THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1994 – 99

HOUSE OF ASSEMBLY

Tuesday, June 25,1996

Pursuant to the adjournment, the House of Assembly met at 11.20 a.m. on Tuesday, June 25, 1996.

PRESENT

His Honour I. A. ROETT, B.A., Dip. Ed., (Speaker)
His Honour R. D. MARSHALL, (Deputy Speaker)
Mr. B. M. TAITT, B.A. (Hons.), M.P.A., LL.B. (Hons.)
Rt. Hon. O. S. ARTHUR, M.Sc. (Econ.) (Prime Minister, Minister of Finance and Economic Affairs and Minister for the Civil Service)
Hon. D. A. C. SIMMONS, Q.C., LL.M. (Attorney General and Minister of Home Affairs)
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.
Mr. J. O. TUDOR, J.P.
Hon. R. C. EASTMOND, J.P., B.A. (Hons.), Dip. Ed., LL.B. (Hons.), L.E.C. (Minister of Agriculture and Rural Development)
Dr. R. C. HAYNES, M.B., Ch.B., F.R.C.P. (Edin.)
Mr. D. CARTER
Hon. R. N. GREENIDGE, B.A., LL.B. (Minister of Labour, Community Development and Sports)
Mr. G. A. CLARKE, B.Sc., Dip. Ed. (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)
Mr. D. St. E. KELLMAN
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. D. A. C. SIMMONS: 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, June 11, 1996 which have been circulated be taken as read.

Hon. R. C. EASTMOND: I beg to second that.

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

PAPERS

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, I am commanded to lay the Income Tax (Amendment) Regulations, 1996 and the Betting and Gaming Duties (Amendment) Regulations, 1996.

Hon. D. A. C. SIMMONS: I am commanded to lay the Annual Report of the National Conservation Commission for the financial year April 1, 1992 to March 31, 1993.

GOVERNMENT NOTICES

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, I give notice of a Resolution to approve the compulsory acquisition by the Crown of land at Four Roads for the provision of a playing field for St. Martins Four Roads Primary School and a second Resolution to approve the compulsory acquisition by the Crown of lands

at Cottage and Groves Plantations St. George for housing development.

FIRST READING OF BILLS

Mr. G. A. CLARKE: Mr. Speaker, I beg to move that a Bill to amend the Highway Act, Cap. 259 be read a first time.

Hon. D. A. C. SIMMONS: I beg to second that.

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

Hon. D. A. C. SIMMONS: I beg to move that a Bill to amend the Prevention of Floods Act, Cap. 235 be read a first time.

Rt. Hon. O. S. ARTHUR: I beg to second that, Sir.

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

CONGRATULATORY SPEECHES

Rt. Hon. O. S. ARTHUR: Since the House last met, Her Majesty the Queen has been graciously pleased to confer the honour and the dignity of Commander of the British Empire on the Clerk of Parliament. I do truly believe that the Queen in conferring this honour and dignity would have taken into account the more than 25 years of truly distinguished service that the Clerk of our Parliament has rendered, not only to this Parliament, but to the practice of parliamentary life throughout the Commonwealth.

It is not generally known but it has to be trumpeted that the Clerk of the Parliament of Barbados is recognised universally throughout not only the Caribbean region but throughout the Commonwealth as the doyen of Clerks. He enjoys a standing and an esteem in the sight of his peers that set him apart from all other such persons, and he has through the discharge of his responsibilities of a Clerk of our Parliament brought great honour to the country. We remember particularly the truly outstanding service that was rendered in the manner in which he supervised the celebrations of this Parliament's 350th anniversary and I could go on, Mr. Speaker, to recount the legion of other very important services that the Clerk has really been associated with.

The fact of the matter is that the Clerk, Mr. George Brancker, has now virtually established himself as an institution within an institution. His manner, Sir, dignifies the proceedings of this Parliament. His great learning and his scholarship has been an invaluable reservoir that has been tapped by parliamentarians of all standings and, for my own part, Mr. Speaker, I would like on this occasion to register my own gratitude, while congratulating the Clerk on his elevation, for the very valuable guidance that he has rendered to me throughout my entire parliamentary career.

I must say that I have found the Clerk to be unfailing in not only his willingness to provide assistance but he takes a particular pleasure in helping parliamentarians to understand the best ways by which they can represent themselves and their constituents in this Assembly.
11.30 a.m.

I do feel, Mr. Speaker, that recognition of the services of the Clerk of our Parliament, is not only a personal honour, but it is Her Majesty's way of also reflecting positively on the way in which the business of this Parliament has been consistently discharged over all of the years.

The Clerk, Sir, is not only a person of great learning, a great scholarship, but I do think that we can all agree that he is man of tremendous warmth, magnificent sense of humour that has enlightened and enriched many on Parliamentary occasion. He is held in the very highest esteem throughout the Commonwealth and wherever Parliamentary Government is practiced, Sir. I do not believe that there could be an honour that is more fitting and more richly deserved.

I therefore, Sir, would like to think that this dignity and this honour, to the attention to Parliament, Sir, and trust that the House would find it appropriate to have the relevant Resolution moved acknowledging the dignity that has been conferred, Sir, on the Clerk of this House of Assembly.

I thank you, Mr. Speaker.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, let me join in congratulations which have been offered to the Clerk of Parliament, by the Honourable Member for St. Peter, for his award and the honour which has been bestowed upon him as Commander of the British Emperor.

My contact with Mr. Brancker goes back to the early 1980s when I came, regularly, to Parliament. Prior to being a Parliamentarian, it was clear that he was one of those persons who added, not only to the' aura, but to the substance of this Parliament at which we sit in, both at the level of Senate, which probably needs more props, in that regard than does this Chamber, and also that Chamber.

I think that Mr. Brancker has certainly provided me and Members of our parliamentary team with honest and fair advice, with the required of stubbornness and the required amount of charm, or stubbornness wrapped in that charm.

Based on his clear understanding and his strong views about the traditions, and also his knowledge of the role of Parliament and his knowledge of other Parliaments throughout the Commonwealth, which has only come from his very wide and Catholic reading.

That reading, I must say, based on my discussions with him, I thought would have propelled him into a political career. He does not just read the Parliamentary practice, rules and the law, but his reading goes in greater depth to the character and personality of politicians throughout the Commonwealth. You would not find much to read about politicians in Barbados but that experience is already his, personally. He is a voracious reader, and I think that, in itself, has tempered the advice and the nature of his work in this Parliament.

In particular, I want to say that as Governments have come and gone in Barbados, that every time that the Clerk has to discharge his functions, at whatever level, that there is a high degree of satisfaction here, and that is matched by the respect with which he held outside of Barbados.

Anytime you meet a Parliamentarian who has had the chance of being involved with CPA activities or on whose Parliament has called on the services of George Brancker to assist them, he has left an indelible impression on the persons whom he has met and worked with. Not only Parliamentarians, but also Civil Servants who function in this realm.

In particular, I should like to congratulate the Clerk on behalf of the entire Parliamentary Group. I should also add that my first introduction to him was by way of my mother, who was then working with the Opposition office, and who considered him to be a person who was reliable and who assisted that Opposition in carrying out its duties in the very early stages. I am certain she would wish me, in particular, to extend my congratulations to the Clerk for the honour which has been bestowed upon him.

So on behalf of the entire Parliamentary Group and the Democratic Labour Party, as a whole, even though this Parliament does not recognise political parties, I want to extend my congratulations. I also do so on behalf of the many other persons, who I am certain would wish if they were here, to join with us in extending congratulations. I mean persons from the Commonwealth, throughout the Commonwealth of nations.

If it is appropriate, Mr. Speaker, to say save time, unless that is going to be done at another level, I should also like to extend congratulations to the Chaplain of Parliament on his elevation, recently, to the Stall of St. Basil, and to say also that it is a great honour to this Parliament, that somebody as worthy as a Chaplain has been chosen for such elevation.

On behalf of my Parliamentary Group, we would like to congratulate you, Sir, for the dignity and the honour. The dignity in which you conduct your views but also the honour which has been recently bestowed upon you.

Mr. W. C. C. CALLENDER: Mr. Speaker, I rise to congratulate the Clerk of Parliament on receiving this honour from the Queen.

I believe, Sir, if I might speak, Sir, on your behalf, and also on behalf of the Deputy Speaker of the House, I think we can say that we were lucky to have benefitted by the great experience of the Clerk of Parliament.

Yourself, Sir, myself, when we went to the Banff Conference, in October 1994, we recall that the Clerk spent many hours, which he could have otherwise spent in social activities, teaching us the rudiments of parliamentary procedure and also explaining to us the Standing Orders of this Honourable Chamber.

What we recognise, Sir, then that he was very disciplined. He always respected time and when he told you to meet at a certain time he was always there, and he gave selflessly of time to us, at the critical junctions, when we both needed to know about the necessary rules in order to preside over this Honourable Chamber. So I always think of him as one of the fathers of this House. Whenever he offers a suggestion, Sir, I believe he is doing it because he respects Parliamentary Procedures.

Sir, I believe you too, like myself, will recall on that visit to the CPA Conference in Banff, that the Clerk was almost reverenced by all persons we met there, Sir, and there were perhaps about four hundred persons there. Everyone spoke highly of the Clerk.

On my recent visit to the United Kingdom I had a similar experience. Members of the Houses, Commons and the House of Lords, also spoke very highly of the Clerk. The staff of the United Kingdom CPA spoke extremely highly of the Clerk. Members of the staff of the CPA International spoke highly of the Clerk and they all asked that I send greetings to the Clerk when I return to Barbados.

It is therefore with due honour that the Clerk has received this reward. He is well-respected through the Commonwealth, and therefore to have received this honour from the Queen herself, speaks volumes for a man who is, perhaps, a walking encyclopedia on Parliamentary Affairs.

11.40 a.m.

Sir, I feel honoured today to be able to stand up and speak on behalf of the Clerk and I wish him the best in all his endeavours. I hope he will continue to offer his

the Members of Parliament, and ensure that parliamentary democracy is maintained in Barbados.

Thank you.

Mr. B. M. TAITT: Mr. Speaker, it behoves one of us who has been around here for a fairly long time to join in this well-deserved and modest tribute to a person in the first instance, the Clerk of Parliament, of whom it can truly be said that no one deserves the honour more. I have already conveyed to him my personal view that this is a manifestation of many, many years of respect which have been shown to the Clerk of Parliament for certainly as long as I have been walking these halls.

I think that anyone who is able successfully to maintain the approbation and the reprobation of both sides of the House as time has gone on is a clear signal of his understanding of fairness, his understanding of the role of the Clerk but, more particularly, his understanding of the singular place which the Legislature holds in the life of the country of which he a citizen.

I have no doubt that his family will share in this honour because in order to do the job as well as he has done it from my observation, there must have been some sacrifice of the normal role of he who lives in a family. Politicians and those who serve politicians are a peculiar breed. But I think Clerks at the Table are probably an even rarer breed, at least those who have been successful.

It is good, too, that we are able to speak of him and to him while he is still able to hear. It has been my constant difficult task from time to time to point out that too often people serve with distinction and do not get the opportunity to hear how people feel about them and their service.

In joining with the Leader of the Opposition, the Prime Minister and the other Honourable Members who have spoken in offering congratulations to the Clerk of Parliament, I am sure he will accept that all of those who have passed this way would have wanted, if they have not so done, to offer congratulations as well. As I 'said at the beginning, Sir, I do not think there is anyone who could have deserved this honour more.

I take the opportunity too, with no less pleasure, to hail the elevation of the Chaplain of this August body. I happened to be in the place where it occurred on the night that it occurred and, Mr. Speaker, I feel bound to report to you, Sir, that I am glad he is not a candidate anywhere since I am not certain that he would have been a candidate for the right side. So I am glad, Sir, that he is not a candidate running against anybody I know because I saw such an outpouring of love and affection for this man of God, this man who, in his humble and simple way has brought so much dignity to the office of Priest. There is not one who has been ministered to by him or who has had cause to have contact with him who is not impressed by the humility, the simplicity and the depth of his commitment of this my friend, whom I am glad to call friend.

There is a person, Sir, in the Anglican hierarchy, with whom we together communicate from time to time and we all agree that the Chaplain of this Honourable House brings a level of scholarship, especially in the area of prayer. I recall on one occasion as he prayed for the House, not an easy task, Sir. Invoking supplications to the Almighty for the disparate souls in this Honourable Chamber from time to time over a period of years requires a special communication, as Your Honour would rightly know, and on the occasions when he has prayed more than the perfunctory prayers for this Chamber, there has been an originality which few would recognise as part of the genius of this distinguished Barbadian.

It was a joy to participate in the very simple, but solemn service which saw him ascend into the Stall, St. Basil. But it is an even greater joy to be able to stand in this Chamber and offer him and his family congratulations on having been raised.

These two distinguished Barbadians who do not get an opportunity except for a brief moment for the one to participate in the debates of this House, nonetheless make their contribution to the solidity of this entity which is a personification of our own aspirations as a country and which, Mr. Speaker, I have always hoped, and will continue to hope, will last well into the years to come.

I wish both of them a long tenure in their respective positions although, for the Canon, one will always dare to hope, notwithstanding the vagaries of this life, that he will continue in an upward spiral until he reaches that point above the sea of ordinary bishops.

I am grateful to Your Honour for allowing this opportunity for us to make these contributions and comments of congratulations.

Hon. D. A. C. SIMMONS: Mr. Speaker, it gives me the greatest pleasure to say the few words that will follow, Sir. Within the last two months, our parliamentary system has seen us pay tribute to the life and work of the late Sir Theodore Brancker, the father of the Clerk of Parliament, on his passing and little did many of us, I nearly said any, but certainly one would have known, know then that there were movements in place to ensure that the work of Sir Theodore's son would be suitably recognized by conferment of the Order of Commander of the British Empire on Mr. George Brancker.

I said the last two months we have witnessed certain felicities that, perhaps, will over time improve the standing and respect for Parliament because in that same two-month period, a number of present and former Parliamentarians were accorded the signal honour and commendation at a function at Sherbourne Centre put on by Your Honour and the President of the Senate with a view to letting those who have rendered long and distinguished service in the parliamentary system in Barbados realize that despite the vagaries of politics, the necessary political divide that is occasioned by reason of the parliamentary democratic system which we have of two parties, nevertheless contributions of persons of whatever political persuasions have to be recognised and respected. What better time to accord that recognition and respect than during the life time of those persons who are able then to appreciate or to realise that their work has indeed been appreciated by their colleagues and others in positions to wield influence.
11.50 a.m.

The Clerk of Parliament, Sir, and I go back a long time, certainly to the year 1960, although I must confess that as a boy at Lodge School, preparing for A level and what was then called S level exams one heard of the feats of one Erskine Sandiford, one Richard Haynes, one George Brancker, one Henry Forde, and so on as school boy and Keith Hunte, Nigel Barrow, Lodge boys as well. But we heard of the exploits of these persons at Harrison College and the almost certainty that attended their studies which in a way was portending their award of Barbados Scholarships. And as school boys we were challenged by the example of some of those that I mentioned, Sir, who were doing so well at Harrison College and who, we were told at Lodge School, would have won all the Scholarships and we would not have got any, Sir.

I remember well some of those that I mentioned. Certainly the Clerk of Parliament and the now leader of the NDP and the former Prime Minister the Member for St. Michael South, Sir, they were a little gang, Sir, as school boys that had a very adult attitude to conviviality and imbibing all that Bacchus offered as school boys.

I met the Clerk of Parliament face to face in London after I went there in September 1960 and for a time, begnning in 1961, he, the now Mr. Justice Waterman, Mr. Elliott Mottley the Attorney General of Bermuda and the now President of the Senate, Sir we shared a flat at a placed called 67 Elsemere Road, Cheswick, London W4. A place that was unfortunately christened by the late Sir Theodore Brancker as the "Ranch". But it was in that ambiance, Sir, as West Indian students in London in the early sixties, that all of us were able to learn the law and to benefit from the discussion of legal issues among ourselves in the flat.

The Clerk of Parliament was of course the senior among us. He had qualified both from Liverpool and from the Middle Temple and was in fact, at the time lecturing in the law in London. To that extent he was set apart from us because those of us who were not working but were studying were prone to be outfitted in jeans and windbreakers and so on but the Clerk of Parliament, even then, was an outstanding Barbadian on the streets of London. His sartorial elegance was a matter of the greatest pride. I can see him now, Sir, bedecked in three pieces with his striped pants, brolly, and gold chains.

Aside.

Hon. D. A. C. SIMMONS: Not that one. That one used to wear a top hat. He was the living embodiment of a penguin. I am not speaking about that person. I am speaking about the Clerk. He was a picture of dignity. He walked quickly and erect and as I said, he was an example to all of us as to how we should conduct and carry ourselves as black people in London in those days when there were not so many blacks as there are now and when racism in Britain was perhaps a little more subtle than it is now where it is out in the open and is offenslive.

But the Clerk had some qualities, Sir, which he has brought to bear in his work as Clerk of Parliament. Of course his outstanding characteristic is a facility with the English Language that many of us envy and would love to emulate. I do not know anyone in our circles who has such a ready turn of phrase, a feel for wit and humour that when he chooses to express himself keeps you in stitches and holds your attention. Of course I suppose that was as a result of his association with modem studies in the fifties at Harrison College. But that facility for language, Sir, is something that I have always admired.

