

# THE

# House of Assembly Debates

## (OFFICIAL REPORT)

FIRST SESSION 1986 - 91

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*Tuesday, April 5, 1988*

### HOUSE OF ASSEMBLY

Pursuant to the adjournment, the House of Assembly met at 12.15 p.m. o'clock.

#### PRESENT

His Honour L. A. Weekes, J.P., (Speaker)

His Honour J. J. Payne, (Deputy Speaker)

Hon. L. E. Sandiford, B.A., M.A., (Econ.) J.P., (Prime Minister and Minister of Finance and Economic Affairs)

Hon. H. deB. Forde, Q.C., M.A., LL.B., (Leader of the Opposition)

Hon. B. M. Taitt, B.A., (Hons.) M.P.A., LL.B., (Hons.), (Minister of Health)

Hon. P. M. Greaves, Q.C., B.A., (Deputy Prime Minister and Minister of International Transport, Telecommunications and Immigration and Leader of the House)

Hon. E. E. Greaves, B.A., Ed.M., (Minister of Trade, Industry and Commerce)

Hon. Dr. D. G. Blackman, B.A., M.A., (Minister of ' Transport and Works)

Hon. M. A. King, Q.C., LL.B., (Attorney General and Minister of Legal Affairs)

Hon. W. O. Franklin, A.I.C., M.I.A.S., J.P., (Minister of Agriculture, Food and Fisheries)

Hon. N. K. Simmons, (Minister of Employment, Labour Relations and Community Development)

Hon. H. A. Blackman, B.Sc., (Econ-), (Minister of Housing and Lands)

Mr. D. A. C. Simmons, Q.C., LL.M.

Mr. O. S. Arthur, M.Sc., (Econ.)

Mrs. M. Barker-Welch, (Parliamentary Secretary, Ministry of Employment, Labour Relations and Community Development)

Hon. C. V. Walker, (Minister of Education and Culture)

Mr. L. L. Brathwaite, J.P.

Mr. E. Bourne Dr. E. A.

Simmons, M.D.

Hon. W. W. Hall, (Minister of Tourism and Sports) Mr. C. A. Neblett, B.A., (Parliamentary Secretary, Prime Minister's Office)

Mr. C. L. Trotman, M.A.

Mr. R. L. Morris, B.A., Cert. Ed.

Mr. P. J. M. Miller

Mr. R. P. Byer, LL.B., L.E.C.

Mr. D. J. H. Thompson, LL.B.

*Prayers were led by Rev. Father Ivan Harewood.*

Mr. SPEAKER: The House is in session.

#### MINUTES

Mr. SPEAKER: The Minutes of the meeting of Monday, March 14, 1988.

Hon. P. M. GREAVES: Mr. Speaker, I move the confirmation of the Minutes of March 14, 1988, and that they be taken as read.

Mr. SPEAKER: If there are no corrections or observations, let these Minutes stand confirmed.

#### PAPERS LAID

Hon. L. E. SANDIFORD: Mr. Speaker, I am commanded to lay the following:

The Duties, Taxes and Other Payments (Exemption) Order, 1988.

The Annual Report and Financial Statements of the Caribbean Broadcasting Corporation for the year 1986.

Hon. P. M. GREAVES: Mr. Speaker, I am commanded to lay the following:

The Annual Report of the Ministry of Foreign Affairs for the year 1986.

The Report and Financial Statements of the Public Utilities Board for the year 1986.

#### FIRST READINGS OF BILLS

*On the separate motions of Hon. P. M. Greaves, seconded by Hon. B. M. TAITT, the following Bills were read a first time:*

The Bill to amend the Consumption Tax Act, Cap. 63;

The Bill to amend the Land Tax Act, Cap. 78A; and

The Bill to amend the Medical Registration Act, Cap. 371.

#### ORDERS OF THE DAY

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

#### SUSPENSION OF STANDING ORDERS

Hon. P. M. GREAVES: At this point, Mr. Speaker, I am going to move the following Orders be suspended: 6, 16, 18, 20, 42(5), 43 and 44.

Hon. B. M. TAITT: I beg to second that.

*The question that the named Standing Orders be suspended was put and resolved in the affirmative without division.*

#### GOVERNMENT BUSINESS

##### THE CONSUMPTION TAX (AMENDMENT) ACT, 1988

*Order No. 3 was called - To move the second reading of a Bill to amend the Consumption Tax Act, Cap. 63.*

Hon. L. E. SANDIFORD (St. Michael South): Mr. Speaker, as the Objects and Reasons of the Bill state, this Bill seeks to amend the Consumption Tax Act to provide for the reclassification of certain alcoholic beverages and the fixing of appropriate rates of tax.

The reclassification has become necessary because a number of drinks have come on to the market which contain varying percentages of alcohol by volume, but the taxing

schedule lumps alcoholic beverages virtually under one particular heading, and the rate of tax tends to apply whether you are taking what is known as hard liquor or whether you are taking alcoholic beverages which contain a smaller degree of alcohol by volume.

Mr. Speaker, you will appreciate that I am a little unfamiliar with this particular topic, not being a heavy consumer of these particular beverages. I tend to stick, generally speaking, with a few exceptions, to some soda water with some bitters in it, unless there is some special occasion which may lead me nowadays to take something a little harder. 12.25 p.m.

I am not saying that I am unfamiliar with the harder stuff, because I have been in the company of some of my colleagues and friends, some of whom I see in this Chamber, on both sides of the House, and we have enjoyed a little of the harder stuff from time to time. But I believe that in this area, as in all other areas, one should know one's limitation and do things in moderation, and I believe that that is a good motto to follow in life. Mr. Speaker, I know that you yourself are very familiar with these matters, because in our profession, Sir .....

Mr. SPEAKER: Unfortunately, I cannot take part in the debate.

Hon. L. E. SANDIFORD: I know you cannot take part in the debate, nor can you take part in the drinking, but I know that, from your profession, the use of alcohol in varying medicines would have come under your purview from time to time.

