir, is that there is a general feeling that, in relation to the kind of matter that I referred to earlier, where many banks have quite foolishly, I think, taken unreasonable risks in lending to Third World countries rather than going through the established institutions, coupled with the high interest rates.....(Asides).

I say that the banks have gone into direct lending to Third World countries rather than passing their money through the World Bank or through the International Monetary Fund, or through the IDB, where the Third World countries can get money at better rates of interest in respect of the Third World, and on more concessionary terms, and those banks now find themselves in serious problems.

And one of the big problems that is happening today is that many of those persons who held their accounts in the offshore Euro-dollar market are in fact withdrawing those accounts back to the continent of the United States in order to get the benefit of the FIDC guarantees which, of course, would apply to individual deposits up to \$100 000.

At the same time, of course, there is now a fall-off in the rate of earnings in terms of petro-dollars, so that rather than finding an expansion in the Euro-dollar

market, there is every possibility, certainly over the next year or two years, or maybe three years, you might find that there might be a contraction in that market and certainly not at the rate of expansion that was experienced in the past.

So with all the talking down the years and the lack of action, I suspect that you have missed the boat. And I suspect that any large amounts of money spent on promotion now may be spent promoting in the wrong kind of market environment. It is not an appropriate market climate at the moment for this kind of activity; captive insurance business excepted.
9.10 p.m.

As far as shipping is concerned, Sir, I do not wish to get involved in that too much at the moment, but I have already warned the Government that they should look very carefully at the abuse of flags of convenience facilities in respect of labour, bearing in mind that we have a fairly significant labour force in Barbados which is involved in shipping, and these factors have to be balanced one against the other.

As far as the Central Bank is concerned, Sir, my personal view is that the Central Bank has enough to do in respect of central banking. I feel that their task should be to properly monitor the economy, to make sure that they perform a better research function, and, above all, that they should have much greater independence within the framework of Government.

I think that this is a policy to which the Democratic Labour Party will be committed, because whereas a Central Bank can be an important instrument in the development process, sometimes one begins to wonder when you look at the difficulties which encompass many Third World countries today, whether or not those economies were not better managed when there was a certain amount of autonomous regulation. In other words, where the facility to create money and the facility to finance Government deficits and so on did not reside within the power of a Central Bank.

I understand that there is an officer who has been placed within the Central Bank, whose function is to look after the business of offshore banking. I think he should be removed from there I do not know whether he is functioning or not, but he should be removed from there. I do not think that is the proper function of a Central Bank.

I think that you probably need to set up a corporate body to look into the whole question of the expansion of these services, because they are all inter-related in a sense, and as I say, there is such a body of material that is available and there is so much information that can point to the right direction and the right

timing — and timing, Sir, is of critical essence, very critical, when you are dealing with this particular area of activity, otherwise you can spend a whole lot of money and the returns can be nil.

There is also another good reason why I think it should not be within the Central Bank. Particularly in the area of offshore banking, in this kind of economy it is absolutely important that you isolate money flows through the offshore facility from the domestic economy.

Any kind of contamination can have serious problems one way or another. In a negative way, problems of leakages; in the other way you can get problems of influence that can cause catastrophic disparities within the development process within the country.

And I feel that where you have an institution whose main task should be looking very carefully at the fast development of the country, that the Central Bank is not the appropriate place to have any officer dealing with offshore banking.

There is another very good reason for that, Sir, and this is why I agree with the Honourable Minister of Agriculture. One aspect of most of these offshore activities inevitably involve some element of compromise in the sovereignty in the management of your financial affairs. It is a fact that you have to face.

In terms of Barbados it means an element of compromise of the supervisory role of the Central Bank in the management of the movement of money in and out of Barbados, secrecy being a very important component of this exercise, and in fact is entrenched in the legislation that has been passed in this House.

Therefore, you have a contradictory situation, where you have a Central Bank promoting offshore banking whilst at the same time that same Central Bank is accepting an element of diminution of its sovereignty, and also has the authority in law to monitor the movement of money. The Central Bank should be a separate and distinct institution and should not be involved in this.

