THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1994 – 99

HOUSE OF ASSEMBLY

Tuesday, July 30,1996

Pursuant to the adjournment, the House of Assembly met at 11.15 a.m. on Tuesday, July 30, 1996.

PRESENT

His Honour I. A. ROETT, B.A., Dip. Ed. (Speaker)
His Honour R. D. MARSHALL, (Deputy Speaker)
Mr. H. deB. FORDE, Q.C., M.A., LL.B.
Mr. B. M. TAITT, B.A. (Hons.), M.P.A., LL.B. (Hons.)
Mr. D. J. H. THOMPSON, LL.B. (Hons.) (Leader of the Opposition)
Hon. Sir HAROLD St. JOHN, Q.C., LL.B.
Mr. L. R. TULL, Q.C., M.A.
Dr. R. L. CHELTENHAM, Q.C., M.A., M.Sc. (Econ.)
Hon. Miss B. A. MILLER, (Deputy Prime Minister, Minister of Foreign Affairs, Tourism and International Transport), (Leader of the House)
Mr. J. O. TUDOR, J.P.
Hon. G. W. PAYNE (Minister of Public Works, Transport and Housing)
Dr. R. C. HAYNES, M.B., Ch.B., F.R.C.P. (Edin.)
Mr. G. A. CLARKE, (Parliamentary Secretary, Ministry of Public Works, Transport and Housing)
Mr. J. M. EDGHILL
Mr. F. J. STUART, B.A., LL.M.
Mr. W. C. C. CALLENDER, J.P., B.A., Dip. Ed., B.Sc. (Chairman of Committees)
Mr. H. F. LASHLEY
Hon. R. St. C. TOPPIN, LL.B., (Minister of State in the Ministry of Foreign Affairs, Tourism and International Transport)
Hon. Miss H. E. THOMPSON, LL.B., (Minister of Health and the Environment)
Hon. Miss M. A. MOTTLEY, LL.B., (Minister of Education, Youth Affairs and Culture).

Prayers were led by Rev. Canon Ivan Harewood.

Mr. SPEAKER: The House is now in session.

MINUTES

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that the Minutes of the proceedings of the Honourable the House of Assembly for its meeting of Tuesday, July 23, 1996 which have been circulated be taken as read.

Hon. G. W. PAYNE: I beg to second that.

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

PAPERS

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I beg to move that the Duties, Taxes and Other Payments (Exemption) Orders Nos. 4 – 8, 1996 be laid.

Hon. G. W. PAYNE: I beg to second that.

SUSPENSION OF STANDING ORDERS

Hon. Miss B. A. MILLER: I beg to move that Standing Orders Nos. 6, 16, 18, 20, 42(5), 43 and 44 be suspended for the rest of this day's Sitting.

Hon. G. W. PAYNE: I beg to second that.

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

GOVERNMENT BUSINESS

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

ORDER NO. 7 – TO MOVE THE SECOND READING OF THE SHIPPING CORPORATION BILL, 1996

Hon. R. St. C. TOPPIN: Mr. Speaker, I am very pleased this morning to move the Second Reading of this Bill because I think that it will lead to a very important piece of legislation in Barbados.

If Members look at section 3 they will see that the general purpose of the Bill is to provide a regime for the incorporation of companies to own and operate ships whether these ships be registered under the Barbados flag or any other registry and also to undertake such other activities as are incidental to the ownership and operation of ships. The Bill, therefore, is designed to enable Barbados to compete with other jurisdictions which offer ship registration facilities as well as the facility for incorporation of special purpose corporations.

Traditionally, the vast majority of shipowners structure their operations in such a way that each individual ship in their fleet is owned by a separate and single and different company so that when a shipowner wishes to purchase a ship he will normally register it under his chosen flag and will also acquire simultaneously, if the facility exists at the choice registry for him, an owner corporation of the same nationality. The only asset of that owner corporation would in fact be the ship, the vessel itself and, of course, you can also have the vessel being operated by another company which either operates that single company or perhaps manages ships generally around the world on different registries.

Mr. Speaker, this Bill this morning is fairly bulky, very large. I don't think that Honourable Members have to be intimidated by the size since it is really about 90% of the Companies Act although there are some differences between this Act and the Companies Act. The most noticeable area of difference being that this Bill really creates a distinct regime for the administration of the registration of shipping corporations. In other words, it makes provision for a separate Registrar of Shipping Corporations who is appointed by the Minister responsible for shipping.

Other differences are, of course, that this relates exclusively to companies undertaking shipping and ancillary matters or holding companies of such companies and also you will notice that in this Bill the penalties that are seen in the Companies Act are not in this Bill because these corporations are really non-resident and enforcement would in fact be extremely difficult and therefore we have sought to rely on the more serious sanctions in the case of breach by these ships of having them struck off the Register.

Of course, the other major difference between this and the Companies Act is that in this Bill there is in fact a situation where corporations incorporated pursuant to this Bill will in fact attract no taxation.

At first there was a preference in terms of formulating the Bill and preparing it to have a very short summary-type Bill and then just cross-reference under the Companies Act but after discussion with the Bar Association and the Institute of Chartered Accountants who have used the word "canvassed" and with whom discussions were in fact held, it was decided to go this route to have a document with a self-contained corporate regime and that that would be acceptable. Hence the similarities between this and the Companies Act.

I think Mr. Speaker, I should give a brief history of the position in Barbados, in relation to Ships' Registry so as to better understand the strides that have been made in this area. Prior to that Act, Mr. Speaker, registration of ships in Barbados was done under the 1894 U.K. Merchant Act and the amendments throughout the years, and it was being done by the Comptroller of Customs and not the Minister responsible for shipping. Ships Registers were usually small intra-regional vessels and the whole operation really was a very small scale type operation prior to 1981. 11.35 a.m.

In 1981 that situation was changed and the Minister responsible for shipping was then put in charge of Ships Registration. The Act also removed the ownership restrictions so that ships, wherever owned and by whom, could be registered under the Barbados flag. It also set up a reputable system of the registration of ships and, very importantly, it incorporated a number of international safety provisions and requirements into our local laws. Generally speaking, it brought our laws, in relation to the registration of ships, in line with the international shipping environment. It is from that time, as I said, that we can safely say that the modem era of Barbados' Shipping Registration really began.

As time passed, Mr. Speaker, it was realised that further changes had to be made. In the 1990191 Budget of the Right Honourable Member for St. Michael South, then Prime Minister and Minister of Finance and Economic Affairs, announced in that Budget that, in fact, the Government would initiate a comprehensive review of the Shipping Act with a view to further facilitate ship registration. That was a good policy statement.

The Act was, in fact, reviewed and changes were eventually made in 1994 by the 1994 Shipping Act. There were a number of changes. I would not want to go into all this morning but some I think I should mention, very briefly.

The 1994 Act, for example, sought to clarify the provisions relating to the protection of mortgages. That was presenting tremendous problems over the years and the Act really sought to clarify that. So that, for example, according to the 1994 Act, any mortgage document in relation to any ship had to be produced to the original Registrar of the ship, and only that original Registrar would be able to record, discharge or transmit such documents. So there was no confusion in terms of the priority of mortgages that might have happened if we were dealing with separate registries. So the Act really settled that and said that the original Registrar had to deal with all mortgage documents in relation to that ship.

This 1994 Act also brought about that mortgages could be registered with respect to provisionally registered ships, so that ships under construction could then be mortgaged. Or ships that were changing registers and you were awaiting the receipt of the relevant documentation in relation to safety, when that was happening you could still, in fact, have a mortgage in relation to that provisionally registered ship so that the ship could be registered.

Also, very importantly, the obligation secured by a mortgage, with the agreement of both parties, to be expressed in any unit of currency or its equivalent. So it really clarified, generally speaking, the provisions in relation to mortgages.

It also made some other changes. It permitted ships on Bare Boat Charter, which is akin to the aviation dry lease. Where you just get the bare boat. It also provided that ships on Bare Boat Charter could be registered under the Barbados flag. Or ships on the Barbados register, that were put on Bare Boat Charter overseas, could in fact, be put. on an overseas register and so on.

More importantly, the 1994 Act really brought the legislation further up-to-date with the changes that have gone since 1981, especially, in relation to the international safety conventions. For example, the Convention of the Safety of Life at Sea or SOLAS, as it is called. That was incorporated in the 1994 Act. The 1969 International Convention on Tonnage Measurement, which became effective in July 1992, was also brought on board in 1994. Similarly, the Convention on the Liability for Maritime Claims which became effective on December 1, 1996, was brought on board in 1994.

So these are some of the things that the 1994 Act did to further modernise the Shipping Legislation in Barbados. That occurred in 1994, and one can generally say that 1994 was a year of beautiful change in Barbados. Not, perhaps, only in the area of shipping.

At the same time that these changes were going on, even before they were fully passed in the 1994 Act. Shortly after the announcement of the 1991 Budget, a proposal was received by the then administration, by a Trevor Robinson in England who submitted a proposal for the Establishment Promotion and Administration of an "Open Flag" Maritime Registry.

That, in fact, went to Cabinet in 1990 and was given approval in principle, and then further discussion went on, further proposals were submitted, then the name Kyffin Simpson began to enter the discussions. Finally, after receiving three other proposals in addition to that of Trevor Robinson, the Cabinet agreed on March 11, 1993 that Government should proceed to enter into an Agreement with Trevor Robinson and Kyffin Simpson or a company formed by them, to see after the question of the operation of a Registry in London. The agreement was in fact executed on May 28, 1993 between the Government and a company called UME Jersey Limited. They were referred to in the Agreement, the joint venture, that Agreement was dated May 28, 1993. As we all know that joint venture is accommodated at the Barbados High Commission in the United Kingdom.

With respect to the Agreement, the initial period is for 10 years with an option to renew for a further 10 years providing that a certain revenue target is met at the end of year 10. Thereafter there is an option to renew further for another 5 years providing that another revenue target has been reached by year 20.

If I may just speak a bit in terms of the present Ships Registry system and the structure, this comprises of small vessel register for near coastal and Caribbean trade ships which are below 150 gross tonnes, and an international Ship's Registry for all foreign going and other ships which are 150 gross tonnes and above.

As I said earlier that there was a contract between the Government and UME Jersey Limited, now Barbados Registry Secretariat Limited, and the officers of this Registry, there are currently a Principal Registrar, who is based in London and Allan Morris, who is a former Foreign Going Master, previously employed with Bahamas Registry, a Deputy Principal Registrar, based in Barbados, Peter Parker, a former Home Trade Master and Foreign Going Second Officer, formerly General Manager of the Barbados Port Authority. There is another Registrar in London who is a former Second Officer Foreign Going, that is pursuant to affirmed in the Agreement, which says that you must have an additional technical officer for every 100 ships over 500 tonnes each, which will be the case very shortly with respect to the Barbados Register.

We also have Registrars in Singapore, New York, Cyprus, Hong Kong, Greece and Japan, as well as 365 nautical inspectors worldwide.

There are also, presently, Mr. Speaker, in existence, contracts with 11 classification societies which have been nominated by the Minister. Two, in fact, being nominated by me, about 5 to 6 weeks ago.

With respect to the success of the Registry, Mr. Speaker, which I am sure members will want to hear about, especially. The tonnage at the Ships Registry in London has in fact increased beyond all expectations. From just over 50 000 gross tonnes in early 1994 to nearly 500 000 000 gross tonnes as at June 1996. As at July 22, 1996, there were 87 ships permanently registered with eight more registrations pending. The actual tonnage is 449 000. That is just the permanently registered ships. If we include the ships pending registration, we will in fact come to a tonnage of 843 575 tonnes. It is expected that by the end of the year we would, in fact, achieve that tonnage. We presently have to be registered, two very large ships cruise carriers, about 220 dead weight or 150 000 gross tonnes each waiting to be registered.

More recently, and perhaps more significantly, we have had some achievement in that there has been an agreement by FEDNAV, a Canadian company, to bring its fleet of 50 ships onto the Register.
11.45 a.m.

Further success can be gleaned from the fact that the Barbados Ships Registry has also achieved ISO 9002 status by the award of a Certificate of Approval by Lloyds Register Quality Assurance. The Barbados Registry is only the second Registry worldwide ever to achieve that status. It confirms the very high quality of operations at the Registry.

The keynote of the Registry, Mr. Speaker, in fact, and I quote "is quality tonnage, quality service and the maintenance of the highest international maritime safety standards." That philosophy has led to the Registry attracting owners of ships who are willing to incur slightly higher service fees but who recognise the need to maintain high safety standards.

I would also like to say that the drive to secure employment, and this is obviously important, for seafarers and in particular the able-bodied seamen of Barbados was, in fact, enhanced by the establishment of the Barbados International Ships Registry. I say this because the Principal Registrar as he is marketing the Registry either in his brochure or his presentations through North America, Europe or the Far East, always provides extensive information on the experience of Barbadian seafarers, the cost of their services, the terms and conditions of service as well as the availability of training in Barbados. That has been done repeatedly by the Principal Registrar. But the problem that has developed is because of the limited numbers of qualified and eligible seafarers in Barbados. Originally it had been reported and put abroad by the Seafarers Association of Barbados that there were between 2 000 to 3 000 qualified and active members who could be placed at sea but analysis and research reveal that these numbers really were overstated and included people who were over age, had not gone to sea for very long periods of time, others who were already in employment at home or abroad, and also a number of young people who had gone to sea but who had, in fact, never gotten the Able-bodied Certificate, and that is really what is presenting problems in terms of marketing the Seafarers group in Barbados. It was recognised then that there was a very strong need for training able-bodied seamen in Barbados.

Therefore, in November 1994, again in keeping with the type of change that was sweeping Barbados in 1994, the Able-bodied Seafarers' School was, in fact reopened. I repeat, in November 1994, it was reopened. So far three classes have been staged, 37 people have graduated, 20 with Able-bodied Seafarers' Certificates, and 17 with Efficient Deck-hand Certificates. All 37 of them have, in fact, been employed so that the Able-bodied Seafarers' School has been a success not only in providing qualifications but also the jobs that followed up to the Certificates.

At present too the Ministry of Labour and the International Transport Division are engaged in an exercise to find ways and means to enhance employment opportunities for able-bodied seamen abroad. It must be realised that it may well be easier to think in terms of finding jobs for Barbadians in the area of hospitality services, as hospitality crew and seafarers because, as you know, there are certain crews from other nations like the Filipinos, India, and more recently from Far Eastern Europe which would accept wages that you and I know a Barbadian never ever will accept.

Aside.

Hon. R. St. C. TOPPIN: I am not saying that they will never accept it or to condone or criticise it. I am just saying that is the way Barbadians approach the question of jobs on ships. If certain wages are not offered, Barbadians would have difficulty in accepting it.

The problem is, of course, further compounded by the fact that shipowners are now operating with reduced complements of staff as a result of these improvements in technology over the years, and also because there is a lot of cross-utilisation of staff on board a number of ships, but we are looking at this question. We recognise that there is a need to continue to provide more trained able-bodied seamen, and consideration is even being given to

the provision of incentives to shipowners to encourage the employment of Barbadians on ships. These are some of the things we are doing in the area of employment as it relates to ships.

With respect to the Bill currently before Parliament, the Bill has its origin in the Liberian Business Corporations Act. The intention really is to offer a type of corporation which would not conflict with the existing IBC structure but which would be administered by a separate Registrar.

These corporations are not intended to have any resident status in Barbados although it will be necessary under the Act to appoint an attorney locally for service of process and such like in relation to the company.

The International (Business Corporations) Exemption from Taxes Act does not provide the type of corporate structure that shipowners are accustomed to. It does not provide that type of structure. Since the shipowners have a choice where they purchase their corporations, they will, in fact, go to the jurisdiction where they have the maximum tax advantage, i.e., no tax jurisdiction.

Business will be turned away from Barbados if Barbados continues to offer registration of ships but decline to offer the corporate entities. Experience has also taught that one-stop shopping in terms of international business transactions is what the client prefers and shipping is no different. In a ship registration transaction especially when a mortgage is involved, it is imperative that you have a situation in place in the same location where the owner can register and at the same time purchase the corporation to own or manage the ship. While the Shipping Act of 1994, as I said, modified the law considerably and has a fully updated *modus operandi* in relation to ship registration and so on, it does not provide a regime along the lines of which I am speaking today.

As an example, where business and money were lost by Barbados as a result of this deficiency, I would just mention the case of the two ships owned by Irvine Oil of Canada, the two ships being M.V. Irvine Ocean and M.V. Ocean Canada. They were registered under the Barbados flag in early 1994. At that time of registration they made an enquiry as to the possibility of incorporating companies in Barbados. The Director of Maritime Affairs was forced to refer them to the International Business Corporation regime and what we ended up with was a situation where, yes, we got the companies registered but because of the tax structure, *et cetera* in relation to the IBCs the two owner companies were incorporated in Canada and the two operating companies were incorporated in Bermuda. So while we earned fees for registration of the two ships, we did not earn the company incorporation and the legal fees which we could also have earned if we then had this legislation that we are now seeking to put in place today. If we had it in place then we would not have lost that revenue.

When this Bill comes on stream, that type of situation will not recur because we would be offering one-stop shopping as it were at the Barbados Ships Registry. Notice I said we are going to be offering it. There are some jurisdictions which operate international ships registries which make it compulsory that when you register a ship under flag you have at the same time to purchase your owner companies and operating companies at their registry as well, and register those companies with them. The more successful registries around the world, Panama and the Bahamas, do not have that restriction. They permit complete freedom as to where you set up your owner companies and your operating companies. That is the direction in which Barbados has decided to go. We are not making it compulsory and we hope to achieve the same success as they did.