It is generally known that wine contains a smaller amount of alcohol by volume than gin or vodka, and different types of wines have different types of percentages of alcohol by volume. I believe that in some jurisdictions methods have been worked out to determine when someone has taken into their system alcohol that is above the limit that the person should have in for certain purposes such as driving.

This particular amendment seeks to meet the proposals which have been made by manufacturers, and recognised by the Ministry of Trade, that certain beverages are coming on the market which mix alcohol with other liquids to provide a stimulating drink, but not as stimulating as the hard liquor. The problem is that when the coverage of the Consumption Tax was expanded in 1980 under the Consumption Tax Act, which is Cap. 63, the beverages were lumped under a broad category with the tariff heading "22.09.99" and the caption was "Other spirits". The rate was fixed at \$10 per litre, revised to \$15 per litre in 1982 under the Consumption Tax (Amendment) Act, 1982-18.

No distinction was made between beverages with high alcoholic content and those with low alcoholic content, and so the \$15 per litre applied across the board. A number of drinks have come on to the market, rum punch, something called "Green Sands Shandy", Coconut Cooler, Wine Cooler, and there is one I am totally unfamiliar with, something called "High Five", Gin Tonic and similar beverages, and they contain varying amounts of alcohol. This particular amendment seeks to provide a varying rate, depending on the percentage of alcohol by volume in the beverage.

The complaint from the manufacturers has been to the effect that if a single rate is applied to these beverages, it would not be economic for the beverages to be produced. This is compounded by the fact that these beverages tend to use local products, maybe the local rum, and the locally-produced gin. So this is an effort to make the products competitive, to recognise that there are differences in the make-up of the beverages, and that this should be taken account of in the rate that is fixed in respect of those beverages.

This particular amendment is to give effect to the need to get the varying rates applying to the different beverages, which are as follows: the tariff heading number will remain the same, 22.09.99, but now, instead of the one category, which was simply at \$15 per litre, whether it was CARICOM or outside of CARICOM, there will now be three categories.

First of all, there will be a category for rum punch, and the rate of tax would be \$1.50 per litre from CARICOM sources and \$3 per litre in relation to non-CARICOM sources.

Then we come to category 2, which I have identified already, that is, the Green Sands Shandy, the Coconut Cooler, the Wine Cooler, the High Five, Gin Tonic and similar beverages and those which contain one per cent or less of alcohol. These will carry a rate of ten cents per container for CARICOM sources and 20 cents per container for non-CARICOM sources.

Beverages which contain more than 1 per cent, but not more than 5 per cent, alcohol would carry a rate of 15 cents per container in respect of CARICOM sources and 30 cents for a container for non-CARICOM sources.

Those which contain more than 5 per cent, but not more than 10 per cent, alcohol would attract a rate of 50 cents per litre for CARICOM sources and \$1.00 per litre for non-CARICOM sources. Those which contain more than 10 per cent, but not more than 15 per cent, alcohol would attract a rate of 75 cents per litre for CARICOM sources and \$1.50 per litre for non-CARICOM sources.

The \$15 per litre, both for CARICOM and non-CARICOM sources, would stand for the other beverages that fall outside of that particular category.

Mr. Speaker, this is an adjustment to meet the requirements of the manufacturing sector to put them in a more competitive position as far as the production of these beverages is concerned.

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

Hon. P. M. GREAVES: Mr. Speaker, I beg to second that and reserve my right to speak. 12.35 p.m.

Mr. O. S. ARTHUR (St. Peter): Mr. Speaker, the House is, obviously, in good spirits in more sense than one, and I, therefore, in good spirits, shall not detain the House on this matter.

There is a particular commodity that is being produced in Barbados that goes by the name of "Dark And Stormy", which I had intended to make it a document of the House. The point at issue here is that the commodity "Dark And Stormy", which is not now covered by the Consumption Tax, is a commodity among whose ingredients is listed "high fructose corn syrup". I wonder if the Minister of Finance and/or the Minister of Trade and Industry could really declare what is Government's particular policy on the production of commodities of this character, or commodities of a similar nature.

As I understand it, Sir, it is not Government's intention, has not been Government's intention in the past, to allow in Barbados the use of inputs which compete with commodities that can be produced in Barbados. And, if indeed, Sir, the commodity "Dark And Stormy", which is produced by Bim Beverages, is utilising high fructose corn syrup as an ingredient, we on this side, obviously, would have a very grave objection to raise against this particular trend.

I am raising it, Sir, because we are discussing taxes on alcoholic beverages, and I can see no very good reason why, with the abundance of alcohol in Barbados, we should, at all, encourage the production in this society of any commodity which uses as a sweetener high fructose corn syrup. If it has come in by the back door, I would urge that Government make every endeavour to ensure that at a time when we should be promoting the consumption of sugar in Barbados, that we are not reversing on that particular one.

I have a few basic queries as regards this particular matter. I just enquire of the Minister of Finance when

exactly this particular amendment to the Consumption Tax is to come into effect And to the extent that we are talking about a reduction in taxes and alcoholic beverages, I am enquiring as to what might be the cost to the revenue, however small, of the proposed amendments.

I am obliged to you.

Hon. E. E. GREAVES (St. Lucy): Mr. Speaker, like the other speakers, I will be brief on this matter. In response to the question raised by the honourable Member for St. Peter (Mr. O. S. Arthur), I am not aware that "Dark And Stormy" contains this high fructose corn syrup. I promise him that I will have the matter investigated and let the House know what is the position as far as that is concerned. It is completely new to me.

However, the particular item does fall under this new arrangement, because you would see that under the Schedule, it has Gin Tonic and similar beverages and, therefore, that would fall under the category of similar beverages.

Basically, as the Honourable Prime Minister has pointed out, representation was made to the Ministry of Trade and, indeed, to the Ministry of Finance, for some time now, going back early in the 1980s, to have the rate of duty on these particular drinks lowered. It was felt that the rates of duty which were applied would have some adverse effect on the export potential. So the opportunity has been taken here not only to look at the representations which were made before, but at those which were made to us since we came into office, and we have attempted to capture all of the requests which have been made.

