

THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1981 – 86

HOUSE OF ASSEMBLY

Tuesday, July 12, 1983

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

PRESENT

His Honour C. L. Bolden, LL.B., (Deputy Speaker)
Hon. L. S. Craig, (Minister of Parliamentary Affairs and Leader of the House)
Hon. H. B. St. John, Q.C., LL.B., (Deputy Prime Minister and Minister of Trade, Tourism and Industry)
Hon. Miss B. A. Miller, (Minister of Education)
Hon. L. B. Brathwaite, (Minister of Housing and Lands)
Mr. J. G. Odle, B.Sc., (Chairman of Committees)
Hon. V. L. Johnson, M. A., (Minister of Transport and Works)
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 Legal Affairs and Minister of Foreign Affairs)
Hon. DeL. O. Bradshaw, (Minister of Labour, Social Security and Sport)
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
Hon. Dr. D. G. Blackman, B.A., M.A., PhD. (Minister of Health and Community Services)
Mr. M. A. King, LL.B.
Mr. W. O. Franklin, A.I.A.S., J.P.
Mr. A. Truss

Prayers were read by Archdeacon F. A. Cayless.

MINUTES

Mr. DEPUTY SPEAKER: The Minutes of the meeting of Tuesday, July 5, 1983.

Hon. L. S. CRAIG: Mr. Deputy Speaker, I beg to move that the Minutes for Tuesday, July 5, 1983 be taken as read.

Mr. DEPUTY SPEAKER: If there are no objections or observations, let the Minutes stand confirmed.

ANNOUNCEMENTS BY HIS HONOUR

Mr. DEPUTY SPEAKER: I have to announce that I have received the following:

Accounts and Statements for the month of March, 1983 prepared by the Accountant General.

Accounts and Statements for the month of April, 1983 prepared by the Accountant General.

PAPERS

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

The Annual Report of the Immigration and Passport Department for the year ended 31st December, 1982.

On behalf of the Minister of Finance and Planning, I am commanded to lay the following:—

The Financial Statement showing Net Customs and Excise Receipts for eleven months ended 28 February, 1983.

GOVERNMENT NOTICES

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

Resolution to approve the vesting in William A. Yarde of a parcel of land at Flagstaff, St. Michael.

A Bill to make provision respecting the regulation and control of Civil Aviation in Barbados.

A Bill to amend certain enactments relating to revenue.

FIRST READINGS OF BILLS

On motion of Hon. L. S. CRAIG seconded by Hon. H. B. St. JOHN, the following Bills were read a first time:

A Bill to make provision respecting the regulation and control of Civil Aviation in Barbados.

A Bill to amend certain enactments relating to revenue.

ORAL REPLIES TO QUESTIONS

Hon. L. S. CRAIG: Sir, on Leave of Absence, I beg to move.....

Mr. DEPUTY SPEAKER: Mr. Leader of the House, we are down to Oral Replies to Questions.

Hon. L. S. CRAIG: Sir, I was trying to get up before the Clerk had called the.....

Mr. DEPUTY SPEAKER: Under (o).

Hon. L. S. CRAIG: Under (o), Sir.

Mr. DEPUTY SPEAKER: Proceed.

MOTIONS FOR LEAVE OF ABSENCE

Hon. L. S. CRAIG (St. James North): Sir, I think we are all aware of the illness of His Honour, the Speaker, and I am quite sure we all hope and pray that strength and health would be restored, despite what I consider a very unfortunate incident during Crop Over. During Crop Over I saw a band portraying the "Ills of St. Peter" and, in so doing there was a man portraying Mr. Speaker in a wheelchair. I do not know what this society is coming to, but believe me, it was probably the most sour hour of my time during Crop Over.

I am quite sure that both sides of the House and all Barbadians would wish Mr. Speaker a hurried restoration of health, Mr. Deputy Speaker. Those misguided persons who, on that occasion, had set out to portray the "Ills of St. Peter" by depicting Mr. Speaker in a wheelchair should be ashamed of themselves. That is something which I believe should really be given serious attention.

With those few remarks, Mr. Deputy Speaker, I beg to move that Mr. Speaker, the honourable Member

for St. Peter (His Honour W. C. B. Hinds), whose leave of absence expires on August 22, 1983, be granted six months leave as from that date.

Mr. DEPUTY SPEAKER: The Leader of the House has requested an extension of leave to be granted to the Speaker, following leave which has already been granted, which comes under Standing Order No. 72. Are there any objections to the extension of leave?

Mr. B. M. TAITT (St. Michael West): Mr. Deputy Speaker, Sir, it is obvious that no honourable Member in this House would wish to deny any honourable Member the opportunity, if he has fallen ill, to return to his duties.

We would have hoped, however, especially bearing in mind the fact that the information is more likely to be available to the honourable Members on that side, that the Leader of the House would have been in a position to inform the Honourable House as to some indication of the prognosis surrounding the illness of His Honour, the Speaker.

I believe that to the extent that the matter is of public interest, that the population at large would wish to have some definitive information as to the state of health of the Speaker, and the prognosis, if it is available, so that areas of speculation could be reduced considerably.

Areas of speculation always relate where ignorance exist. And I believe that while we are not going to stand in the way of any extension of time, when one bears in mind that originally it was indicated that matters surrounding the illness of the Speaker should be directed towards the Ministry, I believe that it would only be reasonable to expect that information concerning the possibilities of his return to this Honourable Chamber should be vouchsafed, if it is available to the Members on the other side.

12.30 p.m.

We cannot state from this side that we have any objection to the increase, but I believe that the public would wish to have some information and therefore we on this side, if it is possible, would like to have some information too.

Hon. L. S. CRAIG: Unfortunately, I am not a medical man, or I am fortunate not to be one, but I do not know if the public is interested in knowing of Mr. Speaker's illness. I believe the public is interested in hoping that, as a human being, they would be charitable enough to wish that Mr. Speaker would be restored to health quickly. I believe that is what the public is interested in; not the man's illness.

I believe what I can indicate is that the Speaker is a man of great courage and strength, and I have no doubt

that with the courage which he has demonstrated in here on behalf of the people of St. Peter, and what he has demonstrated in strength and courage whilst sitting in the Chair, the highest office here in Parliament as the director of affairs from the Chair which Your Honour now adorns, he will no doubt be given the strength to climb the stairs to come to this august assembly again.

I believe so, Sir, and I believe that is what the public would like to hear, that a man at his age can be so courageous and so strong and have the will power to succeed, that we will some day see him back in here again. I believe that is what the public would wish to know. I believe that the prayers which are showered upon him and sent up for him will strengthen him and bring him along back to his place in that Chair.

I am in no position, Mr. Deputy Speaker, to speak on the state of Mr. Speaker's illness, but what I do know, from talking to him on the phone, is that I am very, very happy as an individual for him, and I sincerely hope and pray that he will soon be restored to strength and health.

Mr. DEPUTY SPEAKER: There being no objection, the extension of six month's leave is hereby granted to the honourable Member for St. Peter.

REPLIES TO QUESTIONS

Hon. L. S. CRAIG: Mr. Deputy Speaker, I beg to give notice that Oral Reply to Parliamentary Question No. 22 is now ready.

ORDERS OF THE DAY

SUSPENSION OF STANDING ORDERS

Hon. L. S. CRAIG: Mr. Deputy Speaker, I beg to move that Standing Orders Nos. 6, 16, 18, 20, 42(5), 43 and 44 be suspended for the remainder of today's sitting.

I also wish to give the gentlemen on the other side the assurance that if possible, we will do whatever Private Members' Business is possible today.

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

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

GOVERNMENT BUSINESS

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

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

Order No. 1 was called – To move the House into Committee of Supply to consider the grant of sums of money for the service of the island.

COMMITTEE OF SUPPLY

Hon. L. S. CRAIG: Mr. Deputy Speaker, I beg to move that Your Honour do now leave the Chair and the House go into Committee of Supply.

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

The question was put and resolved in the affirmative without division and Mr. DEPUTY SPEAKER left the Chair and the House went into Committee of Supply, Mr. J. G. ODLE in the Chair.

Mr. CHAIRMAN: This House is in Committee.

