

THE House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1991 – 96

HOUSE OF ASSEMBLY

Tuesday, June 16, 1992

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

PRESENT

His Honour L. A. WEEKES, G.C.M., J.P., (Speaker)
His Honour T. C. ESTWICK, B.Sc., LL.B., (Deputy Speaker)
Rt. Hon. L. E. SANDIFORD, B.A., M.A., (Econ.), J.P., (Prime Minister, Minister of Finance and Economic Affairs and Minister for the Civil Service)
Mr. H. deB. FORDE, Q.C., M.A., LL.B., (Leader of the Opposition)
Hon. B. M. TAITT, B.A. (Hons.), M.P.A., LL.B. (Hons.), (Minister of Health)
Hon. M. A. KING, Q.C., LL.B., (Attorney General and Minister of Foreign Affairs)
Hon. W. O. FRANKLIN, A.I.C., M.I.A.S., J.P., (Minister of Trade, Industry and Commerce)
Mr. H. A. BLACKMAN, B.Sc. (Econ.)
Mr. O. S. ARTHUR, M.Sc. (Econ.)
Mr. D. A. C. SIMMONS, Q.C., LL.M.
Hon. C. V. WALKER, (Minister of Education)
Mr. L. L. BRATHWAITE, J.P., (Chairman of Committees)
Hon. E. E. GREAVES, G.C.M., B.A., Ed.M., (Minister of Housing and Lands)
Mr. R. L. MORRIS, B.A., Cert. Ed.
Hon. D. J. H. THOMPSON, LL.B. (Hons.), (Minister of State, Ministry of Finance and Economic Affairs)
Hon. H. B. St. JOHN, Q.C., LL.B.
Mr. L. R. TULL, Q.C., M.A.

Mr. DeL. O. BRADSHAW
Dr. R. L. CHELTENHAM, Q.C., M.A., M.Sc. (Econ.)
Mr. J. O. TUDOR
Mr. G. W. PAYNE
Mr. R. C. EASTMOND, B.A., LL.B.

Prayers were led by Rev. Father Ivan Harewood.

Mr. SPEAKER: The House is in session.

MINUTES

Mr. SPEAKER: The Minutes of Tuesday, June 9, 1992.

Hon. B. M. TAITT: Mr. Speaker, the Minutes of the House of Tuesday, June 9, 1992 have been circulated and I believe they have been read. I beg to **move** that these Minutes be now confirmed.

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

Mr. SPEAKER: If there are no observations or corrections then let those Minutes stand confirmed.

PAPERS

Rt. Hon. L. E. SANDIFORD: Mr. Speaker, I am commanded to lay the Annual Report of the Caribbean Broadcasting Corporation for the year 1989.

Hon. D. J. H. THOMPSON: Mr. Speaker, I am commanded to lay a report entitled, Barbados: Reform of the Direct Tax System prepared in May 1992 by the Fiscal Affairs Department of the International Monetary Fund.

Hon. B. M. TAITT: Mr. Speaker, Sir, I am commanded to lay the Annual Report and Financial Statements of the Public Utilities Board for the year 1991.

GOVERNMENT NOTICES

Hon. B. M. TAITT: Mr. Speaker, Sir, I beg to give notice of a Bill entitled The Retiring Allowances (Legislative Service) (Amendment) Bill 1992.

FIRST READING OF BILLS

Hon. B. M. TAITT: Mr. Speaker, Sir, I beg to move that the Retiring Allowances (Legislative Service) (Amendment) Bill 1992 be read a first time.

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

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

Hon. B. M. TAITT: Mr. Speaker, this Bill which we just read a first time, I wish after consultation with colleagues on the other side, that this matter be dealt with today. It is a relatively small Bill. We have had discussions with the Leader of the Opposition before and copies will be circulated later on. I will discuss with the Honourable Members, but I am giving notice that we would like to finish it today.

ORAL REPLIES TO QUESTIONS

Hon. B. M. TAITT: Mr. Speaker, Sir, I beg to give notice that Reply to Parliamentary Question No. 28 is ready.

Hon. C. V. WALKER: Mr. Speaker, Sir, I would like to give notice that Reply to Parliamentary Question No. 43 is ready.

ORDERS OF THE DAY

SUSPENSION OF STANDING ORDERS

Hon. B. M. TAITT: Mr. Speaker, Sir, I beg to move that Standing Orders Nos. 6, 16, 18, 20, 42(5), 43 and 44 be suspended for the remainder of this sitting.

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

GOVERNMENT BUSINESS

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

ORDER NO. 6 – A BILL TO AMEND THE HEALTH SERVICES ACT, CAP.44

Hon. B. M. TAITT: Mr. Speaker, on the face of it, this is a very simple amendment to the Health Services Act, Cap. 44 in which we are seeking to provide in law the opportunity for the Governor-General to be able to agree to sign an Order and for us to be able to enter into reciprocal agreements between Barbados and the government of any other Commonwealth country and between Barbados and the government of any foreign country which would provide for reciprocity in matters relating to the provision of health services at health services institutions.

Mr. Speaker, the origin of this is an agreement which has been reached and signed between the United Kingdom and the Government of Barbados which initially dealt with reciprocity in matters of pension and social security. In some instances, social security is used as a broad generic term to include all those payments which are made by the public sector to citizens usually by way of pension or social security payments.
12.30 p.m.

The Treaty, Sir, had its origin in a discovery almost simultaneously by the Honourable Member for St. Michael South and myself some years ago, and I think other Honourable Members, where persons who had started the trek back from the United Kingdom after having spent many years in that place, were discovering they were at some disadvantage in relation to their social security payments paid in the United Kingdom.

Put very shortly, Sir, under the United Kingdom pension and social security arrangements, persons get what might be called a cost of living allowance on an annual basis. They discovered that the Government of the United Kingdom had, in fact, passed legislation which precluded persons who were living outside of the geographic United Kingdom from receiving any cost of living allowances which would have been annexed to their legitimate pensions over time. This meant that over a period of time a person who came to Barbados to live could find himself or herself at a disadvantage vis-a-vis persons living in the United Kingdom who had retired about the same time.

In the course of our enquiry into this, we discovered that there was in existence a treaty arrangement between the United Kingdom and Jamaica. In fact, it turned out to be the only one of its kind where the Jamaican Government had somehow negotiated with the United Kingdom Government an arrangement by which the cost of living allowance would be paid to persons who lived in Jamaica. Needless to say, Sir, the Right Honourable gentleman for St. Michael South who is the Minister responsible for National Insurance and who, at the same time, as the

head of Government, was able to put in motion almost immediately the negotiations for a similar treaty between Barbados and the United Kingdom.

I think it is fair to say that the United Kingdom had indicated very early that they were reluctant to open up a door they thought had been closed. But with some persistence and a lot of diplomacy Barbados was able in the end to reach an agreement with the United Kingdom by which the Treaty was signed. What it means is that Barbadians living in the United Kingdom are now able to come home to Barbados without any disadvantage accruing from their inability to get their cost of living allowances added to their pensions. This has been a bone of contention for many years. With the signing of this Treaty many Barbadians in the United Kingdom have felt comfortable now to retire to Barbados and live out their days in relative comfort.

You are aware, Sir, that a person under the National Insurance legislation in Barbados, a person who has been out of the country for more than 12 years, is not entitled to receive Barbados national insurance except in special circumstances. You are also aware, Sir, that persons who are receiving the one payment either in Barbados or some other territory are only permitted to receive one payment and ought not to receive payment of Barbados social security as well as social security in the United Kingdom.

It is obvious, Sir, that in many instances the hard currency which will come from the payments in the United Kingdom will translate into higher payments for those Barbadians who come home. Many of them would not retire to Barbados unless this particular Treaty had been put in place because they would obviously see a denudation of their social security payments over time.

We feel particularly proud of having been able to get the Treaty put in place because it is our understanding that the United Kingdom does not intend for any other countries to have any similar treaties. We are not able to speak to that with authority. We can only say that our High Commissioner to London and the Foreign Secretary in the United Kingdom signed some time in December the Treaty that brought these provisions into force.

As you are aware, Sir, international law and the system we have do not require that a treaty must be approved by Parliament before it comes into force. At the same time, in order for the law to have domestic effect in Barbados, it will be necessary to become part of the domestic law of the land. Steps to deal accordingly with the Treaty have already been taken. But, Sir, there is a provision which has been attached to the Treaty by way of a protocol. It is to that we now come to discuss.