What we are doing today demonstrates that the Government is responsive to requests from the manufacturers which have some logic and, indeed, justification from the manufacturers and, certainly, it also demonstrates the Government's commitment to encouraging the manufacturers to diversify their product range.

For many years, those persons who have been involved in, let us say, the production of alcohol, have been involved in just the production of rum and have not really diversified their product range. But within recent years, one is seeing some effort in this particular regard. I do not want to put people's business on the table, as it were, but I know that there are a number of companies which are involved in the manufacture of rum which are diversifying their product range. This legislation will give them an opportunity to exploit a niche which they claim exists in the market, particularly the export market, for their products.

We certainly want to implore manufacturers in this particular area to continue their research and development, to look for new markets, and to look for new products to tap the existing markets. We are hopeful that this positive response from the Government will continue to attract a positive response from the manufacturers.

Some other information has just been passed to me here, that when Bim Beverages made an application for consideration on this particular matter, in the communication from that company they stated very clearly that Dark And Stormy is a product which is made with local sugar, local rum, and ginger beer concentrate imported from England. If the honourable Member for St. Peter is stating that, to his certain knowledge, the sweetener is not local sugar, is from an external source, as indicated, we will investigate it and take the necessary action.

Mr. P. J. M. MILLER (City of Bridgetown): Mr. Speaker, I gather that the product in question, Dark and Stormy, on the list of ingredients on the packaging says it contains high fructose com syrup. But one has to be careful, because sometimes this packaging is brought in because of economies of scale from the parent company, or the company from which the franchise is had, so it may say high fructose corn syrup when, in fact, the locally made product may not contain this. I do not know whether it does—

Over the years, during the last Administration and this one, certain manufacturers who manufacture products have "needed" refined sugar. I say that because I only believe we would need it because we want to have a flavour or kind of quality that is the norm in the developed countries. For instance, if you were making preserves, you would tend to want to use granulated sugar, because you want to get away from the molasses taste that comes with our raw sugar. However, most manufacturers have never been given the permission to bring in this granulated sugar, and certainly the company in question was never given permission, and they had tried for a product they have called Upper 10. By the same token, I would hope that if, as the Honourable Minister of Trade has said, there is some way that high fructose com syrup is coming in, we would encourage the company to use local sugar by not allowing them to have the corn syrup, because our cane sugar has had its fair share of lashes, particularly in the US and Canadian markets, with the cheap high fructose com syrup giving us tremendous competition, particularly in the beverage industry. 12.45 p.m.

One would like to see, I am sure, the encouragement of more linkages in terms of products that are made locally. For instance, certain parts of Barbados, St Thomas, St. Andrew, and St. Joseph, to some extent, have very good soil for growing ginger, and one would like to see that the

stage is reached where local ginger is used and we do not have to import ginger that had been sent to Britain, made into an essence and then brought back here really. They do not work ginger there.

If we grow the ginger, we would have a product that would now be totally locally made in terms of the sugar, rum and the ginger. I think that that is the sort of thing that we would want to encourage, especially when one recognises that it would reduce the need to spend foreign exchange. The water is, of course, local.

*Laughter.*

Mr. P. J. M. MILLER: I am very heartened that this Government has taken the position that we have in terms of the levels of Consumption Tax on low alcohol content drinks, because these are now very popular in developed countries, and in our countries in the CARICOM region, people are now going to these juice-based, low alcohol content drinks. Since we have an abundance of rum and we have been doing a lot of work in terms of the development of fruit, one would expect that this is the kind of direction that we would want to go in. We probably would end up with a very fine exportable product, which, of course, would add to reducing the problems we are facing now in terms of the reduction in export of goods from Barbados.

I am obliged.

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

*On the motion of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. R. P. BYER in the Chair.*

#### COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

*Clauses 1 and 2 inclusive were called and passed.*

*On the motion of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, Mr. CHAIRMAN reported to His Honour the Speaker the passing of one Bill in Committee, and Mr. SPEAKER resumed the Chair and reported accordingly.*

*On separate motions of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, the Bill was read a third time and was passed.*

#### MEDICAL REGISTRATION (AMENDMENT) ACT, 1988

*Order No. 5 was called - To move the second reading of a Bill to amend the Medical Registration Act, Cap. 371.*

Hon. B. M. TAITT (St. Michael West): Mr. Speaker, as you know, Cap. 371 of the Laws of Barbados provides for medical registration in this country. That is the Act under which a person wishing to practise as a doctor of medicine must first be registered. To that end, there is a council which determines whether the person is a fit and proper person and whether the person is qualified to practise medicine in Barbados.

In 1984, the Minister of Health determined that there were a number of changes which he would like to see to make the Act more efficacious, as he then perceived it, and as a result, consultations were engaged in between the council and the Minister. As you know, Sir, - I am sorry, Mr. Speaker, I have a throat problem - these consultations go on for some considerable time, and during the period, opportunity was taken by the council to point out certain shortcomings in the Act as it existed. As a result, we now have before us this amending piece of legislation which seeks to make the Medical Registration Act a more workable document.

*Aside.*

Mr. SPEAKER: May I have some order, please.  
12.55 p.m.

Hon. B. M. TAITT: The Minister of Health has taken as his chief adviser in these matters the council itself. All of the amendments which are now before the House have been agreed to by the council, and indeed the Barbados Association of Medical Practitioners, so there are no areas of controversy, as far as I know, in the Bill.

The one area of some difference was the addition to the council of another member. The Barbados Association of Medical Practitioners, consulted last year, indicated that they were not in favour of any increase, but the Medical Council itself had at the very beginning indicated that the addition of a member would, in fact, make it easier for the council to do its work, and in all the circumstances I have accepted that.

The honourable Member looks at me, and I will help him. I see that the Opposition is raising a question, so I will point out that the council said, "With respect to the proposal to increase membership of the council by one member, the chairman indicated that this amendment would make it easier for the council to function." The chairman there is the

Chairman of the Medical Council. So it is agreed that we would increase the number by one.