I objected very much to it when an officer of the Central Bank accompanied the Minister of Finance to Canada, and where he himself made a very stupid statement, highly criticised by many other central bankers in the region, endorsing that statement in relation to the generation of 3,500 jobs.

Sir, let me tell you something. Central Banks are absolutely critical for the maintenance of the stability not only in this region, but in the world. There is every probability that within three months there may have to be a major international demand, and response by Central

Banks throughout the world in order to rescue the international banking system if things continue as they are.

It means, Sir, that any statement issued by our Central Bank, or any Central Bank, should be a statement that is rooted in fact and reality, and must never be tinged with the kind of political opportunism which from time to time would emanate from the mouths of irresponsible Ministers of Finance. So the purity and integrity of statements of Central Banks are of the utmost importance.

I would not want to get into the disinvestment process, in which I, myself, think that we probably did not do as well as we could have done, due largely to certain elements of politicisation of the Central Bank's activities here in Barbados.

I feel very strongly, and I support the Minister one hundred percent, that all these activities must be removed from the Central Bank and the integrity of that Central Bank should be preserved, its independence within the system improved upon, it should concentrate on research, education and on the monetary responsibilities that are placed on them. Not empirically, because you would get so much confusion inside there if you place these things within the Central Bank, that after a while you would not know whether you have a Central Bank or not.

I was shocked, Sir, the other day — because I do not believe Barbados has any foreign reserves at the moment of any significance — let us face facts, we are talking about functional foreign reserves — do not fool yourself, you cannot fool me — when I see a figure of something like \$76 million owed to Barbados from CARICOM countries; I believe mainly Guyana and Jamaica. That is a serious thing. That to me seems to be a compromise of the monitoring operations, either by the Minister of Finance or the Central Bank, or both. If you look at the turnover rate in earlier years, you will see that obviously there was a proper repayment schedule and there was a proper flow schedule going on. In the last year or two the thing has romped up, I think, from in the region of \$10 million to \$15 million to \$70 million or thereabouts. Now that is a serious matter and it is a matter that we cannot afford. We simply cannot afford it, and that is a matter that comes directly under the supervision of the Central Bank in Barbados — and you cannot divert the Central Bank's attention to this kind of marginal activity.

9.20 p.m.

Let it be understood that when all of the words are spoken from this side and that side, we are talking here about marginal economic activities and nothing that is going to fundamentally change the structural problems of this economy. When you talk of management of your foreign reserves, etc., you are talking of

matters that are of vital significance to the survival of this country.

Now there are other areas that I am very concerned about. I think the improper analysis of the monetary policies over the past year, the reported losses of \$95 million in 1981, where there was a very incorrect decision to try to correct that by interest rates, have a tendency in an open economy like ours to cause a net loss of foreign exchange. I repeat what I said; they have the potential of causing a net loss of foreign exchange.

In other words, what you gain on the one hand, you can use on the other hand. I only have to quote the experience of Hong-Kong or the more recent experience of Panama. You all know perfectly well the big problems that they have at the moment where even the Vatican Bank is involved in a major scandal. You know the problems even in getting the Italian Central Bank to honour the Luxembourg so-called subsidiary of one of your operations which has run into trouble in Panama. I guess eventually the World Court or somebody will force them to observe the usual conditions which apply to external depositors in domestic banks, which are often given preferential treatment in any foreclosures or any collapse.

So, Sir, we are dealing with fine technical areas, and it is quite wrong — I repeat — it is quite wrong to come inside here and it has been wrong over the years to give Barbadians the impression that because you can use big names that you are really creating matters that have fundamental, economic significance; matters that are likely to be high-employment generators and thirdly matters that have only a positive aspect to them.

You can waste a lot of money on promotion. Without proper selection, your opportunity costs can be high, and I believe that our opportunity costs will be very high at this stage, and you are also faced with the problem of leakages that can be very serious.

I repeat, finally; I will strongly advise that the next time those responsible for the financial management of this country happen to be in the area of Hong Kong, that they have a very close look and see the impact which this kind of activity can have on the foreign exchange capability of that particular country. Remember we do not have a Singapore situation here in Barbados. That is another matter and we will deal with that at another time.