The protocol, Sir, arose out of a recognition that if we were going to have reciprocity between the two countries

that it would be desirable to have, along with such reciprocity an equal reciprocity in matters of health. As Your Honour is aware, the National Health Service in the United Kingdom extends far and wide and covers a large proportion, indeed, all aspects of health care to the individual. It so happens that without any such system but because of historical development that health care in almost all of its ramifications is available to Barbadian nationals free at the point of delivery, if they so wish while they retain the right, of course, to choose private medicine. When we were negotiating the Treaty it then occurred that we should seek to put in place a protocol concerning health care and we should attach it to the Convention on Social Security which was concluded between Barbados and the United Kingdom. The instruments of ratification were exchanged on February 27, 1992 and the Convention of which I spoke a few moments ago came into effect on April 1, 1992.

What we are looking at today would be the Health Care Protocol. We discovered that it is not covered by the existing National Insurance and Social Security legislation here in Barbados. It is necessary for us to have an amending Bill that would make provision for reciprocity in matters relating to health services so that the Health Services Reciprocal Order to be signed by the Governor-General would bring into effect the Health Care Protocol with the United Kingdom. I think that although it is not absolutely necessary it is desirable that I give some indication of what the Protocol contains.

The Protocol says in effect, at the same time of the signing of the Convention on Social Security concluded between the Governments concerned, that they would duly authorise the following conditions to apply as part of the Treaty by way of a protocol. This would provide the residents in the territory of Barbados and the United Kingdom, including the Isle of Man, the Isle of Wight and all of these other territories, who during a temporary stay, and this is important in the territory of the other party, with immediate necessary medical treatment.

12.40 p.m.

The present situation is that if a Barbadian is travelling to the United Kingdom and falls ill while in the United Kingdom, that Barbadian, if taken to a United Kingdom hospital, would have to pay the going rate whatever that rate is. With the signing of the Protocol it means that that Barbadian will be given treatment as if he were a citizen of the United Kingdom and therefore he will have free access to the national health care in the United Kingdom.

I want to make the point, it is important that we make the point that it is for a temporary stay. In other words, if you leave here with cancer and you arrive in the United Kingdom they will know that it did not develop on the British Airways flight or the BWIA flight, as you were

going in. On the other hand, if you are passing through London or if you are in London on vacation and you fall ill, obviously with an illness which you did not know about you would be treated as though you were an Englishman who had fallen ill. Similarly, Barbadian medical facilities, including the polyclinics and all of the other areas of our hospitals would be available on the same terms and conditions as they are available now for a Barbadian who decides to use those facilities.

An Englishman therefore who comes down here for a 4-week holiday, as they are wont to do, under the tourism mechanisms which we have in place, who falls ill can go to the Queen Elizabeth Hospital and will be treated in much the same way as a Barbadian who goes to the Queen Elizabeth Hospital or he may go to the polyclinic at Oistins or the polyclinic at Sir **Winston** Scott in the same way that the Barbadian would and be so treated. It happens, incidentally, that this was occurring anyhow except for those persons who went to private doctors. When people turned up at the Queen Elizabeth Hospital they are given normal treatment or they used to be. We are taking steps to ensure that we get the same reciprocity in every respect with other countries so that persons who use our facilities will do as we have to do if we pass through New York. But that is another matter, Sir.

Article I of the Protocol defines medical treatment. It means in relation to the United Kingdom and to the Isle of Man treatment by services provided under national health legislation, administered by health authorities or by the Isle of Man Department of Health and Social Security respectively. In relation to the Island of Jersey hospital medical and nursing services including dental, ophthalmic and pharmaceutical services provided by the Public Health Committee of the State of Jersey, in relation to the Islands of Guernsey, Alderney, **Herme**, **Jethow** and Sark, as Your Honour know from your geography of not so long ago this is what constitutes the British Isles or used to. The United Kingdom of Great Britain and Northern Ireland, these are the...

Aside.

Hon. B. M. TAITT: I am being told, Sir, that you have had an even more immediate knowledge of these matters. I am being reminded that Your Honour would have not only read these things, as some of us did, but you have actually visited these place.

I might say, in passing, that when the representative from the Isle of Man came down here to the Small States Conference, Honourable Members might remember that they offered a gift to Barbados and that in fact the cheque for £11 000 which is resting in a below the line account as they call it is in one of the banks in Barbados waiting to be used as the Black Rock Polyclinic comes on stream. It was determined by both parties, the Isle of Man and Barbados

that we would set up a separate unit in that polyclinic which will be identified as a gift from the **Isle** of Man. I think it is £11 000, Sir. In relation to Barbados the Protocol means health services provided by the Ministry of Health.

A resident means, in relation to the United Kingdom and to the Isle of Man, a person who is ordinarily resident in the United Kingdom or the Isle of Man who holds either a valid United Kingdom passport, including a **passport** issued by the Isle of Man or as appropriate one of the following:

"a national health service medical card, in the case of Great Britain and the Isle of Man and a health service medical card in the case of Northern Ireland."

The rest of the Protocol deals with issues of identification. Article 2 deals with where a resident of either party needs immediate medical treatment during his temporary stay in the territory of the other party he shall be entitled on production of valid documentation to receive such medical treatment as is concerned for **clinical reasons** to be immediately necessary on terms no less favourable than applied to a person ordinarily resident in that territory. The authorities of that territory shall bear all costs arising therefrom apart from charges **normally** paid by residents of that **territory**. We make the proviso that the provisions of paragraph 1 of this Article do not apply to persons who go to the territory of the other party for the specific purpose of obtaining medical treatment under the Protocol unless the person seeking treatment is a member of the crew or passenger on any ship, vessel or aircraft travelling to or from or diverted to the territory of one of the parties and the need for the treatment arose during the voyage or flight. In other words, Mr. Speaker, if there is a British sailor who falls ill while at sea or a passenger on a ship who is an English **person** or from the Isle of Man or one of the aforementioned territories that person would be brought to Barbados and would receive medical attention free.

The rest of the Protocol is the usual matter defining who are the competent authorities, *et cetera*. Mr. Speaker what we seek to do in this Amendment is to allow through amending the Health Services Act, Cap. 44 the necessary legal facility to bring the Protocol into effect. Mr. Speaker, I believe it is a matter which would be acceptable to all Barbadians because as we all know one never knows when one is travelling how the ball is going to turn. Very often in recent times especially we have had situations where some of our people have left Barbados in **perfectly** good health and while travelling either on business or **pleasure** they have fallen ill.

We have not yet done any protocol with the United States because clearly we would have to do it perhaps

with 50 states and we do not propose, at this stage, to have any such protocol. In essence, Sir, because of the large number of Barbadians in the United Kingdom who are likely to be coming back to Barbados for one reason or another, we felt that the original convention and this protocol form a good part of the social legislation that is necessary to make life comfortable. Mr. Speaker, I just want to draw to the attention of Honourable Members that the version which I read and the reason why I took some time to articulate it specifically that the version which is before the House now is slightly different from the circulated version. In the circulated version Section 2 was drafted very strangely. If you look at Section 2 you will see that it talked about "any agreement with the Government of any other Commonwealth country", *et cetera*. What we have is "give effect to any agreement between Barbados and the Government of any other Commonwealth country." 12.50 p.m.

I am saying that the version which I have read out is a slight improvement of what is there. The way it was drafted originally would seem not to make as much sense as is necessary. I will just read, slowly, so Honourable Members will see what I am saying:

Section 2 now reads: The Governor-General may by order, published in the Official Gazette, give effect to any agreement between Barbados and the Government of any other Commonwealth country or the Government of any foreign country. We are just simply making it tidier.

Mr. Speaker, I do not believe there is any controversy in this but I will certainly answer any questions which Honourable Members may have and I beg to move that this Bill be now read a second time.

Hon. W. O FRANKLIN: I beg to second that and reserve my right to speak.

Hon. H. B. St. JOHN: It appears to us on this side that the Honourable Minister was really in difficulty in introducing this measure. At first he started off dealing with the question of pensions and the reciprocal enforcement of the pension rights between the United Kingdom and the Government of Barbados and when we looked at the Bill, it became clear that in so far as this Bill is concerned, it empowers the Governor-General, by Order, to approve an agreement with respect to health services.

It is not too difficult to understand the position of Barbadians who have been living in the United Kingdom for some time and their rights under the United Kingdom health service scheme. There are vested rights that you have after making contribution under the social services provisions in the United Kingdom. Regrettably the rights

that one gets in Barbados under our social security scheme are not as extensive as those in the United Kingdom in relation to health. We do pay a levy under the Health Services and Social Services legislation in Barbados but the rights which derive from the Health Service Levy are not set out in a specific way as they are in the United Kingdom. I am wondering therefore, in those circumstances, what would be the basis for the reciprocity. Are we going to have it that in Barbados, people are going to be able to take advantage of the health services in Barbados and there is going to be some computation by the Barbadian authorities as to the value of the services rendered and that be used as the basis of reciprocity.