The amendments which are before us speak for themselves to a large extent, but I will address the policy of the amendments so as to make it easier for those who might not have had the opportunity to study in great detail the proposed amendments.

As I said, there will be an increase of one member to the council. There will also be provision for the appointment of a Deputy Chairman. At the moment, there is only provision for a Chairman, and there is no provision in the present Act for emergency situations when the chairman is absent, and although I suspect that over the years they have followed the natural course and appointed a chairman, they had no basis in law for doing it. We now seek to correct that by agreeing to the appointment of a Deputy Chairman and making provision for the event where neither the chairman nor the deputy is present - the council will be able to elect a temporary chairman.

Opportunity is also being taken to ensure, in the context of natural justice, that a person who applies to be registered, and who satisfies all of the requirements, must be registered within a 90-day period. I think that is proper, Sir, because if a man's or woman's livelihood depends on registration, then the council responsible for registration ought not to be able to dilly-dally in such a way as to deprive that individual of the right to a livelihood. Opportunity is being taken to improve that area of the ACL

There is the requirement that an applicant should make certain submissions. The requirement is being enhanced by the addition of the requirement for a certificate of good standing from the applicant's previous registering body, if applicable. What that means, Mr. Speaker, is that if a person is coming from another jurisdiction and he is applying for registration in Barbados to practise as a doctor, the place where he is coming from, where he was registered, ought to give him and he must have a certificate that he was in good standing. In other words, he would not be able to run from a country, where he had been deregistered, or where he had been struck from the register, come to Barbados and supply perfectly normal qualifications and become registered. I think this will enhance the Act to make sure of the quality of medicine which those who are registered will administer.

*Aside.*

Hon. B. M. TAITT: I am being reminded by my colleague that he should be able to speak English intelligently. I draw to his attention that that is already a requirement in the Act. Cap. 371 says that they ought to be able to read and write the English language. I do not

attempt to fall into the category of the council and, therefore, will not essay to advise, or even instruct, them on what they should do.

We are also amending Section 11 of the Act to make provision for persons who will be working in the polyclinics and other areas, because the registration, as it stands now, took account only of a hospital. As you know, Sir, the polyclinic service makes provision for doctors who will function in that who may not have any direct contact with the hospital.

I cannot think of any other aspect of the Act that requires ventilation at this point. I stand ready to answer any questions and to discuss any related area, but, for obvious reasons, I am sure that I should spare the House the difficulty of having to listen to a somewhat impaired quality of voice in this otherwise good presentation.

Thank you very much, Mr. Speaker.

Hon. P. M. GREAVES: I beg to second that, Mr. Speaker, and reserve my right to speak.

Hon. H. deB. FORDE (Christ Church West): Mr. Speaker, I am sorry to hear that the honourable Minister of Health has an impaired voice. It is probably because of his failure to have regular discourse with BAMP, the practitioners. That would certainly improve his voice somewhat. I am sure he gets good medical advice, and I hope that he will shortly find it possible to be in regular consultation with them. I wonder whether he has yet met with them. Perhaps, he will use the opportunity to let us know whether or not he has had the opportunity to meet with them yet.

Sir, in relation to this Bill, the section that gives me some concern is the amending section 5 of the Bill before us, which seeks to amend section 14. Section 14 of the Act gives practitioners or applicants for registration the right to appeal against decisions of the council not to register them, or to suspend them, or to discipline them, and therefore it is a very vital right of judicial review.

Subsection (4) of that section, however, limits that right of appeal where the ground of appeal would be a disagreement over whether they have the necessary qualifications to practise. They are now adding a further qualification as to whether the person is a fit and proper person. It would seem, in my view, to be a matter suitable for adjudication on review, because there obviously is going to be some subjective test here of the council as to whether a person is a fit and proper person.

I think the Minister may be assisted in this exercise by looking at the judgement of Mr. Justice Denys Williams, as

he then was - Sir Denys Williams, the present Chief Justice - in a matter which came before the High Court for judicial review of the decision of the Dental Council. In that particular matter, the judge did express his dissatisfaction with some of the procedures of the Dental Council on an application for registration. 1.05p.m.

While this Bill would cure one of the areas of concern, that is the time within which applications are adjudicated, it does not seem to me that section 5 of the Bill takes away some of the present rights of appeal which applicants have. Applicants can at present have a review from the High Court as to whether or not they are fit and proper persons.

Hon. B. M. TAITT: If the honourable Member would give way, Sir: I do not wish to interrupt him, but I think the honourable Member may have misread, because we are not interfering with the present situation as it is. We are simply adding the clause to allow for more. I take his point about appeal, but we are not actually taking away. This is what is happening now.

Hon. H. deB. FORDE: If I may direct the Minister's attention, section 14, subsection (1) says:

"Subject to section 4 any person who is aggrieved by the refusal of the Council to register him under this Act or by its decision to censure him or suspend his registration or cause his name to be removed from the register may within three months of the receipt by him of such notice appeal to a Judge in Chambers whose decision shall be final."

Subsection (4) says:

"Notwithstanding subsection (1) no appeal shall lie under this section against the refusal of an application for registration in a case in which such registration is conditional upon the applicant satisfying the Council that he is qualified to be registered."

In short, Sir, the right to appeal is only curtailed or limited where you are appealing or seeking to appeal against satisfying the council under section 6, subsection (1)(b). You do not at present have any limitation on your right to appeal against a decision of the council relating to whether you are a fit and proper person to practise medicine in Barbados. There is no limitation, if you read section 6 and section 14 together. Now, if section 14 is further amended, 14(4) will limit that right of appeal not only where you are seeking to appeal against the council's decision as to whether you are qualified to be registered, but also where you are seeking to appeal against the council's decision as to whether you are a fit and proper person to practise medicine in Barbados.