I suppose, Mr. Speaker, it is trite to say that it is given to few men or women for that matter to be considered legends in their own life time. But in the Parliamentary history of the Commonwealth, without repeating what other Members have said, let it be recorded, Sir, that George Eustace Theodore Brancker, the Clerk of the Parliament of Barbados, is a legend in the history of Parliaments of the Commonwealth in the last 20-25 years.

I was in Malaysia in April and one of the Members of the Parliament there asked me about the Clerk. He is known internationally. Not only is he known but he is respected for the quality of his intellect, particularly in matters of a Parliamentary nature whether procedural or such language. I think Barbados ought to be proud that, I cannot think of any other Clerk in the Caribbean in recent years. Barbados ought to be proud therefore that Her Majesty has conferred this high and signal honour on one of us who has remained one of us, notwithstanding his achievements.
12.00 noon

He has been trained as a lawyer but it has been clear for years that his heart is really in the parliamentary democratic system. He loves it, Sir, perhaps more than some of us who are involved as the representative. He really loves Parliament and I think that is why he is always so ready to assist whether by invitation or voluntary. I had a most recent experience during the Select Committee Meetings on the Insurance Bill. Suddenly the Clerk approached me and said: "Please remember if you want assistance and research in any matter feel free to call on me." I welcomed that offer. That was before he was awarded the C.B.E. That was a gesture from a person who knows that he has a contribution to make and is willing to give freely and voluntarily on the depth of his intellect, Sir.

I am and on behalf of my family very, very happy today to be able to convey our congratulations to the Clerk of Parliament and by extension his family who ought to bask in the reflected glory of his achievement.

Let me also commend Canon Harewood on his recent elevation, Sir, and say that too is a matter which gives me and all of us on this side, and the Prime Minister has asked that he be associated with the commendations which I tender to Canon Harewood on his recent elevation for the outstanding work and service that he has rendered not only in this Parliament but to the Anglican Church in Barbados. That elevation is well merited and deserved and I know, Sir, has been thoroughly accepted by all sections of our community. I tender congratulations to Canon Harewood and his family also, Sir. I am obliged to Your Honour.

Hon. Sir Harold St. JOHN: Mr. Speaker, Sir, I rise to associate myself with the remarks that have been made by all Honourable Members on this very happy occasion when we are paying tribute to the Clerk and to our Chaplain. I do not wish in anyway, Sir, to repeat any of the things that I readily agree with that have been said about the Clerk. But having been associated with the Clerk in this Parliament for a number of years, I think that I should bring to Honourable Members' attention the unique position of a Clerk in Barbados and it is a position that was constantly emphasized by the late Speaker Brancker, and that is that a Clerk in Barbados is called upon to perform the very onerous duty of constantly being in addition to a Clerk the legal advisor to the House and to the Speaker in particular. Many of us who have had the opportunity to be in this House when many controversial rulings were required or decisions were needed in order to ensure that debates in this House took place in an atmosphere of fairness can testify to the fact that successive speakers have relied upon the knowledge and objectivity of the Clerk for advice.

Of course, another quality that I should unquestionably draw to the attention of the House is that on those occasions the Clerk very often sought to rely upon the experience of other Members of the House for guidance and for suggestions. I myself on many occasions have been consulted by him freely and I know that in making up his mind that he as a trained lawyer also sought and received excellent suggestions from other Clerks of Parliament or legal advisors in the Commonwealth. I think that he has ready access to them because of the fact that he has earned for himself an enviable reputation throughout the Commonwealth for his scholarship and objectivity an: other desirable qualities.

Sir, I believe the award that has been recently conferred upon him is well and truly deserving. If there is one thing I would wish, Sir, is that he be spared to render yeoman service to you, Sir, in your capacity as being the Head of the Management Commission and the Head of the Committee of this House which is to perform that important function of reforming the rules of this House. Perhaps his most signal contribution in his parliamentary record as Clerk will be, Sir, to participate in that exercise which is a very urgent one.

I also join in congratulating, Sir, our Chaplain on his recent elevation. As is wellknown, Sir, the Chaplain is a constituent of mine. He comes from and resides in a very distinguished part of Barbados and I personally, Sir, without doubt and without any kind of equivocation can testify to the sterling service he renders in the constituency of Christ Church East Central and Christ Church South and indeed the whole of Christ Church. As is wellknown, Sir, Christ Church Parish Church and its congregation belove the Chaplain and I feel a tinge of regret that I was not able to be present at the function in which he was elevated, Sir. I was in Trinidad and when I got back here, Sir, it was too late to attend. But I have been reliably informed that it was a very moving occasion and it is one, Sir, that brought great joy to the congregation who worship at Christ Church Parish Church. We, too, Sir, in this House have had the benefit of his blessings and I would like to say that I join with those in congratulating him, and long may he be spared to bless this House

Mr. J. O. TUDOR: Mr. Speaker, I welcome the opportunity to join with those other voices in this Honourable House to pay respects to the Clerk of Parliament and to the Chaplain of Parliament. I will say at the outset that even though there were many outstanding tributes that have already been paid, I think the Clerk would be very disappointed if I did not pay my respects to him as well on this occasion.

My association with the Clerk of Parliament has not been as long as some Honourable Members, but I would say that I am also aware of the very high regard in which the Clerk of Parliament is held, not only in Barbados and throughout the Caribbean, but throughout the entire Commonwealth where the CPA members meet from

time to time and express their views with each other. He is held in very, very high regard in those circles.

I recall specifically though, Mr. Speaker, the Clerk's role in solving many of the problems that erupt from time to time within the Caribbean region, where Parliaments have had difficulties and they have not hesitated to make tor-tact with the Clerk of the Barbados Parliament to seek to resolve conflict, difficult situations, some as recent as what we could probably term as the Occah Seapaul episode in Trinidad in which the Clerk of Barbados played a major role in advising and seeking to have that problem resolved. I know that is a trait that is common throughout the Barbadian society, where we have outstanding Barbadians who have made these contributions from time to time within our region.

On a personal note, I recall when I first met the Clerk of Parliament on my entry here in 1991. When I first had a chance to speak with him I remember him speaking to me for some 37 minutes without pausing, and he was indicating to me the Standing Orders of Parliament. After about 37 minutes without much of a break, I asked him if I could have a copy of the Standing Orders so that I could go through them myself, but in fact he was repeating almost verbatim in his head what you could do and what you could not do in Parliament and was actually going through the entire Standing Orders in his head without reference to any book or anything. That is a trait I have observed not only in relation to the Standing Orders, but certainly with regard to debates of this House, where his recall of debates, times, incidents, persons who were participating in those debates come readily to his mind. That is an outstanding feature that we must note and record.

I listened to the Honourable Member for St. Thomas who spoke about the Clerk's dress, his attire. I certainly too have been an admirer of the Clerk for his sartorial elegance and I believe the pants he is now wearing is a pair I brought down for him from England. I queried at that time what was the significance of the particular type of pants he is wearing, a striped pants – and he has them on – I wondered whether, to maintain the record of being the best dressed politician in Barbados, it would have been fitting for me to have a similar pair, but then I said I had better not try that part because I believe I might be in company I really should not be in. I will leave that garb for the Clerk of Parliament.

I must say that I have very fond memories of the Clerk and I will remember him for a very long time. My most recent memory was when he said to me, with some concern: "Do you realise that you are probably the first Member of Parliament to have been thrown out on the Adjournment?" And he said it with such concern and disdain that I said maybe his recall of the history of Barbados was such that he placed me in a very stately position where I stand alone as being the only Member ever to have been thrown out on the Adjournment, and that is now part of his memory.

I will remember the Clerk for a very long time, Sir. I really wish him well. I think the honour that has been bestowed on him is very richly deserving and we all welcome it, as our Leader said, on this side and I certainly hope that he will go from strength to strength and continue to serve this Parliament and the region with the dignity he has done over the last 25 years.

Mr. Speaker, I should also like to congratulate our Chaplain on his most recent promotion who, as you know, Sir, is a member of the Anglican family, and I certainly am a member of the Anglican family. I was able to be present within my own community in St. Michael where we were able to offer praise of thanksgiving on the elevation of Canon Harewood. I think we extend our blessings and good wishes to you so that you may continue to serve this community in the gracious and very dignified manner which you have done during your period as a Priest. We certainly would like to extend our congratulations to you on behalf of our St. Michael community and we look forward to being associated with you in the years to come.

Thank you very much.

Hon. R. C. EASTMOND: Mr. Speaker, it was in the year 1974 when I first met the Clerk of Parliament, Mr. G. E. T. Brancker. It was in a situation were during that August of 1974 he would faithfully bring his young son, Nicholas, to the Trents Summer Day Camp. At that time I was heavily involved with the Trents Summer Day Camp and was a Counsellor. The impression I formed of the Clerk was, here was a man who was erudite and endowed with a classical flair. His mien and gait, even though he was not wearing three-piece suits with tails and top hat, suggested that this was a man who was imbued with a sense of the finer things of life.

In time, Mr. Speaker, I have benefited from his wise counsel. He made sure when I first became a Member of this Honourable House to initiate me into the inner workings of Parliament. In fact, I take it that in recent years he has always staged seminars for new Members of Parliament to give them enlightenment as to how they should proceed and embark on their parliamentary careers. I also recall him going out of his way to give me a proper briefing on the Estimates, the importance of the Estimates, what was required in the Estimates, the constitutional provision surrounding the Estimates and such like.

Whenever I have been to other Commonwealth Parliaments or whenever I have encountered other Commonwealth parliamentarians, almost as a matter of course the first question asked of me by

these parliamentarians would be: "How is George Brancker?" Then they would go on to list reasons why they would be asking about Mr. George Brancker and to a man or woman would end up saying that he is the finest Clerk in the Commonwealth at this time. Almost every parliamentarian I have met has so said. In fact, this year a parliamentarian from Sangre Grande, Trinidad who came to Barbados and would have interacted with the Clerk for just a week formed the impression that our Clerk is indeed the greatest Clerk of Parliament there would have been in recent times.

I recall too, Mr. Speaker, instances where I would submit Parliamentary Questions when I was in Opposition and he would sit with me and show me how the Queen's English required a better style, with words put better by him, than the way I would have. Then he would go on to show how badly drafted parliamentary questions not only offend the Queen's English but those things that have no part to play in parliamentary life.

12.20 p.m.

He and I have frequent conversations and in moments of levity he emerges clearly as a classical humourist. We trade gifts of various kinds and details of these gifts will not be proffered at this point. We also trade anecdotes, but a very last serious conversation I had with the Clerk was about national honours and the Queen's honours. He looked at the whole hierarchy and taxonomy of honours without realising that the day would soon come when he himself would be the beneficiary of such an honour. He took me through the origins of the Knights of the Garter and he talked to me at length about the role played by Her Majesty the Queen in fashioning these honours and how they rate on the taxonomy.

He told me, for example, how the term "Rt. Honourable" compares and contrasts with an ordinary knighthood and he and I sat and looked at a number of these things because he has this interest in ancient history and this interest in matters affecting the Commonwealth and he is a faithful, unrepentant adherent of things British.

Once I was in England and who should I see on the streets but the Clerk. I asked him what manner of business he was embarked upon in England and he told me that this was his favourite stomping ground and mentioned that he was going to take a train and traverse the country for purposes that he was not prepared to discuss with me at that time.

Mr. Speaker, this honour, Commander of the British Empire, has been properly bestowed and I commend my good friend, the Clerk of Parliament, Mr. G. E. T. Brancker, on this achievement. God knows it has been one well worth, because of his unflinching connection to the duty he sees as his highest duty on this earthly plain. If perhaps our legal system were otherwise he would approach it with the same fervour that he approaches life in Parliament; but it is clear that in a situation where he is both a trained lawyer and Clerk of Parliament his preference is clearly for matters to do with this Parliament.

He takes interest in parliamentary affairs of the wider Commonwealth. At one point I heard him embark on a very serious discussion as to how the New Zealand Standing Orders compare with ours. In fact, Mr. Speaker, there is a rumour that some of these Commonwealth parliamentary systems approach Mr. Brancker for advice as to how to amend and change their Standing Orders. Such, goes to the eternal credit of our Clerk.

Mr. Speaker, I am looking forward during the course of the day to meet the Clerk and to celebrate in the appropriate fashion, for we know that Bacchus abhors the abstemious and that the Clerk himself has been something of a votary to Bacchus from time to time and so sometime during the course of the day certain spirits shall be partaken of in the spirit of this particular occasion.

I go on now, Mr. Speaker, to commend the ascendency of Father Harewood not to a bishopric but to the status of Canon. I am sure that he will work in the same tradition as Canon A. I. Johnson who, back in historical times, graced the parish of Christ Church, as the Rt. Honourable Member for Christ Church South will no doubt remember. Canon Johnson was seen as one of the great priests and canons of the parish of Christ Church.

Canon Harewood walks with the spirit of humility. He manifests the true pastoral nature of his calling and even though it is not for me to judge in my heart I am sure he is a real Christian person deserving of this honour. The Anglican Church both stresses – I am an Anglican. I used to be compelled to go to the Anglican Church sometimes 5 times on Sunday – and is one that is known for both extolling scholarship and promoting virtue. Mr. Speaker, Canon Harewood falls into the category of a person hailing from good stock. He has good family connections, I am sure, as will no doubt be borne out through these proceedings. He is an able man who is able to extol all the institutions within the Anglican religion. I remember many years ago the Anglicans promoting marriage and having something called Marriage Encounter. This is not widely known in this House of Assembly. The Honourable Member for St. Michael West will know because he is at heart an Anglican who takes part in everything Anglican and has even presided over the election of bishops.

Canon Harewood has devoted a lot of time to trying to preserve the institution of marriage and he took an active part in something known as Marriage Encounter, he and a gentleman called Mr. Justice F. King were some of

the most able spirits informing that movement. It is to his credit that this Honourable House today will have in conscience to congratulate Father Harewood on his achievements.

With these few remarks Mr. Speaker, I am deeply obliged to you.

Hon. Miss M. A. MOTTLEY: Mr. Speaker, my remarks will be briefer, but it would be remiss if I did not rise on this occasion to lend my support to the congratulations being preferred to both the Clerk of Parliament and to the Chaplain of this House since I have, in respect of the Clerk of Parliament, known him for as long as I have known myself and since he has played a critical role in my development, not only as a parliamentarian which he certainly did when I entered the Senate in 1991, but certainly in respect of my total development as a person over the course of the last 30 years.

Indeed, Sir, my memory of him relate more to a memory of him walking at all times with a spoon in his back pocket when we were young, proffering that he was always in a state of readiness to eat anything that was offered to him, at any stage and it is ironic, Sir, that I should participate in this debate today since he also has certain skills in the culinary arts and I was fortunate enough to receive a call on Sunday at about quarter to one saying: "Do not mind what you have there, I have cooked, please come." That is the level of generosity of the gentleman who holds the office of Clerk of Parliament not only as it relates to parliamentary affairs but as it relates to any form of interaction with him.

Certainly, Sir, it is one which has extended to his children with respect to the matter in which they also operate. It is ironic that both children of the Clerk and the Chaplain were both my direct contemporaries in terms of classmates at one point in primary school in respect to the Clerk's son and at one point throughout secondary school in respect to the Chaplain's daughter.
12.30 p.m.

Therefore I feel a particular sense of pride that the fact that both of these gentlemen can be so honoured in their respective fields, because, in truth and in fact, they are simply gentlemen of whom all of Barbados can be proud.

Thank you.

Dr. R. C. HAYNES: Mr. Speaker, I rise to associate myself, my family and the National Democratic Party with the very fine comments which have been made, since I entered this Chamber, about half an hour ago.

First of all, I wish to congratulate our Chaplain on his elevation to the very high status of Canon. Without bordering on the blasphemous, I believe that I am correct in saying that he is one of the closest persons that I know, to what I have perceived as being a Saint in many ways.

I have never seen him angry, I have never seen him other than smiling, I have never known him to be unhelpful in any situation and my families have leaned on him over many years for spiritual guidance and spiritual assistance.

We have been very lucky, as a family, to have him as a member of our extended family. It has been great for us and a tremendous comfort in times of difficulty, to know that he has been there to extend a helping hand, a word of comfort and in many ways to be able to have been a great prop to us as a family.

His pastoral skills and his pastoral commitment are legendary in the Anglican Church in Barbados and beyond Barbados. It is widely regarded that his conduct is the model of pastoral activity in Barbados. That does not detract from the fact that despite his quiet way, there are not many people who are aware that he is one of the outstanding Scholars in Ecclesiastical Affairs. His Scholarship is widely admired and respected within the Anglican Church and beyond.

I was very sad, indeed, that I was not able to be present for the occasion because I, myself, was not in Barbados, being away on another family matter. So I am very happy, and I can assure that every member of my own family, that we are all very happy with this elevation. I am quite sure that this is just the beginning of greater things to come.

I am also extremely happy on this occasion to be able to congratulate my life long friend, the Clerk of Parliament. Much has been said about him, but there are few who would know that there is one who was capable of bowling an off break that would turn a yard, consistently, like the Honourable Member. Very quietly . . .

Asides.

Dr. R. **C. HAYNES:** That is right a leg break, that could turn a yard and consistently so, like the Honourable Member.

I believe that one Member adverted to his culinary skills. On one occasion, Sir, I did make a tin of corned beef a document of this Honourable House.

Asides.

Dr. R. C. HAYNES: I am pleased to report, Sir, that I was introduced to the culinary excellence of corned beef by none other, by the Honourable Member, who is an expert, in preparing corned beef in every conceivable form and fashion, and has developed very unusual skills in that particular area.