I would have thought that Barbadians who retire abroad and who come back home are in any event entitled to take advantage of the health services that we have here, certainly in the form of utilisation of the services of casualty which are free, utilisation of the services of the polyclinics which are free, and to use the hospital's facilities in the public wards which are free. It would only be in what is called the fee paying areas of the health services in Barbados that there will be a basis for reciprocity. So we over here are a little bit uncertain as to how the reciprocity provisions will work.

We understand now quite clearly the provisions with respect to pensions because our Social Security legislation provides for specific pension benefits. United Kingdom legislation provides for specific pension benefits so therefore there is a basis for reciprocity. Despite the efforts of this side, we were not able quite to clinch the definite and designated health service benefits so as to provide reciprocity. It is quite clear the Government has abandoned any concept of a health service in which one is entitled in return for the levy to be entitled to specific services at no payment of fee at the point of delivery. We are worried about that.

This is also, Sir, a good occasion. Whenever we debate health we have to take advantage of the opportunity to debate other aspects of health because we don't get the opportunity generally to debate health. Therefore in the time at our disposal now, Sir, we have to debate some other aspects of health. We must know for instance from the Minister ...

Hon. B. M. TAITT: On a point of order, Sir, while the Honourable Member is free to discuss health at length, to say that we do not have the opportunity would not be valid because the Honourable Member knows that one of the major debates we have had, and the Honourable Member sitting next to him can tell him, that we have debated health in this House at length. I do not wish the Honourable Member to mislead the House inadvertently or otherwise.

Aside.

Hon. B. M. TAITT: No, no, proceed to discuss the entire health thing.

Hon. H. B. St. JOHN: I want to debate the St. Joseph Hospital. I want the Honourable Minister to tell the public of Barbados when they are going to open the St. Joseph Hospital. Because, quite frankly, I want the Honourable Minister to understand clearly and let there be no doubt in the mind of the Government that the token services of one day a week, or 2 days a week or 3 days a week by one officer or 2 officers or 3 officers to the general public in the north, in whatever medical area it is, is an inadequate level of service, having regard to the fact that the latest information coming to Honourable Members of this House is that the cost of the St. Joseph Hospital to the Treasury of Barbados has been well in excess of Barbados \$15 million.

We know that there is a Board that has been created to run the St. Joseph Hospital. We would like to know, where are the Board reports?

Aside.

Hon. H. B. St. JOHN: Don't mind the debate then. We got further information since then. We have got up-to-date information now and the basic position is that there is a Board. The Board reports must be brought to this House because it is public money that has been used to refurbish the Hospital. We would like to know who were the people, who were the contractors. What kind of tendering system was in operation down there for the supply of materials and so forth for the refurbishment of the St. Joseph Hospital. That is very important, exceedingly important because it is public money. There is no aspect of public expenditure that is not the subject ...

Hon. B. M. TAITT: On a point of order, Sir, I came into this House and gave the Honourable House an account of all the money that was spent on St. Joseph. I did. The record shows.

Asides.

Mr. SPEAKER: I am seeing two Honourable Members on their feet.

Certain remarks made by Honourable Member for Christ Church South and the Honourable Member for St. Michael West were ordered to be expunged from the record by Mr. SPEAKER.
1.00 p.m.

Hon. H. B. St. JOHN: I checked this morning very carefully as to whether there are any reports from the

Board. Sir, I believe that we are going off our heads in this country because people do not seem to understand.

Aside.

Hon. H. B. St. JOHN: Sir, we do not seem to understand that when you vote money in Parliament of the magnitude of millions of dollars, whether it be \$10, \$11, \$12 or \$15 million, that is a very serious thing and that Parliament must periodically be brought up to date not by any statement of the Minister. I want accounting reports because the Minister will only give Parliament statements that are prepared within the department. As the former Member of St. John used to say in all of his wisdom and long experience in public administration: "Sometimes you have to have a policeman to watch the policeman." Therefore, it is very important that we know clearly.

There is a lot of information that has come to Members of this House in respect of the wastage of money at the St. Joseph Hospital. The general opinion is that there has been wastage at the St. Joseph Hospital. Government money has been wasted down there. They say that the tendering system was not in accordance with the financial regulations of Barbados and it is no answer to say...

Hon. B. M. TAITT: On a point of order, Sir. I am not letting that pass, Sir. I state categorically that all that has been done at the St. Joseph Hospital has been done under the aegis of the Minister of Health and Permanent Secretary in the Ministry of Health and the Public Accounts Committee can call the Permanent Secretary on this. But all that has been done so far has been done under the aegis of the Ministry of Health and the Financial Administration and Audit Act. That is what I am stating categorically, Sir.

Hon. H. B. St. JOHN: The Honourable Member will know that there is a gap in the Financial Administration and Audit Act of Barbados and the expenditure of public money by a statutory board is not subject to the same tendering procedure.

Hon. B. M. TAITT: On a point of order, Sir. All of the renovations at the St. Joseph Hospital have been done under the aegis of the Ministry of Health and not under the aegis of the Board. When I brought the legislation for the St. Joseph Hospital's Board, I gave a full account of all of the money spent on all of the programmes. The Honourable Member is suggesting that the Statutory Board has spent money and I am telling the House, as I did during that debate, that is now a matter of public record.

Hon. H. B. St. JOHN: The Honourable Member protests too much. The point is, Sir, that the only accounting that is done once you have a board...

Aside.

Hon. H. B. St. JOHN: Look, Sir, we must get this clear. This is a matter of great principle because the community is being called upon to make extraordinary sacrifices, and civil servants in particular, in the form of reduction of salaries. Government expenditure, therefore, has to be scrutinized most carefully and nobody is above the law of Barbados not as long as I am in here. I am going to bring everything that has come to me on a solid business basis in here. Nobody is above the law. The Minister of Health cannot get in here and say that they have accounted because all of the expenditure has taken place under the auspices of the Minister and Permanent Secretary of the Ministry of Health. I say that is the first bit of evidence of irregularity because if you vote the money in here for the Hospital to be spent by the Hospital Board, the Minister of Health has no right of interfering in how the money is spent. So that you have confessed in here that you are part and parcel...

Hon. B. M. TAITT: On a point of order, Sir. I have done no such thing. The Honourable Member through his own ignorance is misleading the House. Yes, I said ignorance. The Honourable Member does not remember that the Hospital Board was appointed long after the renovations at the St. Joseph Hospital were embarked upon and I have sent for the record. I will bring the record to the House so the Honourable Member will be aware.

Hon. H. B. St. JOHN: I remember that in the Estimates debate we raised this matter and we categorized the St. Joseph Hospital as a waste of public expenditure. The Honourable Member in his reply was so bold as to say that he would do exactly the same thing all over again and they would do precisely the same as they did in the past. They would buy the Hospital. They would waste the money. He did not concede wastage. They **would** spend the exact amount of money. Therefore, this is my opportunity to reply to that reply and I am not going to give it up. The Honourable Member must understand that a full account of the expenditure at the St. Joseph Hospital should be brought to this House.

Aside.

Hon. H. B. St. JOHN: It is the same category. I am really astounded that the Honourable Member is going to tell us in here that, since the passage of the Act relating to the St. Joseph Hospital in creating the Board, no public money has been voted for renovations at the St. Joseph Hospital. That is the full effect of what the Honourable Member has said. The Honourable Member got up in here and told us that he wanted to make it very clear that all of the expenditure in relation to the renovations took place before the Board was created in rebuttal to the point that I made that the Honourable Member by getting in here and

confessing that it was done under the aegis of the Minister of Health and the Permanent Secretary he confessed to irregularity.

Hon. B. M. TAITT: Sir, on a point of order. I ask that that be struck. I have said no such confession.

Mr. SPEAKER: Two members are on their feet.

Hon. B. M. TAITT: Sir, on a point of order. The Honourable Member is saying that I confessed to an irregularity. I object to that. I confess to no such thing and I believe that should be struck from the record.

Mr. SPEAKER: The point has been made.

Hon. H. B. St. JOHN: Sir, the Honourable Member confessed in here and he got up and **interrupted** me. If the Honourable Member will just keep quiet, he will understand the gist of what I am saying. I am saying quite clearly and positively without a shadow of doubt that money was voted by Parliament to be spent as a subvention to the St. Joseph Hospital's Board and the only accounting that would take place in those circumstances would be that the Ministry of Health would **transfer** the money to the Board. That is the only monthly or quarterly accounting that is done.

Hon. B. M. TAITT: On a point of order, Sir. Such monies have been voted for this financial year and the accounting from the Board that he wishes will come. I am saying that the renovations that were done are at Page 4575 of Hansard which I gave to this House, Sir. When we had the St. Joseph Hospital's Bill 1989, I gave an account of the renovations and the amount to be spent. I have subsequently in the Estimates during this year and the record will show that I gave an account of the monies. I will respond to the Honourable Member in due course and each time when he makes that comment I will have to get up on a point of order, Sir.