Mr. Speaker, if I may just briefly go through the provisions very generally of the Bill for the benefit of Honourable Members, as I said this Bill is really based on the Companies Act. It is really basically divided into 15 Parts and I will be very brief on each one.

The preliminary section sets out the short title, has definitions, sets out the purpose of the Bill which I was at pains to speak to in my presentation, and it also specifies the corporations to which the Bill would apply. That is clauses 1 through 4.

11.55 a.m.

Clauses 5 to 16 provide for the formation and operation of shipping corporations. States that one or more persons may incorporate shipping corporations. States that one or more persons may incorporate a shipping corporation by signing a certain article of incorporation to the Registrar together with the prescribed fee and it basically goes along the same lines as the Companies Act.

Clauses 17 to 26 which is Part 11, confers the capacity and powers of an individual of the corporation, provides for the appointment of an' attorney for the corporation and authorise the use of a seal by the Corporation regarding the appointment of an attorney. Section 24 states that a power of attorney must declare that service of process in respect of suits and proceedings by or against the corporation and of lawful notices on the attorney will be binding on the corporation.

Part 111 – Clauses 27 to 56 – provides for the regulation of share capital. Shares shall be without nominal or par value. Corporations are not allowed to issue bearer shares or bearer share certificates but there are no restrictions on the type or number of shareholders or officials.

Part 1V – Clauses **58** to **102** – provides for the management of corporations. In particular, Mr. Speaker, provision is made for the appointment and removal of Directors and their powers and liabilities.

Part **V** – Clauses **103** to **132** – makes provision for the rights of shareholders and particular provision is made for the calling of meetings.

Part **V1** – Clauses **133** to **144** of the Bill – makes provision for the regulation and control of voting by proxy.

Part **V11** – Clauses **145** to **155** – provision is made for the establishment of a registered office in Barbados and the service of documents mainly the articles and the By-laws, Minutes of Meetings, registered shareholders, shares, debentures *etc,* accounting records and the like.

Part **V111** – Clauses **156** to **161** – makes provision for the transfer of shares and debentures and the certification of such transfers by the Corporation.

Part 1X – Clauses **162** to **173** – makes provision for the conduct of affairs relative to take over bids, that is the action of an offer to acquire all the issued shares of the Corporation.

Part X – Clauses **174** to **190** – regulates the fundamental alteration of articles including the rights and obligations of dissenting shareholders.

Part **X1** – Clauses **191** to **202** – provides for the bringing of actions by aggrieved shareholders and the derivation of remedies for the successful party to the action.

Part **X11** – Clauses **203** to **261** – provides for debentures issued or to be issued under a trust deed, the duties and responsibilities of receivers and receiver managers, the issue of prospectuses and insider trading.

Part **X111** – Clauses **262** to **290** – provides for the liquidation of corporations due to bankruptcy and the dissolution of corporations for reasons other than insolvency.

Part **X1V** – Clauses **291** to **334** – is divided into **3** divisions. Division **A** relating to the functions of the Registrar, Division B concerns the investigation of companies and Division C, miscellaneous. It states that the principal registrar of ships is responsible for the administration of the Act under the general supervision of the Minister. The central duty of the Registrar is the maintenance of a register of corporations. Division C provides for the authority for the Minister to make regulations regarding any matters required or authorised by the Act.

I just want to say Mr. Speaker in respect of regulations that the regulations are not as yet in place but in the very near future the regulations will in fact be prepared. They are at present in the Attorney General's Chambers and very shortly they will also be in place to deal with a number of the technical matters associated with the Bill.

Part **XV** – Clauses **331** to **339** – provides for the interpretation and construction of the Act and issues highlighted include the relationship between a body corporate withholding corporation and subsidiaiy companies and clause **339** provides definitions for the purposes of the Act.

Those broadly speaking, Mr. Speaker, are a synopsis of the features of the Act and as stated in my introduction I am pleased this morning to move the second reading of this Bill. Thank you, Mr. Speaker.

Hon. MISS B. A. MILLER: I beg to second it, Mr. Speaker.

Mr. B. M. TAITT: Mr. Speaker, Sir, I think I must begin by saying that we are disappointed that the Government in submitting a new piece of legislation albeit legislation that encompasses legislation that exists. But nonetheless it is a new piece of legislation and as the Minister in his relatively feeble attempt to get credit said it has nothing to do with the Shipping Bill. I will deal with that in a few minutes. But this is for the formation and operation of shipping corporations. It is not something which is known to all and sundry.

I believe, Sir, this is not something that would be standard in the lexicon of everyday affairs even among those who are involved in business and it would have been most desirable that there be an explanatory note attached to this legislation which is large by any standards. It has over **338** sections, the last section is **338.** There are some aspects of this Bill which on just the efficacy of the language used will require some discussion and explanation. For example I think this is the first time that we will see in legislation the word "must" having judicial significance. It seems to me to be a departure that was unnecessary since "shall" is well accepted and understood in law from time immemorial and suddenly Barbados is going to be using the word "must" and then seeking to give it definition. I think that is an example of the kinds of things which when we get into the committee we would have to discuss because this is legislation that requires ...

First of all it ought not to be contentious. It is legislation that is a continuous part of a process that began a long time ago so there is no credit that is going to redound to the one side or the other although if we are going to be looking for credit I would claim **95%** of the credit for my side and can demonstrate that shortly. This

is not a matter in which we are looking at credit. We are looking here at how do we advance the capacity of Barbados to earn foreign exchange. We are doing that as a people over a long period of time going back to the 1970s, finding innovative ways to earn foreign exchange for this country so we can retain the quality of life which we believe the people of Barbados deserve. Therefore each advance that is made by whichever administration that is in office at the time, must be, ought to be, explained to the population in such a manner that they will understand it basically.

They have professionals who are supposed to understand the intricate details but the population should have a general picture of what this legislation is all about. Let me give you an example because somebody might accuse me of grandstanding.

On page 162, Clause 314, listen to this:

"The name of a corporation:

(a) must not be the same as or similar to the name of any other corporation incorporated under this Act if the use of that name would be likely to confuse or mislead, unless the corporation consents in writing to the use of that name in whole or in part;"

so apparently you can use the same name if it will not cause confusion. But that is a slight matter.
12.05 p.m.

The next one says:

"(b) must not suggest or imply a connection with the Crown, or the Government or of any Ministry, department, branch, bureau, service, agency or activity of the Government, unless consent in writing to the proposed name is duly obtained from the appropriate Minister."

Fair enough. Now listen to the next one, Sir:

"(c) must not suggest or imply a connection with a political party or a leader of a political party;"

Could you believe that in 1996 we can bring legislation in this country to dictate that the name of a company must not suggest or imply connections with a political party or a leader of a political party? Mr. Speaker, I am just showing you. Do you mean you could not call it the Beresford Leon Padmore Corporation? And a Registrar has to decide this. That is only the tip of the iceberg. That is Clause 314, so there are 313 clauses before that, many of which are full of drivel. If we are going to have this kind of legislation introduced in here, then we should have, as is the custom, a memorandum of understanding so we could at least understand what is the thinking behind this, because it must be novel, it must be different. There must be something we do not know about yet, this is *sui generis*.

"Cannot be attached to a political party." Let us take that, but even a political leader? Do you mean you cannot call it – I was going to say Ossie Moore, Sir, but I do not need to come down to that level – ...

Aside.

Mr. B. M. TAITT: You will explain when you get up. The Honourable Member must be in a position to explain when he gets up, but it goes on, Sir:

"(d) must not suggest or imply a connection with a university or a professional association recognised by the laws of Barbados, unless the university or professional association concerned consents in writing to the use of the proposed name;..."

Why did they not say "unless a political party or a leader consents in writing" just as they say for the Crown and for the university? That is part of my complaint about the nature of the legislation and the way of its introduction into the country.

Let me back up to justify what I said about this being on a continuum and why we would feel aggrieved that the Minister introducing his legislation and that the Government did not find it necessary in their thinking to provide explanatory notes for us and the rest of the people in Barbados. Sir, in 1994 we came to this House and sought expansion of the Shipping Act, Cap. 296, Accession to the International Maritime Law, Conventions and Protocol. That was at the end of a long process that had begun in 1990. As a matter of fact, Sir, in 1990 the Cabinet of the day agreed in principle to the expansion of the Shipping Registry. These things take a very long time if they are done well, and so by 1994 we came into this Parliament to change the Shipping Act, and I am going to go very slowly on this, Sir:

1. To simplify the criteria for registration and to stipulate that a ship must be registered.

2. To add to the list of the register, books, to make provision for ships under construction.

3. To provide for registration of vessels on bareboat charter, namely, vessels chartered but not owned by the company requesting registration during the period of the charter.

4. To provide for acceptance of a number of Conventions to which Barbados had acceded.

But we had not passed the necessary local legislation which, as Your Honour knows, is necessary for the particular provisions of the Convention to become effective in law in Barbados. For example, the 1976 Limitation of Liability for Maritime Claims Convention, the '78 Standards of Training, Certification and Watch keeping Convention, the '74 Convention relating to the carrying of passengers and their luggage by sea and its '76 Protocol, ***et cetera,*** ending with the 1988 Convention on the Suppression of Unlawful Acts against the safety of Maritime Navigation and its 1988 Protocol. You will recall, Mr. Speaker, that terrorists had resorted to conducting their nefarious activities at sea.

We also sought to bring into legislative force in Barbados the 1972 Convention for safe containers, as amended. We sought to replace the then existing system whereby the Director of Maritime Affairs was required to be a public officer and was required to register all ships. We then sought to do a number of things, including that the Minister may make regulations with respect to the Small Vessel Register, to reinforce protection of the mortgagee and mortgagor by providing that the owner/agent of the ship must deal solely with the original Registrar of the ship and that the written consent of every mortgagee must be received prior to any change of flag. I think that will be found also in this legislation we are considering today.

We also in the 1994 legislation provided the law to take account of maritime liens and their ranking by **type** and to permit the principal Registrar, Registrars and the Director of Maritime Affairs to undertake provision registration of ships. At that time only Honorary Consuls and Consuls for Barbados overseas could undertake such provision registration. We also sought to provide for the determination of shipping fees by the Minister responsible for shipping in place of the Minister of Finance. We moved it to the Minister responsible for shipping.
12.15 p.m.

This piece of legislation was brought about because we had had discussions with the IMO. We had also had a regional safety expert based in Trinidad and Tobago in the Ministry of Labour. We had had work from a CARICOM Sub-committee on Maritime Legislation and we had asked UME New Jersey Limited to do some research on this matter.

So we made the Shipping Act 1994 to replace the Shipping Act Cap. 296 as it existed and we agreed that Barbados should accede to the conventions which I mentioned and we then got the Minister of Foreign Affairs to take the necessary action to have Barbados accede to the relevant Protocol ***etc.*** That Bill came down here and the then Attorney General Maurice King in a detailed presentation presented that Bill to Parliament.

I think that I should pause here and give credit to two of my former colleagues who worked assiduously on the whole business of expanding Barbados' interest in, concern for and participation in ship registration. Phillip Greaves, who has and had an abiding interest in this, spent a substantial amount of time working both personally and in a ministerial capacity on getting this expansion of the Registry going. Maurice King, in his capacity as Attorney General, took the trouble with the colleagues in both the Maritime Division and the AG's Chambers and the experts who came from time to time to spend a lot of time to make sure that we reached a high level of proficiency.

There is an officer in the public service, one is not permitted to call names but everybody knows who she is, who is probably the foremost expert in any of the Caribbean Governments. When I went to one of the Ministries I discovered that she had this special aptitude and I believe that she has gone on to be at the highest level in the Government sector dealing with maritime matters. She was only one of two by the way. We lost another lady who went off to Africa. I can call her name, Miss Belle, who was one of the finest minds I have ever seen. She is now in Africa. She is the sister of George Belle. She and this lady who is still in the service understood this maritime business better than most of us can understand it.

I believe the Honourable Member for Christ Church South has spent a lot of time in this field as well and no doubt will participate in this debate. The point, Mr. Speaker, is that there have been a few people, Greaves and King and those persons I mentioned and some others, who have been pushing the concept of ship's registry for Barbados as a means of earning foreign exchange.

Sir, by the time I became Minister responsible for Foreign Affairs we had already agreed in principle to the establishment of a Registry in the High Commission in London and on a day in 1993 I went to London on a visit to the High Commission and among the things we had to settle was the establishment of this registry overseas in the High Commission.

Mr. Speaker, it is very interesting. I rea . in the newspapers about 2 months ago that the pres . High Commissioner was speaking about the great strides which we had made in the Registry in London and I believe that the newspaper for want of space was unable to show the origin of the Registry in London and left the impression

that it is something that had come up like a mushroom the day before the then High Commissioner had been appointed and as a result what progress was being made, that progress was a result of his indefatigable efforts.

I have no doubt, Sir, that the present High Commissioner and the present Government would have picked up the reins and started to run with the ball, because it has been demonstrated, as those who were pushing it have always indicated that it would, a tremendous capacity to grow. All of us had some trepidation about the establishment of a Barbados registry on foreign soil to be run by foreign people, and most of us didn't know too much about it and those of us who are Barbadians who have been participating in inducing people to invest in Barbados have always been scared, concerned about how and whom we would have coming to Barbados in one form or the other as an investor.

I think we should also take note. I certainly will take note of the role which one Barbadian businessman has played in ensuring that this Ship's Registry moved at a rapid rate. His name has been called, Mr. Kyffin Simpson, and I think Barbados owes him a debt of gratitude. He has contacts with business people all around the world, certainly those in London. He has many contacts in George Street and that is why when the people from Roebuck Street wish to curse him they curse him as though he was a denizen of George Street, but it would be much safer as the Honourable Member for St. George South says from his seat, if we would regard that distinguished gentleman as a businessman and not as a politician and leave the cursing of politicians to the heavy cursers on that side when they are cursing politicians and leave the businessmen.

Sir, to continue. That Barbadian in conjunction with Trevor Robinson invested. I am going to give you a little background on that, but let me finish the point. We had a meeting and I have a note of the meeting because one of the things which had been indicated is that we should have the registry in place before the end of 1993 in order to catch the traffic, in order to ensure that we would get the benefit, and in order to grow beyond a certain rivalry which would be coming out of the Bahamas because one of the persons who was going to be participating in the registry in London for Barbados had been a person working out of the Bahamas.

The rivalry and the undermining which goes on in this business is beyond any of the imagination that can be garnered in this Honourable House. It is only when one became aware of how the thing functioned that one recognised that cutthroat is a mild term to describe the business of registration of ships. The Honourable Member for St. Michael South is remembering, fondly, some of his wildest cutthroat actions in Christ Church South and beyond, Sir. He, no doubt, will regale us with the ethic struggle between himself and a later Leader of this Party. I am sure he will tell us when he gets up. Tom Adams cut his throat. I do not wish any help on these matters, Sir.

12.25 p.m.

This is what the note says:

> "The conference room will be available for use by the Mission, the Shipping Register, the Barbados Tourism Authority, the Commercial Sector and Medical Advisors. It should normally be booked in advance."

One of the problems they had, Sir, was that we were going to be putting some foreigners into our High Commission, and the Ships Registry operates 24 hours a day. The question, especially if they were bombing in London at that time, the question was, "How are we going to have this foreign group inside of our High Commission?" This is the note which resulted from my meeting in London with the High Commission.

> "In relation to the request for 24-hour access to the Mission by the Shipping Register staff, the Minister directed the Mission to set up a system which would, *inter* **alia,** require the Shipping Register staff to inform the Mission's duty officer, in advance, of any after hours access required. The duty officer would then make arrangements for a security officer to go to the office, and open the areas needed for use. The Shipping Register is to meet the costs of providing the necessary security with payment being made by the 30th of the month. In relation to the issue regarding the Bahamas' reservations regarding the proposed Principal Registrar, Captain Moms, Minister Taitt felt that following his discussion with the Prime Minister of the Bahamas, the question of the alleged "problem," the word is not "problem," Sir, but I substituted "problem," "should not be pursued, but that we should be wary, cautious and vigilant."

I then indicated according to this note that I would communicate with the Minister responsible for International Transport, on my return to Barbados.

The note goes on, Sir:

> "The Minister also considered that related costs should be established before further action was taken, and that the High Commissioner should meet with Mr. Trevor Robinson to determine the necessary arrangements. The High Commissioner was to prepare a letter setting out the arrangements/procedures to be followed by the Shipping Register, a copy of which should be

signed by Mr. Robinson, as the basis for the operations of the Shipping Register in the premises of the High Commission."

That is November 1993.

I have said that in detail. I have a confidential note here of the conversation between myself and the Prime Minister of the Bahamas. Clearly because it is confidential, I will not put it into the record. I have said all that just to establish that this setting up of the Registry in London was done in an orderly manner. It was done with the country in mind and it was done, at all times, above board. It was done with the principals in London making the investment.

The cost to Barbados was time, effort, consideration and provision of quarters at the High Commission in London. All of the financial investment, which has been made in the creation of this sub-registry in London, was contributed by the principals who have a joint venture with the Government. As I understand it, the Minister will confirm it, the Government has already began to draw the returns from this arrangement.

If we have not yet started to draw the returns, we will in short order. According to the newspaper reports, I do not have access to the official information, a substantial sum of money has already been paid to the Government as a result of this Ships Registry which is growing by leaps and bounds.