I believe, Sir, that I have tried to at least read into the record of this Parliament the position of the Democratic Labour Party, to put it in a balanced perspective and to make you recognise that there are people in this world who cannot be fooled by words.

There are people who constantly monitor the international financial climate, who know what is going on, not because they have any personal interest in the area but largely an academic interest, but they know what is going on, and I will regard this particular Bill at the moment as purely a routine bit of legislation, and this, along with the Stock Exchange Bill — I do not wish to anticipate Parliament — but perhaps in the general context these things are largely futuristic in terms of our current economic situation.

Thank you very much, and I hope I have contributed somewhat to the enlightenment to the honourable Minister and others on the other side.

Mr. B. M. TAITT: Mr. Speaker, rising at this hour it is clear that I would be inflicting a punishment on this Honourable House if I should speak for a long time, but there are two small points which I should like the Minister to address himself to.

I am a little concerned that I might have missed what precisely this Bill is about. It seems to me that from the debate that has taken place so far we are in fact introducing legislation to allow for flags of convenience. According to the debate, that seems to be the case. But, according to the Bill, I have not been able to find in the Bill any indication that that is what is happening, and I should like the Minister to explain whether, in fact, this legislation is brought in aid of that particular policy.

I formed the impression, and with no desire to examine the Bill in detail, I formed the impression from Clause 3 that this legislation and the incentives which it seeks to give will only apply to certain kinds of shipping companies in which the Government will have either a majority share-holding or which they wholly own.

If that is not the case, then I will wish in the Committee stage to raise a question with the Minister as to an interpretation of what appears as Clause 3, at least in the Bill I have.

That notwithstanding, if the Government is at this point making provision for flags of convenience, I would merely say in passing that this legislation is unlikely to do much by way of bringing any flags of convenience to Barbados.

I myself, am not a believer in flags of convenience for a number of reasons, the most important of which is that the particular country where the flags of convenience exist, unless it is going to be fair to itself and to its citizens who will participate as workers on these shipping lines, will have to pass a series of legislation which will make the flag of convenience efficacious and desirable.

On the strictly shipping aspect of this Bill, I would like to draw to the attention of the Minister, since the opportunity does not present itself very often, that it is very necessary for us in Barbados to start taking an active interest in the fortunes of the large number of Barbadian seamen who have been working on ships of a certain kind for a substantial amount of time.

The world shipping situation has changed dramatically during the last five years, and more particularly during the last two to three years, and, as a result, the employment opportunities now available to Barbadian seamen have been considerably constricted, or restricted as the case may be. It is now very difficult for a Barbadian seamen to work for longer than six months in any given year except he is particularly fortuitous.

Time does not permit a thorough examination of this issue, but I am suggesting to the Minister responsible for shipping that the Government should do a systematic system of the patterns relating to employment of Barbadian seamen, with a view to our providing a policy which will allow our Barbadian seamen to have a better opportunity for employment.
9.30 p.m.

In fact, if my understanding of Clause 3 of the present Bill is not correct, then we will have to bring a regime in assistance of this Bill to ensure that employment forms part of any shipping opportunities which are provided under the Barbados flag.

The honourable Member, the Leader of the House is gesticulating, quite correctly, that time is of the essence. But I believe that, notwithstanding the time, if a Bill of this nature comes before this Honourable House and that point is not made, then I and other honourable Members will not be doing their duty.

It is a very serious matter and although there are certain fiscal benefits which might accrue from a flag of convenience, the other issues are more important, in the context of the Barbadian structure.

I want to suggest that it is a matter which, I hope, we can have a fuller debate on in the not to distant future, and I am asking the Minister to seek to provide an opportunity for us to debate this perhaps by way of a study or by way of an ancillary Bill to this.

When we come into Committee I would like the Minister to explain Clause 3, because, as it now stands, if it does make sense, Mr. Speaker, it does make sense after a lot of stretching of the words as they now appear.

In the interest of time I will sit so that the Minister can respond. I regret very much that this Bill has come

up at this hour because there are some other aspects of the whole question of flags of convenience of which I feel strongly and on which I would like very much to make a more indepth contribution.

The honourable Minister, if he has been paying attention to the files which were left behind, would know my views on this, but I will leave it for another opportunity which I hope will present itself soon.