My contention, therefore, is that the right to appeal is being limited by section 5. I am saying there is really no case for such a limitation. In fact, there really is a case for allowing that particular provision to stand. Sometimes, other than objective criteria are applied to determine the fitness or propriety of the person to practise, and since we are dealing with what could be the right of a person to work in circumstances such as these, I would strongly urge the Minister to reconsider the necessity to amend section 14.

Whilst I am, of course, aware of the fact that an applicant may still be able to use the other prerogative writs available at common law, they, themselves, are subject to certain conditions that, in my view, make it a bit difficult for an applicant to exercise that right. That seems to me to be a matter of policy under the Bill. I know that when the honourable Member was on this side of the House, he was always very solicitous of the rights of citizens in so far as they were being denied a right of review or appeal, and I would strongly urge the Government to reconsider the policy of that section.

Hon. B. M. TAITT: Mr. Speaker, the point by the Honourable Leader of the Opposition is well taken, but I assure him that I gave this matter very long and deep consideration before actually bringing it to the House. The point is, though that precisely because of the decision made by Mr. Justice Williams, it is clear, and I really believe it to be so, that this Parliament cannot take away the right of the citizen merely by a clause which says "no right of appeal shall lie in certain circumstances". If it is a point of law, the courts will take the question anyhow.

The draughtsmen had a lot of difficulty dealing with a particular issue concerning what constitutes a "fit and proper person" to practise medicine. As it stands now, no one in Barbados who is a practitioner - I was hoping, Sir, that this matter would not have been raised, but I ought to have known better - who reaches the point of incapacity can be removed from the roll merely because the council believes that he is no longer a fit and proper person to practise medicine. This has been canvassed back and forth, and it still is difficult to find a way, apparently, in which you can announce. Whereas the Bar Association, for example, can receive complaints from a person that such and such a practitioner has behaved in a particular way and certain steps can be taken to deal with the legal practitioner, the problem as it relates to doctors cannot be so easily solved.

What constitutes a fit and proper person to practise medicine is an area which, therefore, should be dealt with by the professionals, because in the final analysis, it is the professional doctor who is going to give the expert testimony, who is going to agree in the courts, who is going

to convince either the judge or jury that such and such a person is qualified.

Hon. H. deB. FORDE: If the honourable Member would give way: Basically I agree with what the honourable Member is saying in so far as the setting of a code of ethics and the profession being self-regulatory is concerned. The point I am making is that there should be a right, however, to appeal, as there is here in certain circumstances.

Let me put to the Minister a particular case. I am not going to make another speech, but to explain myself, let us assume that a Barbadian national resident in Canada is struck off the register in Canada on the basis of unethical conduct consisting of making an adulterous association with one of his patients. I believe this might still be a ground in some places. I am not sure it is in Canada, but I am assuming this for the purpose of this argument. A period of time has passed, but not sufficient for the Canadian authorities to reconsider him to be not fit and proper, so he gets a certificate from them under this amendment which says he is not a fit and proper person because of that period of time. That is his only offence, and he comes here. He may find himself, therefore, hamstrung by limitations such as this, although the calumny which attaches to such a breach of the code is not the same as the calumny which attaches to a man who is a quack, or who, despite the fact that he might pass the exams, could have been guilty of really what doctors would normally consider are acts making him unfit. That is the sort of worry I have.

Hon. B. M. TAITT: I am glad that we are agreed on the principle of the Bill. But it is precisely these areas of difficulty which led our draughtsmen to suggest that we leave these areas to the practitioners. 1.15p.m.

The Leader of the Opposition agrees that in the event a person feels aggrieved, there are other remedies, and while we recognise that those remedies are not as easily attained as the remedy in a Magistrate's Court, we recognise, however, that we would be dealing in an area where the persons concerned would be accustomed to seeking remedies at the higher level. In other words, Mr. Speaker, to ensure that the other areas of this legislation come to the House, and to ensure that the other areas where there are serious deficiencies are dealt with, we agreed to allow this amendment in its present form to come. If the contention is sufficiently serious, we can continue to examine it and have a further amendment, as necessary. But failure to include the clause would leave the Medical Council still without the required ability to examine and to make a decision on it. The other point is that one does not wish to legislate a situation in which the judge can substitute his point of view for the discretionary power.

It is clear that fitness and qualifications, are matters which are going to be dealt with by the council, which would be the peers of the person applying. They are also exercising discretionary powers. Once they are exercising a discretionary power, if we legislate that that discretionary \* power can be substituted by the judge, then we are taking a fairly bold step in an area which has, from time immemorial, been agreed that the judge cannot substitute his discretion for that of a functionary exercise in a discretionary power.

I will remind the honourable Member that two ^ functionaries making decisions on the same set of facts and coming to two opposite conclusions has been said by the highest court in this land, the Privy Council, to be both right because of the principle that the courts cannot substitute for any functionaries' discretion. And it is precisely in this area of legislating against the discretion of the professionals that I have determined to err on the side of the professionals.

It seems to me - this is why I think on this occasion, one would have to err on the side of the professionals - that it is better for doctors to determine if doctors are fit and proper persons to practise medicine. I think that in those circumstances, the honourable Member should let us concede the small point. It is not a small point intellectually, but it is not an area that is sufficiently -. grievous to create a travesty on anybody's rights, and it is not as though we were going to be leaving the individual without any recourse whatsoever. Therefore, I have decided to urge the Government, and we agreed, to err on the side of the professionals in this respect.

If there is an agency that is likely to be impartial and to be without any particular point of view, it would be a \* council, because most of the members of the council are nominated by the professional bodies themselves. If you look at the Act, you will see that most of the members, except for the Chief Medical Officer, and now this Act would put them *pari passu*, are professional people. There are no lay people on this council.

*Aside.*

Hon. B. M. TAITT: Mr. Speaker, the honourable Member is asking me if the honourable Member for St. Michael South East (Dr. E. A. Simmons) can advise me. In the area of medicine, I refer to the honourable Member for St. Michael South East every day, because he is a professional. It is only when I listen to the Leader of the \* Opposition on how to cure my sore throat that I will not put the recommendation on the floor of the House and that I am going to try it and see what happens.