Hon. H. B. St. JOHN: I will be repeating it, Sir. So the Honourable Member can be prepared to get up regularly because the position is clear. The Honourable Member talked about 1989. We are talking about 1990-91 and 1991-92. This is 1992-93 financial year. That is why I said the Honourable Member confessed just now.
1.10 p.m.

The Honourable Member had no right interfering with the administration of the public funds for the year 1990-91 or the year 1991-92, or as the Honourable Member is saying here, that the renovations were all complete prior to 1989. If that is so, what the Honourable Member must give an account to the House and to the Barbadian public on is how is it that your renovations have been fully complete as long ago as 1989 and now, 1992, the Hospital is not open.

Account for that, that the Honourable Member's Ministry spent the public's money, completed the renovations by 1989 and now in 1992 the Hospital is still not open, other than this piece of tokenism. It is an insult to the intelligence of Barbadians for the Honourable Member to get in here and say they are going to activate the St. Joseph Hospital and run three little clinics an hour per week.

I remember the Honourable Member for Christ Church West bringing to this House the serious situation that staff had been paid at the St. Joseph Hospital for doing nothing, and the Honourable Member is going to say here, when we are in the grips of the worst financial crisis we have had, that we must sit down in here and take that administration? We are not going to sit down in here and take that maladministration. It is a shocking shame that the Honourable Member should come in here and say that in 1989 when he introduced the Bill all the renovations were complete. That is not correct, and as parliamentarians we must do our duty.

Hon. B. M. TAITT: Mr. Speaker, on a point of order. I never said that. The Honourable Member is importing words into my speech that I never made. The Honourable Member cannot get up and constantly do that. He is constantly slipping in sentences and saying things I have never said.

Hon. H. B. St. JOHN: Sir, I think that my point has been made and reinforced and the more the Honourable Member gets up the more he will confirm what I have said, that there has been a spate of irregularities at the St. Joseph Hospital. I say it, and I want to repeat it, that money has been voted for a Statutory Board and a Minister of Health nor the Permanent Secretary, except in so far with respect to the Permanent Secretary he is a member of the Board, or he is there in his capacity of ensuring the financial regulations are carried out, he has no right to interfere. Once money has been passed over from Parliament, you are *functus officio*, so do not interfere. Do not tell the people how to spend the money. That is one of the responsibilities and one of the disabilities of being a Minister, that you carry the responsibility but not control. That is our system, so as you interfere you are breaking the rules.

This is the point we must make clear, that is where there is a defect in our administrative scheme, because the Statutory Boards in Barbados should be made to report very regularly to Parliament with respect to the expenditure of funds granted to them. The Public Accounts Committee has a clear responsibility with respect to that. I have searched all the records in here. I have checked with the Honourable Member for St. Peter, who has an interest in this matter, and we cannot find any report from the St. Joseph Hospital Board. We have looked, we cannot find it.

the Clerk of Parliament has not been able to help us, so a report is meaningless if there is nothing going along.

I just want to summarise, Sir. Over \$15 million has been voted for this Hospital and we do not know how this \$15 million has been spent. I am a member of the public and I am entitled to know.

Aside.

Hon. H. B. St. JOHN: That is all right, if I have been sleeping while you told Parliament. Well, if you told Parliament, I want to know who were the contractors for the sewerage scheme. I would like to know when tenders were invited and in which newspaper, in Barbados or anywhere in the world, the tenders for the design, the execution of the repair of the sewerage scheme at St. Joseph Hospital appeared. I want to know who tendered for the supply of materials down there. All of those things I want to know, because I am entitled to know. This House is entitled to know in respect of each year how the sums appropriated were actually expended. We are entitled to know that and those are fundamental matters we want to deal with, Sir.

Mr. H. deB. FORDE: Mr. Speaker, I intervene just to make the position of the Public Accounts Committee in relation to the expenditure of funds in any Government Statutory Board or any Ministry of the Government very clear, and specifically on the matters that have so far surfaced in the debate.

I have summoned five meetings of the Public Accounts Committee. I have been present at all 5 meetings and we have had a quorum only for one meeting. I am placing it on the record of this House, Sir, so that my position will stop being misrepresented by some people. We have summoned 5 meetings of the Public Accounts Committee so far, 4 were aborted, I attended all 5, the Honourable Member for St. Peter I think attended 2, the Honourable Member for St. Michael East attended 2, the Honourable Member for St. Philip South attended one. I do not recall other Honourable Members, but I would say that if the Public Accounts Committee is to investigate the maladministration at the St. Joseph Hospital, the members of the Committee will have to come to meetings of the Committee.

Hon. B. M. TAITT: On a point of order, Sir. The Honourable Member just said "if the Public Accounts Committee is to investigate the maladministration at the St. Joseph Hospital..." The Honourable Member is a lawyer and knows that the use of the word "the" in that context is making a statement that there is maladministration at the Hospital. The Honourable Member may think that there is, he may hear that there is, but I do not expect him to speak

of it in those terms. If he is saying he will investigate any maladministration, I think that is reasonable, but he knows that.

Mr. H. deB. FORDE: Sir, like the Honourable Member for Christ Church South, I have had information which will go before the Public Accounts Committee and if the information is proven to be correct, I will report, as the Public Accounts Committee will report here, and we certainly will be asking the Permanent Secretary as the Accounting Officer to come before the Committee in respect of those funds which were granted to the Ministry of Health for the running of the St. Joseph Hospital. I certainly will summon the Chairman of the Board in respect of funds, and if the Chairman is not prepared to come before the Committee I will summon the Permanent Secretary, if necessary the Minister, because the Minister has said it was under his aegis that those funds were expended, and the Minister can be told that I would expect the Minister as a Member of the House to come before the Committee if necessary to explain why his departmental heads have not been administering the funds voted by Parliament in accordance with the Financial and Audit Rules, if that is the evidence before this Committee.

Like the Honourable Member, I am concerned about the manner in which public funds are not being administered in such a way as to get value for money. Mr. Speaker, one of my regrets that the Public Accounts Committee has not had a quorum is because we had the very valuable advice from the retiring Auditor General, as well as from the Auditor General of England, the Deputy Auditor General from Trinidad and Tobago and the Deputy Auditor General from Canada that our Acts are defective. In their jurisdictions, in that Statutory Boards such as the St. Joseph Hospital Board are audited by the Auditor General. A report is laid in Parliament and is considered by their Public Accounts Committee. Dissatisfaction will continue to exist unless we improve our procedures and unless there is full accountability in respect of the expenditure of Government funds.

1.20 p.m.

I am satisfied that the tendering system in relation to several contracts in some of these Boards has broken down completely. It seems to me, from all the information I have had to date, that the St. Joseph Hospital Board is one such institution. I will be investigating who was paid for interviewing whom and where and what services were rendered for these types of transactions. I wish to clarify the position of the role of the Public Accounts Committee, since its functioning has been brought into question, and I am saying publicly that I have written to the Clerk of Parliament asking for the Committee to be summoned. The Committee will meet next Monday in this House at 2 p.m.

The St. Joseph Hospital will be one of the Boards I will be recommending to the Committee that we should investigate very early in this session.

Hon. B. M. TAITT: Mr. Speaker, Sir, this debate which I came down here to do was for the Protocol of reciprocity. Had I been sitting in the Opposition, and bearing in mind that I would have no particular argument with the principle of reciprocity between the United Kingdom and Barbados, I might have been tempted, too, to do what the Honourable Member for Christ Church South has done. He is extremely good at making bricks with straw. He makes bricks with straw and he makes bricks without straw. For a moment as he was going on I wondered for a moment what I had not done but I realise that it was in fact an opportunity for the Honourable Member to speak about the St. Joseph Hospital. I do not hold that against him, Sir. It is only when in that moment he ceases to allow himself the luxury of remembering accurately that I take issue with him.

Sir, when we passed the St. Joseph Hospital Bill at a meeting of the House, Tuesday December 12, 1989, that was a time when I brought the Bill in here and gave a full and complete picture of what had occurred with regard to the St. Joseph Hospital. That can be found on pages 45, 76-87. All of those pages were taken up with the report on the St. Joseph Hospital. So when the Honourable Member sought to suggest in his opening comments that there had been no accounting for the St. Joseph Hospital to this House I lay this information to demonstrate that is not accurate.

Secondly, Sir, during the Estimates of 1992, the Honourable Member for the City raised question about the St. Joseph Hospital and, egged on by her colleagues, the Member for Christ Church South and to a less extent, the Member for St. Thomas, she asked all kinds of questions and responses were made as I have checked in the Debate of this year's Estimates. They can be found between pages 1714 and 1726. I do not wish to bore the House with repetitions but to say that during the time in between I have given detailed information outside of this House about what is going on at St. Joseph Hospital.