Asides.

Dr. R. C. HAYNES: Those were the days, Mr. Speaker. People like Errol Watkins, who many other Members would know quite well, when the Honourable Member, with his a *la carte,* took great delight in presenting his skills so that his friends can participate in it.

Sir, we started secondary school together and we finished. We were Barbados Scholars in the same year. We parted company at that stage. He went off to study law and I went off to Scotland to study medicine. Then our paths converged, once again, in the House of Assembly, not so long after we were back in Barbados.

Asides.

Dr. R. C. HAYNES: Much has been said about his excellene in the use of the English Language and his knowledge of history, but that is part and parcel of something which has been a skill that he has developed since boyhood. The use of the English Language and also a very profound interest in things historical.

I am not surprised at all to see that he has acquired some excellence in Parliamentary Affairs. He brings that precision of language, with his knowledge of the law and his knowledge of history to bear on the proceedings of this House in a very quite way. He is, Sir, a bit of a dictator and has always been.

I can assure you, Mr. Speaker, that no question, or no resolution will ever come before this Honourable House unless it bears the imprint of the Clerk of Parliament. In all fairness to him, at least, the sense of what one is trying to convey is invariably preserved. In the long run the fact that we can get these things before Parliament in a manner, that is acceptable in general parliamentary terms and internationally accepted parliamentary terms, is very much attributed to his commitment. Not only to serve his Members but to ensure that the dignity and the honour of this Honourable House fully preserve at all times.

He is also, and many people do not realise this, very much a Scholar in legal affairs. His Scholarship is equal to any of his colleagues who have spent their time at the Bar in terms of the intellectual commitment and intellectual appreciation of the niceties of the law.

Very often, of interest, when legal matters come before this Honourable House to discuss precepts, concepts and philosophy behind legislation, it is remarkable the kind of insights that you can get from the Clerk of this Honourable House. At the same time when those, like myself, without any profound knowledge of the law make statements about the law, one can always see the smile, a very superfluous smile, as you can see now coming across his face when we speak to legal principles that do not quite make sense in legal terms.

I think that this House has been very fortunate over the years to have someone with these qualities. A legal background, a background in history, someone who is very much a gentleman and that has always been the case. The traits that we see today, those traits we saw 50 years ago when our friendship started and blossomed over the years. Those traits were there from boyhood and we saw them grow, we saw them take root in his family, we see them now expressed in his children.

12.40 p.m.

These is no question about it, he has made a major contribution to Barbados.

On the international scene, much has been spoken about that. I am aware that he is very highly respected throughout the Caribbean and throughout the Commonwealth because of the kind of input which he can make on any particular matter related to parliamentary affairs.

Now, we do not always agree with his position but, certainly, he is always in a position to articulate his position in an extremely knowledgeable manner and whatever recommendation he makes he can support it with historical data, he can support it with reference to practices in other Parliaments, and he can support it with a depth of knowledge and appreciation, not only of the immediate but how that particular matter would affect the totality of parliamentary operations.

Only recently, Sir, there was a meeting here in Barbados, the inaugural meeting of the Assembly of Caribbean Parliamentarians, and it was quite remarkable how the Clerk of this Parliament, and your very distinguished self who made Barbados very proud at that meeting, how that team was able in an atmosphere where the kind of infrastructure was not at the Conference that we have here in Parliament, how they were able to perform with a high degree of excellence, a high degree of efficiency and, at the same time, from the very beginning, transfer the kind of standards and the kind of parliamentary stamp to which we are accustomed in Barbados onto the proceedings of that Assembly. I felt very proud that we were able to see this in operation.

The Clerk was very much in his element ignoring all who called on him, unless it seemed to be appropriate at the time, by making sure that he attended to the particular needs in an appropriate manner, and in a parliamentary setting. So I feel a deep sense of pride. I feel honoured to glow in the achievements of my long-standing friend, the Clerk of this Parliament. I sincerely hope that he will continue to serve us with the degree of excellence, and the degree of dedication he has shown in the past but, maybe to allow himself to be manipulated a little more by me.

Thank you very much, Mr. Speaker.

Mr. G. A. CLARKE: Mr. Speaker, I too would want to congratulate the Clerk of Parliament and also to share in the sentiments of all Honourable Members here today. I would also want to congratulate Canon Harewood on his elevation in the Church.

I can say, Mr. Speaker, that I met George Brancker a number of years ago, firstly in the Public Gallery, and I always remember the distinct call for order which almost frightened everybody in the House that day out of their skins. The call for order is very distinct.

I met him when I came to the Opposition Office in 1991 and from that day I became a close friend of the Clerk of Parliament. He has taught me many things, Mr. Speaker. For example, he has taught me first of all how to read the Estimates. Many Members found it difficult to read the Estimates. He has told me that everything that any person wants to find out about the economy of Barbados is contained in the Estimates and he has explained and shown me a number of areas which I have been able to use in my short political career so far.

I believe, as one Honourable Member has pointed out, that he had a hand in almost all Parliamentary Questions and Resolutions that are being asked from time to time, and so many of these Resolutions have come to Parliament.

I remember the No-Confidence motion which was drafted by the Honourable Prime Minister in June, 1994. That Resolution, Mr. Speaker, was craftily drafted by the Prime Minister and overseen by the Clerk of Parliament. I believe he has helped both sides to prepare nice crafted Resolutions.

Mr. Speaker, I would want to say that the Clerk of Parliament is a person who is well-known throughout the Commonwealth, as all Honourable Members have said before. When I visited London last year, Mr. Speaker, many Parliamentarians asked us to convey their regards to the Clerk of Parliament. I want to wish him well and I hope that he continues to improve Parliament because I think this Parliament owes tremendous congratulations to the Clerk for having to reorganize and reshape this Parliament.

If one came to this Parliament 10 or 15 years ago, the conditions that existed then were far inferior to what we have today, so I think we owe it to the Clerk of Parliament who has helped to modernize this Parliament to what it is today.

I would like to thank him. I would also like to congratulate Canon Harewood on his elevation.

Thank you.

His Honour R. D. MARSHALL: Mr. Speaker, I too would like to join in the remarks that were expressed here today in favour of the Clerk of Parliament, Mr. George Brancker, and the Chaplain of this Honourable House, Canon Harewood.

On coming to this House in 1994, that was my first association with the Clerk of this Parliament and I can say that he has been a tremendous help, not only to me, but to many or all of the new Members because you will realize, Sir, that so many new Members came into this House at one time. The Clerk is always encouraging. He is always asking if one needs help or any assistance.

I remember distinctly on my visit to London last year when I went to Westminister from the time I got there and people heard I was from Barbados, they all were asking how is George doing. I remember going to the House of Lords and meeting Lord Hilshim and he too asked about George, also, Sir Michael Marshall and wherever I went in England, as I said, throughout the Commonwealth, people were asking about George. It only goes to show, Sir, the kind of high esteem that people throughout the Commonwealth have held for George over the years.

As I said, Sir, I would like to associate myself with all those sentiments and would wish the Clerk and the Chaplain continuous good health and service.

I thank you.

Mr. D. St. E. KELLMAN: Mr. Speaker, I would like to join in the congratulatory remarks on behalf of the Clerk of the House and also the Chaplain of this Assembly. 12.50 p.m.

I must say, I believe if you were to question the Clerk of the House he would say he has some roots in the northernmost parts of this country because speaking to him and speaking to many people throughout the constituency of St. Lucy I am told about his many boyhood days. I do not know if he was rambling or not but I know that he would have appreciated the good tidings that were given

to him from the nice people of constituency of St. Lucy. I also believe that the culture of those people would have had an impact on him and I am not surprised, Sir, today that he is so efficient and he is always willing to defend his position.

I would like to say, Sir, that we are extremely grateful to have these two good gentlemen in our midst and I believe that the younger people of Barbados can gain a lot from these people because they have tried and they have achieved many great things. I believe, Sir, with God's blessings that they will achieve a lot more. Thank you.

Mr. L. R. TULL: Mr. Speaker, may I very briefly add my voice to the profusion of economiums that have been paid to the Clerk of Parliament and the Chaplain of the House.

Mr. Brancker, the Clerk, and I go way back, almost 50 years when we were going to school and it is said that people do not change, that whatever you are a child you are very much the same as an adult and over the years I have seem a manifestation of exactly what I saw when I was a school boy in the Clerk of Parliament as he carried out his duties in Parliament with a great deal of elan. He is classy in the way he carries out his job. He is a mine of knowledge of matters parliamentary. He is extremely accommodating and helpful to Members of Parliament, not only to the new ones as we have heard but even those who have been around a long time. Whenever there is something that you feel you have to research you need to go no further than the Clerk of Parliament to satisfy that need.

He and I started Parliamentary life the same time, 1971 – he as Clerk, I as a legislator and over the years I have been the beneficiary of his far and wide knowledge. I too like others travelled with him overseas at Parliamentary conferences and I know for a fact of the great respect in which he is held by Parliamentarians and Parliaments throughout the Commonwealth.

I want to correct one thing. My Parliamentary Representative said that the Clerk has a hand in drafting some motion. That is not true. We have different views on that one. That motion was the handiwork of the Prime Minister as he then was, the Leader of Opposition and a small group of politicians, Barbados Labour Party politicians and it is not true to say that the Clerk of Parliament had a hand in that. It bears testimony to his skill and his knowledge as a Member of Parliament he would know that he would not have a hand in drafting a motion of no-confidence in anybody in Parliament. What he did do as I understand it is say, this is not in order, in other words so far as helping to draft it to achieve an end, he from time to time said this is not going to get passed. In other words he advised against it, rather than having a hand in putting a good resolution to hang anybody.

And now we come to the goodly Canon. He comes from good stock, Sir, and therefore to have been elevated to the level of Canon in the Anglican Church of Barbados is what one would have expected and therefore I would not waste words on that. That is something that has been due.

I am very glad, Sir, to congratulate both gentlemen on their preferments and I hope that the level which they have reached in the esteem of their peers will continue to manifest itself as a beacon for other young people whether it be the Church or the Parliament or any aspect of public life in this country it would be a beacon to show that from certain beginnings we can succeed and will be for ever examples to young people in that regard. I am grateful to you, Sir.

Mr. SPEAKER: I would like to associate this Honourable Chair with all of the congratulatory comments made. The Clerk of Parliament, of course, has given us outstanding service for the past 25 years and the fact that we are now this year celebrating 357 years of Parliamentary democracy and not only celebrating but we are very proud that there is sound parliamentary democracy in Barbados and this is as a direct result of people who have served in our Parliament, especially the likes of the Clerk of our Parliament.

The last 25 years of course he has worked with many Parliamentarians and a few Speakers. His help has been invaluable to me and I associate myself of course with all of those comments made by the other presiding officers, especially. When we first came here a few months ago we were literally taken in hand and I always remember the time in Canada, as referred to by another Honourable Member, when the Clerk seemed to have expected that we would have brought along our books which we did because he had his books all well-prepared and we spent many a night in the hotel room just going through all the Standing Orders getting ourselves ready.

The Clerk of Parliament, over the years, I believe has been known to most of you as being very professional, a man who always at times sets out to view the workings of Parliament from this professional view point. I think I have got to know him in these past few months a little better than some of you who have known him for so many years and I speak on behalf of all the members of the staff of Parliament here, especially the Deputy Clerks, all the different departments of Parliament, offering our congratulations. We know him as a man who is very kind, very caring. We know him as a man who loves to know that everything is done at the right time and in the best way. We know him as a man, who in spite of the fact

that he might pretend to be tough is very soft at heart, with a lot of empathy and feeling for his fellowman. I believe that most of us here see a side of him that many of you do not know and do not see and I really salute him and respect him for that side and it is a side that is very encouraging to everyone of us here. We know of course how he sets out almost every day to ensure that everything goes well here and I do not think that we could be more fortunate to find a person so committed to parliamentary democracy.

Mr. Brancker's reputation of course as was stated by most speakers is one that is known far and wide and I have heard Honourable Members referring to occasions when they were overseas. I went as far as New Guinea. I had never gone that far and the first question that I was asked when I arrived in New Guinea is, how is George and I can assure you that he is a person who is well-known, well-respected throughout this Commonwealth.

An Honourable Member did say that it would be wise for this Parliament if Mr. Brancker did set to work on reforming the Standing Orders. I would like to put the record straight that most of our Standing Orders over the past few years have been organised and reformed by Mr. Brancker and the Standing Orders Committee is now in the process of reviewing new Standing Orders and all of these Standing Orders have been drafted by Mr. Brancker.

Mr. Brancker's advice is sought by all Commonwealth countries. In fact on our way into the Chamber, Mr. Brancker was telling me of a conversation he was just having with the Speaker from Trinidad and this is something that goes on every day. I do not know if Honourable Members are aware of it but our Clerk is called on almost every day from as far north as Bermuda to Trinidad, other parts of the world and I can tell you that you cannot find a person who is so knowledgeable about the Standing Orders and rules relating to other Parliaments.
1.03 p.m.

I know that he will want all Members to be aware of the fact that this Parliament must always at all times be ordered by its Standing Orders and he believes in this. I know that every day of his life is bent on making things better for our Parliament. I think that we are very fortunate to have such a Clerk.

I also would like to extend on behalf of the staff of Parliament our congratulations on behalf of Canon Harewood and we wish him well in his new position. Thank you.

Rt. Hon. O. S. ARTHUR: An appropriate Resolution shall be drawn, Mr. Speaker.

Mr. SPEAKER: Yes, an appropriate Resolution of congratulation supported with acclaim by all Members will be drawn and submitted to the appropriate persons.

ORAL REPLIES TO QUESTIONS

Mr. G. A. CLARKE: The reply to Parliamentary Question No. 20 is ready.

ORDERS OF THE DAY

SUSPENSION OF STANDING ORDERS

Hon. D. A. C. SIMMONS: Mr. Speaker, after lunch the Government proposes to debate the Defamation Bill. But in the meantime, I would move that Standing Orders 6, 16, 18, 20, 42(5), 43 and 44 be suspended for the balance of today's sitting.

Rt. Hon. O. S. ARTHUR: I beg to second that, Sir.

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

GOVERNMENT BUSINESS

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

SUSPENSION OF SITTING

Hon. D. A. C. SNMONS: Mr. Speaker, I beg to move that this House be now suspended until 2 o'clock.

Rt. Hon. O. S. ARTHUR: I beg to second that, Sir.

The question that this House be now suspended until 2 o'clock was put and resolved in the affirmative without division, and Mr. SPEAKER suspended the sitting accordingly.
1.06 p.m.

RESUMPTION

Mr. SPEAKER: This sitting is now resumed. Government Business is resumed.

ORDER NO. 3 – TO MOVE THE SECOND READING OF THE DEFAMATION BILL, 1996

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, what we call the tort of defamation is a legal cause of action that is intimately bound up with the concept, indeed the right of freedom of speech. The Constitution of Barbados, Mr. Speaker, in section 11 dictates that every person in Barbados is entitled to the fundamental rights and freedoms of the individual subject to the respect for the rights

and freedoms of others and subject to the public interest. Now listed among those fundamental rights and freedoms is what the Constitution of Barbados refers to as freedom of conscience and freedom of expression. But the Constitution itself recognizes that those rights and freedoms which it proclaims are fundamental are themselves subject to limitations which are designed to ensure that the enjoyment of those rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

In section 20 of the Constitution, the phrase "freedom of expression" includes the freedom to hold opinions without interference and I quote, Sir:

> "Freedom to receive ideas and information without interference and freedom from interference with correspondence and other means of communication."

However, Sir, specific limitation as I indicated is placed on those freedoms by the Constitution itself to reinforce the concept that freedom of expression is not absolute. So that in section 20(2) of the Constitution there appears what we call a derogation clause and that subsection provides:

> "Nothing contained in or done under the authority of any law shall be held to be inconsistent with" – (and I interpose here, Sir, that part of the section which provides protection of freedom of expression.) "to the extent that the law in question makes provision that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings."

That is section 20(2)(b). So that in the Constitution of Barbados itself, there is a specific reference to laws dealing with protection of reputation. Therefore, when the Constitution was being drafted in 1966, the framers of the Constitution had in mind at the time the recognition of the existing law of defamation and they have preserved that existing law to the extent of section 20(2)(b). We may ask, Mr. Speaker, why is it necessary to have a law of defamation? For the same reason that the Constitution refers to the idea of reputation, the law of defamation protects a person's interest in his reputation, an interest which is if you like determine our reputation, which is determined not by the man himself but by other persons using the objective criteria of reasonableness.

2.10 p.m.

The tort of defamation limits freedom of speech, as I indicated, Sir, but certain safeguards have been built into the law of defamation to ensure that that freedom of speech is not unreasonably whittled down. The safeguards which have been built into the legal requirements are certainly three – other Members may think of others – but I can think of three specific safeguards which the law has developed over time in the requirements for freedom.

First of all, trial by jury. The right of a person to be tried by jury in a defamation action is one of the few surviving rights in the civil law. Generally, civil cases are tried by a Judge alone, but the law recognises, and we have recognised in the Juries Act of Barbados, for malicious prosecution, defamation and one or two others that the right for a man to say: "I don't want to be tried by a Judge, I want to be tried by my peers" is retained and therefore a defendant in defamation proceedings in Barbados still has the choice to opt for a jury trial. That is something I did when I was in private practice in relation to cases brought by Mrs. Ram against The *Nation*. I thought that she is so well-known and her businesses are so popular, that she should be tried by 9 people in Barbados who may have dealt with her over the years or have done business and they would be able to say what kind of reputation she has when we get to trial.