SUPPLEMENTARY ESTIMATES 1983-84, No. 4 – \$20 000

Hon. Miss B. A. MILLER (City of Bridgetown): Mr. Chairman, most of the Caribbean countries have in recent years, as they attained independence, become members of UNESCO. We in the Caribbean have been allocated to what is known as Group 3, which covers Latin America and the Caribbean. In most of these United Nations bodies, this sort of allocation is usual. We have found in the Caribbean that we are very much disadvantaged within our own grouping. Again, this is not anything new; this is something which is found not only in United Nations bodies, but in many of the large agencies and other conferences to which Barbados belongs.

Wherever the Caribbean, including Barbados, is lumped together with Latin America, we find that the Latins, on account of their great numbers – even though we are now catching up with numbers as more and more countries become independent – with its tremendous clout, tends to overshadow the Caribbean. When it comes to the allocation of funding, the Caribbean finds itself in receipt of very meagre percentages whereas Central and South America seem to be able to appropriate to themselves larger sums. This is largely because they can afford to have their own representatives at their own Missions, so to speak, at the headquarters of the various bodies.

UNESCO is headquartered at Paris. It is true that in Paris most of the Latin American and South American countries do have a staff of representatives and a proper office organisation, so that whatever is going, they are in a position to take immediate advantage of it. We have been much disadvantaged in the Caribbean because we have not been able to mount that sort of organisation, and last year the Ministers of Education in the Carib-

bean, who are also the Ministers responsible for UNESCO affairs, agreed at a meeting in St. Lucia that the time had come — and we were much encouraged in this, if I may say so, by the Director General of UNESCO himself — when we should get together and consider the possibility of joint representation.

It just is not financially feasible for each Caribbean country to mount its own office and representative arrangements in Paris; so we agreed that the Caribbean would come together and have a joint office. In fact, there was a very small Jamaican office in Paris, and what we have agreed is that we will come together and upgrade that Jamaican office into a Caribbean office, which of course means that, in turn, we will have to carry some of the expense of running that office in Paris, we also agreed between ourselves that at the beginning we will try to hold down costs as much as we can.
12.40 p.m.

We are only thinking of an office perhaps staffed by no more than three or four people, and that we would share the costs between us, with the more developed countries — that is, Barbados, Jamaica, Trinidad and Guyana — making an annual contribution of US\$10,000, and what is known as the LDCs, or the lesser developed countries, should make individual contributions of US\$6,000 a year. That is why this Resolution is before this Honourable House.

No provision was made for this, because we only finally agreed on the size of the contributions at a meeting which was held in Grenada in April of this year, after the Estimates had passed this Honourable House, so there was no provision made in the Estimates of Expenditure for the Ministry of Education for this sum of money, which is to be advanced to UNESCO at the soonest opportunity — that is the Barbados' contribution as an MDC, of US\$10 000 or Bds. \$20 000.

I think I should say, by way of further information, that in addition to upgrading what will now be the Caribbean UNESCO Office at Paris, so that we will be in a position to be in on all of the sub-committees which are meeting, all of the quarterly meetings which the Director General chairs himself, and therefore be in a position to commandeer more funding for the Caribbean, we have appointed our Ambassador to the European Economic Community, Mr. Oliver Jackman, to be Barbados' non-resident Permanent Representative to UNESCO, simply because he is located in Brussels and there is a tremendous ease in getting down to Paris maybe two or three times a year to very important meetings which may not last more than a day or two.

I think I should point out to this Honourable House, too, that although Bds. \$20 000 seems like a great deal of money to represent our share of a Caribbean

Office, Barbados benefits quite significantly from its membership of UNESCO. I would say that already this year we are in receipt of maybe three or four times that \$20 000 in funds from UNESCO to help us with one programme or another.

If I might be even more specific, Mr. Chairman, we have received, between 1981 and 1983 from UNESCO, assistance in the sum of US\$11 000 to help us improve the library services in secondary schools, in tertiary institutions and various Government Departments. We are in the process of receiving some US\$25 000 to go toward computerisation of educational data. I do not know how many people are aware of the fact that UNESCO gave us US\$70 000 toward the payment for rental of equipment during CARIFESTA. They have also provided US\$8 000 for provision of agricultural science equipment for the training of teachers of agriculture.

We have requested funds for equipment for educational television in Barbados in the sum of some US\$38,000, and various other fellowships have been forthcoming to us from UNESCO. So we get far more by way of hard funds — although UNESCO itself is not, properly speaking, a funding agency, it puts us in the way of funds — and we have received a great deal more than we have contributed to UNESCO by way of funds, by way of expertise, by way of consultants, and in many other forms of kind.

I do not think there can be any question of the propriety of our membership in UNESCO, and accordingly, therefore, Mr. Chairman, I beg to move that this Head, Subhead 2, stand part.

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

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

On the motion of Hon. Miss B. A. MILLER, seconded by Hon. L. B. BRATHWAITE, Mr. CHAIRMAN reported the passing of one Resolution in Committee of Supply, and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. Miss B. A. MILLER, seconded by Hon. L. S. CRAIG, the Resolution was read a first and second time and agreed to.

THE FINAL APPROPRIATION (1982–83) ACT, 1983

Order No. 2 was called — To move the Second Reading of a Bill to grant an additional sum of money out of the Consolidated Fund and appropriate the same for the service of the island for the financial year ended 31st March, 1983.

Rt. Hon. J. M. G. M. ADAMS (St. Thomas): Mr. Deputy Speaker, earlier this year, we were treated to one of the exercises in abuse, to which the Government has unfortunately become accustomed, as a result of our bringing the Final Appropriation Act, I think, eight months after, or whatever it was, the year to which it related. At that time I pointed out that we went for a number of years under the previous Administration without the Acts being passed, but I still observe that the Press and Parliament considered that different standards were expected from the financial administration of this Government than were expected from the financial administration of the previous regime.

I now accept that my reply on that occasion, that it used to be worse under the Dems, was not an adequate reply. People know that things were worse under the Dems, and I therefore enjoined my officers to be absolutely sure that they set higher and higher standards in matters of financial accounting and accountability, so that eventually people will come to say, when we slip, that we have slipped from our standards, not that we are merely maintaining the old bad habits.

This is July 12, Sir, and the financial year to which this Final Appropriation Bill refers ended on March 31. Never before in the history of Barbados has our business been completed with such expedition, and I beg to move that this Bill be now read a second time.

Hon. L. S. CRAIG: I beg to second that.
12.50 p.m.

Mr. B. M. TAITT (St. Michael West): Mr. Deputy Speaker, I wish to congratulate the Prime Minister and Minister of Finance on getting something right this year. And if he wishes to take pleasure and happiness out of this small little thing in the wide sea of difficulties which he has had, I do not think that anybody would wish to deny him this little cloud.

I can only hope that on this occasion that this is the last we will see of the Final Appropriation Bill, which he introduces with such aplomb and so happily, and that what happened on a previous occasion where he had to come back and correct something because he had come down in too big a hurry — I hope that that may not happen.

I wish fervently for him that this Appropriation Bill can go down as one of the hallmarks of excellence, one of the great achievements of his administration within the Ministry of Finance. I think it is something which the people of Barbados can go on their knees and be grateful for that once, and only once, in the history of the Ministry of Finance, the Minister has managed in the

month of July to bring the Final Appropriation Bill in July for the year ended March 31, 1983.

Of course, Sir, no one will hope that any research will be done to see exactly what is involved with the bringing of an Appropriation Bill on time, and no one will wish to remind anybody that in some other countries it falls a week or two after the end of the financial year.

We are very, very pleased to see that the standards are improving in the Ministry of Finance in so far as the bringing of the Final Appropriation Bill. Now, all he has to do is to bring the great management expertise which he applied to this particular Bill to all those other areas in the Ministry of Finance, which cry out for some expertise and some finesse in the handling of our affairs.

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. DEPUTY SPEAKER left the Chair and the House went into Committee on the Bill, Mr. J. G. ODLE in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

Clauses 1 – 4 inclusive were called and passed.

The Schedule was called and passed.

The Preamble was called and passed.

On motion of Rt. Hon. J. M. G. M. ADAMS seconded by Hon. L. S. CRAIG, Mr. Chairman reported the passing of one Bill in Committee, and Mr. Deputy Speaker resumed the Chair and reported accordingly.

On separate motions of Rt. Hon. J. M. G. M. ADAMS seconded by Hon. L. S. CRAIG, the Bill was read a third time and passed.

