

THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1986 - 91

HOUSE OF ASSEMBLY

Tuesday, February 28, 1989

Pursuant to the adjournment, the House of Assembly met at 12:20 p.m. o'clock on Tuesday, February 28, 1989.

PRESENT

His Honour L. A. Weekes, J.P., (Speaker)
His Honour J. J. Payne, (Deputy Speaker)
Hon. H. deB. Forde, Q.C., M.A., LL.B.
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)
Dr. R. C. Haynes, M.B., Ch.B., F.R.C.P. (Edin.), (Leader of the Opposition)
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., (Chairman of Committees)

Mr. E. Bourne Dr. E. A. Simmons, M.D.

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 Hare wood.

Mr. SPEAKER: The House is in session.

MINUTES

Mr. SPEAKER: The Minutes of Tuesday, February 14, 1989.

Hon. P. M. GREAVES: Mr. Speaker, I move that the Minutes of the meeting held on Tuesday, February 14, 1989 be taken as read and confirmed, Sir.

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

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

PAPERS LAID

Hon. P. M. GREAVES: Mr. Speaker, I am commanded by the Cabinet and on behalf of the Minister of Tourism and Sports to lay the 10th Annual Report of the National Sports Council for the financial year April 1, 1987 to March 31, 1988, and Sir, on behalf of the Minister of Finance to lay the guarantees granted under the Exempt Insurance Act Cap. 308A of the following, Sir:

Durham Casualty Company Limited
Greenwich Potomac Reinsurance Co., Inc.
Natcan Insurance Company Limited

Reliance National Barbados Insurance Ltd.
Resource (Barbados) Limited
Retail Insurance Limited

and finally, Sir, Sunchest Reinsurance Co. Ltd.

GOVERNMENT NOTICES

Hon. P. M. GREAVES: Mr. Speaker, I give notice of a Resolution to approve the compulsory acquisition of land at St. Helen's, St. George for the construction of the new St. Augustine's Primary School.

REPORTS FROM SELECT COMMITTEES

Mr. L. L. BRATHWAITE: Mr. Speaker, I am to report that the Parish Boundaries (Amendment) Bill 1989 was passed in Select Committee with amendments.

FIRST READING OF BILLS

Hon. P. M. GREAVES: Mr. Speaker, I move that the Bill to amend the Franchises (Registration and Control) Act, Cap. 179A be read a first time.

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

On the motion of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, the Bill was read a first time.

ORAL REPLIES TO QUESTIONS

Mr. SPEAKER: The Honourable Minister of Health.

Hon. B. M. TAITT: I beg to give notice that the reply to Question 101 is ready.

ORDERS OF THE DAY GOVERNMENT BUSINESS

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

SUSPENSION OF STANDING ORDERS

Hon. P. M. GREAVES: Mr. Speaker, before we proceed with Government Business, I am moving that the following Standing Orders be suspended for the remainder of today's sitting. They are: 6, 16, 18, 20, 42(5), 43, and 44, Sir.

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

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

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

On the motion of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, Mr. SPEAKER left the Chair and the House went into Committee of Supply, Mr. L. L. BRATHWAITE in the Chair.

COMMITTEE OF SUPPLY

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

SUPPLEMENTARY ESTIMATES 1988-89 No. 22 HEAD 50 - POST OFFICE - \$201 093

Hon. Dr. D. G. BLACKMAN: Mr. Chairman, this is a request to this Honourable House for the sum of \$201 093 to supplement Head 50, Subhead 1, Item 12. The amount is deemed necessary in order to liquidate outstanding debts to the airlines for transporting mail as well as to provide for additional cost arising out of the unanticipated high expenditure on commemorative issues of stamps which I am advised is the result of largely foreign currency transactions having to do with the fluctuations of the value of the pound sterling.

I beg that this Head do now stand part of the Resolution.

Hon. W. O. FRANKLIN: I beg to second that.

The question that Head 50 stand part was put and resolved in the affirmative without division.

SUPPLEMENTARY ESTIMATES 1988-89, No. 23, ANNEX ESTIMATES - \$921 149 PART II-CAPITAL

HEAD 76 - MINISTRY OF EDUCATION AND CULTURE

SUBHEAD 9 - SECONDARY SCHOOLS - \$566,411
SUBHEAD 15 - TERTIARY INSTITUTIONS - \$227,319
SUBHEAD 25 - PROJECT UNIT - \$127,419 12:30 p.m.

Hon. C. V. WALKER: Mr. Chairman, this supplementary for \$921,149, first under Subhead 9 for \$566,411, relates to professional services, structural and civil engineering, electrical engineering, mechanical engineering and quantity surveying for Queen's College as well as the new school at Wotton.

The sum of \$200,000 was provided in the Estimates and we estimate the expenditure to be \$766,411.03.1 must also state here, Mr. Chairman, that the Queen's College School is actually ahead of schedule and that the school at Wotton will be starting very shortly. Therefore under Subhead 9 we are asking for \$566,411.

Under Subhead 15 - Tertiary and Training Institutions, we are asking for \$227,319 and this relates to the training component of the World Bank - IADB loan. We had provided as part of the Agreement a sum of \$500,000 for the training component as it relates to training in the areas of fellowships, local training, consultancies and studies. Relating to the Ministry itself, the SJPP, the Community College and the Training Board.

We anticipate that we will spend some \$727,391 and the provision of \$500,000 was approved in the Estimates. Therefore we are asking under this Subhead for an additional \$227,319.

Under Subhead 25 - Project Unit, relating to supplies and materials and professional services, an amount of \$22,000 was provided in the Estimates for supplies and materials and the total actual expenditure as at 31st August, 1988 was indeed \$16,000 leaving a balance at that time of \$5,000.

We also have an outstanding claim from a creditor in the amount of \$5,069 which was incurred in the financial year 1987-88 which was paid in the current financial year of 1988-89, and provision was not made in the Estimates for this payment. We also have an amount of \$1,025 per month, Mr. Chairman, which is being spent for the purchase of printing paper which is used in the Project Office for the preparation of documents utilised by the Architects and the various suppliers to that Unit.

The revised estimate of expenditure then in respect of this provision will be approximately \$39,869. An amount then of \$17,869 is therefore required to supplement Object No. 10.

The other Object No. under Subhead 25 - Professional Services, relates to a provision which was made in the Estimates, and as I mentioned earlier, since Queen's College especially is ahead of schedule, the revised estimates for the expenditure for the financial year 1988-89 is now \$359,550. Therefore we are asking to supplement this Object No. 26 for professional services to the tune of \$109,550.

With that, Mr. Chairman, I move that this Head stand part.

Hon. W. O. FRANKLIN: I beg to second that.

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

On the motion of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, Mr. CHAIRMAN reported the passing of two money Resolutions in Committee of Supply, and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motion of Hon. P. M. GREAVES, seconded by Hon. B. M. TAITT, the Resolutions were read a first and second time and agreed to.

Mr. SPEAKER: Order No. 2.

Hon. P. M. GREAVES: Mr. Speaker, I just want to state that, following upon the notice which has been given by the Chairman of Committees in relation to the Report of the Select Committee on the Parish Boundaries (Amendment) Bill, I am proposing to deal with it at its Third Reading today, Sir.

ORDER NO. 2 - THE FRANCHISES (REGISTRATION AND CONTROL) (AMENDMENT) BILL, 1989.

Hon. P. M. GREAVES: Mr. Speaker, for several years certain local corporations or businessmen have tried to introduce into Barbados certain products or services that have been established overseas. A large number of these have succeeded. I can think immediately of Coca-Cola, one, I can think of Ju-C, I can think of Kentucky Fried Chicken and Shakey's of more recent date. There are some services like One Hour Martinizing, some car rental businesses, the Hilton, I suppose, Sir, and so on.

One advantage of being around here for a long time is that I can remember things pretty well. 12.40 p.m.

My mind goes back to the late sixties when a car rental firm, an international car rental firm, tried to establish a business in Barbados, and the Government of the day at that time in the late Sixties strenuously objected to that business being set up in Barbados, and indeed, Sir, that business was not set up in Barbados at that time. Subsequent to that, Sir, in the Seventies attempts were made by the very promoters today of a certain fast food business to set up such a business here. Premises were even identified in the area of Christ Church near the Hastings Rocks, and applications were made for this business to begin operations here.

Again, Sir, that did not meet with the approval of the Government at that time and in order to give effect to Government's wishes, we then passed in Parliament the Franchises (Registration and Control) Act, Cap. 179 now which was then, I think, 1974-48. No further efforts were made then, as far as I am aware, to establish that business or such a business in this country. I believe there might have been some rumblings between 1976 and 1986 to establish some such businesses here, and, indeed, I believe one such business was established not long before 1986. I am not

calling names. Some time in 1986 representations were made to the Government by at least two fast food chains to establish such a business in Barbados and in fact one local businessman tried to identify as directors of such a business some prominent Barbadian citizens, as if that would have assisted that promoter in having that business established in Barbados. That promoter was told in no uncertain terms that he would not be permitted to establish the business in Barbados by the then Ministry of Finance.

Of course it would appear now, Sir, that the promoter never gave up trying to establish the business in Barbados and, despite what Government had said, we still see, in defiance of Government's wishes or what we thought to be in the best interest of Barbados, at least two individuals having themselves photographed in the newspaper here, and we saw from time to time these statements being made, that it was the intention to establish a certain fast food business in this country.

Now, Sir, we believe that we have a number of fast food businesses here already. Not believe. We do have some fast food businesses here already, quite a number of them, and Sir, I honestly believe that there are certain areas of business that could be reserved for Barbadians without any outside help whatsoever. I do not believe that we need any further outside help in order to produce chicken. I do not believe that we need any further outside help to produce hamburgers. We have been doing that here for years, and, Sir, we can go on and on like this.

The Government has decided, Sir, that in order to close any loopholes that might exist in the present legislation- I am referring to the Franchises (Registration and Control) Act to which I made reference earlier - that it would amend that legislation in order to keep out these operators of these fast food businesses.

Sir, there is a certain action plan apparently by certain persons in this country, first of all by persons who came into this country and set themselves up. Let me give an example. We had a certain service industry coming here and being established, and another service industry was acquired. Then we had a fast food business established in Barbados by the same person, - this person specialises in franchises and that kind of thing - and not long after that, that business was sold and as soon as that business was sold the very person again tries to establish another fast food business in this country. He specialises in fast food businesses and franchises in order to get rich quickly off the people of Barbados.

Sir, this Government is resolved that, even if this particular legislation that is before us today proves not to be sufficient, to come again with other legislation if necessary in order to protect the people of Barbados from this kind of operator, because I do not see that this operator really and truly is making any contribution to the development of Barbados.

The amending Bill, Sir, sets out the ways in which it is intended to restrict this kind of operation in this country. It is set out in the various classes of the Bill, and let me say here now, Sir, that at some point in time when we go into Committee we may in fact propose further amendments to this particular Bill. One of the Clauses to which I am referring, Clause 3, says:

"No person shall operate a business in Barbados using the mark, product, service, technique, device, copyright, industrial design or invention of another person", except on certain conditions.

The purpose of this is that anyone who wants to establish such a business in this country will first have to make an application to the Government, and the Government will then make a decision as to whether to permit such a business to operate in this country. I can say here now, I think it is well known, that there are certain businesses that the Government does not intend to permit in this country, and I will want to repeat that, if it becomes necessary to carry out further amendments or to pass further legislation, even if it is not amending legislation, such additional legislation will be passed, Sir.

These, Sir, are the broad outlines of the amending legislation before this Chamber, and I beg to move that this Bill be read a second time.

Hon. B. M. TAITT: Mr. Speaker, I beg to secodid that and reserve my right to speak.

Mr. R. P. BYER: Mr. Speaker, the amending Bill before us, as the Minister explained, seeks to introduce certain amendments to the Franchises (Registration and Control) Act. Let me state from early that I would only want to address the matter before this Honourable House in a very technical way. I would only want to deal with whether in my opinion and the opinion of this party, the National Democratic Party, the amending piece of legislation will address the problem that we are faced with. 12.50p.m.

Now, Sir, generally when we speak of franchise, and there is a definition of that word in the Act, but outside of the legal definition we can say that a franchise really is an independent business enterprise that distributes goods or services in connection with a network of independent owners each linked to one franchisor.

Now, the independent owners or franchisees, as they are called, enjoy the benefit of being the sole proprietors and the advantages of membership in a larger distribution organisation and the franchisor also enjoys the advantage of distributing its goods and services through an organisation with numerous outlets and, at the same time, the franchisor avoids the difficulties, risks and costs of itself operating such outlets.

Now, generally, there are three elements that are found in this kind of arrangement and, in the first place, you have a licence to use the mark or the marks of the franchisor, a marketing plan or operation assistance provided by the franchisor and a fee payable to the franchisor for the use of the franchise.

Now, recently persons intending to operate in Barbados have been using the Companies Act and the Trade Mark legislation to get around the Franchises Control and Registration Act. What has been happening is that a person would come in who intends to operate a franchise in Barbados knowing the difficulties and the encumbrances provided by the Franchises Registration and Control Act, would form a company and then he would obtain certain trade marks and that would give him the necessary footing or platform to launch into the venture that he has in mind. Now, this legislation, Sir, seeks to plug those loopholes.

Now, it is my contention that, apart from the criminal penalties in the Act itself, the legislation is unnecessary. I want to be very careful here because I do not want it to be sent abroad that I am opposing the legislation. I have said that I am addressing it at a purely technical level and the first point I want to make is that the Act in itself, as it is now before the Chamber, is really unnecessary and I will say why, Sir.

Barbados is a signatory to the Paris Convention for the Protection of Industrial Property. This Treaty was signed on March 20, 1983 and it has been revised several times. The last revision was around 1979. This convention, and there is also another, the Delisser Convention as well, which when added to the Paris-Convention gives worldwide protection to industrial and intellectual property.

Barbados acceded to the first convention on March 30, 1985 and, as a consequence of that, new Trade Mark legislation was put in place and new Trade Mark Regulations were also put in place.

My contention is that, if the Corporate and Industrial Affairs Department of Government is properly set up, if it is given adequate staff, then that office would be able to police the Trade Marks Act in the way it ought to be policed.

I have no doubt, Sir, let us take, for example, McDonalds, that McDonalds is a registered trade mark in the United States of America and the United States of America is also a signatory to the convention that I earlier mentioned and to give some authenticity to what I am referring to, I would want to refer to a document put out by the World Intellectual Property Organisation which I will make a document of the House. It is a copy of the original, Sir, but the House has my assurance that it is authentic.