On the question of the Statutory Board and the allocation of funding, the Honourable Member knows that if a project is begun in a Ministry and that project is a continuing project that the funding for that project continues along the same source that it had at the very beginning until the project comes to an end.

Hon. H. B. St. JOHN: The Honourable Member is imputing knowledge to me that I do not have. I know that a Board is responsible for a particular area of government

activity. Funds are voted here by way of subvention to that Board and the Board is responsible for it.

Hon. B. M. TAITT: Sir, that is true on the face of it, but the funds were not voted for St. Joseph Hospital Board. The point I am making is that the Honourable Member knows that it was a project. The renovation and the refurbishing of the St. Joseph Hospital was a project and the Honourable Member knows that there are projects, for example projects for the Geriatric Hospital, which are administered from the Planning Unit of the Ministry of Health and which are supervised in terms of financing and fall within the Ministry of Finance and Economic Affairs. The Honourable Member who has been a Minister of Finance, albeit not the best there ever was, knows at least that and he knows about project financing. The Honourable Member chooses to give the impression that there is some skullduggery going on at St. Joseph Hospital.

Hon. H. B. St. JOHN: On a point of order, Sir. I am making that charge of skullduggery, not impressions.

Hon. B. M. TAITT: Use of language! The Honourable Member chooses to make a charge but, Sir, as a lawyer he knows that a charge is nothing more than a charge and sometimes when brought in Court are held to be vexatious. That is frivolous and vexatious charging that he is doing. The Honourable Member is a lawyer of long standing. He is a much better lawyer than he has been a Minister of Finance and he knows that a charge can be frivolous and vexatious. The Press in this country has pursued the St. Joseph Hospital with a meticulous and in some times pristine meticulousness. The Honourable Members over there know the truth and therefore the Honourable Member is going to bring it before the Public Accounts Committee. It is my hope that he will do it as a matter of urgency. I challenge the Chairman of the Public Accounts Committee to bring the St. Joseph Hospital within his **ambit** as a matter of great urgency and allow the rumours which have been put out about the St. Joseph Hospital to be brought to a fitting conclusion, one way or the other.

The Honourable Member asked for example about the sewerage project. The St. Joseph Hospital Sewerage Project was allocated. I do not now have the information to hand. It cost about \$900 000 and it was supervised by the manager of the South Coast Sewerage Project and the contract was given to a company in Barbados which is the only one of its kind, from what I understand, which will be well known to the Honourable Member for Christ Church South. I do not remember the name of the company but they are the only sanitary engineers capable of the project and the way in which it was **tendered** was by letter of invitation. The Honourable Member knows when he said he looked up the newspaper and he never saw it, that tendering under the rules of the Act is by letters of invitation. I am stating that there were letters of invitation.

The Honourable Member may have been speaking to the gallery, if there was a gallery.

1.30 p.m.

The Honourable Member knows he is not going to be able to frighten me with the use of language when it comes to the law. The Leader of the Opposition surprised me that he would have attempted to slip in the word "the" to give the impression that there is maladministration. The facts are, Sir, that the Permanent Secretary in the Ministry of Health has retained until 1992 responsibility for the works that were taken on when St. Joseph Hospital had no Board. Those works I articulated in this House before and to the best of my knowledge I will recollect again.

We have put in a completely new sewerage system in the Hospital. We have refurbished completely the surgical wards and the medical wards. We have refurbished completely all of the operating theatres. We have completely redone the grounds. We have put on a roof. We have built a new mortuary. We have built a new laboratory. We have done all of the works that can possibly be done. There are 2 aspects of the works which remain to be done, the completion of the geriatric wing of the Hospital and the completion of a nurses and doctors' lounge.

Honourable Members will remember I came to this House and indicated that we would be required to hold strain at St. Joseph Hospital. When the Honourable Member jumps up and says he has seen no reports, he must know. He has seen no reports...

Aside.

Hon. B. M. TAITT: The Honourable Member must know that St. Joseph Hospital was required to stop activity because we ran out of money. The country did not have enough money and on **recommendations** of the Honourable Members over there, the Leader of the Opposition and company, and the former Leader of the Opposition, had said that if you want to cut back on public spending, St. Joseph Hospital was one of the places. Now we have held strain at St. Joseph the same Honourable Members are coming in here talking about if we have finished the Hospital why we do not open it. You think that anybody is going to frighten this Honourable Member with that kind of thing?

Aside.

Hon. B. M. TAITT: They are walking about telling everybody: "They have finished the Hospital and **cannu** open it." These honourable gentlemen are walking around giving the impression and the Honourable Member for St. Peter has not spoken in this debate because I have told him that I wish him to ignore those Honourable Members

over there as he does with most of them, and do not let his constituents suffer the fate of some of the people over there. That Hospital is going to be of tremendous benefit to the Honourable Member.

Sir, it hurts me that there was a constituent of the Honourable Member who lives on the same road as that Hospital. That lady died of an asthmatic attack. If the St. Joseph Hospital had been functional chances are that she would not have died because dying from an asthmatic attack because you are not able to get the requisite treatment at the time is highly unusual and unlikely.

Hon. H. B. St. JOHN: On a point of order, Sir. Is the Honourable Member telling the House that \$15 million is justified because one person had an asthmatic attack?

Mr. SPEAKER: That is not really a point of order. That is a question.

Hon. B. M. TAITT: Sir, the Honourable Member talks of \$15 million with a certain amount of "chestiness".

Mr. SPEAKER: If I said it was not a point of order I do not think you need *to*...

Hon. B. M. TAITT: In the course of his speech, Sir, he mentioned \$15 million. I have given an account of the \$12.3 million which included the purchase of 22 acres of land for the Hospital.

Aside.

Hon. B. M. TAITT The Honourable Members cannot negate the fact that we have had international valuers who came in and said that the property – I am surprised that a real estate agent who I have a lot of respect for, is going to make the comment now.

Mr. SPEAKER: Real estate agent?

Hon. B. M. TAITT: Yes, Sir.

Mr. SPEAKER: I do not see any in here.

Hon. B. M. TAITT: No, Sir. You would not see them, Sir.

Mr. SPEAKER: I see all Honourable Members.

Hon. B. M. TAITT: He is an Honourable Member too, Sir, but he is a good real estate agent. That is why he shocked me when he said it was not worth it. I am putting it to him now that the value...

Aside.

Hon. B. M. TAITT: All right, Sir. I withdraw "real estate". I made a tactical error. I assumed he knew something about value so therefore he has just demonstrated that when he said it is not worth it we could ignore him because he has no knowledge in that field. The fact is that the St. Joseph Hospital, now to be **used** as a system by almost anybody, could not be put in place for less than \$50 to \$60 million.

Mr. DeL. O. BRADSHAW: On a point of order. I just want to put the record straight. I do have knowledge in the area of valuations, Sir.

Hon. B. M. TAITT: But how do you know I am addressing you?

Mr. DeL. O. BRADSHAW: I am telling you that just for the record.

Hon. B. M. TAITT: Sir, I do not know why the Honourable Member got up. I have not mentioned the Honourable Member. Nobody has ever heard of the Honourable Member as a valuer and he gets up and puts in the record that he is a valuer of real estate. I have never seen anything like this.

Sir, the point is that the St. Joseph property has been enhanced....

Asides.

Mr. SPEAKER: Continue.

Hon. B. M. TAITT: Mr. Speaker, what I find unacceptable is any attempt to link the St. Joseph Hospital with waste. We have a rationalisation study going on in this country at the moment out of Northwestern University. One of the preliminary things which they said is that the location of the St. Joseph Hospital and the plans which we have for it are one of the better things they have seen in policy.

Mr. Speaker, let me tell you something. At this moment there is in Barbados a plastic surgeon staying at the Royal Pavilion who came down to Barbados to have discussions and negotiations with a view to bringing half of his practice from the United States to the St. Joseph Hospital. The point is when that Hospital is functional, I put it to this Honourable House that it will not only provide a service for the people of the North, but it will be an opportunity to earn valuable foreign exchange for Barbados in health tourism. When we have the geriatric cum rehabilitation going at the St. Joseph Hospital this is going to be an invaluable property for Barbados.

The Honourable Member is talking about \$15 million. Fifteen million dollars for what we have at St. Joseph

Hospital is chicken feed. The Honourable Member is trying to give the impression that \$15 million is excessive when they spent \$110 million on a central bank. If you really want to talk about how we get into this position we are in we have to look at the way in which the Barbados Labour Party Government spent the money...

Mr. SPEAKER: But I do not want us to get into an economic debate.