LAW REFORM (MISCELLANEOUS PROVISIONS) (AMENDMENT) ACT, 1983

Order No. 3 was called — To move the Second Reading of a Bill to amend the Law Reform (Miscellaneous Provisions) Act.

Hon. L. R. TULL (St. George South): Mr. Deputy Speaker, a little over a year ago, the Supreme Court of Barbados gave a judgement in the case called Erskine Taylor and Edna Corbin et al for damages in respect of a figure for lost years. The court, in that decision, purported to follow the United Kingdom of Gammell v.

Wilson. The decision in the United Kingdom caused a great deal of concern, because it, of necessity, meant that premiums paid by the owners of motor vehicles would be raised to a very high level.

Our Accident Compensation Reform Act since 1980 went very far in giving the members of the family of a person who died and had a cause of action out of a motor vehicle accident, a much wider cause of action than had ever existed at any time in our country in respect of losses suffered by the death of a relative.

The Government of Barbados is now trying to strike a balance between the very high and exorbitant premiums that must be paid by the owners and drivers of motor vehicles, on the one hand, and on the other hand, a securing of the rights for action and damages on behalf of a person who has lost his life in an accident on the highway.
1.00 p.m.

Now if I revert to the United Kingdom situation, they have taken another look at the result of a decision in *Gammell v. Wilson*, and they have taken the decision that to obviate the very difficulty that I am articulating. They should bring in legislation to meet that particular difficulty. This Bill is doing no more and no less than to limit the award of a claim for lost years where there is a fatal accident.

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

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

Mr. M. A. KING (Christ Church West Central): Mr. Deputy Speaker, I would perhaps like to enquire from the honourable Attorney General whether the proposed amendment is in fact going to do no more than limit the claim for lost years, or whether it will in fact restore the position as it was at common law as understood subsequent to the 1934 legislation?

The position, as I understand it, is that there were a series of cases in the United Kingdom, starting I believe back in 1979 with the case of *Pickett v. British Rail*, where the House of Lords for the first time reversed what everyone understood to have been the accepted position between 1934 and 1979; so that in 1979 a new situation arose where in awarding compensation to persons who suffered as a result of a relative dying in an accident, the quantum of compensation took into account an amount which would compensate a person for the amount of loss of income over the years which the person would have enjoyed if they had continued to live.

Now I am not sure, Mr. Deputy Speaker, that there is something all that wrong with a decision which contem-

plates compensating, let us say, the widow of a deceased man. Let us say a man dies at 45. There is nothing, I would think, so inherently wrong in compensating that person by taking into account some of the years in which the deceased would have been earning income and giving the widow some kind of compensation for the last years perhaps. And not only widows, but children perhaps who would have enured to the benefit of that person had the deceased person continued to live.

I understand the point which is really made about the increase in premium to take account of the higher liabilities of insurance companies, but increases in premiums is a thing which we are faced with — you know insurance companies always find one reason or another for increasing premiums. But one of the things which does concern me in legislation of this kind, and about delays in reversing decisions of the courts on matters of this kind, is that in the interim a lot of cases occur, and a lot of cases tend to be decided on the basis of the existing law and high awards may be made in cases based on existing law. Then there is a reversion of the pre-existing position and there is a sudden change in the position.

The honourable Attorney General made reference to a case in 1981, the case of *Taylor*, which is a decision of the Courts of Barbados, which followed the new English position and made an award of compensation for lost years. But only very recently, in fact just about a month ago, there was another decision of the Supreme Court of Barbados in 1983 — and there has been a lot of decisions in between *Taylor* and 1983 — where there must have been one of the largest awards I believe that occurred in Barbados, where the amount awarded against the defendant came to something, taking costs and everything into account, in excess of \$½ million.

So in the interval before the passing of this amendment, if it is passed, based on the decisions of the English courts, you find that those persons who have been unfortunate enough to have their cases — the defendants — disposed of before the passing of this legislation, are in the unfortunate position of being caught by the 1981 decision. The plaintiffs are lucky. But then those who have their cases decided after this legislation find themselves having to revert to the pre-existing position.

In the earlier part of my statement I made the point that I am not too sure that the principle of lost years is something which should be totally ignored. Perhaps there could be some kind of a compromising situation where a kind of upper limit, if you like, or where a certain number of years, could be taken into account when we are dealing with matters of this kind. There can be no doubt that widows and children tend to suffer when they are deprived of the income of a breadwinner and when the years in which he should be earning income are not taken into account.

So I just make this caution: where it is sought by legislation to reverse the decisions of courts, the earlier decisions, as matters of policy, of that kind are taken, the better, it is for the community as a whole. In this way, you then avoid the unusual situation where those persons who happened to fall within a narrow confined period of about three or four years reap the benefits of one aspect of the decisions of the courts, and then subsequently, where Parliament seeks to reverse the position, you have a whole completely new complexion being placed on the awards.

With those observations, Mr. Deputy Speaker, I must confess that I have a fairly open mind on this amending bit of legislation, and I have some reservations on it, but would perhaps want to hope that serious consideration be given to preserving some aspects of compensation for lost years.

Mr. B. M. TAITT (St. Michael West): Mr. Deputy Speaker, obviously this is a matter to which the honourable Attorney General's Chambers would have given very deep and long consideration, and one hesitates to use the morality of the situation as an argument against this particular piece of legislation. But it just seems to me, Mr. Deputy Speaker, that whereas it is true that insurance premiums will go up, it is also true that the decision taken in the cases were motivated by a genuine realisation that people who suffer as a result of accidents, the people who are left behind, do suffer genuinely, and do have some rights in the matter of accidents which may not have been fully taken care of in the old scheme of things.

I would have liked myself, Mr. Deputy Speaker, to see what my colleague suggested considered, where the courts would have been given some flexibility in this matter. As we are about to pass the legislation, I think that awards are going to be considerably reduced in their scope, and therefore we would have gone back to the *status quo* — and there must be some good reason why there was deviation from that *status quo*.
1.10 p.m.

I suppose it can be said that moral considerations apply equally on either side. It is a case here where a number of persons will have to look at life insurance in a different light, and perhaps persons would have to come to assume larger quantities of life insurance, or life assurance, as part of the answer to this particular problem. The only thing is, Mr. Deputy Speaker, that the probability of accident to the individual is so relatively low as compared with the amount of insurance which the insurance companies collect, that I am not satisfied that the insurance companies will be justified, on the basis of one or a few awards by the courts, in raising their insurance rates beyond reasonable levels.

I am not certain that this particular remedy is the answer, but one is not sufficiently knowledgeable in this area as to refute the remedy altogether. It would seem to me, Mr. Deputy Speaker, that there is a trend in legislation in the Commonwealth countries to revert to the *status quo* ante, but that may only be a manifestation of the concept that law is designed not so much for the people as for those who direct. It may very well be, therefore, that in the final analysis we all have to return to the *status quo*.

I would like to hear the Attorney General, when he responds, however, give us some perhaps deeper indication as to the considerations above and beyond insurance which may have led to this particular decision.

Mr. P. M. GREAVES (St. Michael North): Mr. Deputy Speaker, like my colleagues here, I too am in some difficulty. I also have some reservations about this particular matter, and I know that this matter can, and has in the past, worked hardship on some families who have lost, for no fault of their own, the bread winner in the family, and the decision of the House of Lords in the particular case — I think there was one in the Privy Council as well — has had some effect on the survivors of the person who was deceased.

But that in itself created another problem, and the problem was for the insurance companies, and the insurance companies saw that they paid out large sums of money, perhaps what would normally have been their profits. I am not suggesting that is the motivating reason here, but it creates some difficulty.

For example, Sir, if a deceased person dies on the spot, not much money has been paid out in terms of what was called general damage for pain and suffering, because there has been no pain and suffering, so the Law Reform (Miscellaneous Provisions) Act, the Fatal Accidents Act, whatever you like, makes provision for this, provides then that a number of persons, not necessarily the widow, or widower, children and other relatives, would benefit.

Again, Sir, if a person has an accident and does not die on the spot but lives three or four months after and remains in a deep coma from the time of the accident, here again not much money is paid out in terms of what we call "pain and suffering", because the doctors tell you in their reports there has been no reaction to what they call stimuli.