The Court of Appeal in a landmark case the first time it was discussed in Barbados, about 1993, upheld the situation that in certain cases it is convenient to have these trials by jury. Lord Denning in one of the cases – I think it was Goldsmith – had made the point that when somebody's reputation is up for challenge and the argument rests on fair comment and so on, it is as well that you have a jury to decide those matters. I must say of course the use of a jury in civil cases in Barbados has diminished to the point where the other side was arguing, in the case of Mrs. Ram vs. ***The Nation,*** that it had fallen into such desuetude that perhaps it should no longer be recognised, except that this Parliament in 1970 when it passed the Juries Act specifically included the right to trial by jury. That lawyers have not made use of it, while it is provided for in the statute, may have to do with the type of case or other considerations about which there can be speculation. That right to a jury trial in defamation cases can only be taken away if the trial requires, and I quote from Goldsmith: "...prolonged examination of documents or accounts or any scientific or local investigation which cannot be made with a jury."

The second safeguard for freedom of speech I think is that rule of law that says that a court will not restrain by injunction the threatened publication of defamatory matter by way of granting an interlocutory injunction if there is any doubt as to whether the words are defamatory or if the defendant swears an affidavit that he intends to justify the words, or indeed if the occasion is a privileged one. I have again, Sir, very personal experience of that.

The Honourable Member for Christ Church West and I once brought an action against Mr. Eric Sealy for slander. It was in 1979 at the height of one of the greatest slanders that has ever been promulgated in Barbados, the Pelé case. Mr. Eric Sealy, who then was being used by the Democratic Labour Party to purvey all kinds of...

Mr. B. M. TAITT: On a point of order, Sir.

Hon. D. A. C. SIMMONS: ...I have the evidence.

Mr. B. M. TAITT: On a point of order, Sir. I am the General Secretary of the Democratic Labour Party. The Democratic Labour Party has never in its entire history has never prayed in aid Eric Sealy to do anything for it. The Honourable Member is misleading the House. Eric Sealy is not a member, he is not a supporter at this time, he is not an agent, and the Honourable Member really ought not to slander the Democratic Labour Party.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, on a point of order. I rise to correct the record that has just been distorted by the Honourable Member for St. Michael West. I went through a by-election campaign in St. Peter and Mr. Eric Sealy was on the platforms every night in the first by-election campaign slaughtering me, by his own admission, on behalf of the Democratic Labour Party, and it would be a gross misrepresentation for the Honourable Member for St. Michael West now to want to purport, contrary to the facts, that Eric Sealy has never functioned on behalf of the Democratic Labour Party. Mr. Sealy himself has acknowledged, and acknowledged in that campaign, to his subsequent regret, that he was functioning on behalf of the Democratic Labour Party.

Mr. B. M. TAITT: On a point of order, Sir. I believe to allow the record not to show that Eric Sealy has been known from time to time to admire the Democratic Labour Party, but not to work for or on behalf of the Democratic Labour Party...

Hon. D. A. C. SIMMONS: I would only interject, Sir, that in the February 1976 by-election in St. Philip North he was on my side then. At the time of the very disgusting Pelé slanders, on 4th February, 1979 at Factory Avenue, Wildey, St. Michael, Mr. Sealy said these words about the then Attorney General, Mr. Henry Forde, and myself:

> "Henry Forde's hands are clean! Ask Henry Forde if it is not a fact, ask him, that he Henry Forde as the Attorney General of Barbados spent about three or four hours with Hyacinth Goring while the inquest was going on. What was he talking about? Ask David Simmons if Hyacinth Goring wanted to leave Barbados, and the police did not want her to leave. Ask David Simmons if it is not a fact that Hyacinth Goring was in his office and he had a heated argument with the policemen on that particular occasion. Why did he interfere? Ask Henry Forde if it is not a fact that at one time the inquest had to be adjourned because the papers ... were in the Attorney General's office. What were the papers doing there? There was interference in the Pele's murder case. And if it were somebody different to Hyacinth Goring, and if the rumour did not have some fundamental truth about it, ladies and gentlemen, let me tell you tonight; if it was me I would been hanged long ago, if I did not appeal."

End of statement.

2.20 p.m.

All of that, that particular reference, is to be found in Volume *35* of the West Indian Reports, page *55.*

All of what he said, Sir, was a vicious lie. We sued to try and restrain him from further publication and he put in an affidavit saying that he was going to justify what he had said and prove the truth. A classic case!

Mr. Justice Williams, who was Acting Chief Justice, then held that once you file an affidavit as a defendant saying that it was either fair comment or you were justifying what you said or it was a privileged occasion you could not get an interlocutory injunction and that the whole business would have to await and abide the outcome of the trial. So Mr. Sealy is forever in the annals immortalised in the legal reports of the Caribbean.

The Chief Justice said these words about freedom of speech quoting from Bonnard v. Perryman and William Coulson & Sons v. James Coulson & Co.

> "The right of free speech is one which it is for public interest that individuals should possess, and indeed that they should exercise without impediment, so long as no wrongful act is done; and unless an alleged libel is untrue, there is no wrong committed; but, on the contrary, often a very wholesome act is performed in the publication and repetition of an alleged libel. Until it is clear that an alleged libel is untrue, it is not clear that any right at all has been infringed; and the importance of leaving free speech unfettered is a strong reason in cases of libel for dealing most cautiously and warily with the granting of interim injunctions."

So the injunction was not granted. The matter was settled after Mr. Sealy made a suitable apology to the Honourable Member for Christ Church West and myself. No money passed one way or the other, neither in damages nor in costs.

Aside.

Hon. D. A. C. SIMMONS: That is the second safeguard that I speak about in relation to freedom of speech. You can say what you like, but if the defendant then comes back and says, "I am going to prove that what I said was true", you cannot gag him at that stage of the proceedings by interlocutory relief.

Of course, Mr. Mottley and Mr. Pierce were the others. We had Mr. Dear and Mr. Colin Williams.

Sir, the third way in which I think the law obviously protects freedom of speech is in the defences that are made available to the defendant: justification, fair comment, privilege both qualified and absolute. So if you make a statement that may on its face appear to be potentially defamatory the defendant may be able to rely on one of those defences as a matter of law.

Mr. Speaker, before I come to the history, today we are making a break with a law that has been on the statute book of Barbados for exactly 90 years, the Defamation Act of Barbados 1906. It has never been substantially amended. It is in 4 sections only and we are recognising, as I shall discuss later on, that in some respects the law of copyright and the law of defamation are 2 branches of the civil law that are of very great importance, the one dealing with the protection of intellectual property and the other dealing with the protection of a person's reputation, very important considerations in a small limited society like ours where rumour has been shown over the years to have the capacity to destroy reputation and character almost forever.

I can think of politicians not too long ago who were the victims of some of the most vicious slanders in this country which people believed and which had the effect of seeing them lose their seats. I talk of Lionel Craig. I think of what happened, Sir, in the lead-up to the elections of 1986 when evidence was given in the courts of this country that a late former MP, one Tommy Miller, used to go for instruction to the house of another former MP every day to know what to say at a meeting that night and it went all over this country and the case was shown to have slandered Craig 5 times. The most vicious things. For each of them the Chief Justice gave $10 000. Fifty thousand dollars Craig was awarded and he didn't collect a cent. All of that was evidence given in the court.

Aside.

The development of the law of defamation, though in part codified, is really an evolutionary creation of the common law and comes from many sources. Roman Law, Sir, which you speak of *famosum malum,* Sir. The Anglo Saxon Law, and even the Bible, Sir. I was able to find a reference to the Bible because I do not know it that well, Sir, I confess. Leviticus Chapter 13 verse 16. You know what Leviticus said, Sir?

2.30 p.m.

"Thou shall not go up and down as a tale bearer among thy people."

There have been statutory attempts to deal with various aspects of defamation from time to time in England, Sir. Faulks' Liable Act, the Parliamentary Papers Act, Lord Scarman Act, 1843, the Libel Act, 1945, the Slander of Women Act, 1891, the Defamation Act, 1952. In Barbados we really incorporated all these Lord Scarman Act in our law.

Notwithstanding, Sir, the enactment of legislation, the dynamism of the common law has been very active in engrafting all such legislative provision as there have been, and adding new rules to the bare bones of the statutes.

Sir, people are fascinated by the law of defamation. Early in this century there was a case which was of far reaching proportions, which I was able to rely on in another matter, Sir, in which Mr. Delisle Bradshaw sued Mr. Eric Sealy and got an injunction against him, arising out of the same Pele business.

In relation to the intention of the author, the law of defamation, as it presently stands, does not pay any regard to the law of intention. If you call me a thief, it does not matter that you intended to call me a chief and you dropped your "c" and your "t" transposed. The intention is irrelevant.

I believe certain Members of this House will find this one interesting, Sir. Way back in 1910 in the case of Hulton & Co. v. Jones, The Sunday *Chronicle,* a newspaper in England published these words:

> "Upon the terrace marches the world, attracted by the motor races – a world immensely pleased with itself, and minded to draw a wealth of inspiration – and, incidentally, of golden cocktails – from any scheme to speed the passing hour ... "whist! There is Artemus Jones with a woman who is not his wife, who must be, you know – the other thing!" whispers a fair neighbour of mine into her bosom friend's ear. Really, is it not surprising how certain of our fellow countrymen behave when they come abroad? Would you suppose by his goings on, that he was a churchwarden at Peckham. No one, indeed, would assume that Jones in the atmosphere of London would take on so austere a job as the duties of a churchwarden. Here, in the atmosphere of Dieppe, on the French side of the Channel, he is the life and soul of a gay little band that haunts the Casino and turns night into day, besides betraying a most unholy delight in the society of female butterflies."

Now, he was talking about Artemus Jones. The truth is that there was a real Artemus Jones, as Members on the other side would recall, who was a well-known barrister. The article was not intended to refer to the barrister, but, unfortunately, Artemus Jones was able to find people who were able to say when we read this we thought this was you, and got a heavy piece of change. Similarly with the man Harry Newstead, Cassidy v. the **Daily** ***Mirror.*** The point is, Sir, it is still the law.

I go further. The Faulks Committee looked at this in 1974/75 and saw no reason to change it. We have to change it in our law, Sir.

Australia has not changed it. It is still the law because if you change the law, clearly everybody will run to court and say, "Well, I did not intend to say that, I did not intend to publish that" and make a nonsense of the thing. So, in fact, the rule would be: "publish and be damned."

Now, Sir, what is defamation? I am taking a little time with this, Sir, because, as politicians we are liable from time to time to say things or put things in a way that may give . . .

Aside.

Hon. D. A. C. SIMMONS: We say things from time to time on platforms and sometimes we are sued, sometimes we are not sued. Demerieux, the lecturer at Cave Hill has written a book about Human Rights and Fundamental Freedoms cases in the Caribbean. She has shown in that book that the vast majority of defamation cases in this region have involved politicians and I thought I would take the opportunity today, Sir, since this is a House that does not contain all lawyers, to deal with the matter for our own benefit.

Aside.

Hon. D. A. C. SIMMONS: The Honourable Member for St. Michael South Central got $10 000 from a non-lawyer in 1978. I also know a lawyer who became very, very high in this country up to two weeks ago who had to pay Tom Adams $10 000 for his mouth too. I will leave it like that.

Sir, the definition of defamation is a very difficult one – judges, textbook writers have all had a go at it, Sir, and some definitions have been held too narrow – causing a person to be held in hatred, ridicule, exposing a person to hatred, ridicule or contempt. That is one thought to be too narrow. The best one is Sim v. Stretch. That is still the best one, a false statement which tends, and the key thing that people do not remember is "tends." It does not actually have to. If a statement tends to lower the plaintiff in the estimation of right thinking members of society generally, that is the tense for defamation. It does not actually have to do it. If the statement tends, and the court could exercise that, that is the key, Sir.

In other words, people in the press writing stories based on rumour and so on have to be careful. They have to ask themselves the question, and I suggest the question which people who write and speak, particularly publicly, should ask themselves this. Is the statement such that, in the eyes of a fairer and reasonable person it will reflect to the discredit of that individual to whom it refers?

Aside.

Hon. D. A. C. SIMMONS: It ought on its face to be a false statement but if the defendant can prove that it is true, it is no longer false.

Now, Sir, the existing law of defamation in Barbados, as I say, has clearly been in need of modernization for many years. It is replete with deficiencies and it has tended to work hardship, I think particularly on the media. The media in Barbados have been the ones more than anyone else who have been campaigning for reform of the law of defamation. I addressed the Journalists Association Annual Awards Ceremony the end of 1994 or early 1995 and they wanted me to talk about defamation. I talked about it and I promised legislation that would modernize the law.

Let me look at some of the anomalies under the existing defamation law, Sir. The law in Barbados, first of all, is principally based on the English common law and that law has compartmentalized defamation into libel and slander, libel being, of course, a matter which is in a more or less permanent form, something that is written, and slander which is oral or spoken and in a more transient form. But, in that dichotomy which English law still recognises of libel and slander, there are anomalies. What is the position with a tape recording, a video recording, television? Is something published on television in Barbados libel or slander? That decision never came.

It was tested in the case involving a report by CNN transmitted by CBC of the woman, Jerry Hall, who was charged here for drugs and the CNN report tended to suggest that the magistrate was corruptible and the lawyers for CBC at the time, the late Mr. Asquith Phillips and Mr. Colin Williams argued that it was libel. My contention was that it was slander for the reason that England had dealt with that in 1952 but we have never dealt with that. So that is one of the anomalies that exists. In this day and age when technology has developed to the standard that it has, we have to deal with the question and decide where we are going to put, as I say, television, cassettes, and so on in the scheme of things, and we have that as well in the law as I will come to, Sir.

Now, another problem. The present law says, Sir, that if it is a libel, you do not have to prove what the lawyers call special damage. It is actionable without more, what they call actionable per se. On the other hand, slander, in most slanders you have to prove damage except in four cases. One or two of them are survivals of a different age, perhaps, the Victorian age, and I do not know if in Barbados today they would be of any moment having regard to the development of society, for example, where words impute unchastity or adultery to a woman. Some would argue that unchastity is no longer a rara avis, not a rear bird, Sir, but more the norm. Adultery – there are people who say that if they apply certain tests to politicians in Barbados that apply to politicians in the States that none would pass the test. Not in this Parliament, of course. I am dealing with a different era.

Mr. SPEAKER: You said chastity or adultery?

Hon. D. A. C. SIMMONS: Unchastity. Chastity is a rara avis, Sir. Adultery I suppose came into the law when adultery was a crime.

Aside.

Hon. D. A. C. SIMMONS: Up to 1857 adultery was a crime, Sir. It is no longer a crime. It used to be called an offence but now it is still part of the law of Barbados. Now if you walk about and say that so and so is not a virgin, she has a case, not write it. If you walk about and say it, it is still part of the law and there are others that people have to be careful about. If you impute to a person that he has a contagious or infectious disease, again, Sir, that is slander actionable without proof of special damage. If anyone walks about and says that somebody has AIDS – or in the old days they used to say a clap and so on – that is slander. You cannot say those things about people. People do not understand that. That is the law.

Aside.

Hon. D. A. C. SIMMONS: We see it every week. People come and ask you for a little .10¢, you can be locked up for that. That is begging alms, all of those things. I am not really dealing with those. That is different, Sir.

The third one, Sir. If you say about a person that he is guilty of a type of offence which carries imprisonment, and it is not true, it is slander and the fellow does not have to prove anything, just to show that it has been said. Then, of course, Sir, the one that would apply to many people in public life, particularly a Minister of the cloth, where words are calculated to disparage a person in his office, profession, calling, trade or business, not picking pond grass, that is vulgar abuse. Vulgar abuse must be distinguished from defamation.

2.45 p.m.

Mr. SPEAKER: Order, please.

Hon. D. A. C. SIMMONS: Those are some of the antiquities that have survived in our law.

Aside.

Hon. D. A. C. SIMMONS: Adultery is not a crime. The Prime Minster is very concerned to ask me if adultery is a crime. He has no fear of this. He is a very well behaved person.

Mr. SPEAKER: Please let us hear the Honourable Member. Honourable Member for St. Philip North, listen to this point on adultery, please.

Hon. D. A. C. SIMMONS: I say it is not a crime any more. Sir, this is not a Bill about matrimonial law. I am dealing with the little anomalies that we have in the law. We have the two defences, Sir, of justification and fair comment which are technical in terms of proof of them. Pleading is not a problem but proof of them is a problem, Sir, and has hamstrung many a defendant and the Faulks Committee and all those who have looked at it said that they needed to do something about those defences and we are doing it.

I think too, Sir, even though some of us have benefitted by actions brought on our behalf against the media, I think it is fair to say that sometimes people tend to sue the media for little things that are correctable that really have not outraged the public or caused the public to think less of the person. Somebody says that David Simmons was charged with an offence yesterday and they mean David Simpson that could be something that somebody would want a big lot of money. But it can be redressed by an apology, a correction and so on. So that most newspapers have found over the years that they have been the target for the slightest transgression and also some of the radio stations. So we have taken steps to deal with trivial errors in the legislation as I will show.