This document was put out by the World Intellectual Property Organisation in May 1985 and, up to that time, May 15, 1985, there were 112 States who were party to the convention for establishing the World Intellectual Property Organisation. Apart from Barbados, the United States of America was also a signatory to that and there are several other Eastern Caribbean countries that are also signatories to that convention.

In this organisation membership is open to anyone and the convention as it is set up establishes a body and this body is responsible for putting out information to all of the signatory countries. This information is very comprehensive information and what it does is it tells member States what trade marks have been registered in the member countries.

Once a trade mark is registered in a member country, it automatically receives protection in all other member states so what I am saying is that McDonalds, assuming, "and I am certain that it is a registered trade mark, would automatically and McDonalds being a company based in the United States of America or operating out of the U.S.A., or, for that matter, be incorporated in the U.S.A., the mark itself would automatically receive protection in Barbados so that if anyone goes to the Corporate Affairs Office and attempts to register that mark as an authentic mark of that person - say, Mr. X goes to do that - then, automatically, the mark should not be registered so the person would not be able to get around the Intellectual Property legislation that we have in Barbados.

Our Intellectual Property legislation is very comprehensive and it covers a wide range. Apart from trade marks it covers patents, copyrights and industrial designs and so on.

Apart from the difficulties that you would have in operating here in the West Indies, say, for example, in the area of industrial designs, being a colourful people, we have a more liberal interpretation of the Industrial Design legislation than, say, other countries of the world have.

We cannot allow people to protect colours, so to speak, as their own but, in terms of trade marks, this would be the trade mark Laws that they have and it not only covers trade marks but it also covers service marks and McDonald would be a service mark because the word "trade mark" now has a wider meaning than it had in the days when the earlier Franchises and Registration Act was implemented.

Barbados has moved away significantly from the earlier Trade Mark Laws that were practised in England. We now have a tighter system and, as I said, people who are members of the World Intellectual Property organisation and who are signatories to the Paris Convention and the Delisser Agreements have the

protection of that organisation so that if anyone comes in here to operate in Barbados and the Corporate Affairs is functioning properly, they would be able to pick up on these things and that is why I said that the legislation as it stands, apart from maybe the criminal penalties that are imposed for persons who do not comply with it, apart from those penalties, it is not a necessary piece of legislation. 1.00p.m.

Having said that, Sir, I would go a little further. It is my opinion, Sir, that the legislation as it stands offends the general principle of the retroactivity of the legislation. As it appears to me, as I have read it, it appears that it has certain retroactive clauses in it. Because for example, Sir, if I may refer this Honourable House to page 5, the Section marked IB at the bottom of page 5 and, if I may crave your indulgence, this Section reads, Section IB of this Bill, Sir:

"Where on the commencement of this subsection

- (a) any person is operating a business on franchise; or
- (b) any person, other than a citizen or permanent resident, is operating a business using his own mark, product,"

and so on and so on:

"without a licence from the Minister and continues to do so shall, not later than three months after the commencement of this subsection, obtain from the Minister a licence for the purpose."

Now suppose for argument's sake, Sir, Mr. X had come in and had escaped the Trade Marks Laws and he had a mark that was registered under our Trade Marks Act, and he had gone ahead and had started business and so on using what would now be his old mark even though the mark would be a mark that is registered in let us say, a member country of the World Intellectual Property Organization. This Section gives the Minister power to refuse to allow that person to operate, assuming of course that he had set up his business and had started to trade here and so on.

If it were let us say, a hamburger joint, suppose it was the very McDonald's, Sir, suppose they had started to operate and the Government had been caught sleeping and they had set up their arrangements and so on and they had started to trade, this Section would give the Minister power to deny the operation a licence. That is what I am referring to when I say that the general principle of the retroactivity of the legislation is offended.

It would also, and I venture to say as well that many other businesses in Barbados, hundreds of businesses in Barbados, might very v be affected by this Section alone, apart from fast foods of course, many other businesses, because it is a very wide piece of legislation. It does not only strike or it does not only aim at protecting

people in the fast food business. It does not only aim at preventing fast food businesses from operating in Barbados, apart from those that we have, Sir. But it touches other businesses. It would seem to me that it impacts on these businesses in a number of ways.

For example, Sir, it would appear to me that it would be wrong to change the rules of the game in midstream. If I come into Barbados to operate and am given a regime in which I should operate, there are certain Laws and I am * advised that certain tilings can be done, but now four or five months down the road when I have established myself, I am now being told well, Sir, you now have to apply for your licence to operate in Barbados, that, Sir, is one of the ways that what I call this retroactive piece of legislation would impact on the business environment in Barbados. It would seem to me to be wrong at this stage to change the rules of the game in midstream. As I said, Sir, it is not only fast foods establishments that are affected but a whole range of « other operations, manufacturing establishments, other service industries as well and things like that. This is why I am looking at the technical aspects of the legislation.

Another point I should like to make, Sir, has to do with, and I am referring to page 4, Clause 3 (b), this Section says that:

"no person, other than a citizen or permanent resident,"...

and I heard the Minister when he was introducing the Bill say that he would be making certain amendments:

..... "shall operate a business in Barbados using his own mark, product, service, technique, device, copyright, industrial design or invention."

But then at page 5 at Section (1 A), it says:

A

"Any person

- (a) who wishes to operate a business in Barbados on franchise; or
- (b) who, not being a citizen or permanent resident, wishes to operate a business in Barbados using his own mark"...

.... "shall, before he commences business, obtain from the Minister a licence for the purpose."

Now these are either contradictory Sections, Sir, or very inelegant drafting. Because on the one hand you are saying that no person shall operate a business in Barbados using his own mark and then on the other hand you are saying that any person who wishes to do that shall, before he commences business, obtain a licence for that purpose. It ** would seem to me that, if this Bill is to proceed through its

stages, some tidying has got to be done to those Sections that I referred to.

Now, Sir, obviously the Bill is designed to prevent foreign companies from coming into Barbados to operate as franchises and so on but what it also does is that..

Aside.

Mr. R. P. BYER; Yes, yes, yes. Yes, yes, yes. Yes.

Aside.

Mr. R. P. BYER: Yes. Well, without permission. As I said before, the Act has a system of licences. You have got to obtain heavy licences. As I said, it operates against local companies since they now have to comply with a piece of retroactive legislation. Also it seems to me, Sir, that the Minister under the Act in the exercise of his discretion whether or not he should grant a licence must have to have a full knowledge of all the Trade Marks registered under the Paris Convention. This is something that I adverted to earlier on. Also, Sir, he must have a full knowledge of the priority aspects as well. Now what does priority mean, Sir?

The Paris Convention that we are a signatory to for the protection of industrial property set up a system whereby the member countries could deny the registration or cancel the registration of marks that were registered in another member country, assuming of course that those marks were registered in another country that was a member.

Now Article 6 of that Convention, and I would make this also a document of the House, Sir, refers to well-known marks. If I may be permitted, Sir, I should like to quote this section extensively because it would help me to further compute the point that I am making. Article 6 (1), Sir.

Mr. SPEAKER: Just state the page.

Mr. R. P. BYER: Okay, Sir. Page 15, Sir, Article 6 (1):

"The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, or a mark considered by the competent authority of that country or registration or use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods." 1.10p.m.

"These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well known mark or an imitation liable to create confusion therewith."

It goes on at the second section of the article, Sir, to state that a period of at least 5 years from the date of registration shall be allowed for the request of the cancellation of a mark.

Now when a country, Sir, applies to have a mark registered in Geneva what happens is this. The mark is given a priority status. But as I said, some persons can slip through the net and have similar marks registered in other countries. Now the person who registered first has a priority claim, but he has 5 years in which to put in a claim as to the priority of his mark. Now this takes us into the area of ownership of a mark, Sir, and the Act at Page 2, when it refers to franchise, defines "franchise" as meaning a right granted in writing by the owner of a mark.

The point I am making is this, Sir, that if a person - who do we mean as owner? Who is an owner of a mark? If somebody comes to Barbados and registers a mark in - Barbados and 5 years pass and the person who registered the mark with the World Intellectual Property Organisation has the right of priority but that right, if he does not exercise it within 5 years, would be lost when he finds out that the mark is registered in Barbados. Who then is the owner of the mark? I would think that the term "owner" in the amending piece of legislation would also call for some definition so as to comply with the existing trademark legislation. At least it would complement it to the extent contemplated by the Paris Convention for the protection of industrial property, because you could have problems when it comes to the area of ownership of marks in the sense contemplated by the Franchises Registration and Control Act. What this Act is really doing, Sir, is plugging certain loopholes in the existing trademarks legislation or attempting to do that. I am saying, Sir, that the legislation is not necessary because, if we properly police the trademarks legislation, then there will be no need for this at all.

One other point I would want to make, Sir, is that I do not see the need for criminal penalties in an area that the civil law has sought to regulate for some time. It is usual from time to time that the criminal law steps into civil law areas and imposes penalties. I believe that the reason for doing this here, Sir, is to make sure that the Act is strictly complied with. It would seem to me that the Act might be going a bit far in this regard in trying to impose criminal penalties in an area formerly dealt with by the civil law.

Now this comes to my mind, a further difficulty in the area of licensing, because, before one starts to operate, one has got to go through several stages including acquiring the permission of the owner of the mark to use it in Barbados. Then assuming that you are not a citizen of Barbados or a permanent resident you have got to apply then for the licence from the Minister and then you do not know whether or not you will get the permission to operate. This seems to me to be a very cumbersome way, Sir, of doing

business and this is why I said earlier on that if the Trade Marks Act is followed there will be no need for this. Apart from complying with the trademarks legislation as well we still have to comply with that. You also have to comply with the Franchises Registration and Control Act. Earlier on we were speaking about the Land Registration Act and we were saying that one of the reasons for passing that Act was to speed up transactions of the land in Barbados. I remember the Minister of Agriculture giving an illustration where the person from outside of Barbados who wanted to set up business in Barbados might find it a bit long and have to wait for searches to be completed in the manner that they were earlier done before he can set up his business in Barbados. A similar thing, Sir, would also happen here. I have not studied the impact of the Act on the Fiscal Incentives legislation and so on. But I would think that it might affect that as well.

So that this licensing system that you now have to adopt, Sir, would seem to me to be also a very expensive way of doing business, especially if you are not a citizen or a permanent resident in Barbados and you want to establish business in Barbados. It seems to me to be unnecessary red-tape to have to go through to get permission from the Minister to operate a franchise in Barbados. It also takes us into another area as well, in the area that deals with having placed so much authority in the hands of a Minister.

I do not want to sound improper, Sir. I am not accusing any person of anything, but we all know the pressures of Government. We all know the pressures of being in public life and somebody down the road might abuse the system or some Minister down the road might abuse the system for licensing. They are open to all types of inducements and I am certain that a person must have moral fibre not to be caught in this web, because I can very well see people coming to Ministers with suggestions that they be allowed to operate in Barbados, or it may very well stop other people from operating in Barbados as well using this Act. So I am worried about the licensing system in that regard. I am saying that it can be used for improper purposes or people can use the system improperly, and that Ministers must of necessity be people of very high moral fibre to resist this or the likelihood of inducements that could be offered in these things.

I am certain that, given the climate within which politicians have to operate, people would come with that kind of offer asking to allow me to operate for a payment or stop somebody from operating for a fee, and I am worried about that, Sir. I am generally worried about it, you see, apart from the other reasons that were given before.

Sir, I would urge this Honourable House to let us examine this piece of legislation carefully. 1.20p.m.

The Minister said that if it fails to do what it is designed to do, the House will come back and look at it

again. I am saying, Sir, that the existing legislation that we have is sufficient to prevent unwanted franchises from coming to Barbados to operate. If the trade marks legislation is used properly, if it is policed adequately, then there is no need for this amending legislation.

That is my argument, but if this Bill must be passed into law, then there are certain matters that have to be addressed. I will rest my case as it is, Sir.

Hon. H. deB. FORDE: Mr. Speaker, the position of the Labour Party is absolutely clear on this matter. About a year ago the question of McDonalds coming into Barbados was raised in this House. The debate was led off then by the Honourable Member for Christ Church East Central and I believe I made the second speech in which I articulated quite clearly our position. It is a position which agrees with the Government's.

I am satisfied in my mind, and the Barbados Labour Party is well satisfied, that there are certain areas of economic activity in this country which must be reserved for citizens and permanent residents, and I would go so far as immigrants, in Barbados. There is no need in some of these areas for any knowhow from outside, and in some of the areas there is also no need for even financial assistance from outside.

Two of the areas happen to be the areas of fast foods * and ground transportation. It is a policy which was followed under our Government for some time. Quite clearly it is the policy, I believe, that is also approved by the Democratic Labour Party. It is a policy that has been clearly articulated and about which no one should have any misunderstanding at all. Certainly we make no apologies to any writers in the newspaper for saying that this type of policy is not undemocratic. It is a policy followed in other countries, because there are some writers in Barbados who believe they must have a precedent from outside to justify something. It is a policy followed recently by Mrs. Thatcher, and if this might please the Thatcherites, she followed it in relation to telling the Government of Kuwait ^ which had substantially invested money within Government enterprises, that it had a certain limited number of years in order to sell out its shares, and, as has been proved by Kuwait, at a loss to the Government of Kuwait.

It did so because it was convinced that there were certain areas that should be reserved for British citizens, and secondly, that it is always a dangerous precedent to have foreign capital dominating some aspects of your industries. The Government has to be sensible.

If I have only one quarrel with the Government, it is the time which it has taken to bring this piece of legislation to the House. I believe that Barbados today is in a position not to be importing technical knowhow in the fast food industry. We are in a position to be exporting the technical

knowhow today. We have people that operate at a high standard and I am not accepting some of the criticisms I see in the newspaper. Our fast foods are being operated at a very high standard, very well packaged, attractively packaged, and I am satisfied that if some of them would have followed the type of advice that they have heard, that we would now ourselves be franchising our own operations through some of the CARICOM countries that have not yet reached that situation. Therefore I am quite happy about this type of legislation coming before us. I want to deal with the argument that I have seen in the Press that this is sending a signal to foreign investors that we do not want foreign investors. I do not believe that at all. I do not believe that any intelligent foreign investor would not see the need to give protection to some of your indigenous industries, since we have not got a vast knowledge of all the technical knowhow of the developed countries, I do not think they would see this as a wrong signal.