I would like to see some further consideration given to this particular matter, because I believe if we revert to what it was before, we can have human problems, that is the problem of the survivors finding themselves now cut off from what they would have normally expected before. I feel that if we look at this

matter again we might find some other way in which we can deal with this matter so as to relieve some of the suffering that survivors will have as a result of the passing of this Resolution.

Hon. L. R. TULL: Mr. Deputy Speaker, I am grateful for the objectivity that has been brought to the debate by the honourable Member for Christ Church West Central (Mr. M. A. King). These things are never easy, and the fact that the honourable Members on the other side, the two lawyers, are not in a position to say that they are categorically for or against the amendment suggests the difficulties that come to a person who has to determine the policy and bring this type of legislation.

In my Second Reading speech, I made it quite clear that I had to strike a balance between the very high cost to motorists arising out of the decision in *Taylor v. Corbin*, which was heard in the Supreme Court of this country about eighteen months ago, and the rights of relatives of deceased persons who were killed on the highways in motor vehicle accidents. It is never easy to determine these things.

The honourable Member for Christ Church West Central is quite right when he adverts to the decision in *Pickett v. British Rail*. What *Pickett v. British Rail* did in fact, was to overrule a decision that had been followed since 1964. I do not remember the case now, but it is 1964, and right up to the period of *Pickett v. British Rail*, one line was being followed, and this case changed it and put it the other way.

In *Gammell v. Wilson*, which went all the way to the House of Lords, a decision was taken to give an award for lost years, and it wrought havoc on the British motoring public. We learn from the experiences of others. The British Lord Chancellor, Lord Hailsham, on *Gammell v. Wilson*, said that that decision was untenable in Britain, that the burden it would put on motorists would be a hard one to bear, and the result was that they changed the law in 1982. They reversed the decision in *Gammell v. Wilson* by provisions of the Administration and Justice Act in 1982.

Now, I would like, Mr. Deputy Speaker, to throw something else into the equation. One likes to think that the law can be certain and that there are certain fixed criteria by which any lawyer can judge what would roughly be the decision one way or the other, and this is no less so in the case of awards.

The situation at the moment in respect of lost years — and we are talking about lost years of anyone — a child at the age of 12 may very well be the victim of a road accident, and you are asking the court to assess damages for lost years — perhaps he would start to work at the age of 18 or 19 and he probably will work till

the age of 60 or 65 — and you add up all those potential earnings and give it to the estate, because as the law stands, it is the estate and not necessarily the mother or the father, the parent, which benefits.

1.20 p.m.

There is no way anybody without a crystal ball, and a very good one, could tell whether a child would have been working, for what he would have worked, and then calculate it; and that even if he did work, that the relative would have been the beneficiary of the money. It might have been falling to himself, as happens in most cases.

In assessing awards in cases such as this, it is so extremely uncertain that no lawyer can advise a client as to what to expect, and that is not the way we want to practise law. Indeed, it was said that that type of assessment is so crude that it could hardly be dignified with the name of a calculation. It is nothing more and nothing less than mere speculation.

Now, I want to read, Mr. Deputy Speaker, part of the Judgment of the House of Lords in this case, *Gammell v. Wilson*, which was the catalyst for the legislation that is before the House today, and I quote from Lord Fraser, Sir:

“But it seems to me difficult to justify a law whereby the deceased’s estate, which may pass to persons or institutions in no way dependant on him for support, can recover damages for loss of earnings or other income which he would probably have recovered during the ‘lost years’. It is particularly difficult to justify the law in cases such as the present, in each of which the deceased was a young man with no established earning capacity or settled pattern of life. In such cases, it is hardly possible to make a reasonable estimate of his probable earnings during the ‘lost years’ and it is, I think quite impossible to take the further steps of making a reasonable estimate of the free balance that would have been available above the cost of maintaining himself throughout the ‘lost years’, and the amount of that free balance is the relevant figure for calculating damages.”

That, in essence, shows up the dilemma that faces a legal system dealing with a problem such as this. And what we are in effect asking is that the Judges of the Supreme Court of Barbados must throw aside their judicial and legal skills and go almost, as it were, into a lottery to determine in each particular case what is a good figure to come out with. You cannot practice law that way, Sir.

They also have not only to throw aside their skills to enter that lottery, but they must have the skill of judging what would have happened with a life 5, 10, 15,

30 or 40 years later. That is putting an inordinately heavy load on the system, and avoiding that is part of the motivation behind the legislation in this case.

I agree with honourable Members that it is not a clear question of right and wrong and that justice naturally falls on one side or the other. But it is an essential part of Government to bring legislation to strike a balance between the interest on one side and the interest on the other, and in this particular case, all that the honourable Members can do is to question my judgment, but they certainly cannot question the fact that the judgement was based on a situation that had two sides of fairly even merit.

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

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

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

On motion of Hon. L. R. TULL seconded by Hon. L. B. BRATHWAITE, Mr. DEPUTY SPEAKER left the Chair and the House went into Committee on the Bill, Mr. J. G. ODLE in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

Clauses 1 and 2 were called and passed.

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

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

LIQUOR LICENCES (AMENDMENT) ACT, 1983

Order No. 4 was called – To move the Second Reading of a Bill to amend the Liquor Licences Act.

Rt. Hon. J. M. G. M. ADAMS (St. Thomas): Mr. Deputy Speaker, Sir, we are getting many difficulties from persons who do business in Barbados, at every possible level in the business sector, in collecting sums due to Government by way of PAYE, Hotel and Restaurant Sales Tax, Land Tax and National Insurance.

Land Tax, I will not press on too much at the moment. At the end, it is easier to collect Land Tax than

most other things since the land does not go away, but the other taxes seem to be regarded as a kind of cash reserve by business people. When you are under pressure, you avoid paying the creditor that you think does not matter, and that creditor is usually the Government.
1.30 p.m.

The biggest defaulter in this regard has usually been the Transport Board. At the end of every year the Transport Board asks for a supplementary, and the supplementary represents no disturbance to the cash flow of Government because the supplementary is used entirely for settling arrears of PAYE and National Insurance. There are other Government-owned companies and corporations which are also in that position, and since perhaps people take their cue from Government, the private sector believes that if Government corporations themselves do not obey the law, they do not have to obey it either. So hotels and restaurants, which come under the Liquor Licensing Act, also seem to feel that there is no need for them to be speedy with the payment of these different impositions.

There is a device used by some hotels of running themselves through a hotel management company or a hotel services company. The hotel services company avoids paying PAYE, Hotel Tax and National Insurance to the Government, and then when it goes bankrupt, there are no assets because the physical assets of the hotel never belong to the hotel management company. All of these things are under consideration by the Government.

This particular Bill will provide a long stop! So you can carry on with your malfeasances for a year, but at the end of a year you will not get a liquor licence to permit you to carry on again. And it goes without saying, Mr. Deputy Speaker, that all hotels have a liquor licence and depend on liquor licences to allow them to run their business and to provide a full service.

But the Government does intend to go beyond that, Mr. Deputy Speaker. The Minister of Tourism is considering what advice to give the Government as to how to handle the hotel management companies and the hotel services companies, and to make sure that they are not used as devices for avoiding either their financial responsibilities under the laws or indeed the laws of Barbados themselves. He tells me that in some other jurisdiction the matter has been handled and that is in his camp at the moment, but the Government does intend to impose criminal sanctions on persons who do not come up with these payments.

I myself have wondered if the law of fraudulent conversion does not cover the general manager of a business who takes money out of people's wages every week to send to the Commissioner of Inland Revenue by way of

Income Tax, to send to the Director of National Insurance by way of employees' contributions, or takes money from tourists by way of Hotel Tax, and then converts it to his own use. I myself would be quite happy to see the Commissioner of Police and the Director of Public Prosecutions try it even under the present law, even if it meant the general manager of a statutory corporation who stood by while the corporation took money out of the people's pay packets and did not hand it over to who he was supposed to hand it over to.

We are considering, however, putting the matter beyond doubt by making managing directors, general managers, perhaps even company directors.....the Minister of Tourism was suggesting to me last night that after suitable notice, there is really no reason why the chairman of a company and its directors should not be made criminally liable if they take money from people and do not hand it over to who it is to be handed to.

We are considering these criminal sanctions, and at the very least there has to be a really substantial fine to be levied against people who do this. It is not a slight matter; it is not ordinary tax we are talking about. It is taking people's money and not applying it to the purpose for which it is supposed to be done.