Now, another thing, Sir, we have been talking ever since September 1994 and before about the desirability of broadcasting parliamentary debates preferably on a separate and dedicated channel that gives the public a choice. Under the present law there are inherent problems in broadcasting, and by that I include telecasting live debates. Members of this House are very restrained and very, very responsible in their conduct when debates are televised. I think it is only because we have this very high regard for propriety and high regard for the viewing public that none of us has been sued. I do not mean this Parliament necessarily but even in previous Budget Debates when they were the only

debates telecast. None of us have been sued as a result of anything said. Sir, not that you could sue, but there has been no slander. Strong words, a little abuse perhaps, but no slander.

Now we need to do something about the law. If we are going to telecast and broadcast debates in future we must put the law in place. We have taken steps in the Bill and I will go through it to show how we have done that. Live broadcasts, for example, will be absolutely privileged because the station would not have an opportunity to edit, stop or whatever what you are saying, while in a recorded broadcast you have the opportunity, if a Member said something that mashed the crease, to edit it out and so on and that one therefore will attract qualified privilege.

There is no adequate provision in our law for offering of amends and again the existing rules of law bear unfairly on persons who may have been mere conduit pipes in the publication. Somebody writes a book or a pamphlet that is libellous and puts it in a library or in a bookstore in town. The bookseller may not have read it. The librarian certainly may not have read it. But they will all be liable as publishers of the libel under the present law. That is unfair. You are fixing liability to people who do not know what the matter contains. So that we are changing, Sir. That would not apply to anybody like the late Oscar Hinds. Because I remember him in 1985, he walked about this country with a nasty document. That is why I cursed him before he died and I am going to make sure that what he did is hallowed in the annals of his family because he was a nasty, wicked man and he should not lie like that. He walked about this country. He died more than 3 years ago. He walked from store to store in Bridgetown with something that emanated out of the bowels of another political party that libelled from the then Prime Minister, the Honourable Member for Christ Church South. I think he had my name in it and all kinds of people. I am saying that he was not an innocent disseminator. He knew what he was doing because he was walking about telling people, come read this here. He himself could not read and write. He was used. He was made a JP and could not even sign a warrant.

Sir, more than that I think we ought to be aware that the growth of modem technology has brought with it new challenges to the law in particular in relation to publications. The rapid expansion of computer network systems has focussed on the possibility of defamatory material appearing or being available on many outlets. Only yesterday somebody was telling me that there is a Barbadian who is a plaintiff in an action and he has a whole heap of stuff on the Internet about the Government and other things. I am having that checked out. That is the thing, people can use the Internet now for all kinds of purposes, including libel.

Now, Sir, with that kind of background let me deal with the Defamation Bill, 1996 itself. I have dealt with the historical background, the deficiencies in the existing law, so why do we want a Bill in 1996? The Barbados Labour Party in its 1994 Manifesto committed itself to bringing a new Defamation Bill. The media has pressed for this legislation and we are enacting the new legislation with a view to reforming and modernising the law.

I wish, at the outset, to pay tribute to a number of persons who helped with this legislation. First of all the Law Reform Committee. This is the work of the Law Reform Committee. Let me say it again. I said it last year.
2.55 p.m.

The Law Reform Committee is not functioning as well as I would have hoped, Sir, and when I say that I mean that we took trouble to give the Bar an opportunity to have a number of lawyers represented on the Law Reform Committee to get involved in the development of the law and the reform of the law. Yet, when we tried to have meetings every month, very often the meetings have had to finish without a quorum because a number of persons will not attend the meetings. I have instructed the person in charge not to waste any more time. Do the draft and we will back them in the Ministry. We will send them to the political parties and other interest groups with a time limit for responses and we will go with it. If the lawyers are not interested in reforming their laws, that is a matter for them. But I am disappointed in the attitude and the response. There are 3 or 4, and it would be invidious to call names, but there are 3 or 4 who turn up regularly, do work, take away reports from other countries, study them and come back and say that we can do this or we cannot do this, and give us the benefit of their help. But there are others who just do not come.

Sir, I wish to thank the Law Reform Committee first. I also wish to thank the political parties to whom the Bill was circulated for the comments that they sent in, Sir. The Bill was widely circulated to the media houses and we got very good comments from the media houses, particularly The Nation Group. They sent the Bill up to Jamaica and had a study done and commented on by a leading Queen's Counsel in Jamaica who loves the Bill. Earlier this year I had the benefit of spending an afternoon with an English Q.C., Mr. Desmond Brown, who practises exclusively in this field and his meeting with the Law Reform Committee was very illuminating. He too loves the Bill and has taken it back, in fact, to give the retired Mr. Justice Faulks a copy because he thinks that he will be very pleased with the Bill which in fact incorporates a number of the suggestions of the Faulks Committee's 1975 views.

I delayed a little bit in bringing the Bill, Sir, for the reason that last July the Lord Chancellor's Department in England published this document and when I passed through London sometime around September I got

hold of it. It is "Reforming Defamation Law and Procedure: Consultation on a Draft Bill: June 1995" and what we have done is to have incorporated certain of the provisions of this English draft into our law in respect particularly of "offer of amends" and we have used what the English have provided there, Sir, and we have gone a little further. Now what are the main features of the Bill, Sir? Just let me run through for Honourable Members benefit the main features of this Bill.

First point. When the Bill is passed, there will no longer be a distinction between libel and slander. All of that matter which is defamatory will simply be called defamation and you bring one action. So when it is cited, Sir, and proclaimed the distinction between libel and slander is abolished. The Faulks Committee in England had recommended that. We have accepted that and everybody agrees with it. We have not proffered a definition of defamation in the Bill. We prefer the better view as represented to us by most of the people with whom we consulted to leave it and let the common law definition interpose between the statutory provisions of this Bill. So it is not a complete code. It will still rely on the common law to some extent.

The second main feature of the Bill, and this is a technical thing, is that we are clarifying the law as to separate causes of action relying on both the words in their natural and ordinary meaning and the legal innuendo. That is Clause 4 of the Bill. Let me give you an example of a legal innuendo, Sir. If I were to publish, Sir, of the Honourable Member for St. Michael South Central who has expressed himself to be the main person and the embodiment of the National Democratic Party that, in fact, he is a supporter of the Democratic Labour Party, that would be defamatory, Sir. If I published that of the Honourable Member for St. Michael South Central, it would be imputing to him political dishonesty assuming that it was not true. Now that is a legal innuendo, Sir, for the statement in its natural and ordinary meaning because do not forget libel is about words or defamation is about words and meanings of words. In its natural and ordinary meaning that innuendo is not defamatory but it becomes so by reason of special facts concerning the Honourable Member for St. Michael South Central which are not stated in the words but which are known to certain persons to whom the matter was published. So that it would become a legal innuendo if I knew facts or some of us knew facts that he had been meeting secretly with the Other Side saying I am going to support and moving to give all of the press releases like calling on the Minister of Transport to resign and not letting the real Opposition do that, Sir, while he is usurping the party. When you publish all those things and the public knows these things, that might be legal innuendo, Sir. That is a technical feature, Sir, which I would not expect many non-lawyers to appreciate.

3.05 p.m.

The next main feature of the Bill is the defence of triviality. This is new to Barbados, new to the Caribbean. It will now be possible for a defendant, particularly the media, to show that having regard to the publication and the circumstances of the publication that the person defamed, as we say in section 6, was not likely to suffer harm to his reputation. Yes, it was a technical mistake, but really nobody would think less of the person because he published it...

Aside.

Hon. D. A. C. SIMMONS: ...or misspelled a name, or something like that. I gave the example of the famous case where it was stated: "Car thief to pay wife £2 000." In fact the libel in that was one letter. It should have been "car chief' and they published "car thief'. That one letter made it libellous.

Another important feature is in relation to the defences. We accepted the recommendations of the Faulks Committee that what is presently called the defence of justification should in future be renamed the defence of truth. We have changed the rule, because it is a very technical defence to run. It is a dangerous defence to run, because if you do not prove each and every aspect of the matter you say you are seeking to justify, you are out and you will lose as the defendant and have to pay heavy costs. It puts a great burden on a defendant to prove the case. Even though the law speaks of the words being true in substance and in fact, when it comes to actually pleading and then proving the case,' you will be required to prove each and every particular thing that you set about to prove.

Similarly, fair comment. I will take the two together. It is part of the law, it is a defence that you can comment on a matter and use it as a defence, provided that comment is fair and provided it is on a matter of public interest. Some little private business between my wife and me, or something like that, you cannot comment on in the newspaper and say that is a matter of public interest. It has to be a matter of public interest. Again, the present law requires too many specifics in terms of the requirement for proving the defence. It will work hardship and everybody accepts, even the New South Wales Bill that we looked at, everybody agrees that we need to relax those rules and we have relaxed the rules in relation to the defence of justification and fair comment and renamed them truth and comment.

Also, fair and accurate reports of court proceedings in the media. This is a good one. I do not read court cases in the newspaper. Most lawyers I know pay no regard to the reports of court cases in the newspapers. The newspapers will give two whole pages to cases in the courts. But

you get a distorted view always, because what the newspapers and the radio and television stations do, they hear the prosecution and what the prosecution witness says, if it is a rape victim, whatever the person says giving evidence on behalf of the prosecution they try and report that faithfully, but when it comes to reporting what the defence is cross-examining about you do not get that. So you do not get a balanced report, and for about 15 years I do not read it. If anybody asks me what cases are reported today in the newspaper, I cannot tell them. When I get to pages 3 and 4 of The ***Nation*** or ***The Advocate*** I change fast to the editorial page. It is a waste of paper. You get a cockeyed view, so it is a waste of time.

What the law is asking for here, and I send this message to the Press generally, is that for a fair and accurate report of court proceedings you cannot be sued. Absolutely privileged. But if you give one side and do not give the other, it is neither fair nor accurate and you cannot claim the privilege. We are doing a lot in this Bill for the media, but we are also asking them to show a sense of responsibility, a sense of balance and fairness in reports and you get the further benefit of the law. The accused man could probably sue and say "my lawyer in cross-examination made a mess of the prosecution wimesses, even caught them lying, or they admitted they were lying." The Press does not publish those things.

Another feature of the Bill is that we are dealing with the privileges relating to Parliament. We set out in the Schedule various privileges which can attach, which will carry qualified privilege, not absolute privilege. I am not going through the Schedule, Sir, it is there for everybody to see. I think I explained earlier that where broadcasts from Parliament are live, the station can plead absolute privilege if they are sued. Where broadcasts are recorded and are not live, and they have an opportunity to look at it and do not edit it, they do that at their peril. They can only plead qualified privilege. The First Schedule lists various kind of reports which attract qualified privilege.

Some jurisdictions have gone the route of not allowing a plaintiff to plead what is called malice to rebut some of these defences, so those who have one of the earlier drafts of the Bill may see that malice was left out. As a matter of policy, I thought that malice should be retained to rebut the defences of truth and qualified privilege, for the reason that in small societies people very often for ulterior purposes are prone to speak ill of others. 3.15 p.m.

Let me give an example and finish the sentence. It is useful to have that rebuttal. Let me tell you what happens, particularly with women. A woman applies for a job. Her former employer is asked for a reference. Now in those circumstances, the employer is entitled to give a reference which may reflect adversely on the person. He can write and say, yes, she worked for 15 years but I must tell you she is not trustworthy. If he does that, the law protects him even though to have said that she may not be trustworthy may amount to a slander or a libel.

The law says that there are circumstances which arise where a person has a legal, social or moral duty to make a statement, even if defamatory of another person who has a corresponding interest in receiving that statement. So, as between a former employer and prospective employer, the former employer can write and say he really thinks that she is not his or her type because she is not only incompetent, she is not trustworthy.

What has happened in cases to my certain knowledge is that the employer gave the employee a bad report as it were and she doesn't get the job. Do you know why he has given the bad report? It is because he tried to get off with the woman. She wouldn't entertain him so he gets back at her by "nastying" up her character. It is as simple as that.

I will not outlaw malice when I know that that kind of thing happens in Barbados. I want to give that woman the opportunity to say, "You know why he says that I am not trustworthy? Because on Christmas Eve 1989 he felt me up". Or he did this or whatever. I will not go into details. People should still have the right, particularly vulnerable women, to use that kind of rebuttal in evidence to show sexual harassment. There are other cases. It might not be sexual harassment. It might be just a long standing aversion to somebody short of sexual harassment but the true facts are not known until the person gives evidence, and I say that malice should remain in the law for the time being.

Now, Sir, clause 15. This is an important feature of this Bill and is an innovation. The cause of action in defamation arises from the publication of a matter rather than the actual writing or speaking, because defamation is not only a false statement which is likely to cause you to be thought less of by right-thinking members of the community but it is a statement that must be published to a third party. It is no good my telling my wife when the rule as between husband and wife was that there can be no libel. I tell my wife something about my colleague. That is not defamation because it has not been published to an independent third party because my wife and I were seen in the law at one time to be joined through the fiction of the unity of the spouse. We are now independent persons but you must make the defamatory statement about a person to another person, a third person.

There are a number of persons who are presently and have forever been liable to being sued for defamation but who had no part in it. We are changing the law to give them an opportunity in clause 15 under the heading Responsibility for Publication. Basically what we are saying is:

"In proceedings for defamation a defendant who is not primarily responsible..."

Not talking about the editor. Not talking about the publisher, but talking about the van driver who brings my *Nation* at 3 o'clock in the morning. He is just doing a job. *The Nation* may *be* full of libel and he brings it and throws it at my doorstep. Right now he is liable, because he is a publisher. So we are saying that a person who is not primarily responsible for the publication of the statement shall not be held liable unless he knew or had reason to believe that the statement was defamatory of a person and secondly that he had no reasonable grounds for believing that the statement could be justified or was otherwise excusable.

The burden of proof, don't worry about that. That is a technical thing. There are 2 burdens. One is on the plaintiff and one is on the defendant in the same situation. That really deals with a situation of innocent dissemination of a libel and as I indicated libraries, booksellers, newspaper vendors are potentially liable or would have been potentially liable but now we are changing that law. They will get off unless they knew about the libel and who it referred to and so on and they continued despite that knowledge.

Clause 15 is an innovation and it modernises the law by creating a statutory defence for those who do not have primary responsibility.

Section 16 – I sent over the English amendment – deals principally with the question of offer of amends and sets out a detailed procedure for offering amends, correction and apology. It would be dreary for me to go through them now. That defence of offer of amends has been there since 1952 but the Neill Report refashioned it and we have taken the English Bill and made certain other amendments to that in the light of comments that we sought in the New Law Journal and some other publication whose title escapes me now.
3.25 p.m.

So we have looked at the best learning in respect of the provision for offer of amend, and incorporated that learning in the legislation and brought it up-to-date.

In respect of companies, companies could, of course, sue like an individual. You can slander or libel a company. I once sued CBC for slandering a company, C.O. Williams Construction, and we got damages by way of settlement. The matter was settled. We have made a little distinction in the Bill.

In respect of companies, trading corporations, unincorporated bodies and so on, we give them the right to sue for defamation, but they have to prove special damage. Where an individual no longer has to prove special damage because of the abolition of libel and slander, a trading corporation now will have to show special effects.

Asides.

Hon. D. A. C. SIMMONS: He will have to show that he lost money. I do not want to comment on Mrs. Ram's case, as it is still before the Court.

Asides.

Hon. D. A. C. SIMMONS: That would not give the NDP any right of action though.

Sir, the next main feature of the Bill is the relation to the type of damages you can get. The English view is that you should not get exemplary damages unless you can show that there was a profit motive behind the publication. Some recommendations, the Faulks Committee, I think I am right in saying that, Faulks said that you should not have a right to exemplary damages. You can get compensatory and aggravative. We have used our own judgement and said we will give the right to exemplary damages on the principles set out in Rookes vs. Barnard has explained in the actual defamation case of Cassell vs. Broome, and we are providing for defendants to give evidence in litigation.

Now another innovation, Sir. At present if a person is defamed today and dies tomorrow, his cause of action dies with him. We have changed that. We have allowed for survival of actions in respect of defamation, Sir. So this is completely novel in this region.

Surviving relatives of a deceased have three years from the date of death, that is the limitation period, within which to sue. They cannot sue for damages for all kinds of legal philosophical reasons. Reputation would have died when the person died, but they can sue for an injunction and declaration and they can get their costs. That is clause 26.

Clause 27, I would like to suggest that Barbados has gone beyond any other jurisdiction in the Commonwealth in what we are providing. What we are saying here in Clause 27 is completely new.

We are giving a Judge the right, when instructing a jury on the question of damages, to make a comparison by reference to damages for personal injuries. This is not an English law. I do not think that it will come for a little time. It is in nowhere else in the actual statute law of the Commonwealth although in Australia the Chief Justice there, Mason C. J. in one case made the comparison.

I want to read something. This is a very novel area. I will say it must necessary work where there is a jury, because you will then have to advise the jury. First of all the judge, in our law, will now tell the jury whether in his view the award ought to be nominal, contemptuous, substantial or moderate. Then he can go on to make the comparison with a personal injury case.

We have included that in the law because of a recent English decision Elton John, the singer who has a property here, and MGN Limited.

Asides.