We welcome foreign investment in Barbados, but it is not foreign investment at all costs and on all sorts of terms and to the exclusion of our citizens of Barbados. We, in the last resort, have a duty to make sure that our citizens feel they have a legitimate way of showing their craft, their expertise, their technical knowhow, and that they do obtain some protection for some time. I do not believe that this will in any way whatsoever run off any foreign capital.

Now, Sir, I want to say that the area of intellectual property is one that is esoteric.' It is very difficult, not only the legal aspects of it, but the operation of the whole area of intellectual property is a difficult one for most of us. I had the honour, Sir, during my stint as Attorney General to have been the main and prime mover in modernising these laws, and I think the Barbados Labour Party can take, justifiably, a good deal of credit for the modern legislation on the Statute Book dealing with copyrights, industrial designs, patents and trade marks. In this regard we obtained tremendous assistance from the World Intellectual Property Organisation and we were seeking to ensure that our internal legislation accorded with the legislation of the Paris Convention and the other Conventions referred to in the Acts which I have cited.

We also set out on a programme of training and we exposed to various training seminars under the World Intellectual Property Organisation a whole host of our citizens in the Legal and other Departments to ensure that the legislation was properly policed and also properly administered. But of course, Sir, like most things, we have to follow up on that and I would hope that this event will allow the Government to recognise that it has to continue to give greater training here.

It is a fact, Sir, that there are ways of beating some of this legislation. What has occurred here is that loopholes in existing legislation - and with respect I disagree with the Honourable Member for St. George South when he says

there is no necessity for legislation - but loopholes have been exploited in a way that we never imagined they would have been exploited.

We are ^ dealing in good faith with people, but when people offshore, outside of Barbados, do deals that they are not showing anywhere on the record that they are getting permission to use the trade mark, and they are using the trade mark without coming through here, without getting Central Bank permission to remit funds, they are flouting the laws of Barbados, and those laws must be toughened for them. I have no difficulty with that at all on this side. I am a Barbadian and I have always, in this House, taken that stand on these matters. Therefore, Sir, what I strongly believe is that our franchise legislation has to be toughened.

Sir I am going to give precedents, because Canada and the United States are themselves parties to the Paris Convention. Indeed, they are parties to more Conventions than the Paris Convention or the Washington Convention which is referred to, but those countries have more stringent franchise legislation than we have, and I want to recommend to the Government that at the appropriate time the Ministry of Trade, under whose portfolio franchises should really come - they are now in the Ministry of Finance, but they should really come under the Ministry of Trade - I would like to recommend that officers in that Department, along with the Ministry of Legal Affairs, give early consideration to updating the franchise legislation, and if necessary buying the knowhow in this case from Canada, which in my view has the best type of knowhow, in order to make sure that there is proper co-ordination of the trade marks and the other intellectual property legislation and the legislation which deals with franchises, Sir. 1.30p.m.

I stated that we have to place emphasis on training. We have to place emphasis on constantly updating our laws to deal with those who would flout them and who would use any device to get around what must be a very clearly articulated policy as to the areas that we are reserving for Barbadians, and they cannot be allowed to do it. I will tell you why, Sir. As the Minister of Trade would know, as recently as November, I think it was, the Government attended the Uruguay round of talks, and particularly that part of the talks that took place in Montreal. The contention there was the contention of the United States using the big stick in order to get the best arrangement for its service industries and not conceding one inch in anything at all to any other country, not even to the underdeveloped countries.

We must recognise that Barbadians have their brains and their expertise in the service industries. We will never be able, in the conceivable future, to rival developed countries in some of the heavy industries. We neither have the resources nor the competitive edge, but when it comes

to exporting intellectual property, when it comes to using initiative, the imagination and the high intellectual qualities of Barbadians, we as politicians have a duty to garner that enterprise so that it can be turned into an economic activity to the benefit of the citizens of Barbados as a whole.

I have frequently spoken on this matter. It applies not only here in this service industry, but it applies as well in the field of copyright, to the area of music, our entertainers, our dramatists, for instance, in the other artistic arts, all are suffering from people purloining and using their initiative, their property, their intellectual rights. We have a duty to protect it and any time that the Government comes down with this type of legislation to protect it, they will get support from the Barbados Labour Party on this.

There are one or two technical aspects of the language that could be looked at in Committee, but we have not reached the Committee stage. But the principle of the Bill we firmly believe in, we support it and we will also give the undertaking that if it is defective we will use all of our know-how on this side of the House to improve it in order that a clear policy is implemented.

Hon. M. A. KING: Mr. Speaker, the Honourable Member for St. George South has made an essential point that the legislation which is now before us is unnecessary and he makes the point that adequate protection to deal with the problem which arises out of the legislation we are seeking to introduce now is provided in a number of international conventions.

Mr. R. P. BYER: On a point of order, I said it was unnecessary except for the criminal penalties.

Hon. M. A. KING: What I understood the Honourable Member for St. George South to be saying is that existing legislation provides adequate protection. Am I understanding you correctly? Adequate protection to deal with the problem except in relation to the aspect of criminal penalties which are now being provided. Reference was made to a number of international conventions on the protection of intellectual property. The Honourable Member made reference to the Paris Convention on the matter. What I wish to draw to the attention of this Honourable House is that this franchise amendment legislation which we are introducing is special legislation which is designed for a specific purpose. It is designed to deal with the problem of controlling franchise operations in Barbados, and despite the fact that existing laws in Barbados, the laws relating to trademarks, for instance, patents legislation, Copyright legislation, Industrial Designs legislation and the common law relating to passing off would adequately deal with some of the problems which we are concerned about, they do not in fact go to the extent of providing the regulatory framework for the operation of franchises in Barbados, and this is what this special legislation we are introducing is seeking to do.

I would like also to make the essential point that this legislation does not affect the basic laws to which I have just referred which relate to protection of property rights under the Trademarks Act, patents, copyright, industrial designs and the law relating to passing off. This legislation does not affect the basic rights which are created by those laws and what I am proposing to this Honourable House, Mr. Speaker, is that, in the course of the Committee stage of this Bill, there are a number of amendments which I propose to introduce which will make the whole purpose of this legislation pellucidly clear. I will save time and indicate what the amendments will be.

I will seek to move, Mr. Speaker, that a new clause be introduced which will set out the purpose of the Act which will indicate as follows:

- "That the purpose of this legislation is to provide
- (a) for the licensing, registration and control of businesses operated on franchise, of businesses operated by any person, other than a citizen or permanent resident, using his own mark, product, service, technique, device, copyright, industrial design, or invention; and
 - (b) the orderly development of businesses referred to in paragraph (a)." which I have just referred to.

The next clause will indicate that the Act is a remedial Act and shall be given such fair, large and liberal construction and interpretation as would best ensure the attainment of its purpose.

Now this would provide to the court, if it is called upon to interpret the provisions of this legislation, an adequate framework within which to construe the provisions of this Act, and to deal with the point which I made earlier that this legislation is special legislation which will not derogate from any rights which exist under existing intellectual property legislation. I will propose an additional clause which will indicate that "for the avoidance of doubt it is hereby declared that nothing in this Act shall be construed as affecting

- (a) any right conferred upon any person
- (b) any remedy or other relief available to an aggrieved person, or
- (c) any obligation or penalty that may be imposed upon any person by or under any enactment relating to copyright, industrial designs, patents or trade marks, or by or under any rule of common law."

So these additional amendments, I suggest, Mr. Speaker, will make abundantly clear what the intent and purpose of this legislation which is now before this Honourable House would be. It is essentially then a business control mechanism which does not, in any way

affect the rights which are created in the existing laws which I have just mentioned.

Now the Honourable Member for St. George South, in the course of his presentation made some reference to section 3 of the Bill as it stands now, and he thought that there was, as it stood, some contradiction or inelegant drafting between section 3(1) and (1a). 1:40 p.m.

I do not profess myself to be a draughtsman but I will draw to the attention of the Honourable House there is an expressed negative position which is indicated in 3(1) - "No person shall operate a business in Barbados using a product etc..." "No person, other than a citizen or permanent resident, shall operate a business using his own mark or product."

But the section, I do not know if it is an inelegant draft because it seems quite clear to me, it begins and you cannot ignore the very first section of that subsection "Subject to this section", that no person shall do these things and then there immediately follows thereafter (1) (a) what is required of the person. Any person who wishes to operate a business on franchise shall, before doing so, obtain a licence from the Minister so it seems logical and very clear, Mr. Speaker. The whole point about 3(1) has to be looked at subject to the provisions contained in the rest of that section.

Now, another issue which raises its head is this. The legislation seeks to regulate that unsatisfactory arrangement where a person might be operating what is essentially a franchise operation in Barbados without the requirement of getting the express consent or permission of a franchise from the franchise owner and 3(1) seeks to regulate that kind of situation and what it says is that if you want to do that kind of operation, you should first get an agreement with the owner for the use of the mark, product, service, technique, device, copyright or industrial design. Now, that is all right as it stands but one has to contemplate another possibility.

The Honourable Member for St. George South in his presentation did not address the problems that would arise, for instance, if one of the fast food operators or if one of the other persons who wish to operate a franchise in Barbados themselves came to Barbados to operate the business.

Let us say Burger Bee, for instance, was an established operation in the United States of America and the Burger Bee Company in the United States of America wished to come to Barbados to operate a Burger Bee operation.

Now, as it stands, there is no regulatory law which would prevent Burger Bee United States of America from coming here itself as Burger Bee and operating a fast food business so that I make the point that this legislation is designed to regulate and control, so what 3(1) (b) would do

when it says that "no person other than a citizen or permanent resident, shall operate a business in Barbados using his own mark, product, service, technique, device, copyright, industrial design or invention" without first getting a licence from the Minister, what it does is to ensure that no big operation from outside of Barbados can come into Barbados using his own mark and then you are not breaching any Industrial Property legislation, you are not breaching the Trade Mark Act, you are not breaching the Industrial Designs Act, you are not breaching the Patents legislation, you are not breaching the Copyright Act, you are not breaching the Common Law relating to passing on if, as an operator, you come to Barbados yourself and form a company, so what this legislation would do and the other requirements would be there, of course, that you would need permission of the Immigration Department presumably and the Ministry of Health...

Mr. R. P. BYER: On a point of elucidation. The point that I was making is that the existing legislation, including the existing Franchises Registration and Control Act would also take care of the problems that the Attorney General is raising. That was the essence of my argument, Sir.

Hon. M. A. KING: Now, Mr. Speaker, I think we can agree to differ on this. I do not agree with the Honourable Member for St. George South that the existing legislation will effectively deal with the problem which I am now articulating because, certainly, the franchise legislation cannot deal with it. Certainly, the Copyright legislation, the Patents legislation - I do not know if the Honourable Member would choose to point out what legislation would adequately deal with this problem which we are now contemplating but the fact is if the operator who is the owner of the mark wishes to come to Barbados and comes to Barbados, forms a company here and operates the business there is no way, as I see it, and I may be wrong, but I am just telling you how I see it and how I feel, how the existing legislation can effectively stop that operation.

But what I am saying is that once this legislation which we are now considering has been approved, this legislation will very effectively stop that kind of operation and it will be stopped by virtue of the provisions of this Section 3(1) (b), so that in technical terms then, Mr. Speaker, I cannot agree with the Honourable Member for St. George South that this legislation is unnecessary.

Now, there is provision made for the imposition of criminal sanctions for breach of the legislation and I think it has to be understood that, despite the operation of the Civil Law, there are and can be situations where it is necessary to impose additional criminal penalties and this is one of those situations where we think it is appropriate, where there is the possibility that you are going to be dealing with a number of large multi-national corporations who feel that they can willy-nilly flout the authority of the duly constituted Government of a country and that in situations

of that kind it may be more than necessary to provide for an imposition of criminal sanctions at the level that we have introduced in this legislation.

If one looks at the legislation in that context that it is designed to regulate and to control the operation of these businesses, then, I think, one would have no great difficulty with the legislation as it stands.

I do not think that I wish to add anything more, Mr. Speaker, in relation to the general policy objectives of the legislation except generally to commend it in its entirety to the House subject to the amendments which I propose to move in the course of the committee proceedings.

Mr. R. L. MORRIS: Mr. Speaker, I agree that this bit of legislation has a number of aspects. One is the business control aspect but, I think, there is also a developmental aspect to the legislation.

I think that we are all aware that the *casus belli* in this case is the attempt by McDonalds Corporation to flout the expressed wishes of the Government of Barbados, the Opposition, and in the case I am assuming both Oppositions, as well as the expressed view of the media in so far as the media has spoken, of the trade union organisation and of the Barbados Hotel Association and ancillary businesses that have spoken on this issue. That is really the *casus belli*. We are looking, at the aims and intentions of the legislation. 1:50 p.m.

Mr. Speaker, it appears to me that too often in small countries we are not willing to give the kind of analysis to events of this nature that are extremely important. We tend to think that whenever something happens in Barbados it is happening first of all, for the first time anyway and, secondly, that there is no history of events relating to matters like these. Those of us who belong to organizations that have international connections know the problems associated with McDonald's. The Barbados Workers' Union is an affiliate of the International Union of Food and Allied Workers Association that numbers millions of workers with branches throughout the world. We know the history of McDonald's Corporation in the food business, the way how it relates to workers and how it relates to countries, to nations. Therefore we take issue against McDonald's specifically although we look at the franchise corporations in a wider context.

McDonald's in the 1970s was able to block 400 attempts by trade unions in the United States of America to unionise McDonald's workers, 400 attempts in the 1970s. McDonald's employed a group of people whose job was union busting and they frustrated all attempts by the American trade unionists. That is the United States of America not Barbados, not a small, open, dependent economy, a small country.

McDonald's tried then to move into Europe. Sweden has one of the strongest trade unions in the world. In Sweden almost 100% of the workers are unionised, all kinds of workers are in trade unions in Sweden. McDonald's fought a battle that lasted over two years with the ILO, Sweden. They went into Australia, into Ireland, wherever they went McDonald's presented serious problems in terms of people pursuing their democratic right to join trade unions.

The latest information we have here from the IUF under a circular letter from Geneva, January 31, 1989, McDonald's campaigned in Denmark. McDonald's agreed to sit down and negotiate with the trade unions in Denmark and then sloughed it, stopped speaking and these were the flyers in all kinds of languages about McDonald's operations in Denmark. This is not something that we are guessing about. We have international information about how these people behave. You can see how they intend to behave in Barbados.

Aside.

Mr. R. L. MORRIS: Their intentions are clear. They have no respect whatsoever for this small country.

Aside.