Now what happens when you do not pay the National Insurance and the severance payments — and then you vanish carrying away the money perhaps out of the island? There have been hotel developments, chiefly on the west coast, where this has happened. Miramar is the best known. Great sums of money have been taken from employees and taken from guests and have vanished without trace. I am told it has also happened at other establishments.

Now what happens? You find yourself one day without a job, find that there is no severance available because the company has no money, and you find that you retain a liability for the Income Tax you have already paid because you cannot get a certificate from the employer saying that he has taken the money out of your wages and handed it over.

That is one of the most dangerous and sinister developments of all, because if you do not have, I believe it is, a T.D. 4, you cannot claim to have paid tax on your income. A T.D. 4 is an essential part of your Income Tax return, and these people who do this deserve to be treated exactly as common criminals, and in due course this will be done. In the meantime, we are just leaning on those whom we can get at, who require other licences from Government, and making it necessary in future for persons to have these certificates before obtaining the liquor licences.

On one of these radio programmes I heard a mini bus operator complaining that before he could renew his mini bus licence, he had to have a certificate of clearance from the Inland Revenue; and he said he knows there are a lot of people who do not need this and what is law for one should be law for all. I wish to assure him that the Government would be glad to make it law for all. If people will not as a matter of conscience and morality discharge their responsibilities to Government, we have to make them discharge their responsibilities by legislation.

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

Hon. H. B. St. JOHN: I beg to second that and reserve my right to speak.

Dr. R. C. HAYNES (St. Michael South Central): Mr. Deputy Speaker, this particular matter has been one of great concern to me for a long time, and I do recall, at least a year ago, bringing to the attention of the honourable Minister of Finance (Rt. Hon. J. M. G. M. Adams) a most unusual situation where one south coast hotel had run into financial difficulty, and at that particular time its main outstanding obligations happened to be land taxes, PAYE payments and National Insurance contributions which they had taken from their employees. The organisation which had operated that particular firm in that way then tried to sell the hotel, and it was unable to sell the hotel at that time because each potential purchaser expressed an interest in buying the property rather than buying the corporation.

I do not know exactly what happened, but I know there were several people from St. Michael South Central who had been employed at that hotel, and they were left stranded both in terms of the tax claims that could be made against them and, of course, the fact that their National Insurance contributions had not been paid in for several years.

1.40 p.m.

Now, that is a situation which has to be stopped in this country, and I have no doubt that it is a criminal offence, as has been pointed out by the Minister of Finance, because quite clearly it is a matter of taking money from people and applying it for a purpose other than that for which it was taken. Indeed, Sir, there is a legal obligation on the employer to make those deductions in respect of National Insurance and in respect of PAYE, and then not to pay over that money is in my view a serious matter. How far you will go in establishing criminal liability is another matter, because I think it would be a bit of an error to extend that beyond management, and probably to the Managing Director of a particular company.

One can be a shareholder and a director in a company; one may never attend a directors' meeting; one may never at any point in time be involved in the operations of the company. As a director, you may find yourself in a situation where you are being swindled by management, and the employees being swindled by management as well, and then, all of a sudden to find yourself in a situation where as an honest director of a company you are charged for a criminal offence in a matter in which you played no part whatsoever — I would think to be a bit of an error and going a bit to far.

I certainly would support any measure to ensure that the workers of this country are protected and that the National Insurance, which was designed by the Democratic Labour Party for the benefit of the workers of Barbados, is not to be undermined by unscrupulous management. My own view would be that this piece of legislation would seem to be relatively reasonable, provided ultimately, if criminal legislation is brought in or if any criminal charges are brought under existing legislation, that that should be limited to the perpetrators of the offence, or the people who are ultimately responsible in terms of being part of the management team in a given organisation.

But there are other problems, Sir. One of the problems is that the present situation which exists, particularly in the hotel and manufacturing industries has created a situation where because of absence of credit being available to the appropriate organisation, either in the industrial or in the hotel sector, the hoteliers or the factories are faced with the question of closing down unless they find some means of cash flow, and this cash flow situation has been met over the past eighteen months or so largely by utilising workers' money and also money deducted from workers, and also monies owed to Government. So I think the Government should look very clearly at its overall policies in terms of credit availability to the productive sector and see whether or not the squeeze on credit and the squeeze on availability of cash within the community is not in itself generating this kind of situation within the industrial and the hotel sectors in Barbados.

The impression that I have got is that it has existed for a long time among certain unscrupulous employers, but that more recently, because of economic problems....

Mr. DEPUTY SPEAKER: The honourable Member will not be allowed to take this Resolution into a debate which is very much unconnected.

Dr. R. C. HAYNES: Sir, it is a question of how these people run into this debt situation.

Mr. DEPUTY SPEAKER: The honourable Member will not be allowed to take this debate outside of the present Resolution before the Chamber. There are other ways, other means and other times when the honourable Member can elaborate on that aspect of his contribution.

Dr. R. C. HAYNES: As I understand it, Mr. Deputy Speaker, the purpose of this Resolution is to put an end to the practice whereby employers hold on to the money that they deduct from workers for one reason or another, whether by way of PAYE, National Insurance deductions or otherwise, and apply it for a different purpose, or take it out of the country.

What I am saying is that there is no point introducing legislation, which purports to stop a practice, without looking at the conditions which generate the practice. In other words, I am going a step further, as I think it is my responsibility to do. The honourable Minister of Finance may be looking at the matter purely from the point of view of tax collections, which is reasonable.

It is also my duty to look and see how this practice has developed and see what can help to put a halt to the practice, or reduce the practice — by looking at the etiology, the origins, the factors from which the particular practices emanate. It is my feeling that if those suggestions that I have made, looking and seeing what are the non-criminal factors that lead to this kind of practice, are taken into account then I think it will go a long way.....

Mr. DEPUTY SPEAKER: The honourable Member cannot approbate and reprobate at one and the same time. The honourable Member must follow the lines of debate. You cannot in one voice agree with the introducer of the Resolution as to a cause and suddenly change into something completely different. The Standing Orders of this Chamber do not allow you to do that. The Standing Orders of this Chamber say you must debate matters which are relevant to the matter before the Chamber.

Dr. R. C. HAYNES: Mr. Deputy Speaker, let me continue.

Mr. DEPUTY SPEAKER: Thank you.

Dr. R. C. HAYNES: There is one final point I have to make in this matter, that in the context of the misapplication of funds taken from the pay packets of workers, great care must be taken not only to introduce this kind of legislation to prevent its misapplication, but in Barbados there is a need to look very carefully at the deductions made not with legislative consent, but deductions made in circumstances under the spurious title of 'worker participation'.

Many workers have been robbed, and are being robbed, in this country under that heading, and that needs to be looked at. Probably we need either to bring in legal sanctions of this nature or some other form of legal sanction to deal with that particular situation where money is deducted from workers on a weekly basis, where it is purported that that money would be used to purchase capital assets in the corporation, when it is known that those particular assets are hardly worth anything, which the workers are being asked to buy.

It is a question, I think, of misappropriation of workers' money in the same manner, so the question of workers' participation via weekly deductions by certain private corporations needs to be looked at and if necessary, legislation to safeguard the interest of the workers needs to be brought before this Parliament in the same way as this legislation is being brought, not only to safeguard the interest of the workers, but also naturally the vested interest in Government in the collection of revenues.

Thank you very much.

1.50 p.m.

Hon. H. B. St. JOHN (Christ Church East Central): Mr. Deputy Speaker, I have been studying this matter for some considerable period of time, and I do not think that it is a matter unique to this country. Comparative studies indicate that in the rest of the Caribbean, in the United Kingdom, indeed in the United States of America, in the European Common Market as well as other Commonwealth countries, this question has arisen.

I agree that this is probably not the best vehicle for us to have a debate on the motivations of those who indulge in the practices, but I think it is a matter in which we should remember that the primary responsibility, in my opinion, still reside in the enforcement units within the Income Tax Department, the National Insurance Department and the Land Tax Department.

If they have proper enforcement units with modern computers, it ought to be possible to have a programme written which would show every month, the arrears position with respect to the previous months. But the truth of the matter, Sir, is that we do not have that kind of sophisticated enforcement machinery. Therefore, the Government is forced into the position in which it has to look for alternative devices to aid and support the existing enforcement machinery, to ensure that the legitimate collections which are taken out are paid over to the proper authorities.