Hon. B. M. TAITT: They refused to buy the St. Joseph Hospital. Fifteen million dollars in relation to what we have spent in this country and what we had found - I invited the Honourable Members before and I invite them again to go and see the St. Joseph Hospital. I stand by what I have said that given the opportunity and the projections which I have seen for the Hospital if I had to do it I would do it all over again.

Asides.

Mr. SPEAKER: May I have some order, please.

Hon. B. M. TAITT: Mr. Speaker, this is an attempt to turn a debate that is a positive for the people of Barbados by way of this protocol by these diversionary tactics. They have accused the Government of not having any imagination. They have accused the Government of not doing anything. When the Government comes in here with a piece of legislation which speaks to one of the good social programmes between the people of Barbados and the people of the United Kingdom, when we come in here with legislation that is addressing a felt need by those Barbadians who lived in the United Kingdom and who have come back to Barbados because Honourable Members on that side are unable to find any fault with the legislation, they seek to have diversionary tactics and turn this into a St. Joseph Hospital debate which has already occurred and which will occur again. Nothing they say can deviate from the efficacy of this legislation which we have brought and more particularly the results which this legislation will bring. The people of Barbados will benefit and especially those people who have been to the United Kingdom and who are in the United Kingdom and who, by their coming home in large numbers as retirees and the receivers of Social Security payments out of the United Kingdom will help to build and strengthen the base from which we reap foreign exchange.

1.40 p.m.

This is a piece of legislation which was long overdue and we are very proud to be associated with it. We know that the other Honourable Members over there when they talk to their constituents who come back from England will all agree and have all agreed that it is good legislation. We accept that they have to find some diversionary tactics. But I will allow them, Sir, to use the St. Joseph Hospital as any political football. And I will say this, that the clinics which

have started quietly at the St. Joseph Hospital, those clinics in internal medicine and the clinics in obstetrics and gynaecology have already proved their worth and have sustained us in the view that the people of the north will be exposed to a higher quality of health care with the impending establishment of the St. Joseph Hospital.

I have said before that the St. Joseph Hospital is not a sometimes thing that is going to be opened for a week, or a month, or a year. When it opens we expect it to open for all times. If we have had, because of the financial situation to delay its opening, it is nothing to be ashamed of. We have been required to delay a number of things. Therefore I am not going to allow anybody to bludgeon me into feeling embarrassed about the St. Joseph Hospital. I invite the Honourable Members to come and see what a beautiful and magnificent thing has been wrought in Ashton Hall, St. Peter.

I am grateful to Your Honour.

Mr. SPEAKER: Before I put the question for the Second Reading I just want to remind Honourable Members that inasmuch as I felt a little bit unhappy this morning, I think one should still remember the Rules as they are, in the House. Rule 38:

"When the Speaker or the Chairman rises during a debate any Member who is speaking then or offering to speak must resume his seat."

I think one should remember that, because these are the rules by which we tend to make our debates much more comfortable.

The second point is that I think one needs not complain too much about a Bill because a Bill cannot be confined, especially if you are dealing with an Act it cannot be confined very often to the specifics of the particular Bill. I will always give an opportunity for a widening of the debate. But I hope Members will not take advantage of that widening but stay very close to the substantive resolution.

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

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

COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

Clause 1 was called and passed.

Clause 2 was called.

Hon. B. M. TAITT: In moving that Clause 2 stand part I should just like to make sure that we have the version which is before the House and it reads, clause 2, the Health Services Act:

"In this Act referred to as the principal Act is amended by inserting therein immediately after section 15 the following new section:

reciprocal agreements

15(a) the Governor-General may by order published in the Official Gazette give effect to any agreement between Barbados and the Government of any other Commonwealth country or the Government of any foreign country providing for reciprocity in matters relating to the provision of health services at health services institution."

I beg to move that clause 2 stand **part**.

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

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

Clause 3 was called and passed.

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

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

Hon. B. M. TAITT: Mr. Speaker it is so close to our regular hour I think we could take lunch now, Sir. I beg to move that this House be...Mr. Speaker in light of the...Mr. Speaker, so Your Honour will understand what is happening, we had a piece of legislation which we wanted to work on today but the Honourable Members are not ready and we do not think that we should push to go through.

Aside.

Hon. B. M. TAITT: Sorry, Sir, I withdraw not ready. I do not mean it in a pejorative way. The Honourable Members have indicated that they would rather study it

some more. Honourable Members have indicated that they would rather study it some more. Is that correct?

1.50 p.m.

Sir, let me start from scratch. I gave notice of a Bill today which we had hoped could be finished today. Honourable Members have indicated that they would like to have more time to study it and we agreed that that is reasonable in all the circumstances. So, Sir, I beg to move that question time be taken.

QUESTION TIME

Mr. SPEAKER: Question time.

Question No. 28: The Honourable Member for St. Andrew. He is not in his place and I will ask the Honourable Member to lay that reply on the Table.

Likewise question No. 43, the Honourable Member is not in his place as well so I will ask the Honourable Member to lay that reply on the Table as well. That brings us to the end of question time.

SUSPENSION

Hon. B. M. TAITT: I beg to move that this House be now suspended until 3.00 p.m.

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

The question was put and resolved in the affirmative without division and Mr. SPEAKER suspended the sitting accordingly at 1.55 p.m.

RESUMPTION

Mr. Speaker was absent on resumption.

Mr. DEPUTY SPEAKER: The session is resumed.

Order No. 1 was culled – To move the Second Reading of the Theft Bill, 1992.

Hon. M. A. KING: Mr. Deputy Speaker, the Bill before us is another one of the reforms in the criminal law which we have embarked on. This Bill will substantially change the law relating to larceny. I think a review of that law will show that the Larceny Act of Barbados which governs theft and related offences like fraudulent conversion, embezzlement and things of that kind is presently governed by a nineteenth century Act, the Larceny Act of 1861. That is the Act under which we are now governed and over the years it has become clear that there has been the need for reform in that legislation. It has not been substantially re-thought over the years that have gone by and this opportunity is being taken now to

remove the complexities which may exist in that law and try to simplify this area of the criminal law.

Since this legislation is going to work some fairly substantial and fundamental changes in the law relating to theft and related offences, we are going to propose that it be referred to a Select Committee so that it can be gone into. On this occasion, in moving the Second Reading I am just going to refer, very quickly, to some of the main reforms which the Bill seeks to implement.

There is an explanatory memorandum attached to the Bill which goes into fuller detail on the matter but I will just, for the purpose of this Second Reading, indicate the main reforms. They are as follows:

There will be a new offence of ~~theft~~ which will replace the offences of larceny, embezzlement and fraudulent conversion which are the older established offences under the existing Larceny Act.

The concept of dishonestly appropriates is going to be substituted for the traditional phrase, fraudulently takes and converts which was the phraseology used in the old Larceny Act. Then by the creation of the offence of theft, distinctions which formerly existed in law between grand larceny and simple larceny will disappear completely.

There will be a common definition of property which will be adopted for theft and for all related offences. The scope of the definition of property will extend to all kinds of property which will include land, choses in action and other intangible properties such as venture stock and shares.

This Bill is modelled on the United Kingdom legislation relating to this matter but unlike the United Kingdom legislation this Bill will cover theft from land. The United Kingdom Bill limits theft from land to certain cases. Our legislation will go beyond that and will make theft from land, generally the subject of theft.

There will be a new offence of blackmail which will replace the several offences of extortion which now appear in the existing Larceny Act.

The Offences of criminal deception and associated offences will replace those of obtaining by false pretences and the Bill will also provide a definition of the term deception. There has been some litigation in England in relation to this issue of deception. But unlike the United Kingdom legislation, this Bill will cover theft of land. The United Kingdom Bill limits theft of land to certain cases, but our legislation will go beyond that and will make theft of land generally the subject of theft.

3.10 p.m.

There will be a new offence of blackmail which will replace the several offences of extortion which now appear in the existing Larceny Act. The offences of criminal deception and associated offences will replace those of obtaining by false pretences and the Bill will also provide for the definition of the term "deception". There has been some litigation in England in relation to this issue of deception and this Bill will use that term in place of the old terminology appearing in the existing Larceny Act.

There will be a new offence of making off without payment. This is an offence which has been created by Clause 14 of the new Bill. There will be an offence of falsifying accounts and documents which will not any longer be limited to a clerk, officer or servant but will extend to directors and managers of corporate bodies. So that offence of falsifying accounts and documents will extend also to directors and managers of corporate bodies. Directors and other officers of a body corporate are going to be made liable for an offence committed by a body corporate, if it can be shown and established that the offence was committed with the consent or connivance of the director or other officers and company officers generally will be liable for any false statements which they make concerning the affairs of a company which are intended to deceive members or creditors of the corporation or of any unincorporated association.