Mr. R. L. MORRIS: Those of us who have dealt with international corporations like INTEL and so on should learn about the impact they can have on small countries. Once they get in they think that they can hold you to ransom. Once they come in they can behave in a way that they feel is appropriate to the country. Their entire business character can be gleaned from those early actions that they take towards a particular country.

So I am concerned about McDonald's. I have a strong concern from a trade union point of view about McDonald's. I have no problems in enunciating that.

But on a wider plane, Mr. Speaker, I firmly share the view expressed by the Leader of the Opposition that...

Laughter.

Mr. R. L. MORRIS: The former Leader of the Opposition.

Laughter.

Mr. R. L. MORRIS: With all respect to the Honourable Leader of the Opposition.

Laughter.

Mr. R. L. MORRIS: I have not quite gotten accustomed yet to these changes.

Laughter.

Mr. R. L. MORRIS: I have to keep my eyes looking in the direction of his left here, if I am to get my titles correct. But I think we understand what we are talking about. I was probably enjoining the fact that when he spoke on the previous occasion he was speaking as the Leader of the Opposition. It shows how things change. But I firmly support the view of...

Aside.

Mr. R. L. MORRIS: ...the more they change the more they remain the same.

I should like to support the view expressed by the Honourable Member for Christ Church West that small countries have to adopt business principles that are consistent with the level of development that we reach. I believe that Barbados is a mixed economy and I believe that that is how it should be. I believe we should see private enterprise and Government intervention in certain areas of the economy. I believe in that. But I believe that we should have principles of self reliance in certain areas if we are moving forward. I am convinced that there are certain areas like the fast food area where we can hold up as an example to the world in terms of what we can do.

In places like Sweden the argument against McDonald's was that they were corrupting people's eating habits. You are not going to hear that in Barbados because we might not be aware. We might not have that type of sensitivity. The Swedish people were saying they are coming to corrupt the eating habits of our children, plastic food in plastic containers. That was a massive issue. Bad, dirty habits and so on.

In Barbados where we can be sticking still to our cassava, potatoes and yams and some good meat and fish, salt fish...

Laughter.

Mr. R. L. MORRIS: ... we are not going to raise those issues. They are not important issues. Nobody gets up in politics and talks about good dietary habits and the way how they could be corrupted by fast food people. Nobody is going to make that issue in this country because we believe we can take whatever anybody brings from outside. That would not be a big issue. So children tomorrow can start eating McDonald's and only McDonald's, it is no big thing with Barbadians because we do not feel that we can set standards for ourselves. They must be set by somebody else. It is a very strange kind of thing that happens in a country that boasts of a high level of education, there are certain issues that you cannot raise. Let them come in, sell whatever they want, jump, and make a big issue about it because they are rich and they want to say they are going to bring in jobs. Nobody is going to examine the kind of jobs

either. But we are going to look at a very facile level at the McDonald's threat to the Barbados polity and economy, I believe it is more significant than that.

that there are certain areas, we have reached a stage of our development there are certain areas that we should say: this is for Barbadians. I believe the fast food is one. I say we have to look at it now in terms of policy, not this *ad hoc* kind of approach, but we need to think about it systematically, because it is going to have ramifications down the line.

My understanding was, when we were talking about a venture capital corporation and so on, my idea was that we wanted to establish a niche in Barbados for young entrepreneurs, a venture capital corporation bound up with design schools, areas where we are going to try to impress our people that work is not only manual work but it is training to use your brains, come up and think. What kind of patents are we going to register in this country? If I ask you tomorrow to go and bring in 20 young entrepreneurs with new ideas, new designs, have we been training people for that?

There are two areas that we are far behind in in Barbados if we want to move forward, that is, training people in terms of intellectual and technical knowledge and know how. And secondly, training people in areas like financing. So that they can put these packages together then, intellectual and technical knowledge with financing to move us forward, not sitting down and waiting for people from outside to intervene to show us the way forward in terms of business. There are certain limits because of our smallness in this direction. But intellect, technical knowledge is not constrained by size. A bright idea from Barbados will sell all over the world. A new invention from Barbados will sell all over the world. Japan is not big, but it is big in ideas. In the nineteenth century what made America different from anybody else is the amount of patents coming out of the United States of America. In the twentieth century it is Japan! In terms of patents, new technology, new design, you cannot beat Japan. That is why they are taking over the world. Unless we in small countries like Barbados that have a lot of brain, and that is true, Barbadians are knowledgeable people, intellectually gifted people, but we have to be proud of ourselves for this and build on it. Do not think that we are subservient to anybody or second to anybody in the world. Knowledge does not go by the size of a state or the wealth of a state. We have intelligent people. We have to be able to set up the structures to use this intelligence in these various areas, the technical areas and the areas of financing and push them forward.

I want to put another point. My idea of this forward movement is structured in an institution that must give Barbadians a path to the future. I believe that part of the old time philosophy that has to be changed is this concentration upon individualism. Some one man gets a franchise and wants to make \$1 million off it. That cannot work in modern day Barbados where we have a lot of young people. We

have to teach them to get into co-operatives, use their knowledge and the financing from these kinds of institutions, absorb some of this liquidity, this money that is around but you cannot get your hand on to move forward. It is vitally important that we understand that we need to restructure institutions to deal with our young people and the problems that face us. The old institutions have been tried over and over again and they are reluctant to change. They are operating with the same old modes and models and we have to go around them and force them to come to a position. I have never seen banks in Barbados advertising more than in the last few years. They are begging you now to come and borrow and so on. The old established banks are seeing the wisdom of changing their operational modes because new institutions like the credit union are forcing them into that position. But even when we are putting up the credit unions we have now to move down the lines where our industrial cooperatives or consumer cooperatives are producer cooperatives. That is not going to happen by chance. It is going to happen by a vision, a vision that is going to feed a plan, a programme of action, and you need this kind of legislation. 2.00 p.m.

I do not believe in protectionism, Sir. I do not believe in protectionism as a way of moving people forward, but there are times when you have to use it. When you get your position in place you can remove those barriers and let people compete now based on quality. So there is a certain stage of your development when you do this as a helping hand, but it is not the end product. It is not what you want down the line.

I am very happy quite frankly, Sir, that this piece of legislation is bringing the political parties in Barbados together because the Honourable Member for St. George South when he spoke, he spoke to the law which I cannot really address. I am not a technical person there. But I got the impression that he was supporting the legislation. I am sure that when the time comes we will speak with one voice in this Honourable Chamber on this piece of legislation as far as the aims and the intents are concerned. In terms of the technical aspects, I will leave myself in the hands of the Member for Christ Church West and the legal luminaries on our side and, of course, the other legal luminaries on that side of the Chamber. If they agree on intents and purposes then the changes will follow and I am sure that the people of Barbados would need guidance in this matter.

The question of McDonald's and franchise, *etcetera* is not a question that would agitate the minds of normal people as they go about their business. They need guidance from their leaders and if leaders refuse to guide then we are heading in the wrong way. Leaders have to send the correct signals over every matter in any country. You cannot lead a country from behind. You got to be in front. You have to take strong and firm positions and let the people know where you are. Back seat leadership is a non-starter and you have to send out signals to the people, although they will

hear persons who are paid propagandists and others taking very strong views on the other side because that will happen. We are talking about groups who are very influential. They have a lot of money and, therefore, will try to push their views on people. Because there are some people who feel that, if I can package a product, any product at all, because I have the money that even if in reality you can see that the package that you have is flawed, that people will still believe in that product, because a lot of people believe in rhetoric and words and so on. But you have to go beneath the cover. Sometimes you got to see through the cover and their rhetoric, and you have to send messages that people out there will know because the message is sincere, that what you are saying is illogical and is also based on a programme and is consistent with policies that you follow. That is very important to us and I believe this is an issue that Barbados can stand behind.

I thank you very much, Sir.

Applause.

SUSPENSION OF SITTING

Hon. P. M. GREAVES: Mr. Speaker, I do not know if other Members might want to speak on this matter but I would assume that they do. So therefore at this point I would move that the sitting be now suspended until 3.05 p.m. today, Sir.

Hon. W. O. FRANKLIN: I beg to second that, Sir.

The question that this sitting be now suspended until 3.05 p.m. today was put and resolved in the affirmative without division, and the sitting was suspended accordingly by Mr. SPEAKER.

RESUMPTION OF SITTING

Mr. SPEAKER: This sitting is resumed. The Honourable Member for St. Thomas.

Mr. D. A. C. SIMMONS: Mr. Speaker, Sir, I wish to make a short intervention in this debate because I have a little bit of a respiratory problem, so I would hardly make the half an hour today.

Asides.

Mr. D. A. C. SIMMONS: I accept the advice coming from the other side as being offered in a spirit of genuine concern for my health to stop smoking. But the Members on the other side will also be disappointed to hear that there are 3 other people in the Chamber, neither of whom smoke, and each of whom is afflicted in the same way as I am.

Asides.

Mr. D. A. C. SIMMONS: Mr. Speaker this Bill to amend the Franchises Act to me in principle deals with a

very simple problem. In this centre of the Opposition we deem the introduction of this Bill to be a necessary step in the protection of the economic and social rights of Barbadians. I presume that the other side of the Opposition will vote against the Bill because they think that it is unnecessary to bring it.

Our view on this side, Sir ...

Asides.

Mr. D. A. C. SIMMONS: I do not know.

Mr. SPEAKER: Order, please. Order, please.

Mr. D. A. C. SIMMONS: All right, Sir, the position is made clear.

Asides.

Mr. D. A. C. SIMMONS: The position is now made clear.

Mr. R. P. BYER: On a point of order, Sir. Let me set the record straight. I said that I did not think the legislation was necessary because you had existing legislation to deal with the problem that we are discussing. It is as simple as that. That is what I said. That is what the Attorney General addressed in his reply to me. So I do not understand the Honourable Member for St. Thomas. I do not understand, in the modern parlance, where he is coming from. I do not even know where he is going, Sir.

Asides.

Mr. D. A. C. SIMMONS: I heard a lot of the technical arguments but I did not hear - now it is made clear, Sir, and we now know the position of the NDP, BLP and the DLP on this matter.

What is at issue here, Sir, is that there are a number of Barbadians who earn their living from engagement in enterprises in the culinary field and in the area particularly of transport. The policy of the Barbados Labour Party has been made absolutely clear by the Leader of the party now, last year, and formerly by Mr. St. John when he was Minister responsible for this area, Sir, and I need not reiterate it. It is to preserve certain areas for the entrepreneurship of Barbadians. At rock bottom, Sir, what is involved here is a multi-national corporation or a Barbadian enterprise having an arrangement with a multi-national corporation by way of permission to use name, trade mark, or whatever coming into Barbados to compete with our local small business people, Sir, and to put them at a disadvantage. The question remains - do we as Barbadians and as the representatives of the people, wish to see our small people in the fast food business being swamped by a multi-national or by persons with connections with multi-nationals? That is the only question. 3.10p.m.

In other words, Sir, we on this side do not wish to see Freddie from Tweedside Road out of business and you cannot get pork chops and chicken legs at night. Enid's in Baxters Road - this is what this debate is down to - let us look at whom we must protect. Enid's, Del's, "Mudda" who sells fried fish at the corner of Baxters Road and Marshall Gap,

Aside.

Mr. D. A. C. SIMMONS: Burger Bee.

Laughter.

Mr. D. A. C. SIMMONS: I know the Honourable Minister of Health had some interest in a burger something, Sir, a Burger Bee or Burger King. I am not talking about them, they may be able to survive. I am talking about those small people. Norm's in Spry Street, Granny's, Norma Jackman, all these stalwart Barbadians.

Aside.

Mr. D. A. C. SIMMONS: Granville is about to become a multi-national.

Laughter.

Mr. D. A. C. SIMMONS: But I think the House understands that it is part of our culture and it is part of the lore of this country that, for as long as all of us know ourselves, these establishments have been in Barbados providing services, wholesome services, unlike some countries neighbouring ours where you can expect from the small business people a dose of gastroenteritis, particularly at Carnival time, our small people who are in the fast foods business have a reputation for the highest standards of cleanliness and we have a duty to protect them.

What is distressing is that last year, I believe it was, in the Estimates on March 12 the Prime Minister - I am not quoting from the debate, Sir - made it clear that the policy of the present Government was aimed at the protection of the local fast food operators. That was carried in the Press, and despite the publicity and the publication of the policy, two weeks ago I could see in the Press that an attempt was being made to defy the Government of Barbados and flout that stated policy.

I do not care whether there are Dems or Bees or N's in Government. If you have a Government and a Government sets out a policy which is reasonable, let it be known that I am totally against any non-Barbadian, any foreigner coming in this country to flout the principles of the Government and people of Barbados. Some of the people who are involved in this kind of surreptitious behaviour, which has now admittedly taken on tones of open defiance, are people whose commercial and business practices are some of the

worst in Barbados. I am not talking anything about McDonalds and Sweden or whatever. I am talking about some of those behind this enterprise. I have had to deal with them over years.

There is one - I am not calling any names - who laid off a poor boy after working for seven years through a company of his. An award was made by the Severance Payment Tribunal two years ago, December, 1987. They promised to settle the \$7,000 before Christmas 1987. Up to today, that young man has not got a cent. I want you to know, Sir, Barbados can do without some of these people who use Barbados as a haven for their own types of devious activity.

You would not know, Sir, about the interlocking companies which have a centre in Barbados, a centre in Panama and a centre in Canada, and shares are diverted and passed between each other to the detriment of shareholders. I will not call the names. Some of these cases have gone to court in this country and have been dealt with. These are the types of people who are flouting the policy not only of Government, of all of us parliamentarians, the majority of the people in Barbados, so we cannot pull any punches on this, Sir. I know how they operate.

The Honourable Member for St. George South made a number of comments of a technical nature about the Bill, but I was glad that the Honourable Leader of the Labour Party explained to him, even though most of what he said was sound in terms of legal theory, that he has to face up to the reality that the machinations of groups of business people are so varied and so coloured as to avoid very often the strictest terms of the law.

Loopholes have existed from time to time. Business men find ways round the law through the loopholes. Lawyers do it too, Sir. The function of Parliament is that, where a gap appears in the law, or as we like to say, where there is a lacuna in the law, rather than a Judge filling that gap, Parliament should fill it, and if over time we have found that there have been gaps in this law to let in people who really have come in and have been competing and often at an unfair advantage to Barbadians, then they must be plugged.

The place there in Hastings opposite Sandy Bank, Shakeys, they got in because of a CARICOM technicality. They are CARICOM people who are running it and there are people in that group who had strong economic interests in Barbados.