Hon. Dr. D. G. BLACKMAN: Mr. Speaker, this is a simple piece of legislation which simply makes it possible for the Minister of Finance to grant tax concessions to certain shipping companies operating in Barbados.

In the issue relating to what has been described as ships bearing flags of convenience is an issue which was extensively debated in this House in 1981 when the Shipping Act was passed and that Act empowers the Government to make Barbados a port of registry.

The necessary steps are now being taken by the Ministry of Transport to effect proclamation of the said Act with effect from December 1.

In order to do this, it was necessary for the Government of Barbados to ratify about four or five different conventions relating to international shipping, which conventions have been ratified and deposited with the International Maritime Organisation and take effect 90 days after they have been deposited with this international body.

The necessary regulations with respect to forms and deeds, another pre-condition for proclamation, have been made and approved by the Attorney General, and the formal act of appointing a Director of Maritime Affairs is the sole formality left to be implemented before the Shipping Act comes into force.

It is that legislation which deals with the question of Barbados as an international port, a port of registry, which is the formal description of flags of convenience, and that matter was discussed in the House when the Shipping Act was passed.

I do not believe that it is necessary for me to go over the ground that was debated at that time, but I would add; in response to the point raised by the honourable Member for St. Michael West about the plight of Barbadian seamen, that Barbadian seamen have been caught in a situation that is particular to seamen throughout the world.

There is falling tonnage. The international shipping industry has been caught in the toils of the international economic recession, and consequently many of the

shipping companies have found it necessary to disgorge themselves of their ships.

The many reputable maritime countries have found it expedient to transfer their operations to far-flung places such as Singapore, because ships are registered in places like Singapore, it is possible to operate such ships at considerably lower labour cost than when they are operating in Europe.

The International Transport Commission, of which the local body, the International Union of Seamen, is an affiliate, has been doing some intensive policing with respect to malpractices which were prevailing within the shipping industry, where shipping companies' offices had their crew and officers on paper that did not match the men on board.

Very often shipping companies made representation to the International Transport Authority which suggested that they were paying their crew rates which were considerably higher than the wage rates actually received by the shipping crew.

We have cases in Barbados where the National Union of Seamen carried out severe policing activities against ships that came into the Bridgetown Harbour that violated the conventions of the International Transportation Authority. But this type of policing brought a strange retaliation, which made it even more difficult for Barbadian seamen to obtain employment. The word was clandestinely passed to the National Union of Seamen that their policing activities, if called off, might result in greater employment opportunities for Barbadian seamen.

9.40 p.m.

The Ministry of Transport and Works, through the Port Authority, is looking at possibilities of gaining employment for seamen. But it must be categorically stated that the abundance of opportunities that prevail for seamen is not likely to recur as long as international shipping conditions continues to be in the doldrums.

A few weeks ago we were able to find employment for some twenty seamen who were shipped out to Yugoslavia to work on a boat which a Yugoslav company had just completed the construction of. This company would be registered in Barbados, will be constructing two or three more new ships, and it is hoped that we will be able to find additional employment for Barbadian seamen there.

Mr. Speaker, the legislation before us is a simple piece of legislation which is aimed, primarily, at ensuring that more cruise ships come to Barbados.

The tourist industry in Barbados need a shot in the arm and it is believed this fiscal incentive legislation will

have the effect of increasing the calls of cruise ships to Barbados and thereby support our tourism from another angle.

This is the principal merit of what is really a very simple piece of legislation, and which is only tangentially related to the issue of Barbados being an international point of registry.

Hon. H. B. ST. JOHN: Mr. Chairman, I will just wind up. I do not want to add anything in respect of the shipping aspect of this Bill, or its impact on employment and the generation of ships coming to Barbados to be registered under our new Merchant Shipping Bill, as the Minister responsible for Shipping has put that matter in its proper perspective.

There are just two points that I would reply to. There is a general misconception that all offshore services come under the domain of the Central Bank. That is incorrect. The international business companies have always been marketed by the Industrial Development Corporation and they come within the constitutional instruments of the Ministry of Trade. Shipping will come under the constitutional instruments of the Minister responsible for Transport. Only offshore banks come under the jurisdiction of the Central Bank and captive insurance companies — where that will reside has not been finally determined, but the executive Ministry in relation to that is the Ministry of Finance.