There will be an offence of destruction or concealment of documents and a complete new offence of handling stolen property which will replace the existing offence which we know for receiving stolen goods. This new offence will include the handling of stolen property.

Aside.

Hon. M. A. KING: There will be a penalty, Mr. Deputy Speaker, for advertising a reward for the return of stolen property without questions being asked or apprehension being made. So you cannot offer a reward for returning stolen property and say, "**Look**, you returned the property and there will be no questions asked, *et cetera*." That would ~~be tantamount~~ so to speak of compounding a felony.

There will be an offence of driving away a motor vehicle or other conveyance without permission and abstracting utility services dishonestly or wastefully from premises.

Mr. Deputy Speaker, next, the distinction between different offences on the ground of the nature of the building broken or entered is going to be removed. The exception to that would be in the case of sacrilege which relates to breaking into buildings of worship. That

exception in relation to sacrilege will remain. There will be a new offence of aggravated burglary. Restitution of property would now include proceeds of any disposal or realisation of the same. So that if you steal the property and sell it off and the assets can be traced into some other property, restitution can be ordered in relation to the proceeds when the property is so disposed of.

Mr. Deputy Speaker, those are the main features of this new Theft Bill. I made the point that it was modelled on the British Theft Act of 1968 which was revised somewhat in 1978. This legislation does take into account some of the adjustments which were made in 1978. But certainly since 1978 and as a result of the litigation which was developed on the new theft legislation in the United Kingdom, the conclusion has been reached that the Theft Act has not completely lived up to the expectations which were anticipated it when it had been passed through Parliament. It was not quite the success which the law revision authorities in England thought it would have been. Since then, there certainly has been reviews of the legislation and, by sending this Bill to the Select Committee, we will perhaps use the opportunity to look at some of the concepts again from our own local perspective to see if any useful changes can be made in reference to the local situation.

With those comments, Mr. Deputy Speaker, I move that this Bill be now read a second time.

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

Mr. D. A. C. SIMMONS: Mr. Deputy Speaker, I shall be very brief because it has been agreed that we would send this Bill to a Select Committee. The reason for sending it to a Select Committee is that it now makes a complete change in the law in relation to dishonesty and dishonest appropriation of property for the first time since 1916. I do not think that it would be appropriate today to expound the shortcomings of the Larceny Act which you can do when you look at this Bill more closely in Select Committee but some of the theoretical and juridical premises upon which the Larceny Act was founded are no longer thought to be sound particularly in relation to the concept of possession. That is perhaps the greatest argument in favour of repealing the law and coming with something completely new.

I am happy to see that this Bill has at last reached Parliament because, like some of the others which we debated in this House previously, this Bill had its genesis in the days of the Barbados Labour Party Administration and the work had been so advanced on it that in the 1991 Manifesto of the Barbados Labour Party I was able to write in the chapter dealing with law and order, that one of the things we would do would be to pass an Arrestable

Offences Act and Theft Act. I still have in my library a copy of the Theft Act that was left up in the Ministry.

As the Attorney General has said, this Bill is founded upon the principles of the English legislation. In fact, it is virtually a straight copy of the English legislation of 1968 but for practitioners it is going to result in a complete orientation of their thinking and knowledge in relation to the law of theft. Apart from one or 2 persons like the Honourable Member for St. James North who studied for the LL.B. externally with great and commendable success and I think one or 2 who studied in England like the Senator in the Other Place, they would have had the benefit of having studied the Theft Act. Certainly, my daughter who just did some exams at Cave Hill had to do the old Larceny Act 1916. So there are very few practitioners or teachers who would have any theoretical experience. This will be a whole new learning area for most of the profession and I think sending the Bill to Select Committee will give the profession and the judges an opportunity and breathing space to get familiar with the new Act. I am sure without any doubt, as "Sparrow" used to say, that none of them would have read or studied the Theft Act. But, as I said, it is going to affect the profession as a whole and one hopes that when the Bill goes to Select Committee the opportunity will be taken by the Bar Association and other interested groups to submit memoranda to the Committee. I know there are commentaries on the Theft Act. I have certainly one by Griew, I used to have one by J. C. Smith. I am not sure if it is still with me or someone has stolen that. They steal books from me all the time. It might be an idea for the Bar Association to convene a special symposium with a lecturer who is recognised, renowned and acknowledged as an expert in this area, perhaps from England, to do a few seminars for members of the profession to bring them up to date on the workings of the Act.

3.20 p.m.

The Honourable Attorney General has mentioned that when the Theft Act was introduced in England in 1968 it was thought at that time to be the solution to many of the anomalous problems that the Larceny Act had thrown up, but experience has shown, and notwithstanding its amendment in 1978, that the Theft Act still has a number of anomalies and a number of warps and we are importing wholesale into Barbados a Theft Act where, as I say, it is acknowledged that the Act which we are borrowing itself has flaws. So perhaps we can apply our minds in Select Committee towards the ironing out of some of these problems and hopefully produce an Act that may be in advance even of the English legislation.

I am grateful to the Honourable Attorney General for acceding to our request to allow some breathing space on this Bill so that the profession can familiarise itself

with it and we receive informed comment based on the case law that has developed between 1948 and today explaining the operation of various **sections** and various words in the legislation. I will reserve my detailed comments on the Bill until when it calls for a more searching exposition at the Select Committee stage.

I am pleased, on behalf of the Labour **Party**, to say that we support the legislation, which originated with us. We see it as a step in the modernisation of the criminal law, but I wish to warn that it will call for a complete reorientation in the thought processes and the need to study the completely new law on the part of the profession. It will have this advantage for future students of the Cave Hill Campus, that they will no longer have to rely on the First Edition of Smith & **Hogan** which could prove troublesome to acquire, but they will use current editions of the leading textbooks on criminal law which will address the Theft Act as it applies in England and be a guide...

The Honourable Leader of the Opposition is showing me a statement from no less an authority than Professor Glanville **Williams** in the textbook on Criminal Law, page 701, which reads as follows:

"The new offence of theft created by the Act was intended to be as free from technicality as human ingenuity could devise. Things have not worked out like that. Troublesome questions of interpretation have arisen. Still, it is **true** that almost everyone whom common sense would regard as a thief is now a thief in law. If the Act departs from common sense, that is chiefly because it brings within the notion of theft some forms of dishonesty that some people might prefer to call by other names (breach of trust or deception). If the Act is sometimes hard to apply, that is chiefly because it has to operate against the background of the law of **property**, which is itself complicated."

That last sentence I wish to adopt as my own and say that I heartily concur about the law of property.

With those few words, Sir, I am obliged to you.

Hon. B. M. TAITT: Mr. Deputy Speaker, I should not wish this debate to advert to a Select **Committee** without saying a few words, lest anyone thinks that one has not been interested in the reform. I think that the reform of the criminal law is a matter that requires the utmost consideration and some very deep thought. The reform of the criminal law, unfortunately, would not attract the same amount of interest in the popular press as some of the other more peripheral issues, but the reform of the criminal law in countries such as ours is something, to my mind, of the heaviest importance.

I feel fairly certain that the Honourable Members in this House, most of whom have daily contact with the practice of criminal law in this country, will equip themselves well when it comes to formulating the kinds of criminal law which exist in Barbados.

Mr. Deputy Speaker, many people misunderstand the difference **between** law **and** morality. There are many people who perceive the criminal law as an expression of morality and it would come as a shock to some people to know that only 3 of the Ten Commandments have in fact been embraced into law in most western societies. I will not spend time going into that, but many people are shocked to know that incest only became a crime in this century. It only became a crime in Britain in 1911 or thereabouts and it took a **little** longer to become a crime in many **countries** of the Commonwealth. In fact, the question of homosexuality is **an** issue which brings a tremendous amount of reaction from many people.

Aside.

Hon. B. M. TAITT: The Honourable Member for St. Michael South *sotto voce* is raising some questions. Let me just explain myself here. Incest only became a crime in Britain...

Aside.

Hon. B. M. TAITT: We are discussing **the** criminal law. It has nothing to do with my dwelling **on** incest, I am just trying to explain that while people talk a lot about criminal law, the fact is that in Britain they only made it a statutory offence in 1911 or thereabouts, and it comes as a shock when you discover this. The Honourable Member says it is a shock to him and that is why I am mentioning it. When **you** look at homosexuality, it is a very difficult situation where in Britain it is legal for consenting adults over the age of 30 to have homosexual relationships, so 2 persons who get on a British Airways plane in Britain, and they usually will take a First Class seat, will come from Britain legally connected and they **arrive** in Barbados after 7 hours to discover that in fact if they continue to do what they legally did in Britain they would **run** a-foul of **the** law. It is therefore important that when we come to look at the reform of the Criminal Law that we be meticulous as we apply our thoughts to it. The Law of Theft is one under which Barbados continued for a very long time to be a victim rather than a beneficiary of an old approach, which was a moralist approach to criminal theft as can be found in the old Larceny Act as compared with what we are attempting to do now. It does not stop criminals from being criminals but what it does do is that it makes the law easier to comprehend than it has **been**.