Aside.

Mr. D. A. C. SIMMONS: That is what I am saying. I am making a case for them. I am not against Shakeys, the people who were the prime movers of the Shakeys operation, because I know that they have been involved in business in Barbados in a productive way contributing

rather than taking. The provision of houses, the Lumber Company, the other place in Dayrells Road, NCC, I think it used to be called, Paper Converters or something. These are CARICOM people who have been making a contribution, but they were able to get round the loophole in the law. , 3.20 p.m.

Even though we may have a sympathy for CARICOM nationals, we cannot allow persons who do not have an affinity and whose only interest is in the exploitation of the Barbadian and the accretion of personal wealth to have the same advantage. We cannot allow it, Sir, and especially when the business track record of some of those who would like to prey on the society is one that is shining in mud, not money.

I would like to see, Sir, in this legislation, some provision for a right of appeal against the exercise of ministerial power. I do not think it is in the parent Act. I know that the decision is reviewable but the parent Act says that the decision of the Minister is final. Now you can only challenge the finality of a ministerial decision for vices, going to jurisdiction and so on. Just as we have in the offshore legislation where the Minister can refuse to grant a licence for the setting up of an offshore bank, what he must do is to give the applicant notice to show cause why the licence should not be granted, and there is a procedure which must then follow the usual principles of natural justice. In this there is no such review.

Now we have in Immigration, an Immigration Review Tribunal, Board, Committee whatever. When we had the gaming legislation in the late seventies, I am pretty sure you could appeal from the Minister's decision to a Committee, and even though we need not say in this legislation that reasons must be stated, where the Minister has to adjudicate on the issuance or refusal of a licence, he is placed in a circumstance where he has to act almost in a judicial circumstance. I think it would be wise for us, if not now, soon to be amending the legislation to provide a procedure, because don't forget he can issue a licence, and a licence in the context of this is the equivalent of a right of property. I do not want to get down to every law. I just make the point that where the issuance or refusal of the licence can affect the livelihood or the proprietary rights in the widest possible terms of the applicant, I think we should, as we have done in the immigration law and in other areas of offshore banking, set up very simple machinery where a person would have a right of appeal. The Chief Town Planner, it could go from him. I think that would enhance the legislation and would ensure a greater spread of fairness throughout the Act I am obliged to you.

Dr. R. C. HAYNES: Mr. Speaker, I believe that I have had some recent experiences in this matter. First of all let me say that I like my hamburgers of good meat, medium done with a touch of ketchup and maybe a little bit of Miller's pepparsauce on it and I am okay.

There has been a considerable amount of discussion over the years on this question of allowing foreign concerns in the area of fast foods and in the area of ground transport to operate in Barbados either in their own right or through the mechanism of a franchise in association with local companies. This matter has exercised the minds of this Parliament on several occasions, and there has been a lot of discussion both inside and outside of Parliament.

I was most impressed with the presentation of the Honourable Member for St. George South who certainly brought a mind of considerable legal discipline to bear on the legal matters raised by this Bill. Without prejudice to what I will have to say later, I too have one or two concerns about the Bill itself. What are these concerns? Quite clearly, to call a spade a spade, this Bill is being brought to address a problem which arises in the area of fast foods. That is the immediate problem that it is seeking to deal with. However, there is an element of retroactivity in the Bill on the one hand in that it would affect all businesses operating in Barbados which currently operate under a franchise. There are certain things they will have to do consequentially on this Bill which they would not have had to do prior to this Bill.

The second point that strikes me is that the Bill does not limit itself to the areas of immediate concern or the areas of debate at the moment, but it applies to all operations in Barbados under franchise, and if my memory serves me right, there may be several hundreds of these businesses operating in Barbados under franchise and a very small number of them would relate to fast foods, so that the provisions of the Bill, as I see them, would relate to all operations which operate under franchise, and I cannot tell you in the short amount of time we have had available to study the implications what that would mean to those companies who would be affected by this and for whom the legislation is not primarily intended.

Then there is also the wide area where I think there are many Barbadians who might well be involved in activities, maybe not with a trade mark but producing a product that is very similar to a product which they have seen overseas, and I do not know how this would affect them. These are concerns which we have to raise because, if we are dealing with legislation which is addressing primarily two areas affected by the franchise legislation, then I think that we should try probably to be as specific as we need to be.

Now I think it may be of some interest to inform this Honourable House of the kind of background of which I am aware that may have led to this situation. When I was Minister of Finance an application was made to bring McDonald's into Barbados under the usual franchise arrangement. I took some time to make a decision because the law itself requires that the Minister of Finance goes through a particular process of advertising, requires that he goes through a process of examining and hearing the

applicant and that he goes through a process of examining the men is and hearing the objectors as well. 3.30 p.m.

That process took some time and, indeed, all those who chose to make objections either in writing were given the opportunity to meet so that the Minister of Finance would conform to the Laws of Barbados.

There were a variety of issues raised. One issue was unfavourable competition with established companies in Barbados of a similar size in the context of the local market. That was one issue. The second issue raised was whether McDonald's in Barbados would have an impact on other smaller operators in the country. Another issue raised was whether the high profile of McDonald's might tend to project Barbados as a country in the eyes of the tourist world which would be attracting not up-market visitors but the so-called McDonald's type eating visitors. I am not saying I agree with them but these were the issues that were raised. Another issue that was raised was whether or not McDonald's would have an unfair advantage because of access to advertising which was not indigenous in its origins and, therefore, have an unfair advantage over similar establishments, but there was no presentation in relation to industrial relations made to me.

One very potent argument was the argument relating to the acculturation of Barbadian children to food patterns and eating habits which were not part of their culture. These were the sort of issues that were raised.

At the financial and economic level, the issue was raised as to whether there would be a net loss of foreign exchange from Barbados consequential on the granting of such a franchise.

Another issue raised was whether the proposed benefits on the part of McDonald's in the area of baking, in the area of growing potatoes, in the area of developing beef herds and so on, whether these things would have a positive impact on the Barbados economy *vis-a-vis* whatever foreign exchange loss there was or whether or not the advertising component, by being associated with a McDonald's, would have a positive effect on projecting Barbados as one of the destinations where McDonald's operates.

I think it is important that the House should have the benefit of this kind of information because I think, when one takes decisions, they should be taken with the best information available to you. All these factors were analysed and, in the final analysis, my colleagues and I took the decision that the application for the franchise should be turned down and, as in all these matters, the Minister who holds responsibility for the portfolio, who the law says is the person who should deal with it then, that was dealt with in the appropriate manner. But I can assure this Honourable House that the greatest care was taken in analysing all the various objections and the merits of the application.

The NDP knows what its position is. We do not have any problems in that regard but always remember that there are pros and cons in all these matters and, at the end of the day, a balanced decision has to be taken on the basis of the evidence which is before you and, I think, that is what was done so when we approach this particular piece of legislation, we approach it in good conscience when we focus on those areas of the legislation which we feel might have effects beyond what is intended. I think that this is a very reasonable and a very erudite position taken by the Honourable Member for St. George South. It is one of the purposes of the existence of the Opposition in that it must examine these things and bring this kind of learned contribution to bear on legislation and all other matters before this Honourable House.

Now, Sir, I think I would support the position taken by the Honourable Member for St. Thomas on that question of how a licence is issued. If you note very carefully, Sir, I went through the process which had to exist prior to a Minister taking a decision in respect of accepting or rejecting a franchise.

The licence in this legislation can, in effect, negative a franchise that was issued under that particular quasi-legal process once those persons who are already in business have to apply for a licence and the Minister can take a decision one way or another. But there is a specific procedure under the Franchises Bill which mandates that a Minister must follow those procedures in coming to a decision. There is no procedure here in this Bill...

Aside.

Dr. R. C. HAYNES: It would apply if you apply for a franchise. If now you have to apply for a licence, what do you do? What procedure is there? If I have been granted a franchise to do some operation in Barbados and now, according to the Bill, I have to apply for a licence, what procedure do I have to go through before a decision is taken on that licence?

Aside.

Dr. R. C. HAYNES: So, therefore, the licence would have the same status of the franchise in terms of hearing and what's not.

Now, Mr. Speaker, I have been given the assurance by the Attorney General of Barbados that when a licence is applied for the same conditions would apply as in the case when there is an application for a franchise.

Hon. M. A. KING: On a point of elucidation. He says that he has been given an assurance by me. Let me explain what the position is in relation to this matter.

The amending Bill which is before the House at the moment is not a repeal of the existing Franchises

Registration and Control Act which is Cap. 179A of the Laws of Barbados. What is going to happen is that the control provisions which we are now introducing will replace, in essence - well, the franchise is redefined and the operative provisions of Clause 3 of the Act are going to be replaced. But the procedures on the application for a licence and what the Minister is required to do on the grant of a licence under the old Act remain in place. So that those procedures which exist in the Act now and about which the Honourable Leader of the Opposition spoke will apply when application is being made for a franchise in compliance with the requirements of this amending piece of legislation. So I just wanted to make that point clear. 3.40 p.m.

Dr. R. C. HAYNES: Thank you very much. Now I wonder if the Honourable Deputy Prime Minister could at some point tell us how many other businesses in Barbados outside of the fast food area will be affected by this and in what way they would be affected? Whether or not joint ventures in existence in Barbados which may well be producing a product that is similar to one elsewhere or may have a mark which may be similar to one elsewhere, whether they would in any way be affected?

Aside.

Dr. R. C. HAYNES: I just want to be sure because I do not think that any of us would want to bring in a Bill in Barbados to deal with a fast food operation and then find that you create disabilities elsewhere throughout the economy. I do not think anyone would want to do that.

Asides.

Dr. R. C. HAYNES: So this is the problem that I am trying to elucidate whether or not the extent to which these measures would affect a whole lot of other businesses from outside of the range of fast foods has been established. As I said, to the best of my knowledge, of the overwhelming majority of franchise licences which will come before a Minister very few have anything whatsoever to do with fast foods. Very few. There are hundreds of them. A lot of them are involved in the productive sector of Barbados. There are many operations in the agro-industrial sector, in the manufacturing sector and in the distributive centre which operate under some form of franchise operation. We want to be sure, we want to be assured that nothing that we are doing today will create any disability. Because I think, Sir, that it is generally agreed by all that, subject to the overriding interest of Barbados and Barbadians, you should not be either deliberately or otherwise putting anything in the way to prevent a free flow of investment into the country and anything that will cause any disability in that area, I say subject to the overriding interest in Barbados, will not be something which we would wish to encourage.

If, Sir, the Honourable Attorney-General is not sure, is not quite sure as to the extent of such disabilities in relation to the wider area of the Barbados economy ...

Laughter.

Hon. M. A. KING: On a point of order, Mr. Speaker, the Honourable Leader of the Opposition cannot make a statement like that because I have not addressed that issue in my presentation.

If he wishes to pause and let me deal with that issue at length, I am prepared to do so. But he cannot make a statement that I am not sure of that matter which I have not addressed. I would love to deal with the issues he is raising.

Dr. R. C. HAYNES: Mr. Speaker, I believe that the Honourable Member anticipated somewhat what I was going to say.

Laughter.

Dr. R. C. HAYNES: What I was going to say, Sir, is that if he could not take a decision right now with certainty because of the seriousness of it then I believe that it should be given due consideration and the matter should be dealt with later.

But it is a very important submission that I am making because, whilst we are all agreed on one aspect of the purpose and intent of the legislation, it is important that it should not be so generalized as to have other areas caught up. Of this we have to be accurate because tomorrow morning, Sir, maybe not tomorrow but the following day when the headline's cease to be McDonald's then people would begin to wonder whether, as my ...

Aside.

Dr. R. C. HAYNES: ...learned friend and colleague, distinguished...

Laughter.

Dr. R. C. HAYNES: ...mentioned whether or not there have been changes in the rules in terms of the conditions which they understood they were operating under and now there has been a change quite outside this area.

My feeling is, Sir, that even this piece of legislation is going to be very difficult to enforce. When I started speaking I made the point how I like my hamburgers. I made that for the very good reason, what stops anyone from setting up an establishment and producing a hamburger which to all intents and purposes looks like any other hamburger. I believe that all hamburgers look alike. I believe the hamburger rolls look alike. I believe the lettuce looks alike. I believe the onions taste alike. So you are left

with the quality of the bread and some other -secret ingredient that nobody knows about.

Laughter.

Aside.

Dr. R. C. HAYNES: No, I did not mention the peppersauce and Miller Ketchup on this occasion.

Laughter.

Dr. R. C. HAYNES: That is my special version of it.

Aside.

Dr. R. C. HAYNES: Now, how is one going to establish, in the absence of a trade mark that has an identity, that the hamburger complained of is not the same hamburger that is being produced? Shall it be a matter of taste? Can you taste a hamburger and say this is a Burger Bee Hamburger, this is a McDonald's hamburger, this is a Chefette hamburger and this,... who else makes hamburgers... is a wimpy hamburger?

Laughter.

Dr. R. C. HAYNES: Now some people may be able to make that distinction but I cannot! I cannot make that distinction. So I do not know. This is why I am saying that it seems to me that, on the basis of this legislation, once the trade mark is avoided, once all the other regulations in Barbados, Central Bank, Town Planning and all other things are complied with, once the Health Regulations are complied with, once the hamburger is one acceptable to the people of Barbados, then how are you going to distinguish between one hamburger and another? You can hardly close down an enterprise because somebody goes and buys a hamburger and says this tastes like a Burger Bee hamburger.

Aside.

Laughter.

Dr. R. C. HAYNES: I have a particular problem here and I also have a particular problem because, since the formula used which is supposed to distinguish between one sauce and another is supposed to be secret, how are you going to identify that formula as the offending formula, as being a substance that is like or similar to the one which you are trying to prevent? Sir, I think that these are real problems and what I see here is that one may end up with this piece of legislation affecting other areas of the franchise operation rather than one for which it is designed. I am not a lawyer. I have always relied for legal advice on those associated with me and I am very pleased to say that I have always got top class advice. Whichever side I was sitting on, I always had good legal advice and it would

seem to me that the administration of this could create problems if it is going to be resigned finally to an assessment of a case when you cannot identify the magic formula. How are you going to identify the magic formula which is secret? Does the Attorney General have some special legal device to identify the magic formula? It is important. The mark could be changed. The mark does not need to be the same. 3.50 p.m.

Asides.