On the question raised about consultation with the Barbados Association of Medical Practitioners, I think that

failure to respond might give the impression that there is something to hide. The truth is, Sir, that the Barbados Association of Medical Practitioners wrote to the Ministry of Health about the doctors participating in the polyclinic services, while I have been saying all along publicly that I did not know what they were talking about, that I had never seen any such letter. I finally had the matter researched, and I think it is fair to say that there has been a misunderstanding.

BAMP did, in fact, write to a Minister of Health, but at a time when I was in the Ministry of Tourism. It so happens that I became Minister of Health after that letter had been sent to the Ministry, and whereas one member of BAMP seemed to be of the view that he had sent me the letter, or sent the letter during my time, the research has shown that the letter was sent on July 2. I believe I became Minister of Health on July 15, and that accounts for the apparent difficulty.

*Asides.*

Hon. B. M. TAITT: It is true. I have never seen any letter from BAMP about the problems being raised, and the Ministry is writing to BAMP to explain what the problem was.

I have seen every council, every agency in the practice of medicine in Barbados I have met with. The Barbados Association of Medical Practitioners has not sought a meeting with me since I was Minister, and whenever they seek a meeting with me, I will treat them the way I treat all of the other agencies and I will meet with them. I have tried to avoid there being some kind of chasm, some apparent chasm, created by other people between myself and the doctors.

The National Advisory Committee on AIDS is set up under the Health Services Act. It is a national committee which, in my own deliberate determination, because of the anonymity of the discussions relating to AIDS, because of our insistence that there be anonymity as we discuss individuals, because no one who sits on that committee would have to report back to anyone, I felt that we would not have it as a representative body. If we had it as a representative body, we would then have to determine that the Barbados Christian Council should be represented, that the Barbados Workers Union and the National Union of Public Workers might be represented, that the Pathfinders might be represented, and before long we might have had a very good representative body.

*Aside.*

Hon. B. M. TAITT: I am being advised that if we had a Gay Organisation in Barbados, they, too, would have to be represented.

The point I am making is that we determined that it would not be a representative body, and it was the Ministry of Health that wrote to BAMP and advised BAMP that we had set up such a committee. BAMP's comment about wishing to be on that committee came in their response to our letter, in which they thanked us for advising them that we had set up such a committee. Therefore, the Ministry did not consider that BAMP's observation was a matter that required a further letter. I consider that to be reasonable. But the point is that when the committee was being established, the persons who were chosen were all members of the Barbados Association of Medical Practitioners. The Chairman of the National Advisory Committee on AIDS is Professor Walrond, who has been President of BAMP and is a member of BAMP. He was the Chairman of the BAMP Task Force. Dr. Ellis, at the time he was appointed, was First Vice President of BAMP. Dr. Dos Santos was a Council Member of BAMP. Dr. Roach is a member of BAMP and was a member of the BAMP Task Force that preceded the National Advisory Committee. Dr. Beverly Miller, who is the Deputy Chairman of the Advisory Committee, is a doctor, and she works in the Ministry of Health. I do not know if you put five persons from the Barbados Association of Medical Practitioners on the National Advisory Committee on AIDS, how it could be an issue whether BAMP is represented. 1.25 p.m.

Mr. Speaker, I have fervently said that I do not wish to have any controversy with the Barbados Association of Medical Practitioners. There is nothing for us to have a war of words about. Some of my best friends are doctors. I do not know what else I can do to let the honourable Members in this House know that BAMP and I are like two peas in a pod.

The problems which were present between BAMP and the Barbados Labour Party are not problems which are anywhere near in the vicinity of this Government. I do not really wish to spend any more time on it. Suffice it to say that as soon as BAMP indicates that they wish to meet with the Minister, the Minister will meet with BAMP, as he has gone with the nurses, and he has met with individual doctors.

There are doctors who have said they wanted to see me on a specific thing. I have met with them. One of the problems I do not have, Sir, is meeting with people. There is no difficulty. If the honourable Members on that side wanted to see me on any matters to do with the hospitals or the delivery of health care, I would see them.

There is no problem, Mr. Speaker, and I hope this would bring that particular episode to a quiet end. I sought to explain to the House what I consider to be the misunderstanding between BAMP and the Ministry. My Permanent Secretary, as I understand it, is writing a letter to BAMP to explain where the difficulty arose. I wish to assure the House that the information I have given to the House has always been accurate, and I intend to continue to do so.

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

*On the motion of Hon. B. M. TAUT, seconded by Hon. M. A. KING, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. R. P. BYER in the Chair.*

#### COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

*Clauses 1 to 4 inclusive were called and passed.*

*Clause 5 was called.*

Hon. B. M. TATTT: I beg to move that Clause 5 stands part.

Hon. M. A. KING: I beg to second that, Sir.

Mr. D. A. C. SIMMONS (St. Thomas): Mr. Chairman, I am not going to hold up the House. The Minister said that he is not ruling out in the future the possibility of amendment, and I wish to raise one matter that I think we should look at. I think the time has come when all of the procedures for admission, disqualification and appeals and all that in respect of all the professions should be standardised as far as possible.

I was a little worried that the language here is substantially different from the language applying to the legal profession. Before you can be admitted to practise law, one of the requirements is that you must satisfy the court which admits you that you are, "a person of good character". That usually requires a certificate from someone of standing in the profession to satisfy the court that the applicant for admission is a person of good character.

I see that the certificate of good standing in this one relates, not to a general application, but a specific circumstance where a person is coming from overseas and wants to register. I would have thought that there should have been a requirement in every event for a certificate of good character, perhaps taking into account those words:

"fit and proper person". If they had used the Legal Profession Act as a guide, perhaps we may not have had this argument, which is a very good intellectual exercise - it has practical merit - because insofar as the legal profession is concerned, if an application is refused for registration, there is enshrined in the Act a right of appeal to the Court of Appeal. That is because the High Court is admitting you, and you go from there to the Court of Appeal. But it is specifically written into the Legal Profession Act. Perhaps the Minister would bear that in mind and let the council have a look at it as to how the legal profession does its business.