Now, Sir, I have very carefully checked the other approaches, and I think it is fair to say that many of the countries have now decided, certainly in relation to National Insurance and PAYE for Income Tax, that there should be a criminal responsibility upon the active directors.

I think the honourable Member (Dr. R. C. Haynes) missed one point. The Prime Minister in his speech made it clear that all directors could not primarily be liable, but the non-executive directors, non-active directors, would have to have notice. He specifically said that suggestions have been made that in respect of some directors, they would have, before they are charged with criminal responsibility, to have been given notice of default. He said that. That is the point.

Asides.

Hon. H. B. St. JOHN: Well, the notice arises because the distinction is drawn between active directors, who are in the day-to-day management, and non-executive directors, who are outside of the management. So you could not expect to prosecute a person who has nothing to do with the day-to-day management, who goes once a month or once a quarter to a Board Meeting.

What you would have to do, like other countries have done, is to put them into two categories. Such countries have said that in respect of the non-executive ones, the enforcement officers would have to give them notices that the company of which they are directors are in default; and after a period of time, when they either do not resign or exert influence on the active director, then they are held liable like the directors. That is how it is done and that has proven to be very effective.

I am not going to go into the details of what our experience has been. Suffice it to say that it is very clear now that Barbados has reached the stage where the concept of a management company is now quite popular in certain areas of operation. In the hotel industry and in, I understand now, the agricultural industry, they are replacing the old attorney concept. Now when you have that, Government has to look at legislation to ensure that innocent owners are not defaulted because of the practices of the management companies, and you have to set standards.

In relation to accommodation, some states in the United States and, increasingly, some countries in Europe have made it clear that you cannot be a management company for one aspect of the industry and not for the other aspect. Hence, in the situation that you have where the accommodation sector is owned by the shareholders and property owners and the food and beverage sector is creamed off by the management companies, many countries have now decided that that is a kind of illegal situation. We are looking at that and legislation will soon be before Parliament on that.

I want to deal with another aspect of the Liquor Licence Act. I am surprised that the honourable Member who has just spoken has not spoken about the Liquor

Licence Act, because this is the primary machinery that we have in this country for dealing with situations where people believe they are discriminated against.

Now Government is only waiting on the appeal decision to decide on whether the existing law fulfills the objectives which we all understood that it fulfilled. I understand that there have been some convictions and that they have gone on appeal, so the Government would be wrong in the middle of an appeal, without knowing the results of the appeal, to bring in legislation which deals with the substratum of facts upon which a legal conclusion has already been determined.

The Labour Party can be proud of this. I am going to give the honourable Member a little lesson in history. It was the Barbados Labour Party which brought in the legislation in the Liquor Licensing Act, preventing discrimination in private places. So all those who go abroad, not in Barbados — abroad — and seek to denigrate the good name of the Government when they are abroad in trying to drag down Barbados, the country in which they get their living; when they try to use lies, misrepresentations, false facts in order to enhance themselves..... I know the honourable Member is looking at me. He is glad. When one honourable Member was away, he had a field day in Barbados; he was able to project himself.

The point is that as far as Barbados is concerned, prosecutions have taken place against the Carlisle Club. And the Government is watching with interest, and we want a speedy determination of the appeal, too. The appeal, like all other magisterial appeals, should be the subject of reasonable determination by the Divisional Court or the Appeal Court, whichever it is. I do not remember that aspect of it. I am not sure whether it has gone to the Court of Appeal or whether it has gone to the Divisional Court, but wherever it has gone, if it has gone to the Appeal Court, I feel that the Appeal Court should deal with that one like all other appeals, and deal with it swiftly so that we will be in a position to see whether there is a defect in the law.

But nothing any honourable Member in this House says, however untruthful it is and however distorted, nothing will dissuade this Government, nothing will make this Government interfere with the legal processes. We shall await the decision, and if it is proven to be a defect in the law, it shall be closed. So put that in your pipe and smoke it. When in Barbados I know that you are not going to tell these untruths, but when you are abroad there are no governors on your mouth at all!
2.00 p.m.

Mr. DEPUTY SPEAKER: Is the honourable Member referring to the Chair?

Hon. H. B. St. JOHN: Not you, Mr. Deputy Speaker. Everybody knows whom we are referring to. There is only one honourable Member who discredits this country when he goes abroad. Everybody knows that.

Hon. DeL. O. BRADSHAW (St. Michael South East): Mr. Deputy Speaker, in rising to support the measure before this Chamber, I too would like to make some observations and at the same time set the fears of the honourable Members to rest, those who have expressed concern over the present practices of some employers in withholding certain funds and contributions which should be paid into Government, in particular the National Insurance Department. I, too, agree that it is nothing short of dishonesty for an employer to withhold the funds which are collected, and which are by law supposed to be handed over to the Collector of Taxes, or in this case the National Insurance Office.

We have had other complaints that some of these employers have not only withheld these contributions, but they have used them, and what makes it worse is that when the persons are severed, then one finds that the contributions are not paid and the employees are left in limbo.

Now the Ministry has decided to take certain corrective measures, and only this morning I issued a directive that the Director of National Insurance should notify all employers that they have until October 15 to pay up all arrears due to the National Insurance Department, and that includes National Insurance contributions, severance payments and the Unemployment Levy, which they are supposed to collect and deposit in the National Insurance Department. I am not going to condone this practice, a practice which places me and my Ministry in a very embarrassing position when severed workers turn up to find that their contributions were not paid — and they behave in a very disorderly and disgruntled manner in the National Insurance Department.

Employers must understand that by law.....

Mr. DEPUTY SPEAKER: The honourable Minister, while being permitted to make observations which are of interest to the country, will not also be permitted to turn this debate into something completely outside of the Liquor Licensing Act. I would wish the honourable Minister to confine himself to the relevance of the subject matter before the Chamber.

Hon. DeL. O. BRADSHAW: Thank you, Mr. Deputy Speaker, but the relevance about what I have said lies in the fact that the National Insurance payments must first be fully paid up before anyone who is applying for renewal of his liquor licence is permitted to have that

liquor licence renewed, and therefore I feel I am quite relevant in saying that those employers who are themselves the proprietors or persons applying for liquor licences should at the same time be warned that they will have to pay their contributions so that they will be able to get their licences renewed.

Now we cannot go on with a situation where persons are denied their benefits because these particular employers have withheld their contributions, and that is why we have decided to make full use of computerisation, and we have already taken the decision, as the honourable Deputy Prime Minister has said, to computerise all the records of the National Insurance Department. If computerisation had replaced the manual work on the efforts which are now employed, then we would be able to speed up and detect some or most of those defaulters. It is computerising which would not only give a quicker print out, but it would be in most cases more efficient, and hence it might not be possible for employers who presently evade this system to do so with computerisation.

I am appealing to other departments which are mentioned in this particular measure before this Chamber to adopt and implement computerisation, which I am sure will go a long way towards helping them in the collection of their taxes. The measure before us seeks to not only bring in these defaulters or make these defaulters respect their responsibilities, but at the same time helps to create some sort of efficiency within the Government departments, in particular the revenue collecting departments.

I will end by repeating that I deplore any employer who withholds these contributions, and I am warning all of them to try and pay all arrears or we will be taking very drastic measures, including taking them to court, to make them pay all their arrears.

Mr. B. M. TAITT (St. Michael West): Mr. Deputy Speaker, I will only be about five minutes, and within that time I am sure we will wish to take the break.

Mr. Deputy Speaker, I just wish to introduce one note of caution. I said I will only be about five minutes because I think what has been said is not really open for debate. I think everyone in Barbados would wish to join in the call for every person involved to pay his taxes and to do all that is right. I think there is a word of caution which may however be brought to the debate — and perhaps out of an abundance of caution I should declare an interest, because technically I am listed as a director of a small company which falls into the category I am about to discuss, so I am therefore declaring my interest according to the Rules.

Sir, most small businesses in Barbados, especially during the last two years, and anyone who has been able to see them from inside can attest to this, have had some difficulties concerning this ability to pay in what ostensibly is taken out of the workers' salaries. The fact is, however, that many of them are in so much difficulty at the end of a week, trying to get the net payroll in order to keep business going, that they do not even consider what in essence would be the difference between the gross and the net where National Insurance and some P.A.Y.E. amounts are concerned.