Dr. R. C. HAYNES: The mark does not have to be the same.. What will stop anyone from advertising and saying:- "My hamburger is better than Burger Bee!" If the people of Barbados believe that a particular hamburger sauce has a special consistency, do you think that they are not going to buy it because it has not got a label? Now these are the problems and I wonder whether or not one should look at legislation that is a bit more innovative, with some greater ingenuity, to address the particular loopholes. Now I can see a major loophole here. I can see it. I have just told you.

Asides.

Dr. R. C. HAYNES: Before I proceed, would you like me to elucidate on what I said before?

Asides.

Dr. R. C. HAYNES: I do not see anything in this Bill that can stop anyone tomorrow from opening up a business to make hamburgers and if somebody wants to give them a special formula, once they do not call it by that name or do not have a trade mark resembling that name, what is going to stop them?

Asides.

Dr. R. C. HAYNES: Nothing is going to stop them. Precisely. So therefore, if that person can mount an advertising campaign which succeeds to bring the same image as what was originally intended, what will stop them? Nothing. Right. Come taste my hamburger. It is better than McDonald's.

Asides.

Dr. R. C. HAYNES: So I am not so sure whether this legislation is really dealing with the fundamental problem. I am not sure about that.

Asides.

Dr. R. C. HAYNES: Right. Okay, once we understand and we do not believe for one moment that this legislation really deals with a fundamental problem. What it may have done is that it might have created more difficulties in such

an establishment. But I revert back to what I said earlier on that I would have liked, Mr. Speaker, to have had the opportunity to check and see how many other businesses in Barbados...

Asides.

Mr. SPEAKER: Order please. Two minutes more.

Dr. R. C. HAYNES:...,outside of an area of fast foods would be affected by this legislation. Then we have to ask ourselves whether a more specific type of legislation should not have been brought to deal with the area where the problem is. It is my suspicion that, under the present arrangements, once the original analysis is done in terms of whether a franchise is granted, that franchise is renewable every year with the payment of a fee and the franchise has a very important regulating influence as well, Sir. What the franchise does is to make sure that the particular enterprise conforms to the law because they know that in 12 months time they have to come back and ask for a renewal of that franchise licence again. So I think that what you may end up with is a situation where we have passed legislation that may not have stopped anything, whereas a whole lot of other areas in the economy might be affected.

As I say, Mr. Speaker, I have framed my language in those terms because I have not had the opportunity to go and check in detail all the other businesses affected by franchise legislation in Barbados and which will of course be affected by the general application of this particular measure.

I believe, Sir, that I have covered those points of concern related to the legislation. I believe that some of the points need to be addressed not only in the spoken word. But I believe that the legislation may need to be looked at a little more specifically in those areas because so often it happens that we pass legislation and then you have to come back with further amendments, or alternatively as can easily happen we pass legislation and then you find yourselves before the courts. I have not taken legal advice in that area. But I think that one has to be sure that the legislation does not trigger that kind of situation successively. Therefore, in view of the very valid points raised by this Opposition, I believe that one needs to look a little more carefully at some of the provisions inside here bearing in mind the areas which we have sought to bring to your attention.

Thank you very much, Mr. Speaker.

Hon. B. M. TAITT: Mr. Speaker, the Honourable Leader of the Opposition did not indicate whether he is going to be supporting it. But his colleague said that they will be supporting the Bill and so we will have to take his input concerning the delicacy of questions which may be raised as one of advice to the Government.

He asked the question - how does anyone establish in essence that the hamburger is the hamburger? Now in the United States they have a way of answering that which goes like this. If it looks like a duck, it walks like a duck, and it quacks, it is a duck. So far as the hamburger is concerned *per se*, anybody in Barbados can produce a hamburger. But if you look at the amending legislation which we are bringing, the definition of "franchise" takes account not only of the product. It takes account of the service, methodology, and the technique. These are the numbers of things which serve to distinguish Wimpy's methodology from Burger King's methodology, from McDonald's, neither of which reached up to Burger Bee's methodology.

Laughter.

4.00 p.m.

Anyone who has had a Burger Bee hamburger would know that it was the best hamburger ever produced in Barbados. It died on the cross of smallness, it died on the cross of being a black business that had no support. It could not get any assistance from the bank. But I did not rise to discuss Burger Bee.

I was the person - and this was long before I had any attachment to Burger Bee, I had attachment to Burger Bee after I went into Opposition. That company was formed in 1976 - but I was the person in Barbados as Minister of Trade who introduced franchise legislation in this country. In 1974 when I was Minister, of Trade, recognising an inherent danger which could not have been dealt with in the legislation which existed at the time - and, Mr. Speaker, you will forgive me if I say that I literally sat down and worked out the franchise legislation, so that when the Attorney General's Chambers of the day asked us for the precedent for the legislation - and I had not yet become a lawyer...

Aside.

Hon. B. M. TAITT: Yes, I am. I am a lawyer. I am not an attorney at law but I am a lawyer. I am a highly qualified lawyer. Let no one make any errors about that.

Anyhow, Sir, the point I am making is that when I drafted the original piece of legislation and direction to the A.G's Chambers, it was based on my experience in North America, it was based on having spent a substantial amount of time in the United States, and it was based on having been schooled in the methodology used by the United States Government itself to protect itself.

There are a number of people who do not understand that protection in the commercial field is not a product of developing countries, it is a system that has been manifested and perfected by those countries that in fact are the leading trading countries in the world, so that the United

States itself has some of the most stringent legislation and regulatory arrangements for protecting the United States against all comers.

When you turn to the Canadian scene you will find that there is a constant difficulty which has recently been got over by the pact that was signed between the two countries, finally after all these years, that constant difficulty of franchise and other type operations between parent companies in the United States and companies in Canada.

I wish to assure the Leader of the Opposition that the attitude of the Democratic Labour Party's Government to business has not changed since he left. I want to give him that assurance. Our interest in attracting investment is the same, if not heightened, in the short days since he has left us, so he need not worry about that aspect of the business over here. It is in that context that we can give the assurance - the Honourable Member knows what I am talking about - that there will be no retroactivity of action - this is the concern - for all of those businesses which will be caught and which necessarily will be caught because of the comprehensive nature of this amendment.

We are setting out to correct a high mischief. That high mischief attacks the very sovereignty of this country. That is really the issue. It does not matter if all of us are wrong. This is one of the times when all of us can be wrong on what we attempt to do. What is important is that all of us in here constituted under the chairmanship of His Honour represent the whole country.

Aside.

Hon. B. M. TAITT: The Speaker. The speakership. The chairmanship. I used that deliberately. The Speaker is High Chairman of these proceedings on behalf of the entire country and therefore, when this deliberative body makes a decision, the country has spoken. It is not to be lightly tampered with by the likes of the little fly-by-night bits of people who can come in here from Florida on a flying trip and speak to the Press in such derogatory terms about this country. There is nothing that we need in this world that could allow Barbados as a country and the people of Barbados, represented by the Honourable Members in this House, there is nothing that we could need in the world that will allow anybody to come in and flout the laws, and thereby flout the intentions of the people.

We are not required to be right all the time, we are required to be honest all the time. When we put forward a view and that view does not accord with the views of all the other 166 countries in the world, it is still the view of Barbados and Barbadians, and therefore it is for us the only view at the moment. Therefore when we have said, as we have said, that we do not wish to have certain kinds of

businesses, to wit franchises, operating in Barbados except by permission of the Government, then we mean that no one shall operate in this country in that particular way without the permission of the Government.

Substitute for "Government", "people". In the final analysis this is a Government, and in due course either one of the Oppositions can be the Government, of all the people of Barbados and when it speaks, it speaks for the people of Barbados. It is not to be tampered with or trifled with lightly and I will never be party to, and thank God we have found an agreement on all sides which says that we are saying to the rest of the world that we will never be party to the likes of the Messrs. Wineman and Chaser who are like ships passing in the night, for when they work for these international corporations they are Vice Presidents today and nothing tomorrow. When they speak with authority as they address Third World countries, they always assume an air of authority which far supersedes any authority they have in their respective corporations. But when they cross the waters and come to small countries like these, they somehow grow to the point where they believe that they are massively important.

I hope that our media, for whom despite what I say from time to time, I have a great love, will train our young workers and keep them on a particular beat long enough that they can get the confidence to deal with these white people who-come from overseas on an equal footing.

Mr. Speaker, I spent a substantial amount of my life speaking to people in North America for Barbados. They hold no terrors for me. They do not always understand that black people like us can be articulate and bright. They are very often amazed when they come across people like us who are articulate and bright. While I will succumb to the gibes of any of my colleagues who sit over there, and all of my colleagues who sit over here, from time to time when it comes to dealing with people outside of this country, I do not allow anybody whomsoever to feel that he or she has any hegemony over me and therefore over my country. 4.10p.m.

I am a very serious proud black man who does not have to say that regularly to make the point. But in 1974 we articulated a position that has been articulated, as my colleague the Deputy Prime Minister said before. We articulated it in legislation. In 1977 the Government of the day, contrary to my own view, moved it from the Ministry of Trade to the Ministry of Finance. I am pleased to hear the Honourable Member for Christ Church West, I almost said Leader of the Opposition, saying that he thinks it should be with the Ministry of Trade, because I think now that we have a tripartite of legislation dealing with intellectual property and trade marks and bringing us nearer the 21st Century, it should be returned to the Ministry of Trade because that is where it belongs. It has to do with

trade. But in any event, no matter where it resides, when they put it in the Ministry of Finance there is improvement.

The Honourable Leader of the Opposition asked about other companies. There are many companies that were caught in 1974. They include places like Coca Cola, Avis, Barbados Lumber Company, British American Tobacco, Hill's Press Number, Husbands of Barbados Limited, because at that time they were doing Palmer-Shile. In other words, anybody, who is producing under licence is going to be caught, but it is the discretion of the Minister, and, obviously, unless the Minister is unusual he will readily recognise that these companies are not the companies you are trying to catch, and that is why section 17B of the current Act does provide for the Minister to be able to make exemptions. It says the Minister may, by order, exempt any business from the application of this Act. That does not change with the passing of this. That remains a substantial part of the legislation, so that the Minister will be able to exempt, and the question of retroactivity has to be taken in that spirit. The Government has to give the assurance to those who hold legitimate franchises that any procedures they have to go through now will be more form than substance. The Government would be a foolish Government if it did not give that assurance. You do not interrupt businesses that are going on, but all those who think they were going through the back door will find an iron bar as they come to get in through the inner sanctum. As the Attorney General is assuring me, even if the Minister does not wish or did not operate under 17B(1), under 17B(2) it says "Notwithstanding subsection (1) the Minister may refund, waive or remit any licence fee paid or payable as the case may be under this Act."

So we have taken all of the possibilities when we have looked at this. The Leader of the Opposition administered this Act, so he knows. One of the things we will have to be careful of with this Leader of the Opposition is that when you are not looking he will run a red herring across, and if you are not careful and you go following the red herring, the next thing you know you fall into a hole. But we are accustomed to the Leader of the Opposition in that regard and we do not know if he is going to have new techniques, but those of us who are familiar with his methodology will be on the look-out for the red herring as the Minister of Trade will not be among the slow ones in this regard.

Mr. Speaker, I really do not think that much more weather has to be made of this, but I want to just add this. Sometimes those people who take issue with decisions made by the Government fall prey to some other propaganda that can be put out. The headlines said 300 jobs at Big Mac, within a few days there was a correction saying not 300, 200. But those of us who promote industry, etcetera, know that very often this question of promising jobs, we know all who have participated in Government know that whenever they promise 75 jobs you can look for 22.

Asides.

Hon. B. M. TAITT: The question of full employment cannot be a serious statement. Don't divert me. That is a matter that has to be taken substantively. We will take that substantively in due course, but I do not wish to deal with full employment.

The point I am making, Sir, is that when you are promised 300, the same people who promise 300 then said not 300, 200, and I am not questioning whether jobs can be made. The fact is....

Asides.

Hon. B. M. TAITT: Mr. Speaker, the question of full employment is already occupying the airwaves and will become a matter of substantive debate. I am not discussing it now, Sir. I am discussing the optical illusion which is constantly placed in the minds of people in relation to what investment can do. Anyone who sets up a hamburger operation or a fast food operation in Barbados today can only draw on the existing market in Barbados today. If someone is able to set up in such a way as to lure new customers from X or Y, then to the extent that there is an increase or development of numbers in the new operation, there must be a decrease in numbers from the old operation. That is axiomatic. That is elementary. That is not something that requires any deep analysis to work out. The employment situation in Barbados today is governed by supply and demand. It is not governed by anybody's whims, fancy or imagination, and therefore when somebody says we are going to set up a commercial operation like selling food and that they are going to employ large numbers of people, they must necessarily move out large numbers of people from some existing operation that sells food. So that the point made by the Honourable Member for St. Thomas about Enid's and those kinds of people is valid, and therefore when we discuss McDonald's and Chefette, we have to discuss them in real terms.

There are some people who believe that we are defenders of the Chefettes of this country. Chefette has demonstrated a commitment to Barbados. Chefette is run by Trinidadians who became Barbadians, and they have expanded within Barbados, and to the best of our knowledge they hav*. no secret bank account outside of Barbados to which they send foreign exchange. So that to the extent that they are within the CARICOM family, we do not have to be concerned because they have a different hue from most of us on this side and be afraid to mention the Chefettes or the Dels or any of the other operations.

I want to make the point, Mr. Speaker, while I am on this, because there is a subtlety which is being introduced into statements that are written and said in Barbados today which seems to suggest that all the white people are lined up on one side, all the Indians lined up on another, all the

Arabs lined up on another, and all the Blacks are lined up at the bottom. You and I know, Mr. Speaker, that is not true. There are Whites, Blacks, in-betweens, greenS, all kinds of people mixing every day....

Asides.

Hon. B. M. TAITT: H. P. Green. Sir, the point I am making is that in Barbados we are going to have our ebb and flow of high tension of words... 4.20 p.m.

Aside.

Hon. B. M. TAITT: Mr. Speaker, there tends to be a high tension of words and we are going to have differences of opinion.

In 1974 when I introduced this legislation into Barbados I was being assailed at that time as being anti-white because Mr. David Seale - I am only calling his name to identify him - at that time, a merchant...

Mr. SPEAKER: Now...

Hon. B. M. TAITT: Sorry, Sir. I withdraw the name. Because at that time a certain merchant who must remain nameless, was taking a position and he himself has come to recognize and, has said, not to the Press, not aloud, quietly that the attitude which we took was right.