Hon. B. M. TAITT: I am sure that what the honourable Member said did not fall on deaf ears insofar as the Attorney-General is concerned. I tend to agree with him that there should be some standardisation for all of these professionals and paraprofessions. Indeed, I think the fusion Act is probably one of the best pieces of legislation that we have passed in the House insofar as it applies to the registration of attorneys. I have often wondered why we have such a disparity. But I think it has to do with the time at which the particular Act is drafted, and the Legal Professions Act would have been the beneficiary of advanced thinking in drafting circles, as well as it being the work of many years of exercise both within and outside of the profession, whereas this Medical Registration Act is almost a clone of the Act in Britain, as is the case with so much of our legislation of the past

We no longer have a Medical Association, whereas they still have a Medical Association in Britain. If we had a Medical Association, which would be the equivalent of the Bar Association, then you could use the two Acts almost simultaneously, paragraph for paragraph. However, for historical reasons, the Medical Association in Barbados gave way to BAMP, and BAMP is now a slightly different kind of agency than the BMA, and this creates a small problem for drafting. Whereas a person who would practise law in Barbados is legally required, must become a member of the Association by law in order to practise law, a person does not have to join the BAMP in order to practise medicine, and hence the council's role here is slightly different from the Bar Association's role. 1.35p.m.

I suspect that eventually there will be an examination of all of the law, and I think as part of the general reformation and part of the updating of the laws, these are matters which will be looked at. I really think though, that the private Bar has not been doing as much as it could by way of pointing out to the Government of the day areas of the law that could stand examination, such as these kinds of things. They deal with the areas that apply to them, or if they run into a problem as they are practising, but I think that the Bar Association could give a lot of thought to an

ongoing examination of laws with a view to having them standardised, because standardisation of the law makes it easier. But maybe that might interfere with the principle of maximum confusion, so I better leave this at this point, Mr. Chairman.

Dr. E. A. SIMMONS (St. Michael South East): Mr. Chairman, I would just like to make a couple observations, since I happen to be in the particular profession that is being discussed, and look at some of the history involving the law.

I am quite sure that the Honourable Leader of the Opposition will recall that some time before 1970, maybe between 1968 to 1970, there was an amendment to the law, and I am glad to see that he has come around to the point where he said that if a Barbadian is practising medicine in Canada and he is disadvantaged for some reason or another, we should look at it seriously, because it was the Democratic Labour Party which had to set the record straight. Because before the change in the law around 1969, if you had a licence to practise in New York, you could practise medicine in Barbados. What that meant was, the only way you could get a licence to practise in New York is if you are a citizen of the United States.

The United States has something called the National Boards where when you qualify, you are qualified to practise in some 48 States, and in some of the States, including New York, requirement is U.S. citizenship. This meant that if a Barbadian went to school in the United States, took his National Boards and passed, but did not qualify to practise in the State of New York, because he was a Barbadian citizen, he could not come back and practise medicine in Barbados.

It was the Democratic Labour Party which changed that law making sure that Barbadian citizens who qualified to practise in New York, but were disqualified because of citizenship of the United States, could come back and practise medicine in Barbados. It was that fundamental change that allowed Barbadians to retain their citizenship, go to the United States and study, and come back and practise in Barbados. That law was opposed strenuously by the members on the other side when it was introduced by the Democratic Labour Party, so there has been a fundamental change in philosophy.

Hon. H. deB. FORDE: Perhaps the honourable Member could cite the debate at that time. I will not let him get away with that one, Sir. He really is misleading the House. He must really cite the debate. Send for Hansard!

Dr. E. A. SIMMONS: I recall that it was said that the law was passed to accommodate an individual, that individual being me. If the individual has the citizenship of

a country, then he should be entitled to all the rights that a citizen should be entitled to. Therefore, it is important that I speak on this issue, because I am seeing now that the Honourable Leader of the Opposition has recognised that citizens of Barbados should be entitled to the benefits of the country. I applaud him on this very strong effort that we examine disqualification of Barbadians in other countries.

The other issue is whether the legal profession should have the ultimate right to decide whether you should practise medicine or not. I think it is widespread in the United States and England that it is the medical people who make that decision, for simple reasons, because it is the people in the medical profession who interact, who know the qualifications of the various universities - who put out quacks, who put out well-qualified people - because you can be trained at a hospital - we know we have had the saga of the offshore medical school - and still not be up to standard, and very often people in the legal profession are not up to date on these things. Some might come out with a letterhead that looks beautiful, and all the lists of professors who taught them, but, in fact, it may be a quack school, and that is one main reason I think the people in the medical profession are best able to make that decision.

I think that the law has enshrined in it the right of the individual, if he or she is denied the right to practise, to appeal to the legal court. So I think that right should remain with the medical profession, once there is an established body, and I think that in Barbados we have a very good established medical unit, one which cannot be faulted any place in the Caribbean, and I dare say any place in the world.

Mr. D. A. C. SIMMONS: I hope the honourable Member has not misunderstood the position of the Opposition. We are entirely in favour of letting the medical profession regulate itself. What we say is that if there is a problem, for example, as the Minister has pointed out, the profession does not observe basic principles of fairness, we say that from there there should be a right of appeal from the Council to the court to determine what is, in essence, a legal issue. We are not against the profession regulating itself; not at all.

Dr. E. A. SIMMONS: The point I was making is that it was my understanding that that right was always enshrined in the law. I think the right to permit someone to practise should stay with the legal profession.

As to whether you are a fit and proper person, I think the members of the council are intelligent and qualified enough to be able to assess whether or not somebody is fit and proper. I think that is part and parcel of the function of the Medical Council, and I am quite sure that they look at that aspect very, very clearly. But that is not to say, like in

any other profession, you will not find members who will not live up to the standards. The world is made up of all kinds of people, and then action will have to be taken, so one or two bad eggs will get in and then you will have to get rid of them, but that is the way the situation is.