Hon. D. A. C. SIMMONS: It was the end of last year. Elton John sued MGN Limited. This is a group that owned a newspaper. He sued and a jury gave him, hear this, £350 000 damages. Comprising £75 000 compensatory, and £275 000 exemplary. They went on appeal, and the new Master of the Rolls, Sir Thomas Bingham, I am going to read it so that Honourable Members who are not familiar with it would see the though processes and how we can deal with it:

> "The reasons given by the Court of Appeal in Sutcliffe vs. Pressdram for rejecting any analogy between defamation and personal injury damages were twofold. The first was that the measure of damages is or may be different in the two cases, essentially because defamation damages have to reflect any aggravation and caused to the plaintiff by the defendant's subsequent conduct, or any mitigation, and by the need to vindicate the plaintiffs good name. The second was that Parliament has provided for different modes of trial in the two classes of case."
>
> The first reason given for rejecting reference to personal injury awards was essentially that deployed by Lord Hailsham in Broome V. Cassell. We would make the same comment as have made above. On the second reason we would make three observations. This is how we would start to analyse it. "First, we simply do not know whether Parliament gave any thought to the assessment of damages by juries when enacting section 69 of the Supreme Court Act 1981. Secondly, the making of grossly excessive awards by libel juries was not in 1981 the source of concern which it has since become."... Remember Jeffrey Archer's cases. "Thirdly, it is not suggested that juries should not assess damages in defamation actions, only that they should receive guidance when doing so."
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> Then he said:
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> "It is one thing to say (and we agree) that there can be no precise equiparation between a serious libel and (say) serious brain damage; but it is another to point out to a jury considering the award of damages for a serious libel that the maximum conventional award for pain and suffering and loss of amenity to a plaintiff suffering from very severe brain damage is about £125 000 and that this something of which the jury may take account."
>
> Then he said:
>
> "It has often and rightly been said that there can be no precise correlation between a personal injury and a sum of money. The same is true, perhaps even more true, of injury to reputation. There is force in the argument that to permit reference in a libel case to conventional levels of award in personal injuries cases is simply to admit yet another incommensurable into the field of consideration. There is also weight in the argument, often heard, that conventional levels of award in personal injury cases are too low, and therefore provide an uncertain guide. But these awards would not be relied on as an exact guide, and of course there can be no precise correlation between loss of limb, or of sight, or of quadruplegia, and damage to reputation. But if these personal injuries respectively command awards of, at most, about £52 000, £90 000 and £125 000 for pain and suffering and loss of amenity, juries may properly be asked to consider whether the injury to his reputation of which the plaintiff complains should fairly justify any greater compensation."

In other words, you are going to tell me that saying a man is a vagabond or a big thief or something is worth more than a man who suffered a car accident, has brain damage and who got only £125 000.

> "The conventional compensatory scales in personal injury cases must be taken to reflect fair compensation in such cases unless and until those scales are amended by the courts or by Parliament. It is in our view offensive to public opinion, and rightly so, that a defamation plaintiff should recover damages for injury to reputation greater, perhaps by a significant factor, than if that same plaintiff had been rendered a helpless cripple or an insensate vegetable. The time has come, in our view, when judges and counsel should be free to draw the attention of juries to these comparisons."

Do you know what the Court of Appeal did to that case? They reduced Elton John's award from £350 000 to £125 000.

3.35 p.m.

The other awards in Barbados have not been excessively high.

Aside.

Hon. D. ,A. C. SIMMONS: "Cou-Cou and Flying Fish" and "Pudding and Souse." One of them is written by someone who has now moved from the status of journalist to butler, only last weekend, Sir, ordered around at a party: "Go and get me my drink." He has a habit of writing a lot of untruths in those columns. This law does not change anything about that. Let him write the lies that they write in "Cou-cou and Flying Fish" or "Pudding and Souse," and they will pay.

Sir, criminal libel before I finish. This is an area not much practised but it exists. Libel is both a crime and a tort. A lot of people do not know that because there have not been prosecutions. Under clause 34 of the Bill, you can now be fined $2 000 or imprisoned for one year, or both, for publication of criminal libel.

We took account of the recent decisions in the law and again eschewed any desire to put in a definition. Sir, at one time it used to be said that criminal libel arose when there was a likelihood of a breach of the peace. In 1980 Lord Scarman changed all of that. The case law is Gleaves v. Deakin. The test now is this. He said:–

> " To warrant prosecution for criminal libel, it must be sufficiently serious to require the intervention of the Crown in the public interest. It must be more than of a trivial character. It must be such as to provoke anger or resentment. The essential feature is the publication of a grave and not a trivial libel."

So if somebody really said something so outrageously false about you that you are moved to anger and want to go and cuff them down and so on, that is a good case for criminal libel. Do not cuff them, though. You could give the evidence that you felt like cuffing them but do not cuff them.

There was a problem with criminal libel because people, particularly in England, were taking the opportunity to sue the media criminally for each and every little thing and it was recommended that no criminal libel should be prosecuted in England without the consent of the Attorney General. We have accepted that recommendation in Barbados except that we have changed "Attorney General" to "DPP, of course, and no criminal libel can begin in Barbados unless the consent of the DPP is obtained.

Mr. Speaker, I trust that the press who contributed to the final form of this Bill in the shape of their very informed comments will now feel happier that there is legislation that protects that fundamental right of freedom of speech but legislation which, at the same time, in no way whittles down the democratic process. Indeed, it may enhance the democratic process to allow a certain liberality of speech subject to good taste, the truth, fair comment, and so on.

I do not think anybody complains, even in public life. We more than any others are the butt of some of the most vicious and unfair comments, one or other of us almost on a weekly basis and we take it in our stride because sometimes it is par for the course. But when publications become nasty lies, each one of us reserves the right, and each member of the community should reserve the right to pursue his or her legal rights to the hilt. But subject to those. constraints, I venture to say, Sir, that freedom of speech in many of the traditional Commonwealth countries has been enhanced whether they have had a written Constitution or an unwritten form as in Britain.

I commend this legislation, Sir, as the final distillation and a synthesis of a number of views, a piece of legislation that will commend itself, I hope, to the region and ultimately we may be able to harmonize the legislation of the region in this area.

I am particularly happy, on behalf of the Government, Sir, to be moving this legislation to make the break, as I said at the beginning, with 90 years of Victorian legislation which was of no relevance to modem Barbados. There are provisions in here that deal with the potentiality for abuse on the Internet and so on, copyright law in the area of trade and in the development of intellectual property rights. But at the same time the potentiality for damage on international computer systems is a real potentiality and it is as well that we have legislation that anticipates that.

There is one other piece of legislation, Sir, that will not emanate from me. I have the precedent and I am passing it on to the Minister responsible for Telecommunications. I have been watching. The Government has been watching the development of wickedness where people use fax machines to publish to other users of fax machines the most vile and vicious lies and nastiness about other people. I have the Bermuda legislation of how they have dealt with this in the Telecommunications Bill.

It will require an amendment to our Telecommunications Act but I believe that if standards are slipping in this country in all spheres, wherever I have the opportunity to try to use the legislation to bolster moral values and to punish criminal behaviour, this Government is going to use that limited tool of legislation to try and bolster moral values. I call upon those who are purveyors of slime and scurrilous matter through the fax machine to desist from so doing. As I said, Sir, I have the

legislation and in due course the Law Reform Committee will deal with that.

Sir, I have been on my feet very long. I hope I have explained everything and that Honourable Members understand this Bill. I am obliged to you, Sir. I beg to move that this Bill be now read a second time.

Rt. Hon. O. S. ARTHUR: I beg to second that, Sir.

Mr. F. J. STUART: Mr. Speaker, I shall not be very long. The Opposition is not going to be opposing the legislation but I just want to make a few comments further to the comments made by the Honourable Member for St. Thomas. I agree that the interest of human beings and their reputation is as old as mankind himself and that records exist from time immemorial of men pronouncing on the issue of reputation.

3.45 p.m.

I can think off hand of Old Testament writers, the Honourable Member quoted Leviticus, but the writer of the Book of Proverbs, I believe, said that a good name is to be treasured above riches and that loving favour should be valued higher than silver or gold. I can think too of the writer of Ecclesiastes who said that a good name is better than precious ointment and the day of death better than the day of birth. I do not necessarily agree with the second part of the statement but certainly I understand the first. So interest and reputation are organic to the human experience and hence we have the law of defamation. Defamation, as has already been said, cannot really be meaningfully discussed outside of a concept of freedom of speech because defamation is a special limitation of the freedom of speech. Freedom of speech is presumed and what defamation does is say, "you can say what you like but unless you say it in a particular way or in a way that is approved by the environment in which you live then you have to pay for it."

The legislation which this Bill seeks to replace is 90 years old and was passed at a time of course when Barbados was not what it is today. There was certainly not a democratically elected Parliament and there were stringent property qualifications that governed election to Parliament. Adult suffrage did not exist and therefore what that legislation was designed to reflect was quite different from the realities that exist in Barbados today. But the State in Barbados got involved in the law of defamation in the year 1906 and passed the legislation which this Bill is intended to replace.

In England, whence we got our law, the state got involved in the law of defamation, I believe, in the year 1275 during the reign of Edward I, when a statute summed up in the Latin words, *scandalum magnatum*, was passed and the purpose of that statute, as articulated by the Edward I, dispensation, was to protect the reputation, the good name, of important people in the society – peers, judges and other people of high rank in the society. It was expressly stated that the law of defamation was not to target the ordinary man in the street as we call him today, the man at the bottom of the society, because it was either assumed that he had no reputation or that he had no interest in good name but only peers and judges and people at the top had an interest in a reputation.

The legislation we discuss here today of course therefore has to be viewed within that general context, that the statute law of defamation began with a focus on the reputation of the people at the top layer of the society and how we evaluate what our Parliament is doing today is related to what the first legislative efforts were intended to do. How far have we moved from a situation in which a statute tries to protect the reputation of a privileged few in the society which was the case in the year 1275?

The other point of course that has to be made is this that Barbados, in the context of the existence of Barbados being known to the Europeans, can boast about 370 years of history and of that 370 years about 200 years were spent as a slave society. Therefore we have known more slavery than freedom and one of the distinguishing features of a slave society was a severe restriction of freedom of speech so we have known more restriction of freedom of speech than the freedom of speech which we discuss today. Therefore freedom of speech is a profound and important issue in a post slavery-society and certainly one like Barbados in which we have known less freedom of speech and more restriction of freedom of speech over the last 370 years.

Not without significance of course is the fact that this debate takes place at a time when the crop over season is getting off to a start and when we are listening to calypso and various things. The calypso art form had its genesis in plantation society and was a response to restrictions of freedom of speech. Therefore this debate today assumes that additional amount of significance.

So, Mr. Speaker, the issue for us on this side, and I said I would be very brief, because I think the Honourable Member for St. Thomas has gone through the Bill fully and we have no fundamental objections to the content of the Bill. We think there are some progressive changes in the legislation and therefore it need not detain the House. But when one thinks of freedom of speech, freedom of speech is a virtue of little value if by freedom of speech we do not mean freedom of opinion, freedom to express one's opinion. The freedom to express one's opinion is of little value if that does not mean the freedom to express one's opinion about people who make decisions that can affect one's interest. In other words, the freedom to

express opinions about those who rule, that I think, is the essence of freedom of speech; not the ability to talk at a rum shop to a friend; not the ability to talk on a bus; or to shout through a bus window at somebody, but the ability to criticise those who make decisions that can cause you pain; to criticise those in authority and that is the quintessence in my respectful submission of freedom of speech which for me means freedom of opinion and which for me further means the freedom to criticise those in authority.

Now English Law from which we have got our own law anchored the freedom to criticise those who rule, in a formula which allowed for a defense of fair comment. The criterion was that the matter talked about should be a matter of public interest and the comment on it must be fair. Now there is a large number of cases in which judges have expressed their difficulties with this formulation of fair comment because determining whether a comment is fair or not fair can lead to a high degree of subjectivity and the decisions have not been consistent because what one judge may consider to be fair another judge may consider to **be** unfair. Therefore, that has always acted as a fetter on the law in this area and the promotion of discussion in relation to those who rule, to those who make decisions to affect one's interest **was** to that extent circumscribed.
3.55 p.m.

There is an old adage that says that the distinction between the British and the Americans is that the Americans defeat their enemies but the British disqualify theirs. Of course, if one observes the goings on in world cricket, they will have no difficulty in understanding that view because rather than defeating for example West Indian fast bowlers, they sought to disqualify them on this rule and that rule and so on. So one understands what is meant when the view is expressed that the British seek to disqualify their enemies rather than defeat them.

But on this issue of comment on matters of public interest, I have always had a difficulty because I do not believe that there is any air tight way in which one can identify a matter of public interest, and judicial dicta exist that support that statement that I just made. There is no air tight basis on which one can do that and what the Americans have done, and I am inclined in the direction of their view, is that they have removed the issue of a matter of public interest altogether from the law in this area and they have anchored it in the status of the plaintiff. Their law goes down the road that if public officials or public figures sue they should not be able to recover unless they can prove malice. Now it is by no means difficult at all to identify public officials nor is it difficult to identify public figures and, therefore, it is much easier in that kind of situation to promote free discussion and to establish meaningfully in the hearts and minds of people the right to free speech if they are armed with the knowledge that they are free to express opinions about those who make decisions that affect them and affect their interests.

The issue of public officials and public figures is very important here because, as the Honourable Member for St. Thomas said, there is scholarly opinion in Barbados **today** that **the** defamation laws that we have known for the last 90 years have been hijacked and utilised by public officials, sometimes in an **intimidatory** kind of way to silence criticism.

I believe in the same article to which the Honourable Member refers, the writer contemptuously refers to "the marshmallow hearts of West Indian politicians," making the point that if we use the law of defamation as any guide, politicians in the West **Indies** have come across as being too thin-skinned, unable to accept criticism of themselves in the way of their office, prefemng always to hear good things about themselves rather than negative things.

I think that there is a lot to **be** said for that criticism. Reputation should not be used as a source of income, and there is a tendency for public officials who owe the positions they hold to the struggles of the masses over time, who are paid by the masses and who make decisions that can cause the masses pain to expect that they should lead charmed lives and only hear good things about themselves. The moment people want to express themselves freely about how public officials behave, the law of defamation is held up as a sword of Damocles to hang over their heads with threats of selling out their property and impoverishing them for life.

In **fact,** if the record is looked at in Barbados seriously – today I smile when I hear the encomium heaped on the late Clennell **Wickham** but his career was destroyed by a libel suit. He was one of the most lucid and creative critics of the authority structure in Barbados during his time and of course more recently the career of Mr. **Neville** Maxwell suffered the same fate. I am making a statement of fact and moving on.

The issue for the law of defamation in my view is how far have we moved from Edward I, in 1275 who passed a law to protect the reputation of people at the top and this brings me to the innovation or the change introduced in this Bill. The removal of the word "fair" from the defence of fair comment is in my view a **progressive** move. That move limiting the defence to comment on matters of public interest enlarges in my view the scope for freedom of discussion in Barbados. As I said, I have always had difficulties with the whole issue of a matter of public interest but if you are going to stay with that, the removal of the word "fair" and settling for just "comments on matters of public interest" is an improvement in **the** law and should facilitate freedom

of discussion and should narrow the gap between the rulers and the ruled, if people really understand what the amendments are about.

I do not think that we will long be able to stay with the issue of matters of public interest because I think there will be a rumbling from below and pressures from below as people clamour more and more to have a say in the decisions that affect their lives and have more and more say against those people who rule them and who lay claim to the right to control.

The defence of comment on a matter of public interest to the extent too that all the facts on which the comment is based don't have to be proved again is a progressive development in the law and long overdue and should enlarge the freedom of expression as contemplated by section 20 of the Barbados Constitution. I don't think there is any basis on which any fault can be found with that and I think that the Opposition is pleased to associate itself with an amendment that seeks to achieve that objective.

The other issue which interests me is the widening of the categories of proceedings to which the defence of qualified privilege relates. This, as the Honourable Member for St. Thomas quite frankly said, is aimed at the Press. It is an attempt to enlarge the scope of their operation and it is a very important disclosure by the Honourable Member. If the State is prepared to go this far to facilitate the Press, the Press has to understand that it has a responsibility in all of this as well. You cannot legislate journalistic excellence. You cannot legislate journalistic professionalism. The best you can do is to take a leap of faith and to hope that with the enlarged scope for free operation by the Press it will understand its social responsibility to report accurately, to understand the importance of the pursuit of excellence in this society.

I was quite chagrined and angry recently having sat and listened in the Other Place to the speech on the occasion of the investiture of His Excellency the Governor-General to hear him talk about a commitment to excellence and the pursuit of excellence and to hear him say that we have to target our youth because they are the "trustees of posterity", to take up a newspaper the following day to see quotation marks attributed to him, saying that he said that the youth are "trustees of prosperity". In a speech that talks about a commitment to excellence, it is put in quotation marks and attributed to him that he said that youth are trustees of prosperity.

It is that kind of point I am making. It is not a defamatory statement although it certainly does violence to the standards of the man we know, but it is that kind of sloppiness that I think has to be avoided if the pursuit of excellence in Barbados is to make any sense. Therefore, if scope and opportunity is being provided for the media in Barbados to report on a wider variety of proceedings that take place in this society the obligation to report accurately, to report relevantly and to report in a way that will edify the society and enhance its standards is an obligation which the media should try to meet.

I think the Government has done its part in reaching out to the media and it is now left to the media to do its part in discharging the awesome social responsibility that devolves on its shoulders to educate the society and properly inform it so that over time we can have the kind of vigorous public opinion and the kind of informed public that is at the end of the day the best guarantee of a vibrant democracy.

4.10 p.m.