I am not discussing it, Sir. What I am saying is that an attempt was made then to frame this issue in racial terms. These are not matters of race. These are matters of concern to the sovereignty of Barbados. When we are pitted against all comers, then we must join together or sink together. We must swim together or sink together.

I do not believe that any particular group or any individual holds any particular special responsibility or holds the key to the kingdom, to harmony and peace in this country but in so far as Mac or any similar agency is concerned coming into Barbados, when they attempt to go against all of us then we have to let them know in no uncertain manner that we will not stand for it.

Mr. Speaker, the other area that I would like to touch on can be dealt with in Committee. Perhaps, I had better touch it now. It has to do with the question of retroactivity. I touched on that. It has to do with the question raised by the Honourable Member for St. Thomas about the finality of decisions by the Minister.

Prior to the passing of the Administrative Justice Act, 1980, it was 1980 but promulgated in 1981, prior to the passing of that Act, I think the points made by the Honourable Member would have been valid and we would have to take them but under the Administrative Justice Act,

Part II, at section 13 and following, very clearly the procedures which all administrators in the Government sector must go through are outlined.

I want to say that not many people have become seised of or familiar with this aspect of the Law, and so many people still allow functionaries to treat them in an off-handed manner, but it is a duty, according to 13(1) of any person or body making a decision to which the section applies, if requested in accordance with Section 14 by any person adversely affected thereby to supply to that person a statement of the reasons of the decision.

This section applies to any decision that is required by law including any enactment, hence the franchises Act, or by contract, to be made in accordance with the principles of natural justice or in a fair manner with the exception of and, it lists the exceptions, which are "any decision for which by expressed provision of any enactment reasons are not to be required", and we have not so done in this legislation, "or any such decision as is specified in the First Schedule" and the First Schedule applies to Immigration and certain other matters "and a request for reasons must be made in writing and the statement has to be given by the administrator."

Now, judicial review, the whole reason for the Administrative Justice Act, was "to provide judicial review for administrative decisions" and, as most Honourable Members in this Chamber would know, the licensing decisions form a substantial part of the body of Natural Justice Law so that I do not think, while acknowledging the point, and recognizing that it is a valid point, that the fact that this 1974 Act speaks of finality in the decision-making there is any need for us to tamper with that given the fact that we have passed the Administrative Justice Act.

I would say the reason why a certain finality is brought into the matter is to obviate the very point that was made by the Honourable Member for St. George South about the bureaucracy and the speed with which business is done.

When the original Act was passed the reason for the finality had to do with getting on with the business. In other words, whereas in immigration matters it is desirable, because it is not captured in the Administrative Justice Act, to have a tribunal as an aperture for someone who feels aggrieved to appeal, it was felt in 1974, and I still feel now, that we need, where we are making decisions about business, to make them swiftly.

If we are going to say "No", say "No" early so that the persons concerned can determine if they are going to do it or not and, as you will remember from the Administrative Justice Act, and based on how it has been administered so far by the Courts, there is not a great deal of expense in going to the Courts for review, I think this is a laudable decision on the part of the Courts to try to remove the high cost of litigation from the Courts.

Now, there is a point taken by the Honourable Member for St. George South which I would like to touch on as well.

On the question of the criminality, I know the A_v G. dealt with it, and the severity of the penalties. The United States has led the way in these commercial activities where regulatory commissions are in place, where there is a regulatory agency. The United States has led the way in making sure that those people who wilfully flout decisions to do with regulations of trade are penalized heavily.

There are two reasons - (1) you will notice here that the fine is fairly heavy because there is a substantial amount of financial gain to be made from flouting the regulations and the only thing that stops those people who are functioning at that level, the only thing they adhere to is the paying out of a lot of money.

Secondly, especially in a place like Barbados where because we were a colonial system and because we are only now emerging from that, we do not have a large cadre of trained persons capable of policing these kinds of systems, it is necessary for us to put in place the kinds of prohibitive mechanisms that, when a person is caught, whatever action is taken will act as a deterrent or will be seen to be acting as a deterrent and hence the importing of the criminal penalties into what is essentially part of the Civil Law.

I, therefore, feel that in the light of that kind of philosophical approach the Honourable Member's fears should be allayed in relation to that aspect of the Bill.

I would think though that, in the final analysis, how well we administer this will depend, to a large extent, on the goodwill of the people in the country and for the first ^m time in the history of Barbados we have a situation where all of the political parties, all of the trade unions, to the best of my knowledge, all of the media, that is the first time in the history of Barbados that all of them have agreed at the same time to a particular issue. That leaves me only to deal with a very valid argument that has been put forward in the very short time at my disposal by a Professor of Marketing at the University who is no slouch in the field and, therefore, one does not attack him when one disagrees with him because he is a very highly skilled teacher, very well ** trained and very well learned Professor of Marketing. I have a deep respect for his view.

I think, however, that because he has been away from the society for a little while, he might not be seised or might not have been seised of all of the arguments which have been put forward to refute and refuse the application of McDonald's.

4.30 p.m.

What he says about McDonald's in its application as a marketer is valid. There is no doubt that the high pressure marketing system and the insistence on a certain quality standard in the United States by McDonald's is valid. What he does not add to his analysis, however, is that in the United States itself there are myriad numbers of communities who have resisted McDonald's at all costs. Such a community can be found in the Sixth Avenue of the Americas in New York City. You will walk until you turn blue around 42nd Street and 7th Avenue in the United States and never find a McDonald's because a City Ordinance which has prevented McDonald's has been defended by allcomers in New York City. The reasons put forward are as valid as the ones which we have put forward. Time does not afford me the opportunity to discuss them.

But I will say one other thing. The Labour policies which are pursued by McDonald's and the other fast food companies in the United States are inappropriate in Barbados. They appeal to those who fall below the required line. They appeal to students who need money and who work part-time and they employ large numbers of part-time people for short hours and those hours, as the Honourable Member for the City would tell you, the rates which they pay, would not fit at all into the norms of the unions and indeed if one accepts the arguments which were put forward when we discussed the salaries, one could see that the McDonald's approach to pay, the McDonald's approach to employment is not one which we want to see introduced into Barbados. It is because we are small, Sir. Finally, it is because we are only 250 000 people and because we have only 166 square miles and because we have to preserve the environment which we have that we must be careful what kinds of mechanisms we import from North America. We have a lot of North America already in existence in our country. I have to agree with those who have spoken before me that the fast food operation at a certain level and in a certain way is not one of the things which we must necessarily import from the United States. But even if we had a mind to, on the basis of their rejection of the sovereign position of this country I would have been forced anyhow to say no. I will so say by my vote of, yes.

I thank you, Mr. Speaker.

Applause.

Hon. N. K. SIMMONS: Mr. Speaker, as I understand this bit of legislation, it is to set up a procedure whereby persons cannot use the back door to get into Barbados. That is basically what this amendment is all about. But that it has been brought about by the methods used by a fast food operator in order to get into this country. I take strong objection to the method which was used because it says to Barbadians that we are not intelligent people. And then when people can become so arrogant as to go to the newspaper and say that, whatever we do, they will still be here then I believe it was necessary to bring in this piece of

legislation. Even if it is retroactive it should have been brought. Because they were told in the first place that we did not want them here. But they thought they could get around it.

^s, as I understand it, this legislation does not say that aiiyooddy applying for a franchise would be rejected. What it says is that you must follow a given procedure I believe that operations in Barbados have been beneficial to Barbados. If you even were to take the fast food operation, for example, Kentucky you will notice that, since they have come, the local operators have started to package things properly, the marketing has improved, the buildings have improved in terms of their painting and decor has improved tremendously. So in a sense it is to our advantage that they had come in.

I do not agree with the hoteliers or some of the fast food operators that, because it might affect their profitability, that in a sense is a reason why they should be out because competition is important in any business transaction. If you have a monopoly then you can create problems. So that I am not so much interested in the hoteliers' objection to McDonald's or whoever it be, I am not so interested in the other fast food operators objections as such to McDonald's because of profitability.

My major objection to McDonald's is the product itself. McDonald's, as I understand it, is a beef operator, beef is the base of product used. Now, from an economic point of view in Barbados, we cannot produce enough beef to supply that market which means you have to import the beef which means that it is foreign exchange. You have to look for foreign exchange. They are saying that they will try to sell to the tourists, those who come in. But it does not matter, if you sell it here, then you have to import it. It creates a problem for us, foreign exchange is a problem.

Over and above that, their marketing strategy and their advertising could well create a situation, I believe the Member for Christ Church East Central mentioned it, that our eating patterns change considerably. So that even our local foods and those of us who have children will tell you that our children no longer ask even for mangoes now. They want English apples. They do not want breadfruit and yam and eddoes. They want pizza. And pizza from what I understand is not a high profile product.

But McDonald's, I think the advertising in the States talks about the man with strength or something like that, the man with muscles, McDonald's. They go to McDonald's for it. Unlike Kentucky for example. When Kentucky came into this country and you will notice that Kentucky is a chicken based product, a number of things happened. If our recollection serves correctly, the chicken industry really started to move with the introduction of Kentucky because again the eating habits of the people went with chicken because the advertising and the marketing was so good that

people moved away from beef to chicken. The indirect employment opportunities derived from that product were that a number of persons started setting up little, farms, poultry farms to supply the market.

Only today I was having a discussion with someone in this area of operation and he told me that since Kentucky came in the demand for chicken has been astronomical because.....

Aside.

Hon. N. K. SIMMONS: No. I do not deal with those sorts of people.

Aside.

Hon. N. K. SIMMONS: But the problem with this is the base. I am saying the base. I agree even if the same man brought Kentucky here the product he is using has created a demand for more and we can supply it in Barbados. The reverse is true of McDonald's. The product they are using is beef. We cannot provide the beef in Barbados although some people would tell you that we can supply beef cattle in Barbados. This is a joke. We cannot supply it for the demand, not even the local demand, far less for the tourist. So the point is this. We are saying in this Government that if you can show us that it has an advantage in this country - fair enough we will take it. We are going to take you on your merit. We are not going to say that because you are a franchise out goes you. The point the Member for St. Thomas made is - if you go down to Enid's, it is chicken, pork chops, and flying fish or steak fish. It is not beef. They cannot afford to import their beef. We are saying, although they will operate in Christ Church, who knows they might decide to go down in Bathsheba and buy a hotel down there, and then wipe out the little fellow down there because the Americans down there will have that. So the 2 or 3 restaurants down there will go and they are local restaurants. We have got to make sure that we protect our own first and foremost. What I would like to see us do is to try to get our people, as I believe the Member for Christ Church West, said so to develop that we ourselves can export our expertise to other places. 4.40 p.m.

Of course, the point that the Member for Christ Church East Central made about unionisation is something which concerns me dearly. Most of these foreign operations in Barbados are ignoring the wishes of our people as far as becoming unionised is concerned and when a fellow wants a job his hands are tied. He goes in but he has no recourse. He accepts what he finds and they are treated badly because they cannot be unionised, and these are some of the points I think that I wanted to mention in this brief intervention.

I thank you, Mr. Speaker.

His Honour J. J. PAYNE: Mr. Speaker, I would like to add my support to the Bill which is presently being discussed because there is no doubt in the mind of most of us who are familiar with developments in Barbados that there are certain businesses which locals have very little chance of making a success in venturing into these days and much debate has arisen on the question of restaurants and fast food operations. I think that this particular difficulty arises in many other areas and many of them have not been highlighted in particular but someone has mentioned for example the car rentals business. There is no doubt that there is a lot of competition in the area of small hotel operations and people who operate those jet skis on the beaches and things of that kind find that by allowing foreign entrepreneurs to get involved in these areas without some control from the Government is creating a problem for locals in this country in getting an opportunity to get involved in these areas. This is very noticeable to most people who make an even casual examination of the situation.

I can tell you from my own experience that there are many small entrepreneurs who seek to obtain a loan from the banks here in Barbados for a restaurant, to buy a jet ski, to operate a small hotel property or something of that kind and they are refused loans simply because they are told that this is a high risk area. It is high risk because there are big fish involved in the exercise and they have got to compete with these what we call "big fish" and you know if you put sharks and barracuda in one pool of water and drop some sprats in it what will happen.

So this legislation is designed to protect the sprats who are operating in this environment. I believe that it is on this basis in particular that I would like to give my support to the amendments.

Previous speakers have highlighted the objects of the legislation. There is no doubt in my mind that the legislation is aimed at controlling those franchising operators in Barbados and it is also designed to improve the existing legislation which already deals with this subject.

Now the Honourable Member for St. George South just said that we had already on the statute books sufficient legislation to deal with this problem. But I think there is nothing wrong with making sure that the legislation is clear for everyone to see the policy and the direction in which the Government intends to proceed. I think that for example those of us who live in Barbados would like to see business operations set up. Somebody suggested for example that it will send a signal to foreign investors that we do not need to have them investing in this country. I think the opposite is the view. What has to be clearly recognised is that the policies enunciated by this Government, the Democratic Labour Party Government, are such that everyone can see a determined effort to encourage foreign entrepreneurs to invest in the country. What we are seeking to do is to direct

them in certain areas which will create a climate conducive to the proper development of this country and we cannot allow a situation to develop where our own local people are not given the opportunity freely to involve themselves in the exercise without undue competition.

So I think that, therefore, we have to look at it against that background - against the background that Government has a clear policy of encouraging foreign investment but foreign investment which will have objectives which support Government in its particular policies. In talking about that, Mr. Speaker, we are talking about businesses which help create employment opportunities for our people.

Now there is no doubt in my mind that McDonald's and these kinds of places will create employment opportunities. But we need to have a situation where persons who are involved in these kinds of operations are able to benefit not only from the salary, but at the end of the day achieve something which they can carry on to some other area of enterprise in this country.

I believe the kind of businesses we need to encourage are those which will generate some training opportunities for people - training opportunities for people to get involved in other areas. For example, if somebody is involved as an employee in an insurance company and they had to be terminated from their jobs from an insurance company, they are able to develop so much experience in so many other areas of business that to start off in a new job they will have already achieved a certain amount of expertise which can be carried forward and across into another area of activity.

So I think it is important when we are talking about encouraging foreign investment for us to look specifically at this whole question as to how it creates employment opportunities, what impact those employment opportunities have in our society and what long term benefits the country will achieve as a result of those kinds of employment opportunities. We also have to look, Mr. Speaker, at the opportunity for exports - business with potential for creating exports or generating foreign income, foreign exchange for the country. There is no doubt in my mind that a lot of these operations are involved in importing into the country and many of them do not have that element of generating foreign exchange.