Mr. Speaker, I need to turn now to the question of the employment of Barbadians in ships that are registered under the Barbados Flag. The Foreign Exchange Committee, of which much has been said and a few have been maligned, the Foreign Exchange Committee made it one of its principal responsibilities to insist that Barbadians should become participants in the expansion of a Shipping Registry. That Barbadian seamen should find employment on board ships that are registered in Barbados.

My understanding was, and still is, that the Foreign Exchange Committee spearheaded the effort to have the training resumed. I am not here to dispute with the Minister when the school was restarted, but I can dispute with the Minister any suggestion that the school was only started as a result of some ephemeral change which may have occurred after the Barbados Labour Party came to office. It would not be in keeping with the truth because the whole concept is about foreign exchange earnings, and the Ships Registry as part of foreign exchange was part of the role played by the Foreign Exchange Committee. First under the leadership of Maurice King, whom I have alluded to before, and then subsequently under the leadership of the Honourable Member for St. John.

Mr. Speaker, that Barbadians should find work as seafarers seems almost axiomatic, because Barbadians have always, up until relatively recently, sought to find work as able-bodied seamen and otherwise. We have a number of Barbadians who worked on the tourists ships that berth here in the harbour and go on their cruises and come back. We have Barbadians who come home every Thursday as the ships come in, or every Friday as the case may be.

I believe that the effort which was made by the Government, I have the honour to be part of, should be continued and intensified. It does not have to be intensified in an aggressive way, in the sense of creating unnecessary tension, but it has to be aggressively pursued by whomever is the Government at the time. We must find every and all avenues for employment for the people of Barbados.

I have always felt that the seeking of employment, especially outside of Barbados, is not a partisan matter. It is a matter concerning the pride and industry of Barbados. Some of the conditions under which some humans work on some of the ships of convenience, the ships that ply under flags of convenience would be unacceptable to Barbados.

We, certainly, always made it very clear, that Barbadian seamen were not going to be treated like seamen from the Phillippines and other countries because we were not accustom to that in Barbados. There is no one who needs a job or needs money so badly that he or she must lose their humanity. So that when I say that it must be pursued aggressively, I mean that we should seek every avenue.

One of the things, which we said to the Registry in London, is that we expect them, in contacts with the ship's owners and the ship's directors, to stress the point that we in Barbados can provide up to almost the highest levels of activity on ships.

Mr. Speaker, one of the things that I have always remembered, with amusement, is the establishment of the Coast Guard. I recall when the late Errol Barrow sought to have a Coast Guard Division of the Defence Force. There was massive criticism. That late gentleman used to make the point all the time, that the only way Barbadians are going to break into the higher echelons of seafaring is if we have the ability and the capacity to train Barbadians.

Asides.

Mr. B. M. TAITT: Well it is better to be a captain of an old shrimp boat than to be a person from St. George who cannot swim.

12.35 p.m.

Quite 'seriously, Sir, we started with what the Honourable Member for St. George South said from his seat with two old shrimp boats but we ended up with a lot of shrimp boat captains going and doing trawling

in Guyana and if the Labour Party had not closed the shrimp industry, the Lord knows what sort of foreign exchange we would be earning from the shrimp industry now.

Aside.

Mr. B. M. TAITT: The ***El Gato Blanco.*** We sold that ship that we had bought. Sir, my Party's Governments have always been interested in maritime affairs. We had the late George Fergusson. He never allowed the Government at any time to forget the sea or seamen. He never permitted the Government to forget and so we were always interested.

The point I was making, Sir, there is a young man now who is a captain of a fishing boat. He lives in Parris Gap. He was one of the first sub officers of the Coast Guard. He and Capt. Fergusson's first son were the only two qualified captains in Barbados but he had not had a certain kind of secondary education and the public officials and the criticisms of his being a sub officer in the Coast Guard during the early days of the Coast Guard provided great risks for the political mill of our opponents. As a result, we lost the skills of this young man – he is still relatively young – who still lives in Parris Gap, who goes out and fishes and comes back in every 3 or 4 days. God has been good to him because he has been making a lot more money than if he had remained in the Coast Guard.

The Harbour Master was brought from wherever it was constructed to Barbados by Barbadian captains, mates and seafarers. Whenever it was necessary to go anywhere in the world and bring home a vessel there were Barbadians. We have a Barbadian from the Bayland, Mr. Clarke, who bought about two or three hulls out of Europe over time. He is another one who is very interesting in seafaring. In those days, Sir, he was an ardent supporter and member of the Democratic Labour Party. He was spirited away by the cousin Party. His main interest is maritime affairs. In fact, he has been very unfortunate in that they had a problem with one of his boats that was illegally seized and I do not believe...

Aside.

Mr. B. M. TAITT: Mr. Speaker, the history of Barbados and seafaring is a very fascinating one. That gentleman from the Bayland who had two or three ships had a motor vessel that was collected by the authorities. I believe, illegally, Sir. He has been fighting a case and he had finally got an ***ex gratia*** payment agreed which was subsequently changed and to this day he has not received compensation for the loss of his boat. He has been driven out of maritime affairs by the circumstances.

Aside.

Mr. B. M. TAITT: The Honourable Member is prompting me, Sir, to go beyond the call of duty at this point in discussing the misfortunes of this gentleman.

Aside.

Mr. B. M. TAITT: Sir, we bought the North Point to bring cement to Barbados. The Barbados Labour Party has a penchant for the destruction of things maritime. The only thing they wish to do is to sink boats to become havens for fish. The Honourable Member is very good at that. If you have a boat and you want that boat sunk, give it to the Member for the City. Within a short time she has it dynamited and bare fish around it.

Hon. Miss B. A. MILLER: Mr. Chairman, on a point of order. All of those boats are now earning many, many revenues for Barbados. People come from all over the world to use them as dive sites, unlike the North Point.

Mr. B. M. TAITT; Sir, that is why I was giving the Honourable Member praise for sinking boats. I will merely say that other Honourable Members over there must be able to recognise when the boat is sinking and step off.

Mr. Speaker, we bought the North Point and the North Point was functioning efficiently and well. Then suddenly they had a change of Government and the North Point suddenly was brought to a halt. Within a relative short time it was sold to some people in Venezuela, having been condemned in Barbados, and a few weeks later it returned to Barbados with a new name, ***El Gato Blanco,*** and it has been plying the seas ever since. Anyhow, Sir, the people in Venezuela were the beneficiaries of the stupidity of Barbados in regard to that particular maritime vessel.

What we need to recognise is that Britain is a seafaring nation and at the time it started being a seafaring nation it had nothing. Most of the growth and development of British trade as a result from the growth and development of British shipping, British here meaning, especially up in the fiords of Scotland. Those of us who went to Combermere can usually describe these matters quite comfortably because we know the geography very well, but the building of ships by the British and the trading of goods around the world by British ships contributed significantly to the growth and development of Britain as a major country. Look at the size of it. Technically they had nothing, a little coal and a few 'acres of arable land. They do not have collectively in terms of natural resources anywhere near the resources which we have in the Caribbean.

You know, Mr. Speaker, it comes as a shock to many people when we tell them outside of the Caribbean, you cannot even risk to say in the Caribbean, because they would think that you are a candidate for the Psychiamc Hospital, but when we tell people that we have

more natural resources in the Caribbean than they have in Japan people are amazed. The Japanese have been able to grow by taking other people's ideas, refashioning, repackaging them and marketing them. That is what we have to learn.

This legislation, as I said, is a continuum. The concept of our using the sea around us for our economic benefit is one which we need to develop even moreso that the generations to come would not have to beat their hands together wondering how they are going to earn foreign exchange when we have exhausted tourism, when we have reached the maximum level of capacity of both the country and the people to absorb visitors, and that is bound to happen during our lifetime, if one follows these trends. When you reach that level when we would have exhausted by our callousness the capacity of our lands to produce, we will still have to live and we will have to maintain the quality of life which has been set in train by this generation, so we have to turn to those areas of our resources which are pristine which will allow for growth and development, and the sea is one such area. Therefore our using the registration of ships as a means of earning foreign exchange is a matter which we, on this side, have always held very dear and one which we have no difficulty commending.

12.45 p.m.

I will end, Sir, as I began. I feel that when a Minister or when a Government is proposing to introduce legislation that is breaking new ground and in a sense it could be said that this is not breaking new ground in so far as most of the sections in here can be found in existing legislation but it is breaking new ground for the very reasons which the Minister adumbrated in his opening remarks. It is breaking new ground in that it is seeking to set up a separate regime for corporate activity in the area of shipping. That is new ground for Barbados. Basically in the past our corporate activity for shipping had to do with men representing importers or agents for ships making sure that the ships get water and get food and get replenishment. But this is serious corporate activity which it is anticipated will be going on as we turn into the twenty-first century.

I am charging the Minister, and by extension the Government, with the dereliction of duty in not bringing a proper explanation of this legislation before the House and before the country. I am charging him with dereliction of duty in that regard.

I want to say further, Sir, that on the one hand we have been saying that we are moving toward one stop shopping and a more transparent approach to public affairs. When you look at this legislation, Sir, we have enveloped the shipping registry and the shipping corporations back into bureaucratic confusion. If you read what is being proposed here for the Registrar it is no different from what we set up when we said we were going to have a corporate registry.

The Honourable Member for Christ Church South is nothing if not an ardent agent for efficiency in the corporate registry. And I want to say that if we are merely going to put somebody with a job in here and give them the title of Registrar and then it will be business as usual and if you are going to give a Registrar the power to decide if a name has attachment to a political party, and a political leader and all of that kind of rubbish, all you are doing is giving discretionary power to a functionary to create confusion.

It would seem to me that the Government could successfully move that further consideration of this Bill be postponed, could successfully examine with the rest of the community the aspects of this legislation that would impact on our capacity to do precisely the things which the Minister wishes us to do in the objects and reasons, so that when finally we pass the legislation it will have all of the attributes that it is within our collective capacity to put into the legislation and we would have taken account of all of the pitfalls which we have observed when we have sought to give the corporate registration its own environment.

I am not questioning either the thesis or the desirability of having a separate regime. I am saying however that the Minister has a duty to spell out to us what is the policy behind the establishment of the regime. The policy, Sir, is something which you have never heard. We on this side have never heard it, and I would make bold to say that except for one or two there on that side they have never heard it either. We wish to hear what is the policy of the Bill. What exactly do you hope to achieve? What is your business plan? You like to talk about your business plan. The equivalent of the business plan as perceived by us who know is that a business plan is nothing more than some words written down by somebody who just got a degree. We wish you to tell us the policy, tell us what is the vision your Government has for corporations coming to Barbados. How many must we expect in the next 10 years? What will be the configuration of corporate registration in Barbados? Do we have the expertise that is necessary or are we going to be getting assistance from elsewhere? Who are the people who will become corporate registrars? Who are the people who are qualified to become corporate registrars? We do not wish merely to put a corporate registrar by name.

Sir, my Government decided some time ago when I was part of a Government that we were going to organise the land registry in Barbados, we were going to make sure that one of the easiest things anybody could do is to transfer or convey land. Mr. Speaker, I make no apology to say that many years later I have seen no change. There has been some effort made in terms...

Asides.

Mr. B. M. TAITT: They are saying that I am wrong. He is saying that I am right. They know what I mean, Sir. It is not that there has been no change at all.

Aside.

Mr. B. M. TAITT: Yes, I just overstate it. Am I not entitled occasionally. We have been led to believe that by now we would have reached a stage. There are people in this country, Sir, who when they receive the letter saying we are going to be doing something with your land at such and such a time they run to a lawyer and say, listen, they have come to take away my land. The point I am making is that the citizen of this country is still no better off in terms of his knowledge.

The lawyers understand, most of them but the citizen does not. The whole idea of these changes is to make the citizen better acquainted with what is happening in his or her environment.

I am suggesting, Sir, that the opportunity presents itself with this Shipping Corporations Bill for the Minister to be innovative. Let us not come with the same old story. This document weighs about three pounds, maybe five pounds. This document is not going to be read by anybody other than us. When we are finished here, Sir, it is going up to the other place. I do not even know what they are going to do, Sir. After that it is going to be the Registrar and the lawyers and some people who might want to take advantage of the legislation. We need to know what advantage there is to be taken of the legislation. How is it going to be different from what exists now? The Honourable Member said that we lost some money. He did not mean that exactly. He meant that the opportunity to earn money was lost because we did not have this legislation but the Honourable Member did not explain why. The Honourable Member can take some time and explain in Select Committee or whenever he wants to; in due course. I did not get the impression that there is an urgency to have this passed today or else the Crop Over will not go on or some such thing. So the Honourable Member should accept the advice to have this matter examined a little more carefully because when we go into committee on this we should know what these clauses will mean. He says that there are only a few that are different but some of them have substantial differences. I have alluded to one, Clause 314. I will not detain this Honourable House by going through the Parts and alluding to them, although I serve notice that if the Honourable Member insists on going through the Committee stage we will have to spend a lot of time examining in detail some of these clauses.

12.55 p.m.

I particularly wish to know what is the contamination that will happen to a name that is connected with a political party or a political leader. The Honourable Members who were not here when I began should look at Clause 314(c). Let me hear that, because that seems to me to be certainly unconstitutional. You would say then that a political party by definition is excluded from owning a ship? If the political party cannot be associated with the name, do you mean we could not call it the DLP Star?

Aside.

Mr. B. M. TAITT: If you were over here it would have been sunk. You are an expert on sinking ships, we do not want you over here. The Honourable Member tries in every way...

Asides.

Mr. SPEAKER: Order, please.

Mr. B. M. TAITT: ... to see how she can get over here. We are not going to get you over here.

Aside.

Mr. B. M. TAITT: The Honourable Member never said any such thing. It is a good thing that asides are not in the record, Sir.

Mr. Speaker, this legislation had and has much potential. What has been presented to us today does not go near where the vision that Phillip Greaves, Maurice King and others had for ships registration in Barbados. I anticipate that as a result of our presentation today we would have stirred the Government to re-examine what they have presented to us in such a manner that the people of Barbados will understand finally that there is some benefit in having a ships corporation registry in Barbados.

I am grateful to Your Honour.

SUSPENSION OF SITTING

Hon. Miss B. A. MILLER: Mr. Speaker, I beg to move that this sitting be suspended until 2 o'clock this afternoon.

His Honour R. D. MARSHALL: I beg to second that.

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

RESUMPTION

Mr. SPEAKER: This sitting is resumed.

His Honour R. D. MARSHALL: Mr. Speaker, I rise to lend support to this Bill before this Honourable House.

We are dealing with an area in which other Caribbean territories have done well, notably St. Vincent, Antigua and Anguilla. They all benefited greatly from a ships registry. Nassau too has done well in the cruise ship registry business. I see it that in Barbados, Government will do well in the way of stamp duties, practising attorneys will do extremely well offering their services to these corporations and also by employing secretaries and clerks to work with them.

The area I would like to spend some time on is the employment that derives from those people who have an interest in working on boats as seamen. As a young man I can remember we had in Barbados a shipping office that was concerned with the recruitment of people going to sea. This office was housed at the back of Collins Ltd., adjacent to the Immigration Office. At that time we had people like Mr. Tom Phillips and Mr. Thorne, who is now Rev. Thorne, involved in the recruitment. Many of the young men who went to sea at that time hailed from the area of Brittons Hill and the Bayland, and a lot of them went on what was unpopularly known as the Harrison Line where they worked on these boats that came out of England and plied in international waters. At that time the Harrison Line was represented in Barbados by DaCosta Shipping and in the 1950s two of the boats from that line were the Geologist and the Sun Princess. The Sun Princess was coming out of Trinidad in the wee hours of one morning with a cargo of bauxite and the Geologist was coming from England with a cargo of cars and produce. Both ships had their lights off, there was a collision and they both went down in shark infested water. The fathers of some of my friends were working on the Geologist at that time.

What I am saying, Sir, is that it is a long time that Barbadian people were involved in working on these ships. The Harrison Line ran about 50 ships in the area and the Booth Line ran about 47. The Harrison Line is now out of business, the Goddard group was responsible for a lot of these oil tankers and they too have gone out of business, and it is just now in Barbados that we have the Booth Steamship Company involved in the recruitment of people. Right now the Booth Steamship Company recruits some 120 odd Barbadians to work on these ships, the Labour Office recruits probably another 30 or so, so it is an opportunity where some of our locals can work on these ships. The Booth Steamship Company goes into the schools and recruits young men from age 16. They are sent to England where they are trained in survival and fire fighting techniques and so, and a lot of them are employed on the boats as deck hands, bosun's and so. A bosun on one of these boats makes about U.S. $1 500 per month, a deck hand makes about U.S. $650 per month. This is tax free money they are working for and they also do not pay National Insurance, so that is foreign exchange they are bringing into the country when they come back home. Many of the British cooks who have stopped working have been replaced by these Barbadians who work on these ships. I should also mention that when they come home on vacation or at the end of their time they are absorbed in the hotel industry. Some have got jobs at Bulkeley Factory and Roberts Manufacturing as welders and fitters, because beside going to the schools and recruiting youngsters to work on the boats, the company goes to the polytechnic where they recruit people who have been trained under the City and Guilds Certificate Programme.

We have in Barbados a popular runner who is a wine steward. He had some training in Europe also. He was at one time a seaman. We have a Chef at Glitter Bay, a guy called "Thirsty" Clarke, from the Bayland. He was also a seaman. If you look at the Deputy Harbour Master, he was also a seaman. Some 10-15 years ago the Harrison Line and Booth did a lot of recruiting, but I do believe that with this new arrangement in Barbados we will 'see an opportunity for more and more young people to get employment under this Act. When these men come home on vacation they are replaced also by Barbadians who go in their place and make some money also.