So, as I said, Mr. Speaker, we on this side do not have a lot of difficulty with the content of this Bill. The change of the defence of justification is the defence of truth again enlarges, in my view, freedom of speech. The need for meticulous accuracy and proof of everything sought to be justified, has been relaxed.

It is an improvement of the law which has been in existence and which we have followed ever since Parliament last turned its attention to issues relating the protection of reputation.

The availability now of the defence of triviality is also a progressive development. I think this is particularly important. As I said earlier, reputation should not be a source of income. The truth is that sometimes I get the impression that we have reached a stage in Barbados, where, when professionally, you tell people that they have not been defamed, they are disappointed. Looking for income. One used to think that defamation had to do with hurt feelings and damaged reputation. Sometimes, when one's opinion is sought and honestly given, you get the impression of disappointment that the reputation has not been damaged or the person has not been defamed. It is because somewhere lurking in the background, is the hope of recovery of compensation of some kind.

So, genuine mistakes made by the media, and of course it not a license for them to make more mistakes than they make now, but the defense of triviality, I think, will effect some kind of balance in this situation and will allow a more free flow of information in the society, and expose media houses to less risk of having to pay regular sums of money on mistakes.

This is not a speech intended to condone any irresponsibility in media houses. This Bill can do nothing to deal with a problem of a newspaper, for example, that writes letters to itself attacking other people. This Bill does not address that, and does not know how it **can.**

So, one is not here trying to condone irresponsibility. The idea of writing letters to yourself to attack people of whose partisans affiliation you disapprove, or with whose views you find difficulty, this Bill cannot deal with that problem. That is a problem now of journalistic morality and a commitment to the best interest of Barbados, and commitment to the communicating of authentic information.

Having said that, I get back to the point of saying that the defense of triviality takes care of those minor deviations from accuracy, which in other circumstances could lead a media house to expect unnecessary expense when if fact the mistake was honestly made.

So looking at the Bill overall, we on this side have no fundamental difficulty with it. As I said, I do not myself, like and have never liked the **defense** of fair comment on a matter of public – I think the formulation is wrong, and was designed to choke the discussion.

The **removal** of the standard of fairness with its high degree of subjectivity, enlarges the scope for free discussion. I think that we have to get to the stage where public figures and public officials realise that if they want the bright lights and if they want the power to control other people's lives, they must expect criticism. Sometimes fair, sometimes unfair. They must expect a mixture of truth and false.

1 believe that a John Stuart Mill in his famous work on "Liberty," said that sometimes an inaccuracy helps to facilitate and to improve public discussion, because when the truth is put both the inaccuracy and the truth are better understood, and that inaccuracies and falsehoods are not always bad things.

So, public figures and public officials have to understand that it is one of the hazards of their position, and one of the hazards of their calling that they will be fairly and unfairly criticised. That sometimes harsh and sometimes painful opinions have to be expressed. This is the price you pay for the bright lights and the glory of being able to serve people, and to benefit from their admiration and their applause from time to time.

So, Mr. Speaker, I do not want to detain the House. I think that the provisions of the Bill have been satisfactorily explained to the House. There are no areas of particular controversy that would justify any further comment from me. As I said, we on this side are determined to support it. It is the Government's effort to modernise the law, and in its own way enlarge the scope for free cliscussion in Barbados and to give the press a chance to exercise responsibility, and to demonstrate that it is deserving of the confidence placed in it.

So with those few words, Mr. Speaker I think I have exhausted what I want to say. Much of the ground covered by the Honourable Member **for** St. Thomas, it is now unnecessary for me to traverse. So the Bill will have our support on this side.

I am obliged to you, Sir.

Dr. R. C. HAYNES: Mr. Speaker, I have only a few brief comments to make on this particular Bill. I have been very fortunate under the old legislation. Since to **date** I have not **been** brought before the law courts for any matter which I have said, or of which I have commented on in public. Nor have I had to settle any matter which might have fallen under the heading of either libel or slander.

That is because, Sir, of my well-known and long-standing commitment to the truth in public affairs. Avoiding personal attacks on people, and sticking, religiously, to matters of public concern. Rather than getting involve in those matters that usually cause people to end up before the court.

It is also based, Sir, some familiarity of the existing law. Therefore I listen very carefully to the Honourable Member for St. Thomas when he was presenting this Bill to see what changes are being brought before this House, and in what way it would effect my ability to maneuver in my speeches and so on, in order to avoid falling on the wrong side of the law in these matters.
4.20 **p.m.**

Basically, it would seem to me that there is an attempt here consistent with the provisions of the Constitution to enlarge the areas of freedom of speech and comment whilst, at the same time, trying to protect the people of Barbados from any malicious and vicious insults on their reputation. With that broader perspective, I have no difficulty with the legislation.

I want to say this, that I am not particularly hopeful that we will see any improvements in the Press in Barbados either in respect of the incidences of carelessness, or from time to tirne political positions taken which have often led the Press into serious error and have landed them before the courts. I do not think we will see, despite our exhortations here today, any significant improvement in that area in the immediate future. But, nevertheless, as lawmakers we have a responsibility to improve legislation. We have to look at the intrinsic value of legislation

and hope that over time all the parties affected by the legislation would be able to improve their standards and benefit from the legislation as improved or amended.

Most certainly, Sir, I do not want ever to see in Barbados the kind of free-for-all that goes on in the United States of America where every Tom, Dick and Harry can get up on any day and make the most outrageous accusations, especially against people in public life, can call them murderers, criminals, thieves, whatever they like, and feel that those accusations are in the public interest when there is no justification whatsoever for the accusations being made. Nor would I like to see a situation where the very judicial processes of a country can be undermined by the media in the pursuit of what they call freedom of speech.

It seems to me that one can freely go on CNN and call a man a murderer although he has been found not guilty by a court of law and you can repeat anywhere in the United States with impunity that such a person is a murderer. Now, we have to try and find a balance here because the law has to try to protect the integrity of society. It has to try to protect the institutions, whilst at the same time it has to permit and create an environment where reasonably freedom of speech is allowed without damaging the reputation of people because from time to time the damage done to people's reputation can be even more severe, more severe than physical damage in a motor accident and people who feel that they can go on political platforms or they can go on call-in programmes, or they can go in the media and deliver severe damage to people's reputations, they must be prepared to pay for it in the same way that you can sue for damages in the civil court if a physical injury is inflicted against you.

Therefore, in this Bill which deals with an effort not to use settlements in personal injury cases as a guideline as to the quantum of damages and so on, I have no difficulty with that because very often an individual can recover from the loss of an eye, he can compensate by using the other eye to some extent, by losing a hand or by losing a foot but very often for the rest of his life he cannot recover from a nasty, wicked slander or libel, no matter what he says, especially in a small society like this. Therefore, he is entitled to damages, and in some instances, even greater than would have been granted say, for a 50 per cent or 75 per cent physical injury, so I have no difficulty whatsoever with the concept of trying to find a level of damages by equating it somewhat with the extent of the damages paid out within the society in relation to physical damages.

Whilst the purpose and intent of this Parliament, because I think this legislation, and I am sure it will receive tripartisan support, is to try to improve freedom of speech and freedom of expression and freedom of comment in this country, at the same time we have to make sure that any abuses would be dealt with decisively by the courts.

The main elements, the abolition of the distinction between libel and slander, I guess that is very much in keeping with what goes on in the mind of the common man. I do not think the ordinary man out there distinguishes between libel and slander anyhow. If you ask the average person what is the difference between a libel and a slander he would not know. As far as he is concerned it is all one and the same thing.

Aside.

Dr. R. C. HAYNES: As the Honourable Member for St. Michael West has said, the average lawyer might not even know either so that I do not think there is any difficulty there.

The defence of triviality – I fully agree with that. Now, Sir, I have gone to the courts on one occasion to secure an injunction in a matter and that is because it impinged very much on my professional life in this country. I have been libelled and slandered on many, many other occasions and I have always taken the view that I would call the newspaper, or I would call the person, and if it is a genuine error, I have never pursued, provided an appropriate apology, an appropriate correction or something is made in the newspapers. I am usually satisfied with that because I abhor a situation where people go out looking to be slandered, looking for an opportunity to see if a newspaper has published something about them where they can get a settlement, preferably out of court, and get a piece of change out of it. Very often these things are very trivial, very often people do not even recognise that there was a libel in respect of the particular person.

As the law now stands, all you have to get, I understand there are one or two people who are prepared to swear an affidavit that when they read this thing they thought it was this particular person and it reflected adversely on them and that is sufficient to consummate the beginnings of a suit and many people have got money, quite unjustifiably, out of the newspapers on that way. I think it is immoral. I think it is wrong. I hope this provision for a defence of triviality would put an end to that and that the courts would so interpret the legislation to put an end to that kind of litigation in Barbados.
4.30 p.m.

In the area of the renaming of the defence of justification and the defence of truth, my understanding of that is that it makes it easier for the defendant since in the past it attempted to go down the line of justification he could end up paying more and more damages at the end of the day. I do not think we have seen too many of those defenses in the courts over the years. Many people try to avoid the defense of justification.

The area of comment rather than fair comment, the reasons for that have been clearly explained to the House and I have no difficulty with that. The widening of the categories of proceedings in public which will be protected by absolute of qualified privilege, again I do not have any major problems there. The protection of innocent persons disseminating a libel, again I think that is only reasonable because a whole lot of people would have been exposed to proceedings being brought against them in the courts when in point of fact they did not even know that they were disseminating a libel.

The area of special damages, this says that the action for defamation should lie even without proof of special damage subject to the exceptions specified in clause 22. I am not quite clear as to what that means. The actions for defamation, in other words defamation is provable.

Asides.

Dr. R. C. HAYNES: I think I have lost one of my rights here, Mr. Speaker.

Hon. D. A. C. SIMMONS: We were telling him when I was introducing the Bill that he himself is a corporation. It is only a corporation that needs to prove special damage now to recover but as an individual he does not have to prove special damage.

Dr. R. C. HAYNES: Yes, but I was protected under the old legislation. As a professional I did not need to prove special damages. My understanding is that it was automatic. That has not changed but my privileged status has been removed by this particular matter.

The Honourable Attorney General said that that special provision applied to adulterers which I was not one. That is applied to other special groups and also to the unchaste or the chaste and unprofessional callings so therefore that privileged status which I enjoyed under the old legislation is no longer specified in this legislation. The point I am making is that I am one of everybody. In the past I was in a special group, a protected group.

Hon. D. A. C. SIMMONS: The Honourable Member has always been elitist and he has now told us. As a matter of fact, those who thought so now have the proof, he has always been elitist. He wanted to be in a separate group, distinct from everybody else.

Dr. R. C. HAYNES: Mr. Speaker, I have pointed out from the very beginning that I wanted to look at the intrinsics of the law to see the way in which the law is being changed and I do not see how my personal preferences are being projected on to this particular matter. I think the Honourable Member is trying to make the point that I am claiming a special privilege to myself. I am only pointing out the effect of the law.

Then the other section that says ***actio personalis moritur cum persona.*** I know that is a very good thing because we have had in this country some very serious slanders about people after they have gone to the great beyond which have lingered on for some time and which have caused problems, hurt and pain to their relatives. I think it is a reasonable change to allow this to happen that the action does not die with the death of the person, so that it can be pursued afterwards. Otherwise unless we include this then I think we would be creating a problem, particularly for loved ones, relatives and so on who certainly should have some kind of relief before the courts in this kind of situation. I believe it was a doctrine that you could not slander the dead. That was a doctrine that was held in law and this is removed now by this piece of legislation. So that once someone died every one felt that the next day, in fact they could go to church, attend the funeral and join in the weeping and then the next day start to slander and the relatives would have no kind of protection whatsoever against that kind of activity. So I am very glad to see that that has been changed as well.

So, Mr. Speaker, generally speaking, subject to the cautions that I have brought to the attention of the House, not necessarily related to the legal aspects of the Bill but really related to the behaviour of this society and I sincerely hope that the press would not take this as a signal that when this Bill is passed that they can go out there and make all kinds of charges against people without taking reasonable steps to justify their publications because in point of fact I think that they should also understand, and my understanding is that no much has changed in a way in terms of their responsibility to make sure that what they publish is truthful, that what they publish is accurate, that what they publish is responsible and that they should take reasonable care not to participate in any exercise to destroy people's reputations otherwise I think it would be reasonable that they should feel the full brunt of the law.

In other words whilst this legislation, as I understand it, enlarges the area of comment it also protects the individual citizen against abuses of that nature by the media or by anybody else. I understand this is what the Attorney General has said. I have had legal advice that this is the net effect of the legislation in that it protects the press from virtual extortion, it protects them from having to defend trivial suits, but it also protects the individual, that is, individuals in this society remain protected by the law against any abusive behaviour by the press or by anybody else in this country.

I think that the Bill also recognises the value of the personal reputation of people as their property no less

so than the physical components of their bodies as being part of their inseparable property.
4.40 p.m.

Therefore, when one part of your body is severed by malicious insults or criminal insults by people, similarly when your reputation is invaded by criminal insults or any other kind of malicious insult then the law also creates the opportunity for redress for our individual citizens.

I hope, Sir, that this legislation will have the intended effect. I do not think that those of us who are involved in public life have as a class been major offenders in this area and, when as politicians we have strayed, we have borne the full brunt of the law by and large. Because apart from within this parliamentary setting here once one goes out of the precincts of this House and any statement is made by a politician which is slanderous, then he or she has had to bear the brunt of the law over time and that has been the experience in Barbados.

Aside.

Dr. R. C. HAYNES: Sorry... other politicians as well because usually the remarks are against other politicians. So that I would think that members of the Press should recognize that today that Parliament is taking a major step to give them greater opportunities to practice their profession in a creative and responsible manner. But at the same time they should be reminded that this Bill by no means gives them the kind of licence which journalists enjoy in the United States and which in my view seems to me to be undermining the judiciary in that country and undermining the whole governmental process in the United States. This does not give the Press in Barbados that kind of licence and that an even greater responsibility that is imposed on them by this legislation if they are to reap the benefits being offered by the legislation as set out here today.

With those few remarks, Mr. Speaker, and without exposing you or the Honourable House in any greater detail to the legal implications of each of these clauses, Sir, because I want Members to bear in mind that each one of these clauses here, and I am not ignorant of this, has significant legal implications from a Constitutional angle, from a common-law angle, from the point of view of the development of law in relation to specific aspects of this area or in any democratic community. I am fully aware that this is loaded with legal implications. But I do not want to turn this into a debate on law because, Sir, I will be speaking for several hours. I would not turn this into a matter of debate on law even if the Speaker would give me 3 hours to speak I would not do it. Because I think that the main points that I wish to make have been made. Indeed, Sir, I have always had a special interest in this area of the law largely for my own protection in public life of what I can say, how I can phrase language and so on and I recognize that this is the result of a very extensive academic exercise apart from anything else. I recognize the scholarship must have gone into putting this together as a single piece of legislation drawing not only on our limited experience here with an older piece of legislation but quite clearly from legislative efforts in other jurisdictions as well. So I would assure the Government that the National Democratic Party whose orchestra is always in harmony and cannot be in disharmony will support this legislation.

Mr. SPEAKER: The Honourable Member for Christ Church South.

Hon. Sir Harold St. **JOHN:** Mr. Speaker, Sir, I have had the privilege of participating in most of libel actions that have been brought in Barbados over the last 20 years either as a plaintiff or as legal counsel for the plaintiff or for the defendant. I have also had the opportunity of practicing in the libel law in a number of other countries in the Caribbean. For many years journalists and others have been calling for an amendment to the law of defamation particularly since in the United Kingdom in 1952 there was an amendment to the common-law and in many parts of the Commonwealth who have a similar law as we have this amendment was introduced. It is interesting to observe, Sir, that although we are late so to speak in updating our law of defamation, this new Bill has received remarkably little comment from the Press. I do not recall seeing any comment in any of the newspapers and certainly no critical comment from any of the organizations that represent the print or other media in Barbados. I suspect, Sir, that they recognize that a careful analysis of the vast majority of cases that have been successful in the law courts and the rest of the Caribbean would still be successful today even if this Bill would have been in existence before for the very simple reason that the changes that have been introduced in this Bill are very similar to the changes, as I have said, that have. been introduced throughout the Commonwealth and that has not brought to an end a number of libel cases that have taken place which are similar to the ones that we have here.

So that I wish and I am very glad to hear that most Honourable Members recognize that in truth and in fact what this Bill attempts to do is to provide a measure of fairness to the media but at the same time in no way interfering with their fundamental duty to be responsible in the content of their publications. For me the two major changes that are being introduced are the defense of triviality and the provision which seeks to provide a standard for the assessment of damages by permitting judges and juries to take into account awards that are made in personal injury cases. No one really knew in Barbados the kinds of benchmark other than previously decided cases that judges used in the award of damages. The general rule in the United Kingdom was that the price of an

ordinary modest bungalow from time to time was the standard that used to be awarded. I am talking about an award of damages which does not include exemplary damages or things of that kind. But what we know, Sir, is that within the Caribbean there are some criteria that have been used and the first and most important thing is, Sir, that politicians when they bring libel actions are not to get too much damages and also that a spoken word as opposed to the written word is usually less than the written word. I myself believe that notwithstanding the criteria that are established in the new provisions that judicial conservatism will continue to reign and that the awards would be much the same as they have been in the past.