I think that there is a thirst in this country for businesses which will generate foreign exchange and this message has got to be sent across very clearly by this party and by all Members in this House, not only on the side of Government but also on the side of the Opposition that we have to encourage businesses to Barbados which will generate that needed foreign exchange for the country to proceed to create better opportunities for our people. If everybody who comes in thinks in terms of exporting our money and does not think in terms of creating that situation

where there can be a balance, then we will be heading in the wrong direction. 4.50 p.m.

I believe that this legislation which is presently before the House can send a signal in that direction, a signal of our policy towards creating a balance in the kinds of businesses which we want to see generated in Barbados.

I feel very strongly about this, Mr. Speaker, because it is my view that in 1989 if we are to regard ourselves as progressive thinking people we cannot just think in terms of hamburgers, we have to think in terms of the kinds of businesses that will lift the minds, the intellect and the whole outlook of our people. We have to think in terms of developing the human being as a whole, and I think that when we talk about generating foreign investment, all of these are things we have to look at. I believe that this legislation may point towards that direction and encourage some of these businesses to put some of their money in areas which will help develop this country and create opportunities not only for our locals but for the country as a whole. That is one of the points I want to make very clearly.

Mr. Speaker, I think that many of the previous speakers have covered a lot of areas on the Bill and I do not want to be particularly long, but someone said, I think it was also the Honourable Member for St. George South, that we are changing policy midstream.

Mr. R. P. BYER: On a point of order, Mr. Speaker, or rather elucidation. I never said that we were changing policy midstream. What I remember saying was that the legislation as it was before the House would give the appearance that people who come in from abroad with a knowledge of the law or the conditions under which they are supposed to operate would now find that with this legislation things have changed. It is not a question of policy, it is a question of the whole area of operation.

His Honour J. J. PAYNE: Thanks for your correction. Anyway, the point I really want to make is that when we examine the matter carefully we can see that as early as 1974 we had begun to take steps in that direction, in the direction of sending signals as to what direction we intended this country to go in respect of these kinds of businesses. So there should be no doubt as to the position of the Government, and I believe, Mr. Speaker, that this legislation is in the interest of this country socially, economically and even culturally, because as long as we allow this foreign element to raise its head to the disadvantage of our locals, we will have a situation where the whole cultural attitudes of our people, their eating habits and their whole outlook will change, and it is on those grounds that I lend my support to this legislation.

The question that the Bill be read a second time was put and resolved in the affirmative, with a unanimous vote as follows:

Ayes: Hon. P. M. Greaves, Hon. M. A. King, Hon. W. O. Franklin, Hon. H. A. Blackman, Hon. N. K. Simmons, Hon. Dr. D. G. Blackman, Hon. E. E. Greaves, Mr. L. L. Brathwaite, Mr. C. LeR. Trotman, His Honour J. J. Payne, Mr. R. L. Morris, Dr. E. A. Simmons, Mr. C. A. Neblett, Mrs. M. Barker-Welch, Mr. D. J. H. Thompson, Dr. R. C. Haynes, Mr. R. P. Byer, Mr. P. J. M. Miller, Hon. H. deB. Forde, Mr. D. A. C. Simmons, and Mr. O. S. Arthur-21.

On the motion of Hon. M. A. KING, seconded by Hon. W. O. FRANKLIN, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. L. L. BRATHWAITE in the Chair.

Mr. CHAIRMAN: The House is in Committee.

Clause 1 was called and passed. Clause 2 was called.

Hon. M. A. KING: Mr. Chairman, I had indicated that there were certain amendments which I proposed to move in Committee. Clause 2 is the first of those amendments. It affects the Long Title to the Franchises (Registration and Control) Act and we want to add to the Long Title the words "and for related matters".

I am moving that in place of the existing clause 2 the new clause 2 be substituted.

Hon. W. O. FRANKLIN: I beg to second that.

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

Clause 3 was called.

Hon. M. A. KING: Mr. Chairman, clause 3 is another of the new clauses to which I made reference and it sets out the purpose of the legislation before this Honourable House. I had indicated the details of it. I believe the amendments have been circulated to all Honourable Members, and I therefore move that clause 3 as amended stand part.

Hon. W. O. FRANKLIN: I beg to second that.

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

Clause 4 was called.

Hon. M. A. KING: Sir, clause 4 will be substantially what is clause 2 of the original amendment, but there is one minor change, apart from the fact that it is now clause 4 rather than clause 2, in the first and second lines of the original clause 2, the old clause 2 said this: "Section 2 of

the Franchises (Registration and Control) Act. . . etc." is amended. What I am moving is that that section should now read: "Section 2 of the principal Act. . ." so we are substituting the words "principal Act" for the Long Title of the Act

^N
With that amendment, I move that clause 4 as amended stand part.

Hon. W. O. FRANKLIN: I beg to second that.

The question was put and resolved in the affirmative without division. 5.00 p.m.

Clause 5 was called.

Hon. M. A. KING: Mr. Chairman, Clause 5 is clause 3 of the original Bill which is before us. <*

Subject to that amendment, I beg to move that Clause 5 stand part.

Hon. W. O. FRANKLIN: I beg to second that.

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

Clause 6 was called. **

Hon. M. A. KING: Mr. Chairman, now in relation to clause 6, the original Amending Bill had five clauses only. That means that clauses 6,7 and 8 are new clauses, but the new clause 6 is the original clause 4; so it will be necessary to move that clause 6 be now read a first time.

Hon. W. O. FRANKLIN: I beg to second that.

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

On separate motions of Hon. M. A. KING seconded by Hon. W. O. FRANKLIN, Clause 6 was read a second time and added to the Bill.

Clause 7 was called.

Hon. M. A. KING: Mr. Chairman, Clause 7 is now clause 1[>] of the original Bill. So as I have done in relation to clause 6, I move that Clause 7 be now read a first time. ^

Hon. W. O. FRANKLIN: I beg to second that.

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

*On the motion of Hon. M. A. KING, seconded by Hon. W. O. FRANKLIN, Clause 7 was read a second time and <**

Clause 8 was called.

Hon. M. A. KING: Mr. Chairman, Clause 8 is an entirely new clause as I had indicated in the second reading.

I now move that Clause 8 be read a first time. Hon.

W. O. FRANKLIN: I beg to second that.

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

On the motion of Hon. M. A. KING, seconded by Hon. W. O. FRANKLIN, Clause 8 was read a second time and added to the Bill.

Hon. M. A. KING: Mr. Chairman, I beg to move that Your Honour do now report the passing of one Bill in Committee with amendments.

Hon. W. O. FRANKLIN: I beg to second that.

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

On the separate motion of Hon. M. A. KING seconded by Hon. W. O. FRANKLIN, the Bill as amended was read a third time and passed.

THE PARISH BOUNDARIES (AMENDMENT) BILL, 1989

Order No. 3 was called - To move the third reading of a Bill to amend the Parish Boundaries Act.

Hon. P. M. GREAVES: Mr. Speaker, as was indicated earlier by the Chairman of the Select Committee, and I myself gave that indication today, the Committee met and concluded its work on the Parish Boundaries Act, and I want just to repeat for the benefit of Honourable Members that a new clause was included and that clause reads very simply:

"Clause 3. This Act shall come into operation on a date to be fixed by proclamation."

Also, Sir, there has been an amendment to clause 2, in that the word "revised" in reference to the map, because this is the revised map, is placed after the words "1987". I am merely making Honourable Members *au fait* with the various amendments that were made. Also, Sir, there were some amendments made to the Schedule in terms of St Peter, St. Andrew and St. James boundaries where the three parishes meet. That is only a cosmetic amendment. 5.10p.m.

In terms of using a road - as a matter of fact; it only makes a difference of a few feet in terms of the boundary line for those three parishes.

Amendments were made to the western boundary of St. Thomas and the Eastern boundary of St. James in a way that now the whole of Arch Hall and St. Thomas Parish Church and part of Molyneux are included in St. Thomas as it was previously.

Also, Sir, the St. George/Christ Church/St. Michael parish boundaries have been amended in a way that the South District and Lower Burneys and Hanson Plantation have been returned to St. George. So, too, St. David's Parish Church has been returned to Christ Church as, indeed, it should be.

Sir, having gone on the ground ourselves and done a field trip, we have found ways in which we could have this done and these are the amendments that have been made which I move be read a third time.

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

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

QUESTION TIME

Hon. P. M. GREAVES: Question Time, Sir. Mr.

SPEAKER: Question Time will now be taken.

Hon. H. deB. FORDE: Mr. Speaker, the Honourable Member for St. Thomas was called away and he has asked that the question be laid.

Mr. SPEAKER: Question No. 101.

Hon. P. M. GREAVES: In that case, Mr. Speaker, Sir, on behalf of the Minister of Health I lay the reply to Question No. 101, Sir.

Mr. SPEAKER: Well laid. End of Question Time.

SUSPENSION OF SITTING

Hon. P. M. GREAVES: Mr. Speaker, that brings us to the end of Government Business for today.

Now, I have already intimated to the Honourable Leader of the Opposition and the Honourable Member for Christ Church West and now to all Honourable Members that it is proposed that on March 13 we should want to start consideration of the Estimates. They have not yet been laid, Sir, so we will have to lay them well in advance of that particular time.

We are not proposing, Sir, to meet next week and, in any event, we should rather like the Honourable Members to have their copies of the Estimates in their hands for some period. To facilitate that, I am going to move the Suspension of the House until Friday when the Estimates will be laid and at that point then the Adjournment will be taken for Monday, March 13.

I now move that this sitting be suspended until Friday, March 3, 1989 at 12 o'clock noon.

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

The question that the Sitting be suspended until March 3, 1989 at 12 o'clock noon was put and resolved in the affirmative without division and Mr. SPEAKER suspended the House accordingly. 5.20 p.m.

RESUMPTION OF SITTING

Mr. SPEAKER: This sitting is resumed.

Before we get into the business of today, I am going to ask the Clerk to call the items which I think are necessary in respect of some items which we need to deal with before we get into the business of today and so I am going to ask that those items be recommitted for the purpose of giving notice of them.

ANNOUNCEMENTS BY YOUR HONOUR

Mr. SPEAKER: I am to announce that I am in receipt of a Message from the Honourable the Senate to the Honourable the House of Assembly:-

"The Senate desires to convey to the Honourable the House of Assembly our congratulations on the occasion of the 350th Year of the inauguration of your Honourable House. We also have the honour to invite your Honourable House to attend the Senate Chamber on Thursday, 9th March, 1989 at 9.45 o'clock in the morning to wait upon Her Majesty the Queen to present Addresses by both Houses of Parliament in celebration of the 350th consecutive year of Parliament in Barbados."

Hon. B. M. TAITT: Mr. Speaker, Sir, I hate to interrupt Your Honour but it seems as though the system is not functioning sufficiently well.....

Aside.

Hon. B. M. TAITT: Well you are hearing me but it was not turned on because I see signals that they did not hear what Your Honour said. Your microphone is either not turned on, Sir, or something but I am craving your indulgence, Sir. I saw signals that they had not been heard.

Aside.

Mr. SPEAKER: It seems to be quite all right

Hon. B. M. TAITT: Mr. Speaker, Sir, in due course I will seek leave of the House to respond to the Message which Your Honour has just read to the House.

PAPERS

Hon. L. E. SANDIFORD: Mr. Speaker, I am commanded to lay the Estimates 1989-90.

GOVERNMENT NOTICES

Hon. B. M. TAITT: Mr. Speaker, I beg to give notice of a Bill to grant a sum of money out of the Consolidated Fund and to appropriate the same for the service of Barbados for the year ending 31st March, 1990.

FIRST READINGS OF BILLS

On motion of Hon. B.M. TAITT, seconded by Hon. M. A. KING, a Bill to grant a sum of money out of the Consolidated Fund and to appropriate the same for the service of Barbados for the year ending 31st March, 1990 was read a first time.

ORDERS OF THE DAY

GOVERNMENT BUSINESS Mr.

SPEAKER: Order No. 4.

RESOLUTION TO APPROVE THE COMPULSORY ACQUISITION OF LAND AT ST. HELENS, ST. GEORGE, FOR THE CONSTRUCTION OF THE NEW ST. AUGUSTINE PRIMARY SCHOOL

Hon. H. A. BLACKMAN: Mr. Speaker, this Resolution seeks the approval of Parliament for the acquisition of land at St. Helens for the construction of the new St Augustine Primary School. This is part of the whole system of the IBRD and IDB Education Project and this is one of the new schools being built.

There were to be two parcels of land acquired, one for the construction of the school and one for the playing field but the parcel of land for the playing field has been delayed and, therefore, could not be encompassed in this Resolution because there is a delay somewhere, but in the meantime, we need this land urgently to build the St. Augustine School and that is why the Resolution is only for the acquisition of just over 5 000 square metres of land at St. Augustine.

Some time in the near future we will come back for the acquisition of the remainder of the playing field.

I do not think there is anything controversial about this and with those remarks I beg that this Resolution to acquire this land at St. Helens, St. George, for the construction of the new St. Augustine Primary School do now pass.

Hon. W. O. FRANKLIN: I beg to second that.

Hon. C. V. WALKER: Just a short comment. As the Minister said, this is part of the total acquisition of land for the school. The urgency, of course, is we have to demolish what was the old school building to complete the* construction which is going on.

The second part, as you stated, will be brought to this Honourable House in a rather short time and I just want to support this acquisition.

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

Hon. B. M. TAITT: Mr. Speaker, Sir, that brings us to the end of Government Business. However, earlier in the day Your Honour read a Message from the Honourable the Senate and we are now going to seek leave of the House to respond to that Message in the following terms, Sir. The Message reads as follows: 12.10p.m.

"This House has received with thanks the Message of the Honourable the Senate and the sentiments, therein and is pleased to accept the invitation of your Honourable House to attend the Senate Chamber on Thursday 9th March, 1989, at 9.45 o'clock in the morning to wait upon Her Majesty the Queen for the presentation of Addresses by both Houses of Parliament in celebration of the 350th consecutive year of Parliament in Barbados."

And we would invite Your Honour to dispatch this Message to the Honourable the Senate, Sir.

Mr. SPEAKER: With the concurrence of the House, that Message will now be sent on to the Honourable Senate.

ADJOURNMENT

Hon. B. M. TAITT: Mr. Speaker, that brings us to the end of Government Business for today and I should like to * move now that this House be adjourned until Thursday, the 9th day of March, 1989 at 9.30 in the morning.

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

The question was put and resolved in the affirmative without division and Mr. SPEAKER adjourned the sitting accordingly at 12.15 p.m.

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