2.15 p.m.

Over the years, I remember, Sir, that a person who is going out to sea to work would sign an agreement where an allotment is left here for a mother, a girlfriend or a wife to draw money so that when they are at sea their family can be taken care of financially and at the same time when they come home from sea there is some kind of money there, a savings for them when they come home.

Sir, I believe that this new Bill in this area of employment will enhance this situation and help the unemployment situation in this country. Sir, I have no doubt that this Bill will do what it sets out to do. I thank you.

Hon. Miss B. A. MILLER: Mr. Speaker, Sir, I want to support this Bill and to congratulate the Minister for getting it before the House but there are two observations I would like to make.

I believe that this legislation is only a part of what the Government will embark upon by way of exploiting the fact that we are an island nation and that we need to recognise that there is so much more that the sea can do for us. There is so much that we can draw upon that we have been doing, almost during the entire existence of Barbados, that will allow the sea to contribute to the economy of this country more and more.

I am hoping Sir, that the regulations under this legislation will very soon be ready. I, in this Chamber, Sir, over many years have seen that situation so often where the parent Bill comes before the House and the regulations are very far behind, sometimes years behind. This is important legislation because to my certain knowledge there are a number of individuals and corporations out there literally waiting upon its passage through the House in order to do business in Barbados.

There are 2 points that I particularly want to make, Sir. I want to speak to the absence of a seaman's union in Barbados. For many, many years we had a vibrant seaman's union here and, as the Honourable Member who just took his seat pointed out, seafaring is a common way of making a living for Barbadians, particularly those coming from urban Barbados. Certainly, in my own constituency in the City of Bridgetown and in many of the surrounding St. Michael constituencies, including your own, too, I would venture to suggest, Mr. Speaker, a number of people go to sea. As has been said, just as you leam skills in the army or in any other disciplined force, you leam skills and that is often used as a springboard into other areas of endeavour.

In fact, it is a very serious discipline. It is hard work, strenuous work and when that bell rings you have to get up, when you are given an order by your captain you have to get up. The captains are notorious. They don't hesitate at the drop of a hat to put you off at the next port and have you either flown or shipped back home. Yes, they put you in the brig. But Barbadians I think it is fair to say are known in this area for their discipline and for their attentiveness to their work. They are very industrious in this connection.

Mr. Speaker, Sir, today there is no branch of the Seamen's Union in Barbados and it is a crying shame because under this Administration,as we have been hearing this morning, a number of Barbadians are again not only seeking but securing employment on the commercial shipping lines. A very sad thing happened in connection with the Seamen's Union. I know of it practising as an attorney formerly. I know of it as a Member of Parliament for the City of Bridgetown to whom many of my constituents have come with their complaints. Some of them in tears, grown men, hardened men. We had a Seamen's Union here which looked after the interests of these seafarers. As I said, it is hard work and it is dangerous work sometimes. There are often shipboard injuries and the Seamen's Union would facilitate insurance and other claims that had to be made in respect of monies due and owing – you know how it is done. Monies are held and so on and so forth. The Seamen's Union played a very important role and continues to do so in most developed and several developing countries of the world. They often run hostels so that where a man had to overnight or spend a few days before he could pick up a boat he could stay at a hostel which was either run or sponsored in some way by the Seamen's Union.

A sad thing happened in Barbados several years ago in that so many Barbadian seamen had paid their money, their dues, their subscriptions into the Seamen's Union, monies which were due and owing to them from the shipping companies were lodged with that union and an attorney who shall be nameless absconded with the money of the Seamen's Union. It is a terrible indictment on us in Barbados that an attorney who represented the interest of the Seamen's Union absconded with their monies. From that day to this, there really is no proper branch of the Seamen's Union in Barbados.

I would like to appeal to the Honourable Member for St. Michael North who has responsibility for international transport to look to ways and means of facilitating and encouraging again a branch of the Seamen's Union in Barbados. I am saying this particularly, Mr. Speaker, bearing in mind that the cruise industry is very much on the increase in the Caribbean and Barbados has a proper market share of that. We are even now negotiating with the FCCA, the Florida Caribbean Cruise Association and other representatives of shipping lines. We are now having discussions, the Honourable Member for St. Michael North is much engaged in them, with a view to having more cruise ships who port in Barbados. Home porting is crucial to the economic activity at the Bridgetown Port, and it is crucial to the cruise arrivals in Barbados.

2.25 p.m.

Home porting, Mr. Speaker, Sir, will mean more jobs for Barbadians, not only as seaman in the traditional merchant seaman sense, but I know that the Minister, the Honourable Member for St. Michael North, is deep in consultation with the Honourable Minister of Education about special classes being laid on at the Hospitality Institute to train Barbadians, specifically, for the cruise industry. We do quite well, but there is a lot of scope for us to do much, much better. Barbadians are represented in almost every sphere of cruise. Entertainment, a number of Barbadian entertainers work on the cruise liners. Many of them are now working, I think that this point has been made before, in the culinary arts and several other jobs which become available.

When a ship is home ported, when Barbados is the home port for a cruise ship, you have to assume that more Barbadians rather than not Barbadians would be employed when employment becomes available on that ship. It is also important, therefore, Mr. Speaker, Sir, that the interest of people who as, the ancient book has it, go down to the sea in ships, that their welfare must be well looked after.

Part of the proposal for the expansion of the Bridgetown Port, Mr. Speaker, Sir, is that we will

construct a Crew Terminal not a cruise, we're going to do that as well, but a Crew Terminal. When you see those big cruise liners come in here, Sir, with 2 700 and 3 000 people on board, there are carrying between 800 and 1 000 crew. And many of these, sometimes, fly from one place or another, to Barbados, to pick up a cruise ship on which they are working. All of that generate economic activity in this country, and there is tremendous potential for us to develop in the cruise industry and the commercial shipping industry as well.

It used to be a far more vibrant industry in Barbados, 30 or 40 years ago. It was not only the Harrison Line. There were several others, and Barbadians worked as mechanics, engineers, doing highly sophisticated work as far back as the 1930s and 1940s. My own father speaks of himself as a refrigeration engineer during the last war, during the 1930s. When ships came here, he used to go down in the hole, with his tool kit, my late father. Many Barbadians gained experience and made good money in all those years working on those ships. As I said, it led them to bigger, higher and better things.

I am very much supportive of this and, as I said, urge upon the Minister that the Regulations should follow the Bill as soon as possible.

I thank you, Sir.

Mr. D. J. H. THOMPSON: Mr. Speaker, I would not be long on this legislation. I want to endorse what the Honourable Member for St. Michael West said in his opening comments about this legislation.

I suppose I should congratulate the Honourable Minister for introducing it, because it is the first legislation that he has introduced. As things go, there may still be some on that side who have not introduced legislation yet. I am looking forward to my parliamentary representative, at some point when he returns from Atlanta, stirring himself to such greatness, but I would not hold my breath, Mr. Speaker, Sir. This much I must say for the Honourable Member for St. Michael North, that he, too, has now surpassed the Honourable Member for St. Philip North in exerting himself to do what a Minister is suppose to do. So I congratulate him for that.

I was disappointed in his presentation because of the absence of an explanatory memorandum or explanatory note on the Bill: this is a very large piece of legislation. What the explanatory note would do is not necessarily highlight each of the sections, but would give us an idea of where this Bill departs from the Provisions of the Companies Act.

We were having a discussion, as soon as the recess for lunch was taken, Mr. Speaker, Sir, and I would think that it would have been much better had the Government simply introduce legislation similar to the International Business Companies Legislation and IDC's flow from the Companies Act. Therefore a very short piece of legislation could have outlined those features that impact specifically on the establishment of corporate bodies to own or operate ships, and as holding bodies, corporate for such bodies, corporate to do such other things that are necessary and incidental to the ownership and operation of ships.

These provisions are, by and large, provisions which are already in the Companies Act and there are, probably, no more than 20 new or unique departures from the Companies Act which would not have meant that Parliament would have to have gone through this voluminous piece of legislation, nor the press, nor any of the other stake holders. We would have a simple compact piece of legislation which referred one to the Companies Act, and then from that you would have Shipping Corporations as you have International Business Companies, Foreign Sales Corporations and other investment vehicles, all of which flow from the existing Companies Act. This may very well give the impression that there is something substantially unique about shipping corporations, and this is not so.

So the Minister would have saved all of us a lot of time, he would have saved himself, not that he could have been any shorter than he was this morning, but, perhaps, he would not have repeated what is already in the Companies Act and would have dealt with the unique features of the Bill, and we would have had, as I said, a compact understanding of what the legislation is about.

Mr. Speaker, Sir, we are in this Chamber, not as technicians. Therefore, my advice to the Minister, and he is free not to take it because I do not ever offer gratuitous advice, and I cannot be paid for the advice that I give him. So I am really giving it out of the goodness of my heart. One should get to the policy aspect of the legislation very quickly, and I think that is where the Honourable Member fell down. Were I not a member of the House familiar with aspects of the law, we would not have had a very clear understanding of the direction which the Government proposes to take in this area. I hope in winding up, the Minister will treat us to a broad suite of some of the initiatives which his enthusiasm in the Ministry will herald over the coming three and a half years.

I look forward to that, failing which, as I have said already, Mr. Speaker, Sir, I do not think that many of us would have left here today with any clear picture of Government's intentions. What we need, therefore, is for the Minister to tell us whether there is anything unique about registrations in Barbados, ***viz-a-viz*** other Caribbean territories. In essence I think that is the natural point that would have flowed from the speech from the Honourable Member for St. Michael West Central. In other words if there are other jurisdictions which offer similar

facilities, what is it that is going to be unique about Barbados that will attract companies to incorporate in Barbados under this legislation? What is it that the Government is going to do to make Barbados even more attractive?

Some of the points which the Honourable Member for St. Michael West made are going to be very important in that regard. We introduce legislation, we fail to train and qualify people to market this legislation effectively ovmseas and offer their services as individuals who can supply whatever the legislation requires. What is the Government therefore going to do? I am not talking about training of seamen. I think that is a very worthy enterprise and should be continued, but who is it the Government is going to train and get out there promoting and working on these ship registrations? Already the offshore sector is concentrating in too few hands. I think both sides of this House have made this point time and time again. This is the: kind of area which requires Government intervention at the level of training, at the level of encouraging and by direct means. Some call it affirmation action but however you want to describe it, it is training individuals whether in the service, the private sector on some form of remuneration and then integrating them into the private sector to undertake specialised work in these areas. If not, the criticisms about work permits are going to persist in Barbados and we are constantly going to be bringing in people to provide services at the Barbados end when some additional training for Barbadians perhaps would provide them with whatever special skills are required.
2.35 p.m.

The point which the Honourable Member made about the IBC not being an appropriate vehicle for persons who want to...

Aside.

Mr. D. J. H. THOMPSON: Therefore it is not appropriate because they are not accustomed so you are developing in your jurisdiction the vehicle which they find acceptable, to which they are accustomed, so it is not appropriate to the extent that it is not what they are accustomed to. Flowing from that point would be, Mr. Speaker, my reiteration of the view that the Shipping Corporations Bill did not need to repeat all the provisions of the Companies Act but should have highlighted the unique features of shipping corporations which are not relevant to the present Companies legislation in Barbados.

I would also like to know where this legislation is going to be administered. The Honourable Member said that there would be a Shipping Registrar, or something like that, or a Special Registrar. Where will that Registration Department be located? What Ministry will be dealing with matters of this sort because you had various Ministries in the past dealing with them? At the end of 1992 the Democratic Labour Party set up the International Business and Financial Services Unit which brought all of the regulations and incorporation activities, except the Corporate Registry at that time, under the control of that Unit. Will this Shipping legislation be administered by that Ministry or is it going to remain under the control and direction of the Ministry of International Transport?

The final point I want to make, Mr. Speaker, is that we have passed various pieces of legislation over the past few months in relation to making Barbados more attractive as a centre for the use of Barbados as a domicile for various corporate entities and various investment vehicles. Some of that legislation is in need of urgent amendment. I do not know about this because this is not an area in which I have any competence. I do know there are other pieces of legislation, the International Trust Act and other pieces which need urgent attention.

I would like to call on the Attorney General, regrettably he is absent, to seek to place some fire under those individuals who are responsible for getting these amendments done because some of them are critical to the development of the sector. Some of these amendments, if they are not to come, will significantly retard the operation of persons who are promoting Barbados overseas.

In this regard I want to say to the Honourable Member for St. Michael North that if he therefore has any second thoughts about any aspect of this Bill or wishes to take the Opposition's advice in relation to any area that we would be very happy to facilitate speedy amendments, but that if there is some area in which this Bill is working hardship or is not providing the kind of response that is necessary, the Minister should not feel embarrassed or ashamed to come back to the House quickly. This is one of the problems we have that Ministers introduce what they call comprehensive legislation and then they are terrified to come back to this Chamber when that legislation has blotches in it. In that regard I hope the Honourable Member for St. Michael North will display courage, which I personally do not know him to possess but he may very well have, to bring back those amendments quickly in the event...

Aside.

Mr. D. J. H. THOMPSON: That is right. I do not know what he has. I hope he will display that courage and bring back any amendments which are necessary and he will not find the Opposition to be a constructionist in any way in relation to this. It is, in fact, in relation to matters such as this that when Barbados is promoted overseas the level of bipartisanship which is displayed in relation to support for initiatives in the offshore sector and in

relation to international business and so on, that is extolled as one of the virtues of this domicile so the Government will receive our support.

We will not be opposing this legislation but for the comments which I have made which I hope the Government will take on board. They will receive our support.

Hon. Sir HAROLD St. JOHN: Mr. Speaker, I am rising to support the Bill but I have always had a number of observations of concern about this Bill. When I first heard of it, it was a Bill designated as a Special Business Corporations Act. When I looked at this Special Corporations Act, I discovered that Act was in truth and in fact a copy of the Liberian legislation and, in my opinion, it was thoroughly out of tune with the structures that we in Barbados have had in relation to corporations since 1984 and also out of harmony with modem legislation in relation to companies.

I was appointed as a member of the Bar Association Committee to examine this along with a number of other lawyers. We unanimously were of the view that it would have been better to use the present Companies Act with special provisions in the legislation where points of departure were needed in a similar vein to what you have with insurance companies, with banking companies and with international business companies.

Then, Sir, while we were doing this exercise we were confronted with an agreement that was signed. When we looked at the agreement that was signed, it was pointed out that if we pursued the path we were pursuing, that it would be contrary and in breach of certain terms in the agreement. Notwithstanding that, we persisted in our view that it was necessary, certainly to avoid confusion, that we change the name of the corporation and a number of the provisions.

We objected to the name "Special Business Corporations Act" because when we looked at what the agreement stipulated, we found that the obligation of the Government under the agreement was to have a special regime with respect to ship owning companies and ship owning companies alone. If you had a Special Business Corporation Act unrestricted, you would have been permitting people to masquerade worldwide in all kinds of activities without any specific restrictions to the activities which you were passing the legislation to facilitate, namely, ship owning companies and ship management companies. So that was the first radical point that had to be taken so the name was changed and in the new legislation, contrary to the terms of our general corporate law now, where a corporation has no restrictions on its business activity unless it is specifically set out, we, in this Act, inserted amendments to ensure that companies registered under this Act can only be companies that own ships or manage ships. Any activity outside of that is a ground for dissolution of the company because it would be operating contrary to their charter.

2.45 p.m.

So that, Sir, the points are well taken that it is necessary that we ensure, having regard to the peculiar features of this Bill, that there are mechanisms within the Bill which would permit Governmental agencies in Barbados to maintain a careful watch upon the integrity of Barbados as a registry. That is one of the most fundamental points that was raised.

At the meeting that was held here at Sherbourne Centre with the principals, a number of other points were taken and I come to second the most important point in my opinion and it is this, Sir. It is that the arrangements that were agreed with respect to the Registry were not the most desirable arrangements. I have no objection to arrangements being made under the control of a Minister in Barbados, and always under the control of a Minister in Barbados for a registry to be maintained at a place outside of Barbados. But what I strenuously object to, Sir, is that within Barbados one cannot also carry out the same activities that are carried out abroad here in Barbados because whether we like it or not the point is that this is a Barbados registry and I feel that it is quite wrong to say that if you have a Barbados Registry that it is not possible to register any ship which is going to fly the Barbados flag in Barbados.

I am scrutinizing these amendments very carefully, Sir, because if that is not embodied in the new amendments then I am not voting for it, Sir, and I have said so repeatedly to everybody. You can have your registry, your Principal Registrar could be abroad and they can register ships but the Deputy Principal Registrar in Barbados must be in a position if someone wants to register a ship of the requisite type to register it here in Barbados.

Now, Sir, this was the source of some concern at the meeting. The view was expressed then that you would have to register in England and they would transmit the data to Barbados. Now, we took objection to that.

The second point is, Sir, we always understood that the terms of the agreement stipulate it, that you had what is called a 'mirror' registry in Barbados. In other words, everything that is registered in London should automatically be here in Barbados also. It was agreed that a computer line would be set up whereby simultaneously the registration in London you would have here in Barbados a mirror of that. Now, in truth and in fact the registry has been operating for some considerable period of time and up to now that computer line has not been set up. That is a matter of fact because we have checked it and re-checked it.