And so, while it is true that in some of the larger businesses there are people who actually steal, I do not believe that in the case of a number of small business people in Barbados, who are caught in this net as a whole, that it is a question of stealing or a question of dishonesty. It is a question of pure, undiluted difficulty in the economic times which exist, and I would caution honourable Members that all they have to do is to examine any small business in Barbados that employs 20 people or less. They will find that invariably the arrears have been accretions over a period of time which had nothing to do with dishonesty. It might have to do with inefficiency, but it is nothing to do with anybody actually stealing money.

One other point which I would draw to the attention of the Minister is in the sanctions which are being proposed. According to the sanctions which are being proposed, the liability would have to be discharged, and technically speaking the liability can only be discharged where the monies owed have been paid. I hope that the Minister will find it convenient to so word the clause when we come to it in Committee as to allow for the rigidity which he wishes at certain levels and at the same time to allow the Commissioner in his wisdom where there is an outstanding amount, where the Commissioner has been in consultation and where agreement has been reached, for example, would be able to issue some kind of certificate that would allow the business to continue.

2.10 p.m.

Mr. Deputy Speaker, it is clear that if a small businessman who relies on his liquor licence to continue the business is deprived of the liquor licence, he obviously will not be able to pay any monies which are outstanding, because the simple short term answer is that he will go out of business.

For what it is worth, I offer these suggestions not in contradistinction to the points that have already been made, with which I agree, but to bring a measure of caution to the strictures which are being uttered as they apply to the smaller businessmen in the community; not necessarily to all businessmen, because those who obviously use the National Insurance money, and those statutory corporations — I was very surprised to see that the Minister mentioned the Transport Board, Sir, I would not have thought that the statutory corporations would

have been able to do that — but to the extent that they have used the National Insurance money, or PAYE, for investment purposes and that sort of thing, obviously everyone will agree that the strictest measures might be taken.

In view of the time, Mr. Deputy Speaker, I will stop here and I will have something to say on the particular clause when it comes up.

I thank you.

SUSPENSION OF SITTING

Hon. L. S. CRAIG: Mr. Deputy Speaker, I beg to move that this sitting be now suspended until 3.00 p.m. today.

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

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

ON RESUMPTION

Mr. DEPUTY SPEAKER: This sitting is now resumed.

QUESTION TIME

Hon. L. S. CRAIG: Sir, I gave the honourable Members on the other side the assurance that I would deal with any Private Members' Business today as well as Question Time. It is at this point I would like to deal with Question Time.

Mr. DEPUTY SPEAKER: It is now Question Time. Question No. 22 in the name of the honourable Member for St. Michael North West (Mr. L. A. Weekes). He is not now in his seat. The honourable Member may therefore lay the Reply.

Hon. Dr. D. G. BLACKMAN (St. Michael East) (Minister of Health and Community Services) I am prepared, Mr. Deputy Speaker, to wait until the honourable questioner is in his seat.

Mr. DEPUTY SPEAKER: Under the Standing Orders, when a Question is called and the Member who asked the Question is not in his seat, the answer should be laid.

Hon. Dr. D. G. BLACKMAN: Well, Mr. Deputy Speaker, I beg to lay the Reply.

Mr. DEPUTY SPEAKER: That brings us to the end of Question Time. It is now Private Members' Business.

PRIVATE MEMBERS' BUSINESS

Mr. DEPUTY SPEAKER: I do not see any of the Private Members under whose names matters fall on the Order Paper. That then brings us to the end of Private Member' Business. We now revert to Government Business.

GOVERNMENT BUSINESS

Mr. DEPUTY SPEAKER: When the suspension was taken, we were dealing with Order No. 4.

Hon. L. S. CRAIG: I beg to move that this Bill be now read a second time.

Hon. L. R. TULL: I beg to second that.

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

On the motion of Hon. L. S. CRAIG, seconded by Hon. L. R. TULL, Mr. DEPUTY SPEAKER left the Chair and the House went into Committee on the Bill, Mr. J. G. ODLE in the Chair.

Mr. CHAIRMAN: The House is in Committee.

Clause 1 was called and passed.

Clause 2 was called.

Hon. L. R. TULL: Sir, in respect of Clause 2, subsection (3): The Commissioner of Inland Revenue, The Commissioner of Land Tax or the Director of National Insurance, may issue a certificate....." That "may" should be "shall", Sir.

I beg to move that Clause 2, as amended, stand part.

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

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

On the motion of Hon. L. S. CRAIG, seconded by Hon. L. R. TULL, Mr. CHAIRMAN reported the passing of one Bill with amendment in Committee and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. L. S. CRAIG, seconded by Hon. L. R. TULL, the Bill was read a third time and passed.

COMPULSORY ACQUISITION OF LAND
AT HIGHWAY 5, ST. MICHAEL

Order No. 5 was called – To move the passing of a Resolution to approve the compulsory acquisition of land at Highway 5, St. Michael.

Hon. L. B. BRATHWAITE (St. Andrew): Mr. Deputy Speaker, this is a pretty straightforward matter and I do not think I need to go into any details. It is just to regularise the situation which already exists, and I beg to move that this Resolution do now pass.

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

Mr. W. O. FRANKLIN (St. Philip North): Mr. Deputy Speaker, I am just a little puzzled by the way the Resolution reads: ".....for the construction of the Samuel Jackman Prescod Polytechnic Access Road." I am wondering why it is so styled as the Samuel Jackman Prescod Polytechnic Access Road. Is not this on to Highway 5 and part of the link road that goes from Cable and Wireless right through? It is a little misleading. I thought it was a special access road to the Samuel Jackman Prescod Polytechnic. I am just wondering why the Resolution is so worded. It could be a little misleading.
3.10 p.m.

Hon. L. B. BRATHWAITE: Mr. Deputy Speaker, it is just like a rose being called by another name, but it is still a rose. It is the same piece of land that the honourable Member is referring to.

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

Mr. DEPUTY SPEAKER: Order No. 6.

RE THE VESTING IN THE NATIONAL HOUSING
CORPORATION OF PARCELS OF LAND IN
CHRIST CHURCH AND ST. MICHAEL

Order No. 6 was called – To move the passing of the Resolution to approve the vesting in the National Housing Corporation of parcels of land at Clapham, Christ Church and St. Michael, Wavell Avenue, St. Barnabas and My Lord's Hill, St. Michael.

Hon. L. B. BRATHWAITE (St. Andrew): Again, Mr. Deputy Speaker, this Resolution is straightforward, in the sense that it seeks to vest in the National Housing Corporation these parcels of land. It is a tidying measure.

The National Housing Corporation, by the very structure and nature of its operations, is better suited to handling matters like these, the division of lots for sale, rather than Central Government itself. Since the

Constitution permits it to deal with sites and services, it is tidier for the Government to vest these lands which are now in the Crown to the National Housing Corporation, and this Resolution seeks to make such a provision.

I beg to move that this Resolution do now pass.

Hon. DeL. O. BRADSHAW (St. Michael South East): I beg to second that, Mr. Deputy Speaker, and I wish to make a few contributions here.

The Addendum says that the four areas are for development, but I would prefer to point out that three of the four areas have already been developed and there is one to be developed.

The point I would like the Minister to take is that persons who have qualified under the Tenantry Freehold Purchase Act, and who would normally have had an option to purchase, were resited in some of these areas. Some of them were living on plantations, for instance at Haggatt Hall. There were one or two houses on the Haggatt Hall estate, and those persons, to the best of my knowledge, had qualified under the Tenantry Freehold Purchase Act.

The Act says that anyone who had served five years on the plantation or on any tenantry prior to the Act coming into being was entitled to purchase that land or could apply to purchase that land. Since those persons have been resited in these areas, then I feel that some provision should be made for those persons to opt to purchase at the same price that would have been afforded to them had they remained on the lands.

It is a very, very important point, Mr. Deputy Speaker, because it would be rather unfair if persons had qualified, having lived on plantation land or tenancies, and could have purchased their land under that Act at 10 cents per square foot, now that they have moved over to the development, the resiting that was provided by Government, I see no reason why they should have been made to pay in excess of that very price. I hope that the Minister will bear this particular point in mind when the National Housing Corporation is dealing with that.