3.30 p.m.

Sunday **as** I was talking to some people with whom I had grown up, about the Prædial Larceny Act they

raised the question if we, when we were growing up in **Fairfield**, were in fact praedial larcenists since we used to take plums and ackees from trees that were not grown on our own property, with a certain impunity. All that was required was the ability to run fast and to elude certain old men who owned the properties. Those were considered to be childhood pranks but the fact is that that was **praedial** larceny. I think the Attorney General would confirm that taking plums from a **tree** that is not your mother's **tree** is praedial larceny which might render many of the Honourable Members in this House takers of plums.

Asides.

Hon. B. M. TAITT: I agree with the Bill going to Select Committee and I share the view expressed by the Honourable Member for St. Thomas that we should let some time pass so that persons will be able to become familiar with the intricacies of the law as it would now be applied.

Mr. Deputy Speaker, as you are very aware, sometimes the difference between a guilty verdict and a non-guilty verdict is nothing more than the perspicacity with which a person chose his counsel. The ability to choose counsel is much more important in many respects, or so it seems, that whether one had in fact committed a crime. Many persons who come face to face with the criminal law as practitioners, as Your Honour can appreciate from your wide experience in this matter, are able to win verdicts because of their special ability and not necessarily because the person who is being defended has been guilty or not guilty in the sense of the layman. So it is very important that an opportunity be given for a closer study of this law.

I have tried my best not to make any statements that would be wild or irresponsible but the truth is that there are many people who will need to refresh their memories or indeed learn afresh what constitutes the Law of Theft. This law is not easy. My information is that in Britain they have had some difficulty with certain aspects of the interpretation of the Law of Theft. In the final analysis, it does not take long for persons to determine who has taken property from another with intent to deprive that person of that property. When all is said and done, I am of the view that once you get that particular definition clear in your mind it is not difficult to understand what constitutes theft.

The part I have difficulty with is blackmail. There are some aspects of the Bill as is now proposed which are very difficult of interpretation and I am not going to spend time now since it is going to Select Committee. There are some areas in which I would wish in the Select Committee to raise some questions because there are aspects of interpretation which have occurred, even in some of the

British cases which I believe are not the most efficacious, and it may very well be that the circumstances in the Caribbean will require a different approach to some aspects of the legislation as it is now written.

Sir, language use in Barbados is strange and exotic and very often it is possible to hear someone who is having a friendly discussion with someone else say, "You only want killing!" Very often somebody will say so to a person in quite friendly tones, but that constitutes evidence of threat. Subsequently, if that person should inadvertently die someone who had heard that comment, "You only want killing!" or who had misinterpreted it.... Indeed I know a lady who told me that that was a term of endearment. I have tried to understand how that could be a term of endearment and I have had it explained to me in a manner which does not allow...

Asides.

Mr. D. A. C. SIMMONS: On a point of order, if I may enlighten the inner recesses of my friend, the Honourable Member's mind. He should recall as a student of Sol Fa that there was a song called "Killing me Softly with your Love". So that is why the lady was saying that "You only want killing" ... with love.

Hon. B. M. TAITT: Sir, the Honourable Member is now forcing me to import into the debate personal experiences. As my friend, Roberta Flack, has said, "Killing me softly with his love"...

Asides.

Hon. B. M. TAITT: There are some Honourable Members whom I would allow to inform and chide me on music, like the Honourable Member for St. Thomas, but I am not sure about the Honourable Member for St. John to say nothing of the Honourable Member for St. Peter. These are 2 Members of whom I have never heard any reference in relation to music and I do not intend therefore to take them seriously on any matters of music.

3.40 p.m.

Aside.

Hon. B. M. TAITT: The Honourable Member is telling me that the Honourable Member for St. Peter is teaching himself the piano. I am saying that if he is teaching himself he has no hope of learning. I am going to leave that, Sir, and get back to the law. I am going to support this Bill.

Aside.

Hon. B. M. TAITT: A true musician is now suggesting to me that the axis of St. Thomas...

Aside.

Hon. B. M. TAITT: A true artist, the Honourable Member for St. Michael South, a musician, an artist, poet and song writer. A psalmist? That does not make you a psalmist. I do not think I have heard of him as a psalmist. The Honourable Member is now elevated beyond the ordinary and the mundane, playing the trumpet on CBC...

Aside.

Hon. B. M. TAITT: If the Attorney General does not understand that a person who "steals away" may have stolen, then I cannot enlighten him.

Aside.

Hon. B. M. TAITT: A trumpeter? No, Mr. Deputy Speaker, I am being inundated with all kinds of foolishness. It is being suggested that...

Mr. D. A. C. SIMMONS: On a point of order, Sir. I will not have the Honourable Minister of Health saying that I am speaking foolishness from my seat. The Honourable Attorney General shares with me the experience of having played a trumpet. I mean a real trumpet. We have a lot of hidden talent as a former Attorney General. That was not known to Honourable Members on that side. I tell them I know more about them than they know about themselves and they would not believe me. That is a clear example.

Hon. B. M. TAITT: *Mia culpa*, Sir. I plead guilty. That is a talent that was very well hidden. There is no question that the Honourable Member for St. Thomas is no mean **trumpeter** but when he suggested that the most athletic Member on our side was also a trumpeter this is a matter which requires a fresh look at what is available. I did not know.

Mr. Deputy Speaker, I am going to rest with the knowledge that the Leader of the Government on this side is an artist and had demonstrated without any shadow of doubt that he must be elevated when it comes to the arts because, unlike the others who have merely paraded their talents on the local scene, the Honourable Member for St. Michael South has now moved into the cradle of culture in the South when you are able to go to Rio. That is the place he went, the home of the Carnival, Pele and all of the greats, you hear about, the great South American artists. When you can go in that international community and be recognised at that level I think we have to bow.

Aside.

Hon. B. M. TAITT: I do not get involved in that. I will only say that soon afterward when they start to talk they would have to talk about Lamming, Naipaul and all of these other greats. Bearing in mind that recently the Vice President of the United States demonstrated that he cannot even spell "potato" I think we should be proud that we have...

Aside.

Hon. B. M. TAITT: Put it in the record? I feel, Sir, that a Vice President of any country should be able to spell "potato".

Aside.

Hon. B. M. TAITT: That is stealing. This is to do with theft. That is theft. If you cannot spell potato and you are a Vice President of any country

Aside.

Hon. B. M. TAITT: Anyhow, Sir, I am not going to spend any more time on that. I am merely going to say that I agree that this Bill should go to Select Committee. I want to finish by saying that I appreciate the **effort** which the Attorney General has made. We cannot praise him too much because I remember there was a time when it was being suggested that the Attorney General was not producing. Much was made of this. I think it is important. I want to put it in the record.

In the last few months we have a massive amount of important legislation which has come before this House. I think since we quarrelled and grumbled when we were not getting the kind of production, I think it is only fair we acknowledge that the Attorney General has come well and that the Theft Act, when it is finally passed, is likely to be something that will be able to last as long as the old Larceny Act has lasted in Barbados. I hope when we go into Select Committee I will have an opportunity to speak more specifically on some of the clauses in the legislation.

I am grateful to you, Mr. Deputy Speaker

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

Hon. M. A. KING: Mr. Deputy Speaker, I move that this Bill be now referred to a Select Committee.

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

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

Hon. M. A. KING: Mr. Deputy Speaker, as regards the composition of the Committee I am proposing from this side the Select Committee be comprised as follows:—

Your Honour the Deputy Speaker – Chairman, (*ex officio*)

The Honourable Members for:

Christ Church West Central
St. James South
St. John
St. Michael East
St. Michael North East.

Mr. H. deB. FORDE: Mr. Deputy Speaker, I would ask that the following Honourable Members from the Opposition should join that Committee:

St. Thomas
St. George South
St. Joseph
St. James North.

The question that those Honourable Members comprise the Select Committee on the Theft Bill was put and resolved in the affirmative without division. 3.50 p.m.

ADJOURNMENT

Hon. B. M. TAITT: Mr. Deputy Speaker, Sir, that brings us to the end of work for today. We have some other important legislation which we believe will be carried on next Tuesday.

I therefore beg to move that this House be now adjourned until Tuesday, the 23rd day of June, 1992 at 12.00 o'clock noon.

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

The question was put and resolved in the affirmative without division and Mr. DEPUTY SPEAKER adjourned the sitting accordingly at 351 p.m.

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