This has always been a source of concern, Sir, and I believe it is true to say, Sir, it is a fact that one of the reasons why this Bill has not come before this House before was that the requisite insurance at the time for the setting up of that mirror registry and computer line in Barbados was not agreed to. I now understand that there is a specific deadline for it. The argument was that it would cost money and that until you were sure that the economics of the operation was good that they would not be setting it up. That is why when you have joint venture agreements dealing with private enterprise, their god is money and they are not interested in what is good for Barbados they are interested in what is good for them.

This arose because there were 5 or 6 practitioners, Sir, of all specialties who had pointed out that in truth and in fact they had had enquiries from the Far East of the Barbados Registry and they wanted to know what information that we had with respect to the Registry here. When you went to the Deputy Registrar in Barbados it was disclosed that they get information every afternoon from London by way of Fax.

Now, Sir, I am familiar, I have been around the law long enough to recall when we were all part of the British Empire in those days, and Commonwealth later, when the Merchant Shipping Act that was in existence was really and truly a branch in the colonies of the British Merchant Shipping Register and the obligation was that whenever there was a ship to be registered in the register in connection with any of these territories that the Principal Registrar in London used to send, in those days, automatically certified copies of the Register so that the local shipping registrar who used to be the Comptroller of Customs, would have it here and that is how you would go and search if you had to do something.

I believe that improvements have been embodied in this Bill to ensure that those objections have been taken into consideration but the point is that at the committee level we wanted to make it clear that the tax regime in relation to shipping should be spelt out either in this legislation, the Income Tax Act or in a special Act. As I understand it, Sir, the general provisions are quite clear that we have within the Income Tax Act, we have under the Shipping Incentives Act, a certain tax review.

I notice that in this Bill there is no general section. There is a special tax regime set out in the Bill I am told now but that was the third objection that we had. The last point that we had, Sir, is that we insisted at the Bar Association level that the courts in Barbados will always have jurisdiction in relation to disputes that inevitably arise in relation to these corporations. The kind of disputes you will have would be disputes among shareholders of the particular corporation. When we come into Committee I would like to make sure that there is a definition of "court" in the Definition Section, so as to make it clear that when they say "court" they mean the Supreme Court of Barbados. I do not see it in my draft Bill. After all, the special provisions of the Act dealing with disputes among the shareholders, which are very similar to our Companies Act, should be resolved by courts in Barbados, not anywhere else. If the ship commits damage in another country, the normal maritime law will apply and the ship can be arrested where it does the damage. If they have disputes with salvage, wherever the salvage is done. That is normal merchant shipping law. That is part of an international convention and there cannot be any quarrel with other courts having jurisdiction in that respect.

2.55 p.m.

I would like to say, Sir, that certainly since the Government had a look at this Bill, both the Attorney General and the Minister, and others, should scrutinise very carefully the draft that we came and found. We did our level best, consistent of course with the obligations which we inherited under this joint venture agreement, to ensure that nothing could take place which would harm the general good name that Barbados has in respect of an offshore regime.

With those few comments, Sir, I would support the Bill.

Hon. R. St. C. TOPPIN: Mr. Speaker, I wish to congratulate the Members who spoke in this debate. I think a number of important points were made, particularly by the Honourable Member for Christ Church South, and I will respond to some of his concerns a bit later, as I will be brief.

I am not sure exactly what point the Honourable Member for St. Michael West was trying to make in his presentation. I was at pains in my opening remarks to outline how the Registry is structured, the achievements to date or expectations in terms of the success of the Registry. I do not know if the Honourable Member did not understand anything I said. He seemed to be trying to set up a straw man to knock him down. I never once tried in any way to deny that the former administration, of which he is a part, played a role in the development of shipping registry legislation in Barbados. I expressly said that the modern era began in 1981, it was continued by them by amendments in 1994 and we are now taking the process one step further. I was explicit to say that. I gave you the credit you were due, so to really seek to say that I tried to derogate from the role the Opposition played is really to misrepresent what I said.

Points as to whether you should use "must" instead of "shall" really baffle me, especially when the exact wording is used in the Companies Act. A Section was singled out that in 1996 in an age of democracy, which I have always thought prevailed in Barbados, where we are seeking to restrict someone from having a name very similar to

a political party or politician. The exact wording, the exact word for word provision, is in the Companies Act at Section 416, and that was passed in 1985. It was amended as recently as 1995. The Honourable Member for St. Michael West was in this Chamber during all that time when the amendments were being passed and never once did he voice a concern about that. But today it is a major concern, firstly that you should have "shall" instead of "must", and secondly, that it is wrong to say you should not have a name similar to that of a political party or a political leader, when it has been there on the Statute Book for years and years. I thought he would have complimented us for continuing it so that there could not be any possible allegation of conflict of interest or anything of the sort. Such was the nature of his contribution.

Mr. B. M. TAITT: Sir, on a point of order, if the Honourable Member would give way. First of all, the Companies Act is 1982, not 1985. If the Honourable Member wishes to hide in the fact that they are just simply repeating what was there, I have no problem with that. The point is, Sir, he said this is an innovation, they are moving in a certain way. What relevance is there in the context of shipping corporations to a political party or a political leader? Unless you explain why it occurred there in the Canadian legislation or in other legislation. How are you going to explain that a ship cannot have a name that has any relationship to a political party? He obviously missed the point.

Hon. R. St. C. TOPPIN: Mr. Speaker, I am not going to spend any more time on that, that is self explanatory. If the Honourable Member cannot take the point, then I would really wish to say that it is no surprise to me.

Mr. B. M. T A W . On a point of order, Sir. I was at pains to point out that there are some of us in here who would understand but that the ordinary people ought to hear from the Honourable Member why these things are the way they are. That is the point I made.

Hon. R. St. C. TOPPIN: Mr. Speaker, with respect to the Honourable Member for St. John, he was making a point and I believe that the Member was probably not in his seat for the duration of my presentation, because I was at pains to point out the marketing drive of the international ships registry in London. I pointed out that the Principal Registrar not only uses brochures as an indirect marketing strategy, but that he himself makes trips and makes presentations in North America, in Europe and even as far as the Far East promoting the Registry. That may well be what has accounted for the growth in tonnage'on the Registry since 1994 when it moved from just under 50 000 gross tonnes to almost half a million in 1996.

Also, the question as to who is going to be Registrar, there is already a Principal Registrar based in London. There is not only a Principal Registrar based in London, there is also a Deputy Principal Repistrar based in Barbados, another Registrar appointed in London. All of these things I said in my presentation. For every 100 ships above 500 gross tonnes you must have an additional Registrar. Even although we only have 97, we already have a second Registrar appointed in London, so we are already gearing for the expansion of the Registry.

3.05 p.m.

The more valid points that were made really came from the Member for Christ Church South about the operation of the local registry, if you want to call it that. I share the concerns of the member for Christ Church South about the way in which the registry in Barbados has been operating. What I would like to say to the Honourable Member is that there is no need to amend any legislation to empower the Deputy Registrar in Barbados to register companies. That provision already exists in the Shipping Act of 1994. What has happened, Mr. Speaker, is that instructions were sent from the Principal Registrar in London instructing the Deputy Principal Registrar in Barbados that he is not to register companies.

When I found that out, Mr. Speaker, I was extremely annoyed about it and, in fact, only as recently as last week Monday, I had a meeting with the same Trevor Robinson, to whom I referred earlier in my initial presentation today, and also Kyffin Simpson. I made it clear to them that that situation could not continue to exist. I also made other general points ,about the fact that we were supposed to have an on-line computer system connecting the central registry in London to the registry in Barbados. I was given the assurance that by the end of this year that would be in place.

Now it is my intention, Mr. Speaker, to monitor that situation very carefully although I must say that with respect to that latter concern we get transcripts in relation to the various transactions and as soon as the transaction is completed it is posted down to us. At the end of every month we are faxed a summary of the new ships coming on the register; and I am still agreeing that the on-line computer system could be better than that.

Attorneys in Barbados have dealt with the registry here in Barbados and despite my concessions about the fact that it could be better structured and more active and not so much like a post office which is what it behaves like right now, despite that, I must say that the lawyers that I am told have dealt with that registry in relation to searches said that they found that at the end of the day the information was quite accurate and timely and that their clients were not in any way put out. I have gone the extra mile and I have said that by the end of the year I was given that assurance last Monday there will be an on-line computer system network in place between the central registry in London and the office in Barbados.

I intend to monitor that very carefully and I can assure the Member for Christ Church South that in fact if it is not in place by the end of the year then I will have to examine very carefully what steps would then have to be taken.

I am also surprised about comments of Members on the other side about the fact that we opted to have a self contained Bill rather than have a summary Bill that cross references with the Companies Act since I believe as the Member for Christ Church South said it was the last Administration which had an agreement between itself and the said Trevor Robinson and Kyffin Simpson. They had agreed as part of the obligations of the Government in a Memorandum of Agreement dated May 18, 1993 that one of the obligations of the Government would be to retain in force and where necessary enact the following legislation: (a) a Shipping Act, Cap. 296; (b) a Special Business Corporations Act which is what this is. They had agreed to that from back then and a Shipping Prevention of Oil Pollution Act. They had agreed to do this very same thing in May of 1993.

In fact, they went further and the Liberian legislation was sent to Barbados and was not only under consideration by the Ministry at the time when the present Opposition was in government but meetings were held between the Ministry and the parties on the other side in relation to the matter. So this really takes me totally by surprise and it makes me wonder what they could possibly be up to, to object to something that they themselves had planned to do. The provisions are extremely simple. They only diverge in certain areas to provide for the set up of the special regime that we have put in place. That is all. That is the only divergence really and truly.

Mr. Speaker, I do not intend to detain the House any further and with those few closing remarks, I beg to move that this Bill be now read a second time.

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

On the motion of Hon. R. St. C. TOPPIN seconded by Hon. Sir HAROLD St. JOHN, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. W. C. C. CALLENDER in the Chair.

COMMITTEE

Hon. CHAIRMAN The House is now in Committee.

Hon. R. St. C. TOPPIN: I beg to move that this Bill be dealt with in Parts.

Hon. Sir HAROLD St. JOHN: I beg to second that.

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

Clauses 1 - 4 were called and passed.

Parts I - IV were called and passed.

Part V was called.

Hon. Sir HAROLD St. JOHN: Speaking of Part 5, I see the first reference to "court". I don't see it anywhere in this Bill, any definition of "court", and I am a little womed about it. I looked through all the definition sections and I want to make it clear, Sir, that in the appropriate place we do have a definition of "court" and it would be a court standing under the Supreme Court of Judicature Act. I do not see anyway at all, in this Bill the definition of "courts." Constantly there are references to "court." So I do not know whether it would be the Magistrates Courts or the Supreme Courts, Sir, or I do not know whether they mean in Barbados or aboard. I think that out of the abundance of caution, that we would have a definition of "courts." I do not believe that we draft on our feet, Sir. What we do, Sir, is that the usual procedure is that we would...
3.15 p.m.

Asides.

Hon. Sir HAROLD St. JOHN: It is under Part 5. If you look at Part 5 Section 132, upon an application made under this section the court may order if it thinks fit. You understand the whole procedure. Section 136 in Part 5, it specifically empowers, Sir. If we get the existing Companies Act, you will find that.

Asides.

Hon. Sir HAROLD St. JOHN: You do not have to adjourn the whole thing. There is a general definition in another part on a lot of words.

Asides.

Hon. Sir HAROLD St. JOHN: No, no, no. There is a general section, Sir, subsequently, in which it has corporate and other expressions. It starts from the letter "A" and it goes right down. All I am suggesting, Sir, is that is the appropriate place to put in a definition of "courts." When we come to that particular section, it would be done.

My suggestion is, Sir, that we take note of the fact, that particularly in relation to Section 130 Part 5, that there are specific powers granted to "courts" and made no definition to "courts." So either it is going to come before or it is going to come later.

Asides.

Hon. Sir HAROLD St. JOHN: In Section 339. The usual practice in these things is to put "courts" in a definition section, either earlier or at the last. It is neither here nor there. I am just making the point that it is wrong not to do that, Sir.

Asides.

Hon. Sir HAROLD St. JOHN: Sir, I would reserve my point to another point. It is a good and valid point, Sir.

Asides.

Mr. B. M. TAITT: On a point of order. Mr. Chairman, let me just say that one has to appreciate that drafting is moving in a different direction from what many of us might have known, and therefore there are new techniques of drafting which go through the benefit of what is going on at Cave Hill and other places like that, well known to the detriment of lawyers who are practising.

Asides.

Mr. B. M. TAI'IT: The point has to be made, however, Mr. Chairman, that where a Minister brings legislation that is going to be using the new techniques, it is the duty of the Minister to allow the members of Parliament who have to be presumed to be ignorant of drafting, to beocme familiar with them. Ministers must understand that Members of Parliament represent ordinary people and are not to be presumed to be experts. They are not suppose to have any sense either, as we have seen demonstrated time and time again.

What the Minister must understand that he has a duty that he cannot behave as if we ought to have known that. The Minister has a duty.

Asides.

Mr. B. M. TAITT: Mr. Chairman, Sir, I am going to raise some other issues later on, but this one here, what the Honourable Member for Christ Church South is saying is that the "court" should be identified, and he is saying that it should go at the end. It is customary now, in the modem drafting, to put them at the end. It may very well be that in copying the provisions from the other legislation, that we did not take account of certain difficulties which would apply.

Now, Sir, I have noticed in this section that we are dealing in Part 5, almost exclusively, with shareholders. I want the Minister when he gets up, again, to explain very carefully Special Business in Section 109.

Asides.

Mr. B. M. TAITT: What I want to ask the Minister is if there is any difference between shareholders of corporations, dealing with ships, and shareholders in other corporate entities? Is this exactly the same? They are using some language that is slightly different from what one usually sees. So if the Minister could be kind enough to explain. if it is the same, then I would not push the issue but I want to find out if it is the same.

Hon. R. St. C. TOPPIN: Mr. Chairman, I accept the comments of the Honourable Member of Christ Church South in relation to the definition. I believe that the appropriate place will be at Section 339 of the Act to expand the definition to include "courts."

Further, Mr. Chairman, my understanding is that there is no difference between this Section 109 (1) and the Provision in the Companies Act and...

Asides.

Hon. R. St. C TOPPIN: The same Provision, on my advice, Mr. Chairman.

Asides.

Hon. R. St. C. TOPPIN: I do not know if I would have to go any further in response to the answer.

Mr. B. M. TAITT: On a point of order. I said in my second reading speech, and I thought that the Minister would have taken it up. I am going to ask him now, more specifically, is there any reason why? Look at 105. It says:

> "The directors of a corporation (a) must call a meeting of shareholders not later than 18 months *et cetera."*

Then it goes on in the definition clause later on with defining months. Is it any reason why we are going to create, what in essence is a whole new ball game, when we have an Interpretation Act that deals with two words "shall" and "may." Could the Minister explain why this particular piece of legislation is now reverting to the use of the language "must?" It is bound to create problems. I do not want to spend a long time in explaining what the potential problems are, but we have language which we use, "shall" and "may".

3.25 p.m.

Hon. Sir HAROLD St. JOHN: I was very fortunate to be concerned in the first case in Barbados that a Judge of the Supreme Court had to give his determination as to the meaning of "must" in the context of the Companies Act. It arose in the McAl/McEnearney case in Barbados with information services. The now Chief Justice of Trinidad was on one side and myself and some other attorneys

on the other sic . They were seeking to give the word "must" the same meaning as "shall" and Mr. Justice Chase particularly ruled that in the context of the Companies Act in Barbados and in the context of the particular meaning ascribed to "must" in the section in the Companies Act, and in this case if you go to section 338 you will see that "must" is defined. It is halfway between "may" and "shall." If you had used the word "may" it would be purely discretionary. If you had used the word "shall" it would be mandatory but "must" is in between the two and very often where you use the word "must" a criminal penalty is attached to it which means that if you do not exercise it, it is a criminal penalty on the officers of the corporation but it does not invalidate the whole transaction. That is what he said. It is midway between "shall" and "will."

Mr. B. M. TAITT: The Honourable Member is finished, Sir. Mr. Chairman, this has engaged lawyers throughout the English legal system from time immemorial. The explanation given by the Honourable Member of the difficulties which occurred in this particular case he just mentioned is precisely why I am asking the question. Why are we importing that difficulty into this legislation?

Hear section 105, Sir. Listen to this:

"The directors of a corporation

(a) must call a meeting of shareholders not later than 18 months after the corporation comes into existence, but need not call a subsequent meeting, unless a meeting is requisitioned pursuant to section 128."

Now, I do not know why the draft people have decided that they want to have some innovation. But here we have a section which is talking about you must do so and so but need not do so and so. I am cognisant of the definition in section 338 but it is not helpful because it does not, like our Interpretation Act, say straightforwardly "shall" means so and so. Here is what it says:

> "Where the auxiliary "must" is used in a provision of this Act, ..."

If I were outside, Sir, I would ask in more facetious language, what is the auxiliary? Where is the auxiliary "must?" This language is borrowed. That is my problem with it. We have borrowed this language and we are now importing it into our legislation. We in this Chamber are now going to embrace this language so this language is now going to become part of the Laws of Barbados whereas the law of Barbados has been very clearly and succinctly put in the Interpretation Act.

I will recommend that you have to amend the Interpretation Act now because notwithstanding the innovative approach of the lawyers in the case which the Honourable Member just related to, and anyone who is familiar with that case knows that the force of argument on both sides was so great that the Judge decided out of abundance of caution to come up with what is nonsense. It is thoroughly and completely idiotic to talk about "must" being in between "shall" and "may." It is rubbish. Because it was put in some judgment does not mean...

Aside.

Mr. B. M. TAITT: I did not say I did not know what it is. I want to know why it is in here.