There are two areas that concern me, the one in Clapham Park and the one in Haggatt Hall. I have an interest in them, Mr. Deputy Speaker, because I was responsible for the resiting of most of these people and I believe that those persons should not be denied the right to have their land at the very cheap price and have the National Housing Corporation asking them to pay \$2.50 per square foot.

I must also point out to the Minister that there is a dispute surrounding the same land in Clapham Park. You will find that some officers do not really draw this sort of information to the attention of the Minister. I was left to find this out, but it relates to lots 8, 9 and 10.

You will very well find that this land was acquired and there was some question about it. The officers of the National Housing Corporation would claim that those three lots belong to the National Housing Corporation when in actual fact they do not belong to it. The lots belong to the original vendors, and I do think that the Minister should investigate this and seek to have it resolved, otherwise there is going to be some problem with the number of spots and the land that belongs to the Government in that particular area.

Hon. L. B. BRATHWAITE: Mr. Deputy Speaker, I can only, on the basis of what I have just heard and what is before me, give an assurance to my honourable colleague that I will look into the matter raised by him. I am not quite sure what is the position of the tenants on Government land, vis-a-vis their position as former tenants under the Tenantry Freehold Purchase Act. Probably I might want to seek Your Honour's guidance in this matter as well; if not in your official capacity in Parliament, possibly outside.

As far as the matter at Clapham Park is concerned, I will look into it and make sure that nobody is disadvantaged by any decision that might be taken by an over anxious officer in the Ministry of Housing and Lands.

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

COMPULSORY ACQUISITION OF LAND AT LODGE SCHOOL, ST. JOHN

Order No. 7 was called – To move the passing of the Resolution to approve the compulsory acquisition of land at Lodge School.

Hon. L. B. BRATHWAITE (St. Andrew): Mr. Deputy Speaker, I cannot assure my anxious colleagues who are willing to probably leave Parliament as soon as possible, that we may be able to get through as quickly as they would like on a matter such as this one.

The estates under consideration and the subject of the Lodge School came into the purview of this country as a result of the will of the late Christopher Codrington, who died on April 7, 1710.

I am sure that with all the confusion concerning the estates that he bequeathed for the development of the spirit and mind of the slaves and the people in this

community, he must be certainly a sad man and turning in his grave to realize what is taking place as far as this property is concerned.

I can only hope and pray that what has happened in relation to this property would be settled in the best interest of the pupils who are now attending the Lodge School and who will eventually pass through the great halls of that school.
3.20 p.m.

My colleague, the former Minister of Education, the honourable member for St. George South (Hon. L. R. Tull), has on a previous occasion dealt with the historical position of the Codrington Trust and the Society for the Propagation of the Gospel of Foreign Parts, and what in his view should be done in order to bring some local control and orderly development to the system which set up the Lodge School as we now know it to be.

It is unfortunate, Mr. Deputy Speaker, that in this day and age when democracy has taken over, when the Governments of developing and developed countries are seeking to take over all the areas that were formerly the domain of the expatriates, that we continue still to have the little pockets of resistance as you do have in places like the Lodge School.

With the coming into being of the new Education Act, the Minister of Education will find her hands tied in the administration of the governing body of the School if the Lodge School can stand out as a unique entity when all of the other schools have come under the scheme of Government as it now is, and therefore there can be no question of allowing a situation to exist whereby you have a school being administered in the form in which the Lodge School will be able to operate – as a law unto itself.

As a result of the lease which was made between the Society for the Propagation of the Gospel in Foreign Parts and the Government of Barbados, the Lodge School was leased on September 29, 1880, for the purpose of the operation of a school. The lease came to an end on September 29, 1979, and the Government made certain representation to the United Society for the Propagation of the Gospel, which is a successor body to the one mentioned before, for more liberal conditions in order to operate the Lodge School.

Those requests were not forthcoming in the positive way that the Ministry of Education thought they should come forward in, and therefore it set about with the positive approaches which the Ministry thought should be adopted in order that the Government would be able to carry out the necessary reforms that would be vital to have Lodge School moved in. As a result of these discussions, we discovered that a valuation was put on the

property at Lodge School by a local real estate agency, Realtors Limited, of \$2.5 million. The Government made its own valuation, which came to \$2.1 million, but we do not regard the first valuation as entirely out of line, bearing in mind the type of unrealistic differences you get in valuations when it comes to properties, especially properties of that magnitude.

What was particularly disturbing was that the representatives in Barbados for the United Society for the Propagation of the Gospel, and by that I mean the Anglican Diocese, decided that the Government should pay ten per cent of the net value of the property of the Lodge School – and it was thought that that figure was unrealistic – and they further countered the suggestion of a 99 year lease with a lease for 50 years, with review of rents every five years.

They further suggested, and I think the Ministry along the way agreed, that provision should be made for an Anglican priest to administer the Anglican religious faith at the Lodge School, but during the period it was thought that we could not go on forever in the manner in which the negotiations started, and that if we were to get things brought to a quick and speedy conclusion that we would have to resort to the Compulsory Land Acquisition Act.

In the absence of such a purchase, it would be extremely difficult to put in place the system for the new schemes of Government which are envisaged in the new Education Act, therefore the compulsory acquisition of this property will give the Government the right to go ahead to make the necessary provision for the new arrangement for the management of the Lodge School.

In addition to this, Mr. Deputy Speaker, we have been seeing a situation develop at the Lodge School, which in my respectful view, calls for a very serious approach on the part of the Minister of Education and the Government itself. We have seen standards falling and I believe that the distinguished headmasters of the Lodge School, who have gone the great beyond, must be like the late Christopher Codrington – turning and winding in their graves at what is now happening with that great and noble institution. I myself would hope that when this compulsory acquisition is passed, the Government will shortly introduce legislation which would repatriate the Codrington Trust, thereby creating a better means of control of the estates which are under foreign control.

The honourable Member for St. Michael West (Mr. B. M. Taitt) is of the view that it cannot be done. I do not know what makes him feel that way, but of course when you have the imperialistic view, it is always a feeling that when you are moving things from abroad, you are running into trouble. The Prime Minister of

Canada, in seeking to repatriate the Canadian Constitution, ran into a welter of criticism from even his own people in Canada, who felt it could not be done, but when it comes before us, I challenge the Opposition to oppose the repatriation of it, and I will ask that we even go to the country on that and see exactly what they will do.

Mr. Deputy Speaker, there is a lot more that I could say on this matter, but of course it is always good it is said, to keep some of your firing power for the last. So with those few remarks, I beg to move that this Resolution do now pass.

Hon. L. S. CRAIG: I beg to second that.
3.30 p.m.

Mr. B. M. TAITT (St. Michael West): Mr. Deputy Speaker, I just wish to set the record straight. The repatriation of the trust concerning the SPG and the USPG is not an issue in Barbados. I do not understand why the honourable Member chooses to say that he wishes to go to the people on that. If I could get the honourable Member to persuade the Prime Minister to call an election on that, I would help make it an issue. So if you can get that to be an issue on which we can go to the people, please assist us so we can go to the people.

Thank you very much, Sir.

The question that this Resolution do now pass was put and resolved in the affirmative without division.

COMPULSORY ACQUISITION OF LAND AT SPEIGHTSTOWN, ST. PETER

Order No. 8 was called – To move the passing of the Resolution to approve the compulsory acquisition of land and building thereon at Speightstown, St. Peter.

Hon. L. B. BRATHWAITE (St. Andrew): Mr. Deputy Speaker, this land is adjacent to the Alexandra School, and though it is a small area of land, it can be of use to the Alexandra School. It has a home on it – the buildings I understand are not of a particularly sound nature, but I suppose they can be made use of.

It is thought from a security point of view, as well as the use that can be made of this parcel of land, that it would be useful for the Alexandra School to have possession of this piece of land. It occupies a very key position in relation to the school, and bearing in mind that it is a school where girls are the occupants, it is thought that it might be useful to have it all taken in and protected from the outside.

With those few remarks, I beg to move that this Resolution do now pass.

Hon. L. R. TULL: I beg to second that.

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

ADJOURNMENT

Hon. L. S. CRAIG: Sir, this brings us to the end of Government Business, and I beg to move that this

House be now adjourned until July 19, 1983 at 12 o'clock noon.

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

The question was put and resolved in the affirmative without division, and Mr. DEPUTY SPEAKER adjourned the House accordingly.
3.35 p.m.

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