Hon. B. M. TAITT: Mr. Chairman, I just want to say for the record, because I may have left the wrong impression, that I agree that the right of appeal is one which should always be available. As a matter of fact, if I had my way, I would go through all the laws and take out wherever it says "a person shall not have a right to appeal" or any words to that effect. That was the position which I used to take when I was in the Opposition, and I do not resile from that position.

However, when one is framing legislation such as this, one cannot impose one's personal view of the situation, and this is the view which the medical profession and the Medical Council has had in this legislation, and therefore, one is reluctant, unless one is doing it generally, to simply change this particular one. That is why I said that further amendment is possible, because at that time one would be looking at this as a general principle and not dealing with a specific Bill.

Thank you, Mr. Chairman.  
1.45p.m.

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

*Clauses 6 and 7 were called and passed.*

*On the motion of Hon. B. M. TAITT, seconded by Hon. P. M. GREAVES, Mr. CHAIRMAN reported the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.*

*On separate motions of Hon. B. M. TAITT, seconded by Hon. P. M. GREAVES, the Bill was read a third time and passed.*

#### LAND TAX (AMENDMENT) ACT, 1988

*Order No. 4 was called - To move the second reading of a Bill to amend the Land Tax Act, Cap. 78A.*

Hon. M. A. KING (Christ Church West Central): Mr. Speaker, this Bill arises out of a budgetary proposal of 1986. You will recall that at that time, Mr. Speaker, provision had been made for the revision of Land Tax payable by hotels and apartments, to allow persons living in their own homes to pay a reduced rate of tax, and to grant a reduction on the tax payable by pensioners on the improved value of land.

The Bill giving effect to those substantive provisions was enacted in Parliament as the Land Tax (Amendment) Bill of 1986. The Minister of Finance has directed that the proposals which I just mentioned should be based on the rates of tax which were existing before April 2, 1986, which were as set out here in the Bill before us today.

The point was that the rates of tax are set out in a Statutory Instrument. The Minister of Finance, by virtue of the principal legislation, has no power, of course, to make orders with retrospective effect, so in order to achieve the change of the existing order to reflect the rate of tax which existed as at April 1980, but before April 1, 1986, it is necessary to bring a Bill to effect that objective. The purpose of this Bill essentially, therefore, is to change the rate of tax to the position that it was at April 1986.

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

Hon. B. M. TAITT: I beg to second that and reserve my right to speak.

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

#### FURTHER CONSIDERATION POSTPONED

Hon. P. M. GREAVES: Mr. Speaker, I beg to move that further consideration of this Land Tax Bill be deferred for the time being.

Hon. B. M. TAITT: I beg to second that

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

#### WITHDRAWAL OF BILL TO AMEND THE OMBUDSMAN ACT

*Order No. 1 was called - To move the second reading of a Bill to amend the Ombudsman Act, Cap. 8A.*

Hon. P. M. GREAVES (St. Michael North): Mr. Speaker, this matter has been on the Order Paper now for about two months, but since the matter has been given the first reading, it has been re-examined by the Attorney General, who has done a new draft, not substantially different from the first draft.

I propose therefore, Sir, that the Bill now before Parliament that had its first reading should be withdrawn, with the leave of the House, and that the new Bill be substituted for it and given the first reading today.

For this reason I beg to move at this stage, with the approval of the House, that under Standing Order No. 65,

the Bill to amend the Ombudsman Act, Cap. 8A be withdrawn.

Hon. B. M. TATTT: I beg to second that.

*The question that the Bill be withdrawn was put and resolved in the affirmative without division.*

#### FIRST READINGS OF BILLS

Hon. P. M. GREAVES: Mr. Speaker, I beg to move that the new Ombudsman Bill, which I give notice of now, be substituted for that Bill which was withdrawn and be read a first time.

Hon. B. M. Tain • I r-eg to second that

*The question that the new Ombudsman Bill be read a first time was put and resolved in the affirmative without division.*

#### THE LAND TAX (AMENDMENT) ACT - (RESUMED)

Hon. P. M. GREAVES: Mr. Speaker, I beg to move that consideration of Item 4 be resumed.

Hon. B. M. TATTT: I beg to second that.

*The question that Item 4 be resumed was put and resolved in the affirmative without division. 1.55 p.m.*

*On the motion of Hon. M. A. KING, seconded by Hon. P. M. GREAVES, Mr. SPEAKER left the Chair and the House went into Committee of Supply, Mr. R. P. BYER in the Chair.*

#### COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

*Clauses 1 and 2 were called and passed.*

*On the motion of Hon. M. A. KING, seconded by Hon. B. M. TAUT, Mr. Chairman reported the passing of one Bill in Committee, and Mr. SPEAKER resumed the Chair and reported accordingly.*

*On separate motions of Hon. M. A. KING, seconded by Hon. B. M. TAUT, the Bill was read a third time and passed.*

#### ADJOURNMENT

Hon. P. M. GREAVES: Mr. Speaker, that concludes Government Business for today.

We had intended starting Order No. 2, the Resolution to take note of policies, programmes and projects detailed by the Estimates of Expenditure for 1988/89, today. But at the request of Members opposite, I have deferred it until next week Tuesday. All honourable Members should come next week Tuesday prepared to debate the Resolution.

I move that this House do now adjourn until Tuesday, April 12, 1988 at 12 o'clock noon.

Hon. B. M. TAITT: I beg to second that.

*The question that the House Mo now stand adjourned until Tuesday, April 12, 1988 at 12 o'clock noon was put and resolved in the affirmative without division, and Mr. SPEAKER adjourned the House accordingly. 2.00 p.m.*

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**FORDE, Hon. H. deB. (Christ Church West)**  
**GREAVES, Hon. E. E. (St. Lucy)**  
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**KING, Hon. M. A. (Christ Church West Central)**  
**MILLER, P. J. M. (City of Bridgetown)**  
**SIMMONS, D. A. C. (St. Thomas)**  
**SIMMONS, Dr. E. A. (St. Michael South East)**

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