The point I am making is this. I am not trying to prove anything. All we are doing is complicating the law. We are now making "must" one of the major words in law in Barbados. That is not necessary. If we are drafting legislation in Barbados, if we are saying that the directors shall call a meeting, that is what we said, the directors shall call a meeting. There is no question that the directors shall call a meeting. What this means now, according to what the Honourable Member for Christ Church South has said is that the directors do not have full discretion as if you were saying "may" but they are not mandated as if they had said "shall." So the Directors plus or minus call a meeting. That is what it is. The Directors plus or minus a meeting. "Shall" is mandatory and "may" discretionary. "Must" is in between so the directors are in between, if this is intended to be mandatory.

We are not discussing language here. We are discussing law that we are about to pass and if we are discussing it we should know and I am asking the Minister, is he intending that the directors shall call a meeting. If he is intending the directors should call a meeting then the word should be "shall." If the policy of the Act is that the...

Aside.

Mr. B. M. TAITT: The Minister is getting frustrated, Sir. The Minister knows what I am saying is valid but he is getting frustrated. He is saying, why are you holding up my Bill with foolish argument.

Aside.

Mr. B. M. TAITT: You would be swimming in some very strange waters if you start going down that road. Get up and say that so I can tell you. I would explain it to you. If you think that is what makes you a lawyer, get up and say so, so I can get up and tell you how you become a lawyer. Just get up and say that so we can spend some time on that because I allow people to make jokes at that but not you, so do not get up and say that.

Mr. CHAIRMAN: Order, please. Please address the Chair.

Mr. B. M. TAITT: If you wish to, get up and let me deal with it, how you become a lawyer, what is a lawyer and who is a lawyer. I am willing to discuss that with you.

Mr. CHAIRMAN: Address the Chair.

Mr. B. M. TAITT: The Minister is saying from his seat about lawyers like if he knows.

Mr. Chairman, we are about to make law. We are about to pass legislation. We have an Interpretation Act. That Interpretation Act distinguishes between "shall" and "may." We are now, for the first time, importing "must."

Aside.

Mr. B. M. TAITT: That was rubbish and the Attorney General has said it is rubbish. We are now going to perpetuate that by passing legislation saying that you must do something or you need not do something. It is our duty to pass legislation that after it leaves here the people who have to interpret it do not have to look to Hansard. That is our duty and the Minister cannot come in here with any fly-by-night foolishness.

I am saying, Sir, that this makes no sense. I want to hear the Minister.

Hon. R. St. C. TOPPIN: Mr. Chairman, the position is really very clear in relation to this Act and the word "must." It is extremely clear. At section 338 it expressly states that:

"Where the auxiliary "must" is used in a provision of this Act,

(a) to require that a person do or refrain from doing some act, matter or thing,

(b) to require that an act, matter or thing be done or not be done by some specific means, or manner, or in some specific form, or at or within some specific time, or

(c) to prescribe a qualification or condition for some purpose, office or status, the provision imposes a duty or obligation upon the person required to comply with it."

So "must" means that provision imposes a duty or obligation upon the person requiring.to comply with it and they must do it. That is how it is defined in the Act.

Mr. B. M. TAITT; Mr. Chairman, the record will show that I alluded to that and I precisely referred to that. The Minister must not get up and demonstrate that he does not understand what I am saying. I am making the point that you are breaking new ground unnecessarily by using the word "must." The fact that you are able to point to the definition of what you mean by "must" does not change. It is what you will mean because we are about to do it. It is what the Govemment will mean. That is what we are about to do. I am suggesting that the Govemment does not need to confuse and complicate this issue by importing the word "must." When we have an Interpretation Act which says "shall" and "may" which is well known to all and sundry with the possible exception of the Minister, you can use any word but the Minister has not responded to the question which I have asked. Why are we starting to confuse the law by putting in this definition? If you really wish me to say it, 338 (1) is ambiguous, irrelevant and unclear. Let me read 338(1) for you, Sir:

"Where the auxiliary "must" is used in a provision of this Act,

(a) to require that a person do or refrain from doing some act, matter or thing,"...

As soon as you say where must is used, to do something like it has said in (a) it means that you have given a definition to "must" before you have said what the definition is. Then you have a tautology because you are saying that what I say is what I say. Whereas, if there is a definition of the word "must" as is found in the Interpretation Act, it is very clear. It says "shall" means and it says what it means. This says, where the auxiliary "must" is used in the provisions of this Act, it does not now go on to say it will mean the following. It says (a) to require, (b) to require, (c) to require, then that provision imposes a duty or obligation upon the person required to comply with it. I am saying that all of this is circuitous rubbish. Whereas if you had put it in simple words, if you went back to the same 105 and you said in 105, and this is the whole point of the legal system that we have. If in 105 you had said, "The directors of a corporation shall call a meeting of shareholders ..." then there would be no doubt as to what was the intent. If the Minister by virtue of the numbers intends to include all of that then feel free to go ahead.

3.35 p.m.

Hon. Sir HAROLD St. JOHN: On a point of order, Sir. May I just point out something? The Honourable Members who have spoken, Sir, I think have grasped the point that "must" stands in between "may" and "shall". It does impose an obligation and the consequence of failure to carry out the obligation is specifically set out in section 338. That consequence is not the same as "shall". If you have the word "shall" and you do not do what you shall do, it invalidates it. But with "must", if you go ahead and read "must", compliance with a duty or obligation is enforceable in a court of competent jurisdiction and it goes ahead. "A person aggrieved by a breach of a duty

or obligation referred to in subsection **(1)** may recover, by action in the court, any damages suffered by him as a direct result of the breach;".

So therefore it goes ahead and says it is an obligation that is imposed so it is similar to "shall". It goes ahead and says that it does not have the consequences of "shall" which invalidates. What it does do, it raises a right in anybody who has suffered damage as a result of the breach to sue in a court of competent jurisdiction. But "must" is a word that is used not only in the Companies Act... It has been drawn to my attention, Sir, long ago as **1907,** that in the Bills of Exchange Act the word "must" was used.

Aside.

Hon. Sir HAROLD St. JOHN: No, it is not arising out of that. It is arising out of the fact that experience of lawyers has shown that you need to use words which do carry an obligation but failure to carry out that obligation does not result in invalidity and that is the position. The word "must" is an obligation but it does not carry the same consequences as "shall". But it is different from "may" because "may" is purely discretionary. There is no obligation with "may". You can'or you do not. That is the position, Sir. So it is not new. It is in the Companies Act. It is in the Bills of Exchange Act and it is a word to limit and make precise the intention of the draftsman. That is all.

Mr. B. M. TAITT: Mr. Chairman, Sir, I am grateful to the Honourable Member. I appreciate the information which the Honourable Member has submitted. The Honourable Member has in fact alluded to an issue that arose with the use of the word "void" and "voidable" in another form of the law and the question as to whether a thing that is voidable is in the same category as void has provided tremendous scope for all kinds of scholarly articles on void and voidable. I was not in fact seeking to deal with the intrinsic difference between "must" and "shall". I take the point which he is making without any difficulty. I was making the more mundane point. In fact I was merely asking the Minister if he would be so kind as to explain why it is that we, in this piece of legislation were going to be creating an issue which would come to be exanlined in the courts subsequently. It may very well be that the Minister and the Government feel that we must provide a basis for legal argument in the future and if that is the basis on which it is being brought I have no quarrel.

I take the point that "must" was used in the **1907** Act but it is precisely because there has been this difficulty. The Honourable Member cited the very novel decision by a Judge to say that "must" is something halfway between "may" and "shall". I have no quarrel with that. It is necessary for Judges, in the face of great difficulty and the force of powerful argument on both sides, to find ways to solve problems. I do not expect this Committee to pass legislation that deliberately, almost with malice, put words into the market place that are going to create problems, especially when the definition which is given of these words does nothing to confirm the arguments which have been put.

I promise I will raise no more questions about this. If you must put "must", please put "must". If you say "must" it is and "must" it will, "must" it shall be. I will only rest in the knowledge that you must be mad.

Mr. H. deB. FORDE: I really do not want to prolong the debate. I just want to say that the Honourable Member, as a lawyer, would be fully aware that a tremendous effort has been made by modem draftsmen, starting particularly with Professor Dreidger of Canada to simplify language and also to be very precise in language. The words "shall" and "may" have led to tremendous legal battle as to their true interpretation as to whether they were permissive, discretionary or obligatory and it is interesting when you look at legal literature and the interpretation of the word "shall" how many different meanings it has obtained. There are times when draftsmen have defined "shall" as in our Interpretation Act, but the courts when coming to interpret the word itself, even although looking at the Interpretation Act, have given to the word "shall" discretionary meaning rather than obligatory meaning. Professor Dreidger in his very erudite thesis on the statutory interpretation has gone at large into why the word "must" has come in as an intermediate word saving statutes and provisions from being declared void and having drastic consequences when the person meant no more than it would be discretionary or having obligation that is not fully absolute.

3.45 p.m.

Although this is a lot of lawyers' law, Sir, when the **1982** Companies Act was being drafted we paid considerable attention to the development which had been led by Dreidger and others from Australia, and indeed the Barbados statute law is now being followed tremendously by other territories not only in the Caribbean and elsewhere because of the modem drafting technique we have used. We still must go further and simplify the language even further and with more precision so that the Judges would not be legislators and sometimes get it wrong as to what the legislators really intended. As a matter of fact, the House of Lords has gone so far, as the Honourable Member very well knows, in the case of Pepper vs Hart in allowing by way of statutory interpretation the courts to look at the statements made by the Minister introducing the Bill in order to find out what was the purpose of the enactment or particular section of the Bill.

This House is fortunate in having available to it the most up to date version of Bennion on Statutory Interpretation in the Library and I would commend it very strongly to Honourable Members. Perhaps the Honourable Member, who likes this area, and ourselves could argue

on these matters on another occasion, but I think it is defined in the Act. It is defined with some precision and I believe that the courts should have no difficulty in understanding what we as legislators intend by these provisions.

Mr. B. M. TAITT: Mr. Chairman, I am most grateful to the Honourable Member for Christ Church West who, reverting to the role which he had fulfilled with such distinction, was able to explain the matter in terms which had his colleague, who is sitting on the front bench, who introduced this Bill, done the same thing or something similar might have saved us much of the discussion which we had. All one wanted to ask the Minister is to answer the simple question whether he is intending to have that particular interpretation of his policy in this Bill. The Minister, either out of ignorance or because he is obstinate – which I do not believe he could be as a Minister – could not answer the question with the clarity and simplicity with which the former Attorney General has sought to do. The Minister no doubt when he gets up will explain his inability to understand the simple question which I had asked. I am sure he will be happy to do so when he gets up.

Hon. R. St. C. TOPPIN: Mr. Chairman, subject to the suggested amendment by the Honourable Member for Christ Church South, I now again beg to move that Part V stand part.

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

Parts VI to VIII inclusive were called and passed.

Part IX was called.

Mr. H. deB. FORDE: Mr. Chairman, I am just intervening to say to the Government that there is very urgent need to deal with provisions concerning take-over bids. This legislation adopts almost verbatim the similar provisions which are contained in the Companies Act and those provisions are now updated. For instance, if there is a bid accepted by not less than 90% of shareholders of any class (Clause 163) to which the take-over bid relates, other than shares held at the date of the take-over bid by or on behalf of the offeror or an affiliate or associate, the offeror acquires the shares of dissenting offerees or acquires those 10% shares. But there must first be a bid for 90% of the shares.

I believe that the intervention level should be lowered in these circumstances to make it compulsory for an offeror to give every person an opportunity to sell at the price which he is offering to other persons, and there is no doubt that our legislation is pretty defective and we are not dealing adequately with insider trading and the consequences of insider trading. I hope that .the Government will respond pretty quickly to the representations which have been made for some time by the Securities Exchange Board and I also hope that when the CARICOM project which is dealing with capital markets has been completed we will see much modem legislation, updated legislation protecting the rights particularly of minority shareholders.

I do not want to refer specifically to recent events in Barbados, but you would have been aware of a bid being made for a local company. You would have been aware that one price was offered. It may well be that some shareholders were tempted to take that offer – I am referring to the Island Properties Limited instance – and then that bid was increased. There was some doubt as to whether those shareholders who may have accepted at the lower price would now have the right to cancel that acceptance and also get an opportunity to purchase at the higher price.

Another matter that has been of great concern is what occurred in the Plantations Holding group of companies saga in which no doubt people with inside information were able to get rid of their shares before others who have suffered a loss, because the shares now have fallen so significantly on the market. I would suggest to Government that at the earliest opportunity we should revise the legislation dealing with take-over bids and strengthen that legislation.

A lot has recently been done in Jamaica, as well as in Trinidad and Tobago. I think the Jamaicans have enacted a 1995 Act on this aspect of the matter. Barbados will be left behind in developing its capital market unless it takes very seriously this aspect of the law. I am not sure as well, Sir, whether we should go by a voluntary system as obtains in other Stock Markets, particularly in the United Kingdom. The voluntary discipline of people who play the Stock Market has not always worked out to the benefit of people in the Market and I believe that experience has been repeated to some extent recently within Trinidad and Tobago. So we have as policy makers to take very seriously strengthening legislation dealing with take-over bids, protecting the rights of minority shareholders in particular, much more than we are doing here and bringing a certain fairness and discipline into the market, particularly where you have a situation that people who are brokers and company directors are also traders and are also offerors doing take-over bids. There must be codes of discipline to prevent this type of insider trading which eventually will destroy any efforts to widen share ownership in Barbados and enfranchise people. The normal person who is today being encouraged to buy shares has very little knowledge of the intricacies and the difficulties sometimes of stock markets and how they work. It is very important that within developing countries such as ours where we are developing markets and new methods of ownership which are important to our people, if we are to seek social balance and cohesion, that in those situations that we set

the standards that we want. Sometimes they are going to have to be mandatory and legislative standards rather than the standards of the professions themselves or their disciplining themselves.
3.55 p.m.

Whilst I understand the urgency of the Government over this matter and that it has followed what is already in the Companies Act, I believe that we should hasten to deal with these effects in our legislation and in our practices.

Mr. B. M. TAITT: Mr. Chairman, Sir, I have no doubt that the Honourable Member's admonition is correct. Certainly, the exercise to which I believe he was refemng is one that must leave some of us who are interested in these matters uneasy. I know of at least one shareholder in this company who sought advice and was told not to sell because the letter allegedly from the majority shareholders was a letter which in essence was saying the company says this is a fair offer and we think you should settle but, then, one saw a letter.in the newspaper coming from the director who claims that he was the dissenting director. If what he had to say is valid, if we had the kind of vigorous, and I am not saying that we ought to have, because we are in an embryonic stage but, if we had the kind of investigatory system which they have in the Securities Exchange Bureau in the United States, it would be a cause for examining the records of the company to find out exactly what went on.

The Honourable Members just said there is probably some question as to whether those who agreed to sell will now be eligible to take the new offer but it seems to me that if you had agreed to sell your shares at whatever the price was, anything that is worked out will be more a question of form than anything else. But what concerns me about that particular transaction is that since it is obvious that the matter is a done deal, what is going to become of those few shareholders with small holdings who did not succumb to the initial offer or any offer. It seems as though they are going to be without any voice in a company which was a public company when they participated and now is going to be converted from a public company to a private company.

I believe that it is the Government's responsibility to protect such small shareholders. We cannot on the one hand invite people to participate in shareholding then on the other hand leave them out there unprotected from the insiders. Insider trading in Barbados is the norm or it is not something that may happen to people who were familiar with shares generally speaking in private transactions. Even since we have had the exchange arrangement, there are still people who have knowledge who communicate that knowledge to other people and it is not even considered immoral, far less illegal. I think it is going to take some time before people recognise that these have to be policed just like anything else in Barbados.

I agree with the Honourable Member that we have to try and educate the public. We cannot simply tell them to buy shares. We have to protect them from the marauders. There have been people in this country who have been dealing in bonds and stocks for many years but they are marauders who are just there waiting now for these lambs to the slaughter who, in the belief that shares are something which are going to bring them new found wealth, will go out and expend their funds to assist in the development of certain institutions in this country, at the same time getting no say in the direction in which these companies will go and expecting nothing other than a fixed dividend which may or may not come.

I hope that they will also be educated in the need for some kind of insurance with a small "I" against those companies that are bound to fail after they have been sold out because the people who take over companies, especially the hostile takeovers, usually take over the company for profit taking. Within a relatively short time they go into companies and they start taking profits. They strip the companies and before long the companies fail. If it is a limited liability company it means that in the game of "ring around the roses" we all fall down. That is part of learning to be part of corporate Barbados.

I want to just advert or rather revert to an issue which I raised earlier in the construction of this Bill. In Part IX, takeover bids, Section 162 is a definition section.

I have difficulty and I have no doubt there is a reason and somebody would explain it but it would be helpful if one understood. Section 162 begins with definitions. You remember earlier we were able to look at 338 which proposes to give definitions at the end. If you go back earlier, there were definitions at the beginning. In fact, when the Honourable Member was talking about court I assumed that he would have been intending for it to go in the beginning because if you look at section 2 of this Act it is a definition section.

You know, Sir, sometimes it is very hard to work for God, because you get up in good faith to ask questions and sometimes it is as if you ask questions you are against whatever is happening and what is happening is so wonderful that it should not be held back. It is better sometimes to walk slowly, to examine some of these things than for us to go helter skelter and get it done and then we have confusion.