I think it is conceded by all who have experience of marketing that a package of instruments and a package of information has to be given to people abroad who are likely to be interested.

I have always said that I know of no better agency which can do this service than the agencies which have successfully been doing it over the course of the last 20 years under two administrations, that is the Industrial Development Corporation.

In fact, the Industrial Development Corporation has been mandated by me, as Minister, to sell Barbados not only in relation to the attraction for industry, for production of physical goods, but also as a centre for headquarters, as a centre for international business, as a centre for offshore banks, as a centre for the attractions of shipping, and, what is perhaps more important, as a centre for invisible income derived from professional services.

Now in these areas, if you look at them *in toto*, we have made some progress some considerable amount of progress, in job creation. There are now well over 140 international business companies. They are being registered at the rate of about 40 a year.

What is perhaps more interesting is that they are actually carrying along business since the amendment to the International Business Companies Act in 1977, which removed a constraint which existed under the prior Act, namely that an international business company is now in a position to hire services in Barbados; whereas before they were not allowed to hire services in Barbados. Because for them not to lose their preferred status they had only to use Barbados as a physical base in respect of the totality of the services had to be carried on outside.

The amendment allowed them to hire accountants, to hire data processing equipment, all of those things provided the Barbados company sells the service on account abroad. The Barbados Company pays the full tax rate. The company abroad buys the service from Barbados, and the difference between what it buys it at and what it sells it for — that is taxable at the preferred rate. Now that amendment has done a lot.

We feel confident, Mr. Speaker, that with the momentum that has been gathering in that way, that there can be a linkage in the promotion of that together with all the other professional services that we had, together with the offshore banking, and together with the shipping. So that is the objective.

Now, Sir, there is one final point I would like to make, and it is this. I really can't resist the temptation to respond to part of a speech made by the Honourable Member for St. Michael South Central.

He correctly delineates the international situation as being serious, but I will say this: his speech today on banking and the strictures he has imposed on the private banks for lending to Third World Countries is very reminiscent in content and in verbiage to the one that the United States made at the IMF and World Bank Conference. It is the nearest speech to the United States' position that I have ever heard.

I think it is of significance, Sir, that every developed country and 99 per cent of the Third World countries criticised the United States for that speech. So the only supporter that I know who President Reagan has in his attitude towards forcing Third World countries into.....

Dr. R. C. HAYNES: On a point of elucidation. What I said was that the large American banks, instead of supporting the international lending agencies preferred to lend on a bi-lateral basis directly to Third World Governments.

The United States' position, as I understand it, is that it is better for the banks to lend directly to the countries where the Third World position has been than

it is better for the United States to lend to the international agencies, particularly supporting increased quotas for smaller countries within the IMF, in order to increase the capacity of the IMF to provide funds on a longer term and a more concessional basis. So I think that you have it the reverse way.

9.50 p.m.

Hon. H. B. ST. JOHN: We will not go into arguments at this time of night. The honourable Member specifically criticised the bank for lending, saying that the bank should not have lent the Third World countries, it should have forced them to go to the World Bank, the Inter-American Development Bank and the IMF. That is what the honourable Member said.

All I say is this. The position is this. Everybody knows that at this period of time the climate for international business is not as good as we would like to have it, but there are still opportunities out there, with proper marketing, to carve out a niche in whatever market there is, and we feel that we must put all the instruments in order, and we agree that the time has come when all the legislative instruments are in place to settle on the structure of the marketing mechanism. I have absolutely no doubt where is the proper place to put it.

Thank you, Sir.

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

Hon. H. B. ST. JOHN: Mr. Speaker, I beg to move, now that this Bill has received the second reading, that further consideration be postponed.

Mr. B. M. TAITT: I beg to second that.

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

ADJOURNMENT

Hon. L. S. CRAIG: I beg to move, Sir, that this House do now stand adjourned until September 21, 1982, at noon.

Mr. J. G. ODLE: I beg to second that.

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

9.55 p.m.