Now, a normal person practising law or having to use the legislation, when we are finished, let us assume that having looked at the definition clauses that they found the definition and might not be aware that there are more definitions within the Act itself. It seems to me – I am not a draftsman – that it would have been helpful if all of these definitions could have been put in a definition clause but

I have no doubt that there is a reason why not. It is just not apparent to ordinary parliamentarians.

Why in the middle of this Act we finish Part VIII and we come to Part IX – Takeover Bids and we have definition clauses? When we go to Fundamental Corporation Changes in Part X there are no definition clauses. There are no definition clauses in VIII which deals with accounts, minutes and other records. You would think that you would need definitions in some of those. I really believe that if we are going to pass legislation that the legislation should be drafted in such a way that ordinary persons could understand it. Perhaps the Minister if he is minded to, if he is up to it, if it would not put him out, could explain this.

Hon. R. St. C. TOPPIN: Mr. Chairman, this is not the first piece of legislation in which I have seen more than one area or section dealing with definitions and I do not share the Honourable Member's view that as structured it will cause any confusion.

With respect to the concern of the Honourable Member for Christ Church West, I have noted the concern and I will raise the issue to the appropriate Ministry.

I beg therefore to move that Part IX do now stand part.

4.05 p.m.

Mr. B. M. TAITT: On a point of order. I am not asking the Honourable Member to agree with me. I am asking to explain why. He said that it is not the first time that he has seen it. I believe that he has a duty to explain it to the ignorant among us. No, Sir, I am ignorant of the thing. I do not know. It is his duty. I think someone ought to take him in a corner and explain to him that it is his duty to explain to us. He cannot come in here and behave in an arrogant manner, Mr. Chairman. I asked a simple question. I do not know. It is not my duty to know. I am asking on behalf of the people of St. Michael West.

Asides.

Mr. B. M. TAITT: I believe the Member for Christ Church South has correctly summarised the attitude over there, that my people do not need any food for the mind. All they are interested in is bread and fish and corned beef.

At least the Honourable Member for Christ Church West should take over piloting this Bill so that we could get some explanations. So that I can understand what is going on.

Aside.

Mr. H. deB. FORDE: On a point of order. Mr. Chairman, Sir, I am sure that the Honourable Member has no difficulty. The Honourable Member, himself, has piloted several Bills, in which the Honourable Member, himself, has seen in specific parts of the Bill, specific definitions which relate to that part because the definitions may either be expanding or it may be contracting the particular meaning of words in general. Or as the Honourable Member knows, those words may only be applicable in that particular part of the Bill, rather than in the general part. The Honourable Member knows this, Sir. The Honourable Member has done drafting as part of his course at university.

Mr. B. M. TAITT: On a point of order. The Honourable Member is free to say that, Sir, but the Minister has said that I am totally ignorant and I agree with the Minister. That is why I am asking these foolish questions.

Asides.

Mr. H. deB. FORDE: It is not unusual for a Minister to consult with an adviser, who might be in the waiting as adviser, to give advice. The Honourable Member has been in difficulties, himself, in this House on many occasions, and has had to consult with the officials and, of course, the authority.

Asides.

Mr. H. deB. FORDE: The authority on this part of the Bill must of necessity, be the Chief Parliamentary Counsel.

I think that the Committee obviously must take note that the Government has taken this legislation so seriously, that available to the Honourable Member, if he had any difficulty, outside of the Chamber of the House, in the ante Chamber where we consult with officials, is the Chief Parliamentary Counsel, Sir.

The Government is so open, that he is free to talk, at large, with the Chief Parliamentary Counsel for any guidance that he may wish on any part of this legislation. So I do not know what is the difficulty, Sir.

Asides.

Mr. H. deB. FORDE: He has had the explanation, Sir, as I have seen it. I am sure that I did not need to give this Honourable Member, Sir, because this particular Honourable Member is very knowledgeable about these aspects of these matters, Sir. If he has any further difficulties, Sir, rather than delaying the House, I am sure that he has access to the outstanding learning and erudition of the Chief Parliamentary Counsel, and we have on

many occasions used him for this purpose when we are in doubt, Sir, to help us improve the language of the Bill if we have any difficulty, to explain to us, and to clarify any difficulties that occur.

Mr. B. M. TAITT: On a point of order. I just want to endorse the concept of outstanding as it relates to the Parliamentary Counsel, Sir, because if the Parliamentary Counsel were here and could hear me, Sir, I would not wish him to feel anything I was saying about the Minister was in any way relating to him. I would want to make sure that the Minister takes back to the Parliamentary Counsel, that I endorsed the concept of his outstanding nature.

I wish the Minister, however, when he seeks to get advice would share it with us so that we would not feel that we have to keep asking him questions, the answers to which he should give us, Sir.

Hon. R. St. C. TOPPIN: I beg to move that Part IX stand part.

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

Parts X and XI were called and passed on separate motions of Hon. R. St. C. Toppin seconded by Hon. Miss B. A. Miller.

Hon. R. St. C. TOPPIN: I beg to move that Part XII stand part.

Mr. B. M. TAITT: On a point of order. On the question of Part XII, I do not mean to be contentious, Sir. Sometime ago, I think it was last week or week before, Sir, we had in this House a matter which, I believe the Honourable Member for St. John raised a question concerning the collection of funds on Trust. It behold those who do the headlines in one of the daily newspapers, to refer to the query which the distinguish Member for St. John raised, in terms which I believe require some comment.

Looking at this section which says "protection of creditors and investors, trust deeds and debentures," I was minded to just say for the benefit of this committee, that it is the right and duty of any Parliamentarian who becomes aware of information to raise that question. At no point during the course of the query by the Honourable member for St. John or myself, was there any question raised about anybody's fiduciary relationship to their statutory board or their intentions to abscond with, or in any other way wrongly use funds that were collected in Trust.

I am very skeptical when you ask a legitimate question in good faith, and suddenly there are all kinds of explanations, but worst, people are defending against things which you did not raise. I, at no point, said anything other than to explain what a Trust was, and to make the point that if funds were collected from the public for a particular purpose, they had to be used for that particular purpose. That is "Trite Law." That is not something that requires any special study. I really believe that it is not fair for a Member of Parliament to be pilloried, subsequently, if that Member asked such a question or, indeed, makes such a statement.

I saw a newspaper article which suggested...

Asides,

Mr. B. M. TAITT: Mrs. Thatcher was in a position not to read, but if you live in a community of this size and you do not read, God help you.

Mr. Chairman, I really am minded to say that under this section because'when they are making comments I do not mind if they attack me personally, because that is part of the course. When, however, they move to attack, by innuendo, those who are not with us any more, it causes me some personal stress. Not at the level of attack for me, but on the level for those who are familiar with those persons.

I will say no more except to reiterate the need for Trustees to understand that their responsibility ought to be stressed in Barbados.

4.15 p.m.

In this section it is particularly important where the trustees are being directed. Conflict of interest, listing debenture holders, evidence of compliance, all of this is desirable for trustees but it does not seem as if some people understand what their responsibility is as trustees and some people do not even understand that they are trustees so I wish to repeat what I said before. Where a corporation, especially a statutory corporation goes to the public and solicits funds for a particular specified purpose, that those funds, according to the law of Barbados, can only, may only, shall only, must only be used for the purposes specified unless those purposes are set aside by the courts.

I hope that the person or persons who were aggrieved because we raised this question and who thought, perhaps, we knew something which we did not know, but now will investigate, I hope they will understand that we have a responsibility in this House to raise those questions and to make those statements.

I am grateful to you, Sir.

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

Hon. R. St. C. TOPPIN: Mr. Chairman, I beg to move that Part XIII stand part.

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

Mr. H. deB. FORDE: Mr. Chairman, I wish to make a few comments on Part XIII. Again, I say that Part XIII follows similar sections that are contained in the Companies Act. The Companies Act passed this House in 1982 and it was envisaged then that we would have made rules under - I think the corresponding section is 429 of the Companies Act - adapting and modifying the provisions of the Bankruptcy Act in so far as the Bankruptcy Act is applicable to a corporation by virtue of the winding up provisions on an insolvency.

We have not made those rules. As a matter of fact, immediately after the Companies Act was completed, a committee was established by the Labour Party Government during the period 1982 to 1985 which commenced work on a Bankruptcy Act and on making the rules. What happened is that the incoming Government did not follow up on that committee and the then Minister of Trade did not see the necessity for that committee. It is not the Honourable Member, another Minister of Trade. As a result we have never had rules being made.

Now, Sir, if anybody has looked at the Bankruptcy Act and the rules made under the Bankruptcy Act, we will see how outdated we are and how inapplicable those rules are to insolvency situations as envisaged by Part XIII of this Act and the corresponding provisions of the Companies Act.

If a company is insolvent and a creditor petitions to appoint a receiver automatically, the court must make a receivership order or must declare the company bankrupt in those circumstances. That is the first order that is made. The companies' assets may be in difficulties. People may be rushing to get judgments. Overseas creditors may owe the company. It may be necessary to preserve those assets and it may be necessary, therefore, to appoint an interim manager/receiver. However, because we have made no rules, those provisions are very difficult for the court to activate. I have had the experience of being before the court and having to say to the court, although there are these substantive provisions, you are in great difficulty as to whether you the court now becomes the legislator or not.

Now, Sir, our law must not remain so difficult, particularly if we are serious about increasing our share of the offshore business. We cannot be serious about it. We cannot be dilatory on these matters. We have to hurry. I regret that so many years have passed and nothing was done between the period 1985186 and 1995/96 in order to correct these defects in our legislation.

I know that there is now a new Insolvency Committee that has been set up. As a matter of fact, the Caribbean Law Institute provided a draft Insolvency Bill which has been between the Ministries for several years now. I had the privilege of being invited to chair some of its sessions and to participate in the development in some of the legislation. We have tried to follow the best in the Commonwealth between Canada and the United Kingdom and also the best in the United States which is suited to our situation so that we do not put people into bankruptcy and put people out of business where we can save them under procedures similar to those existing in the United States.

I am concerned, Sir, and I must ask the Minister when speaking to the other Minister in charge of Trade, that the Government speedily bring before this House the Insolvency legislation. I do not think it needs another committee to go back through and traverse the same things that have been done and to reinvent the wheel. There may be some tidying up necessary to the legislation but the legislation should be here with the regulations as well.

Now, Sir, this also has implications, not only in keeping investors and ensuring them that Barbados is a modern and up-to-date jurisdiction, but it has implications for the revenue. For instance, even under these provisions now if a person makes an application once this Bill passes the House for a receivership order to be made against a corporation incorporated under this Act, the Registry has problems in knowing what currency and how much to take when the documents are filed in the court because the Bankruptcy rules still designate in pounds, shillings and pence the amount which must be paid for filing the particular document.

Those rules and the fees have not been revised since the legislation was passed in 1925 so we are in that position. It is not a good position for a modern jurisdiction. Barbados is boasting that it is a modern jurisdiction in the mercantile and commercial world and if we are a modem jurisdiction then we must get with it. Our laws must be revised. They must be kept up-to-date. The Government must see this as an exercise in which it must spend some money. We cannot say, as was said when I left the Attorney General's office, not by the incoming Attorney General but by some of the lawyers, that I had given them legislative constipation because I had brought too much legislation to the House and I left a lot more up there, Sir.

The position is, that any modern jurisdiction has to be conscious that the ways of doing business are changing daily and that this is impacting as technology develops on the implications of our legal structures and our legal provisions. Therefore, we have to make timely changes. It is part of the economic development of this country that you have to treat law as a developing area as well and as part of that development. I would like to see

the Government put in place the necessary machinery and funds to keep our laws up to date.
4.25 p.m.

The Honourable Member for St. Michael West spoke only a while ago about the need to emphasise the duties of trustees. Our trustee legislation was revised in the 1970s when I had the honour to be the Attorney General. It was then ahead of Britain and indeed in one decision the former Chief Justice, the Right Honourable Sir William Douglas, ruled that our provisions for instance on variations of trusts was much wider than the provisions of the English 1925 Act although our legislation owed a lot to that. Today our legislation is outdated. The securities in which you can invest are limited. They no longer reflect the reality of how people do business.

In Britain they have set up a Committee both the law commission and a voluntary organisation to revise the Trustee Act and a lot of interesting things are happening there. But other jurisdictions have moved ahead of Britain. The Cayman Islands have moved ahead. One of our main competitors, Bermuda, has moved ahead. Cypress has moved ahead. Those are the people with whom we are competing. Jersey has moved ahead. United States has moved ahead and Canadian Provinces. I am seriously appealing to the Government, Sir, to see law as a developing science.

I recognise that the Ministry of the Attorney General, particularly its legal drafting section, is under tremendous pressure because although we are producing a lot of lawyers we are not necessarily producing a large number of specialists. In this field, it is a very difficult field, you have to have the greatest respect for draftsmen and I realise that we are under pressure but that is one reason why we are being perhaps a little bit delayed in getting legislation through. But the Government has to look outside of that drafting section and find the expertise. Buy it where it is available. Buy it locally where it is available.

At the university there are quite a few skilled people who can make a difference. I believe we in the Caribbean are not using our faculty of law and the experts therein, the people who teach and tutor therein, effectively in assisting us in carrying out the duties of Government and I am making a plea for the use of the Caribbean consultants and expertise. Some of them are being used as far as in parts of Africa now. I know some of them are getting consultancies through the World Bank and the IDB and IMF, but we must use them. If they are not available, Sir, let us buy the expertise wherever it is available. If it is available in London let us buy it in London. Pay for it because in the long run it will mean more business for Barbados, more investment, more foreign exchange and more jobs.

I intervened, Sir, to make the point that this is not an academic exercise for us and this is not even an exercise that is bereft of interest. It has very serious implications for our economic development and the pace at which we grow and how we produce jobs and therefore I really am appealing to the Government to take the sentiments which I have expressed here after some considerable thought about the matter.

Seriously I would hope, Sir, that within the next few months I can see that there is action being taken in this field.

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

Part XIV was called and passed,

Part XV was called and passed.

Hon. R. St. C. **TOPPIN:** Mr. Chairman, I beg to move that clause 2 be recommitted.

Mr. B. M. **TAITT:** Mr. Chairman, I really had decided that I would not raise any more questions but could you please tell me what this Part XV is that you have just passed?

Mr. Chairman, I have after Part XIV...

Mr. CHAIRMAN: You are looking at the contents. It is not mentioned in the contents.

Mr. B. M. **TAITT:** Very well, Sir.

Hon. R. St. C. **TOPPIN:** Mr. Chairman I beg that Clause 2 be recommitted.

Hon. Sir HAROLD St. JOHN: I beg to second that.

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

Hon. R. St. C. **TOPPIN:** Mr. Chairman, under Clause 2, I wish to make two amendments. The first amendment I am asking that the words " "court" means the High Court" be inserted as the new (b) and that all of the paragraphs following be appropriately re-lettered.

In other words "court" means high court would be the new (b). And what now says "Minister" means the Minister responsible for International Transport would be (c) and all of the following paragraphs would be re-lettered accordingly.

In the new (c) which would now read "Minister" means Minister responsible for International Transport that the words "International Transport" be deleted and "Shipping" be substituted therefor.

I beg to move, Mr. Chairman, that those amendments stand part.

The question that clause 2, as amended, stand part was put and resolved in the affirmative without division.

On the motion of Hon. R. St. C. Toppin, seconded by Hon. Sir Harold St. John, Mr. Chairman reported to Mr. SPEAKER the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the motion of Hon. R. St. C. Toppin, seconded by Hon. Sir Harold St. John the Bill was read a third time and passed and cited as the Shipping Corporation Act 1996.

4.35 p.m.

ORDER NO. 5
RESOLUTION TO APPROVE THE LAND REGISTRATION (SUSPENSION) ORDER, 1996

Hon. G. W. PAYNE: Mr. Speaker, I beg to move that the Order entitled the Land Registration (Suspension) Order, 1996 made on 26th March, 1996 under Section 15A of the Land Registration Act be approved. This Suspension Order has become necessary as a result of the difficulty of the Land Registry to accommodate certain provisions in Sections 14 and 15 of the Land Registration Act.

The Land Registration Act, Section 14, makes provision for there to be registration of title on the first dealing of any lands after the commencement of the Land Registration Act and Section 15 makes provision for voluntary registration under the Act. This Act was passed, I think, in 1979 and its was proclaimed in 1988. It was thought at the time when it was proclaimed that the whole system of registration of title would be a matter which could have been completed within seven years.

Mr. Speaker, the reasons why we are here now seeking a suspension of this particular provision is because at the time when the Act was proclaimed a number of important matters were not settled in the first place. Prior to the coming into being of the Act, prior to its proclamation, all land transactions were still dealt with at the Land Registry and there was a system of recording of title deeds. Under that system it meant that whenever there had to be any dealings with land there was a series of searches which had to be done which in most instances occasioned very long delays, especially if you were dealing with land for which there were a number of transactions over a long period of time. It was felt that with the system of land registration this would stop the delays and the Registrar of Titles would be able to issue a certificate of title to a proprietor or owner of land or the owner of a term of years absolute. All he would have to do then when he was about to transfer or dispose of that particular parcel of land which was the subject of that certificate of title was to effect a completely new transfer. Of course, the certificate of title was subject to any entries which were made in the certificate of title and such entries could relate to any charges or mortgages on the particular parcel of land.

As I said in my opening remarks, Mr. Speaker, it was felt at the time that this whole process of registration of title could have been completed in seven years, but I think to be honest we started the whole process of land registration before we were ready. There was no proper analysis done to determine whether the Lands and Surveys Department had the capacity at the time to deal with the amount of work which this new system entailed. In addition to that, there were a number of recommendations which were made by the Barbados Bar Association at the time which were not followed. There were also a number of personality clashes between one arm that administered this news system. We had the difficulties with respect to the Lands and Surveys Department and the Registrar of Titles Department. I think we made a big mistake at the time too in that the person who was chosen to head the Department was a person who had no experience whatsoever of this aspect of the law. As a result, the Department literally pedalled for a number of years and as it stands right now, even though we have had reasonable success in the past two years, we have only been able to cover about 10% of the actual titles.

It means too that with the coming into being of this particular legislation the Department had to deal with the recorded conveyances, they had to deal with the sporadic titles – the sporadic titles would cover those conveyances which were done after the commencement of the Act – it meant that the Registrar of Titles had to deal with the voluntary registrations, the registrations which would involve persons like the Honourable Member for St. Michael West, who might have had a title to a parcel of land and would have wanted to have a certificate of title rather than having to produce his title deeds from time to time. Of course, there were also the registered areas. This obviously occasioned a lot of work on the part of both the Registrar of Titles Department and the Lands and Surveys Department.

It was felt at the time that if the system needed to be developed in a way which would achieve the desired result of having the registration completed within seven years it would have been necessary to have increased staff at the Land Registry in the form of a number of surveyors, because under Section 19 of the Act it was necessary for the Chief Surveyor to carry out certain works at the request of the Registrar of Titles.

Mr. Speaker, Sections 14 and 15 further complicated the task of the Registrar, because even though it had become extremely difficult to resolve the areas where the titles of the land have been declared registration districts, it means also that the Registrar of Titles still has the responsibility of going over the areas of sporadic and voluntary registration. We have a situation where there are 7 registration districts which have been declared, just to show you what I mean. I want to go through the respective areas. We had the first registration district which was deciared on September 12, 1988 which involved the areas of Paradise Heights, West Terrace, Oxnards, Husbands and Wanstead area. The second registration district involved the areas of Thorpes, Halls Village, Prior Park and Meadowvale Heights and this was declared on May 1, 1990. The third registration district was declared on September 2, 1991. Clerview Heights, Clennont, Warrens Park, Lodge Terrace, Eden Lodge. The western side of Green Hill, the eastern side of White Hall, Rock Dundo, Rock Dundo Park and Heights, .Well Gap, Lodge Hill, West Coast Road, Eyrie Tenantry and Hinds Hill. The 4th, 5th, 6th and 7th registration districts were declared on September 1, 1995. The 4th included areas of Kingsland, Wotton and Plumgrove. The 5th Gemswick, Roses Tenantry, Belleview Gardens. The sixth Melrose, Arthur Seat. The remainder of Warrens area not covered by the 2nd and 3rd registrations and then the 7th registration district.

4.45 p.m.

This was a fairly large district starting at the junction of St. Barnabas Road, part of the ABC Highway and Highway R at Wildey. The boundary then runs generally eastwards along Highway R to St. Davids and the junction with Highway B. Then in a south easterly direction along Highway B to the junction at Bannantyne with Highway 6 then south westerly and north westerly along Highway 6 passing through Kingsland, Adams Castle, Vauxhall, Sargeants Village to the traffic lights at the junction with St. Barnabas Road then northward along the St. Barnabas Road back to the starting point.

This total area represents about roughly 10% of the total area that was estimated to be covered. If you are looking at the whole island and you are dealing with 100 parcels and this area represents just around 10 000 parcels, and we have only done in 8 years that number, it shows us the amount of time it will take at the pace we are going at. If the Land Registry at the moment, at its present pace, because of the problems that are being encountered, has difficulty because of the staffing and other problems in dealing with these registration districts, then the problem with respect to the sporadic and the voluntary registrations covered by sections 14 and 15 amount really to dealing with the registered area for the entire island. This is so because if you are dealing with land outside of the registration district, even though you might be dealing with one conveyance in a particular area, it means that the Chief Surveyor and the Registrar of Titles would have to intervene in that entire district in order to get to the bottom of the title for that particular parcel of land especially if it is part of a development or especially if there is a particular right of way that forms part of the adjoining property that is all part of the title for that particular parcel of land.

In 99% of cases, Mr. Speaker, most of the parcels of land are dealt with in that way. So it is wrong to have included in the first place a section making it compulsory for you to register your title outside of the registration districts and then at the same time you are being specific as to the declaration of certain specific districts, when you cannot even handle the particular districts you are dealing with. This has created a problem. This problem arose immediately after the Act was proclaimed.

When the Act was proclaimed in 1988, as I said, it was thought that all of these problems would be sorted out but within months of the proclamation of the Act the difficulties in dealing with these other districts were experienced. I have not mentioned them in detail because there are a number of problems which are associated with this particular registration and which one would have to go through in detail, but even with respect to the registered areas, there were a number of problems with rights of way and encroachments, problems with land owners and, even though the land registry department did a very good public relations job in making sure that the general public was made fully aware of the intricacies associated with this particular piece of legislation, these particular problems nevertheless surfaced.

Immediately after the proclamation of the Act, it was realised that these pockets outside of the first registration district surfaced. It was realised that they were causing problems and in 1992 the Land Registration (Suspension) Order came into effect on March 15, 1993. Mr. Speaker, that was the second Suspension Order.

The first order, Mr. Speaker, was the Land Registration (Suspension) Order 1990 which came into effect on December 6,1990 and ceased to have effect with effect from December 31, 1992. So that order came into being after it was realised by the Registrar of Titles that the sporadic and voluntary registrations were causing problems.

At the end of 1992, the problems were encountered again and it became necessary for the registrar of Titles to request a further suspension, which suspension, the Land Registration (Suspension) Order, 1993 came into effect on March 15,1993 and effectively expired on March 14,1996. That was the second suspension. The Registrar of Titles has again advised the Ministry that it is necessary to make another order to further suspend the operations of

sections 14 and 15 of the Land Registration Act for a further period of 3 years since very few demarcations of the sporadic and voluntary titles have been affected by the Chief Surveyor. The lack of demarcations have prevented the Registrar of Titles from issuing ce cates of title and certificates of charge as required.

Under section 15A of the said Act, the Minister may by order suspend the operations of these sections for such a period as to be determined, if he is satisfied that such suspension would enhance the systematic registration of titles generally or within a registration district. The land registry has to date declared approximately 5 000 titles to parcels of land. However, that department has a total of some 4 529 applications for both sporadic and voluntary registrations and she has advised that there is no immediate prospect of the Land and Surveys Department making demarcations.

In an effort to streamline the procedure to bring about a speedier and more efficient system of land registration, it has become, as I said, necessary once more to suspend the registration.

Mr. Speaker, I would give you an idea as to what is involved by the Chief Surveyor with respect to the issuing of certificates of title. The research first has to be done in various Government offices For example, the Land Tax Department, Town and Country Planning Office and the Archives, to locate survey information in respect of the parcel or adjoining parcels for which the application was made. It is sometimes also necessary to make request for survey information from surveyors in private practice, who have substantial records dating back to the early 1900s.
4.55 p.m.

We have discussed this whole question about old information from Land Surveyors. Sometimes the Land Surveyors are a little reluctant to give the information that they have at their disposal. Sometimes we in the Ministry have to threaten them...

Asides.

Hon. G. W. PAYNE: Well not necessarily persuade them. We also have information in the Land Registry that they would need, and we have to tell them, sometimes, that if we cannot get the information from you, you cannot get the information from us when you want it. What we are in process of doing, is to have a meeting with those surveyors who might have had information with respect to these old titles.

There are some surveyors who can tell you that their great, great, great grand father actually practised as a Land Surveyor in Barbados. It is obvious that there is certain information that has been passed down that would not be made available to the Government or other parties, and we are hoping that with time we will be able to solve this problem.

After collecting and collating this information, survey control has to be established in the area by a series of observations, and coordinated control stations located at various points throughout the island. The survey information is then compiled by the surveyors who have to coordinate the boundary marks of that parcel as well as the adjoining parcels.

It is at this stage where problems usually surface. Either gaps overlap, or careless work by previous surveyors, encroachments, rights of way or in some cases landlocked parcels. This is the type of work that has to do with respect to the registered titles and also to titles in registering districts, and also with respect to the sporadic and the voluntary registration.

I say careless work by previous surveyors, reluctantly. This has become a very serious problem for the Lands and Surveys Department. You are required under Section 14 where there has been a transaction sense the commencement of the Act to register with the Registrar of Titles, but the Registrar of Titles is still unable to give you a Certificate of Title if the surveys for the respected parcels of land are not properly done.

We have an interesting case, in point. It has become a headache for the Ministry. I refer to a development by the name of Green Point Development. This is a development which has been completed for some time. My understanding, from the department, is that there is a number of people who have had their conveyances, the conveyances have been sent to the Land Registry but the Land Registry is not in a position to issue a Certificate of Title, simply because there have been some mistakes in the actual conveyances with respect to the amount of land which has been conveyed. It is a dilemma

Asides.

Hon. G. W. PAYNE: I do not know the name of the surveyors.

It is a dilemma for the lawyers, because it means that these persons who have their conveyances, not only must they take these conveyances within 3 months of the completion of the transaction, they must actually register with the Land Registry.

They cannot get their Certificate of Title, but the problem is compounded when they want to get a loan from the bank. It means that they cannot have their conveyances recorded under the old system because there has been a transaction since the commencement of the Act, and they cannot get a Certificate of Title under the new system,

and they are left high and dry. Obviously the lawyers cannot advise their clients, in the case of mortgagee for the banks, to accept the title. Although there has been in some cases some accommodation. This is an example in point, and there are a number of them similar to this. This problem would not arise if we did not have the provisions of Sections 14 and 15.

Now, even with the Suspension, Section 14 and Section 15, it still does not solve the problem. Here is where we have to look at certain Amendments to the legislation as it is, so that in these particular cases where there have been transactions after the commencement of the Act, it would not really be necessary to have the Title registered.

It has raised some very frustrating problems for the land owner, mortgagees and for the Land Registry. As it stands now, seeing that those registrations, the sporadic ones which have been dealt with before the Suspension Order are still there, it means that there will be no solution unless there is special amendment to the legislation.

Within the Ministry we are actually looking at framing this amendment and we are hoping that we can come up with some formula which would be satisfactory to everybody. At the same time it would not necessarily satisfy the problems which have been created as a result of the type of surveys which have been done in that particular area.

The problems sometimes necessitate the widening of the area under consideration to determine the cause of the problem. Therefore the problems associated with the parcels or adjoining parcels are usually identified at this stage. Mr. Speaker, under the existing system, before the Suspension Order, there were 5 186 sporadic and voluntary applications. As you can see the areas with respect to the compulsory registration, only encompass a few areas. These areas of sporadic and voluntary registrations encompass the entire island. In keeping with what I said here, when I said that these problems sometime necessitate the widening of the area under consideration to determine the cause of the problem, it means that you will have to go into the 1 457 areas outside of the registration district in Christ Church, 24 in St. Andrew, 152 in St. George, 717 in St. James, 105 in St. John, 75 in St. Joseph, 145 in St. Lucy, 1 284 in St. Michael, 274 in St. Peter, 687 in St. Philip and the 266 in St. Thomas. As you can see, what we are doing here – if some formula is not arrived at in order to have this matter resolved, we would be dealing with Suspensions every three years; or not necessary every three years, I mean from now until the entire island has been registered. In which case, it shows how unnecessary the provisions with respect to sporadic and voluntary registry were in the first place. That is an amendment that we will have to look at, and that is the whole reason why we are seeking this Suspension. I am trying to explain to Honourable Members, especially the Honourable Member for St. Michael West, who I know is familiar with this legislation as I have been setting out here this afternoon, Mr. Speaker.

The demarcation exercise is then carried out whereby any missing information, which might be in the possession of the land owners is requested, and the land owners are required to point out their boundary marks. The demarcation plan is then prepared showing the parcels in relation to each other, and any associated problems experience with the boundaries. This is sent to the Commissioner who prepares adjudication records.

During this time, any problems which can be solved are usually dealt with, sometimes, after further surveyed work.

5.05 p.m.

After completion of the adjudication process, a Registry map is prepared to reflect any changes thereby showing the accepted boundaries. By explaining the stages necessary before producing the final Registry map, this shows the amount of work which would have to be performed by the Surveys Department especially with regard to sporadic and voluntary registration. Mr. Speaker, for the amount of work which this particular process involves, it was not anticipated that there would have been this great volume of work. I did mention that there were a number of problems with respect to the staffing requirements.

The Honourable Member for St. Michael West from his seat seems to be alluding to the fact that very little has been done during the past two years. It is a problem which we realize from early. We have sought to regularise the appointment of the Commissioners of Title and the Registration Officers.

There was a recommendation by the Bar Association at the time that in addition to the actual suspension of the proclamation that the amount of commissioners be 10. In September 1994 there were 5 Commissioners of Title and 5 Registration Officers. Of this total there was one functioning Commissioner of Title and one functioning Registration Officer.

I think one should in this presentation really applaud the work that Mr. Edmund King did for the Department as a Commissioner of Title during this period and also the Registrar, even though it is not usual to call names in this House, Mr. Speaker. I think they should be commended, also Mr. Cumberbatch. I do not recall his first name, as a Registration Officer in assisting the Land Registration Department in dealing with the matters which came before them.

We ensured then, Mr. Speaker, for the benefit of the Honourable Member, that the full complement of the Registration Officers and Commissioners of Title were appointed. We also ensured that there was an additional full-time Commissioner on staff because these Commissioners of Title and the Registration Officers are temporary. We also ensured that there was an additional Registration Officer together with other additional officers.

In addition to that, Mr. Speaker, there were a number of problems which would only have been solved by the computerisation of the Land Registration Department. In the last Estimates we included a provision of $1 million for the Land Registration Department to computerise the whole system so that it would make for a speedier implementation of the entire system.

Mr. Speaker, that, more or less, deals with the main reasons why this particular registration has become necessary. It is hoped that in time we would be able to solve most of the problems at the Land Registration Department. As I said, it may be necessary for us to repeal those sections of the Act which are the source of some concern. It may also be necessary for us to appoint additional Land Surveyors to assist in the whole demarcation exercise. It is hoped that this will be the last time that we would have to come before the House to seek a suspension of sections 14 and 15 in connection with sporadic and voluntary registrations.

With those few brief remarks, Mr. Speaker, I now move that this Resolution do now pass.

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

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

ADJOURNMENT

Hon. Miss B. A. MILLER: Mr. Speaker, I beg to move that this House be adjourned to Friday, August 9, 1996 at 11.00 o'clock in the morning. On that date, Mr. Speaker, permission had been sought of Your Honour, both by the Leader of the Opposition and myself for a televised debate. It is proposed that we would debate the Resolution on the Facilitation Unit for Returning Nationals on that day.

Further, that on the following Tuesday, August 13, at 11.00 a.m. application has been made by the Government for a televised debate on the Special Development Areas Bill. I would welcome Your Honour's decision on those matters, but that is what is proposed to be the Government's programme.

We are hoping that before the House rises for the summer recess we would be able to do the Financial Institutions Bill. There is VAT legislation on its way to the Cabinet now and we would hope to close on that as well before we rise, and maybe one or two other pieces of legislation. I very much hope that by the middle of August this House can rise for a well-deserved summer recess.

I would be obliged of Your Honour's decision in respect of the televising of those two debates. I would take the opportunity, perhaps, to wish all Honourable Members, the staff and yourself a happy Crop-Over.

Mr. SPEAKER: The permission that has been sought...

Mr. H. deB. FORDE: Mr. Speaker, speaking on the adjournment very briefly, I have a Resolution which I introduced into the House since October 18, 1994. I do not believe other members may wish to speak on that Resolution. It is a normal Resolution to the Governor General on the Throne Speech. What is happening is the Government has a very long legislative programme but I believe whether it is in this session or on the resumption we should really make an effort to clear the Private Members' list. That is more than overdue for completion. It was almost completed, Sir, and I would like to move that it pass or be withdrawn.

As well, Sir, there are other motions on the Order Paper that obviously are in breach of our Standing Orders since more than three months have gone and no debate has been started on them. Time has overtaken some. For instance, the 300th Anniversary of Combermere has passed so that we really are...

Aside.

Mr. H. deB. FORDE: No, Sir. I have the greatest respect for that school although I was never fortunate to be a member of it, in fact, although in mind and thought, Sir. Sir, I think we should and I am suggesting that I realise that the Government has really weighty matters and very difficult Bills for us to give consideration to but I will also hope that maybe on the resumption after this Session that we can deal with some of these matters and probably get them out of the way.

5.15 p.m.

I am not suggesting that we take off the Combermere Debate or anything of the sort. I think the House ought to very speedily endorse it. I do not think it is necessary for us to have a whole number of speeches. Certainly some of us would forego speeches on some matters so that we can get quickly through some of these matters of which there is no partisanship. It may well be that we should have some discussions across party lines in order to get some of these Private Members Resolutions with two speeches on either side, completed as soon as possible.

Mr. SPEAKER: Honourable Members, I would like to suggest to the Leader of the House that there be some communication with the Leader of the Opposition relating to Private Members Business in reply to the Honourable Member so that we could expedite the same Private Members Business at the earliest opportunity.

Permission has been sought for televising of the debate at the meetings of the 9th and the 13th of August. That permission is so granted. Both sides have sought permission and both sides have agreed to have these debates televised.

The question that the House be now adjourned until Friday 9th August, 1996 at 11.00 a.m. war put and resolved in the affirmative and Mr. SPEAKER adjourned the House accordingly.

5.20 p.m.

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