On the defense of triviality, Sir, I have some concerns about it. I understand the underlying concept of it but as a matter of principle, Sir, I do feel that as presently worded it ignores a very important point about a libel. As I understand it, the defense will arise if the tribunal is of the view that what has been said is not likely to have any harm to the reputation of the person. What I am concerned about is, Sir, that very often in libel the damage that is done is what one would call the psychological damage to the person himself.

4.55 p.m.

A person who is libelled is very often not interested in what third parties objectively feel about his reputation. It is what he himself feels that those third parties will feel about him. That is an important point that we must take into consideration. It is a point that will be debated because the award of damages for psychological damages has taken a long time to be accepted by the courts, but the courts are now beginning to recognise more and more that serious injury can be experienced by people which is not of a physical nature, that one has to take into account such things as shock even if they do not have an external or physical manifestation.

As has been said by the Attorney General I believe that the defence of triviality is unique now in this Bill. I believe that it is an attempt and I have no quarrel with an attempt to introduce a defence of triviality. My concern is whether the manner in which it is drafted does not ignore a new element which is now creeping into the law in relation to damage. Hitherto, I believe that matters which were regarded by the court as trivial or borderline were treated with contemptuous damages, very small damages, so that perhaps this is a recognition by the reformers of the law in this area of that practice of the past and what they have done is to ensure that in respect of trivial matters that a full defence is provided.

The other area that I would comment on is the area of publication and I will deal with this more in Committee. I notice that the Bill itself does not attempt to define publication in anyway. I believe that today having regard to the modem development in communications such as Internet and other things that sooner or later some attempt will be made to deal with the issue as to what takes place where one has electronic communication which can be received in Barbados and which...

Hon. D. A. C. SIMMONS: If the Honourable Member will give way, Sir. The definition section 2 on page 2 we give a definition of matter that takes account of.

> "images or sound or a combination of both generated, transmitted or accessed by any means whereby infrastructures for providing information are internationally linked whether or not through the use of computer or telephony."

Hon. Sir Harold St. JOHN: Before one gets to the matter it has to be published and that is one of the things. It is an important point because I believe that in other areas, in other countries, in the United States for instance, there have been attempts to deal with this issue of publication on Internet and the Supreme Court, at least a branch of the Supreme Court of the United States of America, has just ruled that it is an infringement of freedom of speech for the legislative to attempt to deal with and I would just want to sound a note of warning that since we are reforming at this period of time against a background of these known developments that are taking place that we have to be very clear In our minds that our existing reform does cover this important method of communication which we now have.

All the other defences are refinements which, as I said before, have been brought into force in the Commonwealth and they have had the effect of enlarging the liberty of publication but, at the same time, they have not infringed upon the rights of individuals to their reputation. After all, if one looks at the law relating to defamation one must look at it in relation to our fundamental concept as contained now in our Constitution of everyone having the right to publish to say about other people what they like but that right is not absolute because it is the law of defamation which contains the reasonable restriction upon the absolute rights of others to exercise their free speech, because we know that in the experience of mankind that there is no such thing as an absolute right. They all have qualifications and it is only in the United States of America that they have fashioned for public figures a very restricted limitation on the right to publish.

The concept of freedom of speech there is so large that in relation to public figures that, as Honourable Members have said, damage of a substantial nature has to be proved before one can be successful if one is a public figure. In our system in the Commonwealth there are a large number of decisions which have been adopted in the Caribbean which says that politicians and others must expect that by coming forward in public offices or

aspiring to public offices they can be the butt of the most severe criticism but at the same time there is a measure of fairness which must be exercised and the chief limitation has proven to be that those who make comments on the conduct of others must be sure that they comment on facts which they can prove.

The defence of fair comment which is now the defence of comment in the Bill used to be defeated by a plaintiff being able to prove that there was one iota of fact in the comment which was untrue or could not be proved. This defence here follows the typical commonwealth pattern which means that the imputation must be backed up by a substantial substrata of fact which has been proven. So it is a compromise.

5.05 p.m.

A plaintiff will not be successful if he has been attacked, and the defendant is able to prove that although in the publication there was some errors of fact, yet the substance of fact upon which the comment was base has been proven and that will be a defence.

Now I have been casting my mind back on all of the libel cases that I have dealt with. It used to be almost automatic, at the end of every election, certainly from 1966 right up to the last two, there were an inevitable series of successful libel actions brought, particularly, by the Barbados Labour Party candidates. True, there used to be very trivial, very few from the Other Side.

There have been newspapers. There have been all kinds of publications, some with authors disclosed, some with authors not disclosed. Some of them have been published in a variety of circumstances. Some have been dropped from the airplane. All of those things have happened, Sir. All of that have happened and the law courts in Barbados, ... not only in Barbados.

In none of those cases that have occurred, that were successful, with this Bill have provided a defense. In none of them would this Bill have provided a defense. That is why, Sir, I feel very comfortable in supporting the Bill and supporting a reform. I have always been of the view that the media in Barbados, when they are clambering for reform that they, themselves, have always ignored the fact that their conduct in 9 out of 10 of the cases have been of such an outrageous nature, that no new Bill would be able to provide them with a defense. No new Bill. This Bill is going to be the same thing. Unless they understand that they have, before make a comment, to be accurate, they must get the facts and their comment must bear some relation to the facts. They will still be in trouble under this Bill.

As a matter of fact, Sir, in places such as Australia, in which all of the states have introduced a statutory defense, is similar to ours. They judicial authority for the proportion, that only in very, very rare cases will a headline which bears little relationship to the body of the report, will it not be libellous. In other words if you have a broad headline, the judges in Australia have come to the conclusion, like, I believe the same rule will apply here in Barbados. Even with this Bill that, very rarely, that headline can be justified by anything that comes thereafter, unless they have been most meticulous, in ensuring that what is in the headline is fully supported thereafter in the body of the report.

Now we all know that sometimes you put up a newspaper and you see a headline and when you read the body of the report you want to know what is the relationship. Sometimes you barely tangential.

We must be clear in our minds, and I think it is our duty as legislature, to let the media know that what is being done here will provide some measure of fairness, but at the same time, as legislators, we are making sure that there is a balance between the liberty of free speech and the responsibility of fair and accurate representation and comments.

I have had the privilege of having, when there was Local Government, one of the rare opportunities of testing in the law a fair and accurate report of a Summary proceeding that took place by a sub-committee at a Local Government property. The case is Taylor and the Advocate. It is a very famous case.

In those days there used to be fashionable for a slanted view of what took place in a certain Local Government area to be put in the *Advocate.* The slant was such that it bore no relation to what actually took place at the inquiry. They printed everything. All of the accusations. The gentleman gave a very spirited defense to the accusations.

So much so that the committee was split and it was published in such a manner as to suggest that the accusations having being made, that the committee unanimously decided, in their mind, that the gentleman was guilty of conduct which was befitting dismissal. All kind of defenses were pleaded.

Again, in circumstances such as this, despite all our reforms here, there is no doubt about it, the doctrine of fair and accurate report will still prevail.

I, myself, have no fears at all that there is going to be any revolutionary change in the law, and I will give support to this Bill, Sir, but there are few matters in Committee which I would give more detail comment upon, Sir.

Mr. B. M. TAITT: Mr. Speaker, Sir, as a former journalist, I would have great difficulty not welcoming this attempt to reform the Law of Libel. Not because I have had any particular view that the law as it stood rendered any good journalist incapable of doing his or her job, but because to the extent that a profession comes to feel that it is inhibited from performing to its highest potential, attempts ought to be made by the municipal powers to assist that profession. So, almost from the time I returned to Barbados, every now and again one would see in the newspapers the call for a reform of the Law of Libel.

I think we should hasten to announce, as early as possible, that this reform is not so revolutionary as to allow any incompetent journalist in existence, to pursue any course which he or she would have pursued in the past without some sanction.

In respective of one's reading of the law after this Amendment becomes the law, it will still be a major requirement of the press to exercise a high degree of responsibility with regard to accuracy.

Mr. Speaker, one of the areas in which many of the people involved in journalism in the wider sense, the owners and the practitioners, have fallen into error. It is in the interpretation which has been given to the judgement by the United States Supreme Court in 1965.

Many of those who hanker for the attitude inherit in that judgement, so as to allow them to practice a profession as they usually say free of hindrance, have not really understood the context in which that decision was made. It is a context which separates itself entirely from the attitude which can be found in common law jurisdictions that have continued the English practice.

5.15 p.m.

Although the English Courts were minded to pay attention to a change in the law in the 1950s by way of legislation, the fact is that their interpretation of the Freedom of Speech provision has continued along a certain path which has shown very little deviation up to now. In the United States, on the other hand, with very simple amendments to their Constitution, they have a very straightforward interpretation of freedom of speech. They see freedom of speech at almost the ultimate and in the language that governed interpretation before the Sullivan case in 1965, it was that you had freedom to say almost anything except to shout "fire" in a crowded theatre.

In the 1960s, however, Mr. Speaker, there was the great upheaval in civil rights and the Sullivan case must be looked at in conjunction with the movement toward civil liberties in the Unites States, especially as they apply to blacks during the time when Dr. Martin Luther King was leading the Revolution to change the mores of American civil liberties. So, when the decision was made, as I have said elsewhere, it was almost inevitable that decision had to come because if the Supreme Court had interpreted the Constitution differently, it would have, in fact, set back the civil rights movement if not 50 years, maybe 100 years.

Our understanding of the law in Barbados has not been the result of any interpretation of our own Constitution because, as the spokesman for this subject on our side has said on another occasion, the question of the freedom of speech has never even been debated in Barbados since we became independent in 1966 so that this change in the law has not been proposed in the context of freedom of speech provisions in the Constitution of Barbados as much as it is an attempt to amend the existing law to allow journalists to satisfy themselves that they may practise without let or hindrance.

One advantage which this amendment will provide to those of us who are not now practising journalists is that it will allow us to speak freely as well. When one lives in a small society like Barbados and one observes what goes on in a society like the United States where there are 250 million people or more, where it is possible that what goes on in a small village or town in one part of the United States will be completely oblivious to what is happening on the other side of the United States, in a country where it takes literally a half day to traverse from one part to the other, if you live on the two extremes of the country, it is relatively easy to accept certain attitudes for public persons and hence the Sullivan case, the case which allows for unhampered criticism of public officials in the performance of their public duty, does not have any deleterious effect on the individual who bears the brunt of the particular criticism except in a few rare cases.

In a place like Barbados, or St. Lucia, or Dominica, where everybody knows everybody else, a defamatory statement made by the newspaper or one of the two newspapers, or by the radio station or one of the two radio stations, can have the kind of devastating effect on the individual concerned for the rest of his or her life and so defamation has to be perceived always in the context of the society in which the law is existing. That is why, perhaps, the United Kingdom has not been able to go beyond such reforms as they instituted in the 1950s.

Mr. Speaker, there is not a person who has observed from our vantage point what occurred in the case of the O. J. Simpson trial who has not marvelled at the ease with which that particular individual, after having been found not guilty in a court of law, has been subjected to the most vicious, destructive criticism that any human being has ever probably had to endure. We who live in this jurisdiction look with utter disbelief as we see this individual being pilloried by all and sundry after having been acquitted and, sometimes, one has wondered if

he would not be better off taking citizenship in one of the smaller Caribbean countries so he would at least get the benefit of English law jurisprudence. That is before he went to London to appear at Oxford and was subjected to the same kind of abuse and, to some extent, professional pillorying in some of the tabloid newspapers. So the whole question of defamation has to be taken in context. Even in the English jurisdiction, one has seen that O. J. Simpson has been unable to escape from a certain devilry as they seek to prove that he ought to be destroyed and eliminated from the earth.

Fortunately for us in Barbados, this legislation will not allow journalists, at least as I understand it, to go in that direction. They will still be required to be accurate as they produce reports of meetings which will now become capable of absolute privilege.

One of the things which the Attorney General will have to explain during the course of the discussion in committee is how, as he understands the legislation, the political public meeting will be protected, or not protected as the case may be, in the context of the law because there are those who will feel that now those on political platforms will be free to vent a number of issues and things accurate or inaccurate which in the past may have suggested some little restraint.

Those who have been around for a long time will not worry too much about that because if thou findest thyself in the kitchen, thou expectest to be affected by the heat but, even so, it would be worthwhile for the Attorney General to meticulously explain the rights which will be preserved, if any, by those who will now be the subejct of some of the tongues which have wagged from political platforms.

5.25 p.m.

I myself have observed some of the more pressing comments which have been made from political platforms, Mr. Speaker, and I know that the only thing which has restrained one or two of the practitioners has been the alleged possibility of action in the court. I am not sure that now that public meetings will be given absolute privilege that there will be any such fetter on the mouths or the minds of many of the practitioners. But that is a small point.

The more important point, Mr. Speaker, is that people will be able to be better enlightened in the society. One of the reasons why we must have this kind of legislation, why we must agree with the proposed amendments is that at the end of the day the society should be better off if accurate reports of what is going on in the Government, the management and the running of the affairs of the society, can be made available to the public.

Mr. Speaker, sometimes when one discusses these matters there is a feeling that one is not seized of evidence to back up some of the claims which have been made. But in recent times in the United Kingdom they have been concern with photojournalism,situations in which, because of the new technologies which are available they have been able to do a number of things with newspaper articles and newspaper photographs which create consternation within the body politic. For example the ***London Evening Standard*** recently carried a picture of John Prescott the Labour Party's Deputy Leader supping champagne with his wife. Now, Sir, if you are familiar with the politics in the United Kingdom at the moment, you know the Labour Party is in a deathly struggle with the Conservative Party or put it the other way, the Conservative Party is in deathly struggle with the Labour Party toward the next election. Of course the Labour Party has had the Conservative party at that point on more than one occasion and the end result has been that the Conservative Party managed to slip out. But the ***Evening Standard*** took a photograph of Mr. Prescott and his wife who were having an evening out. They both happened to have a bottle of beer in front of them. The ***Evening Standard,*** by use of its electronic equipment, removed the bottle of beer from in front of Mr. Prescott and by cropping the remaining bottle in front of Mrs. Prescott made it to appear as if she was supping champagne and they published it. Indeed when Mr. Prescott complained, at first the Editor of the ***Evening Standard*** suggested that it was a storm in a beer bottle but he soon apologised when, in the words of one of the writers in the ***Observer,*** he realised the crime which the ***Evening Standard*** had committed.

Another image manipulation which has occurred in the live television. They had a picture of the Royal Family who appealed and were upheld by the advertising standards authority after the station published adverts showing Princess Di kissing a football player instead of her husband at her wedding. They had simply removed the head of her husband and substituted it electronically with a picture of the football player, Paul Gascoyne. Again the Royal Family had to complain and they were approved.

Now, Mr. Speaker, I give those two examples to show that .... Oh there was one other one which I think is worth mentioning. There was a picture on one of the television stations, they showed Prince William looking at two topless women but they had altered the distance on the television programme so that he appeared to be much closer up than he actually was and all of this formed part of the complaints with the British Press Council. The "Indepenclent" carried a photograph of Tony Blair and Rupert Murdoch in shirt sleeves in an alleged meeting in Australia. It turned out that the meeting never happened and these are just examples of some of the things which are not, by definition, defamatory.

The Honourable Member is reminding me that is just like "Unquote" in one of the local newspapers which puts words in the mouths of pictures. I myself think that those words in the mouth of pictures are perhaps funny. Most of the time they are funny and I do not think they create any offence they are offensive but not necessarily defamatory. The point is that with the new technologies this legislation makes no provision for what is possible under the new technologies and in the context of the new technologies which are now available to people in the newspaper world. It says nothing to those journalists who feel that they are free to use pseudonyms to address themselves.

As a matter of fact, Sir, I wish I could speak in a little more detail about one aspect of this but since it still forms part of a case that is before the courts involving myself and one of the dailies, not the "Nation" I will not go any further. But the point I am making, Sir, is that this legislation, although it frees the press of some of the inhibitions which they might have had because of the legislation as it existed, it does not in any way give licence, as we perceive it, to the press to proceed on a frolic, and I go no higher than that, of its own to defame those who are in public life.

The Honourable Member for St. Philip South raised an issue which I think is important. At the end of the day, Sir, is this legislation going to advance the concept of free speech among the ordinary Barbadian? The truth is that among ordinary Barbadians there is hardly any thought on a daily basis of defamation. Anyone who has a constituency in which the vast majority of ordinary Barbadians exist is fully seized of the fact that 90% of the time when they are having discussions between themselves and even with third parties that they do not dwell on the question of defamation. In fact to that extent Barbados probably has one of the freest speaking societies in the world. I wish that I could put in parliamentary language some of the freedoms which I have heard and witnessed expressed in the constituency of which Your Honour is familiar. The number of times that people threaten that they will kill one another, the number of times in which people suggest that the genealogy of a person is likened unto a beast, the number of times in which people raise questions about the paternity of other persons, among other things.
5.35 p.m.

All of these contribute to the efficacy of communication among Barbadians and in a sense we have not bothered ourselves except at the level of public performance with the question of libel and slander. I am not even sure if it will bother anybody that we have changed the law, that is anybody at the levels of ordinary communication in Barbados that we have changed the law to marry slander and libel into one shoot of defamation. I do not think that it is going to make that much difference..

Sir, we welcome the legislation in that there should be no excuse for anyone now not to seek to be accurate in their presentation of information about public figures, in the presentation of information about public meetings and public information generally.

Mr. Speaker, I think that it is good that the present Attorney General has brought this legislation. I am aware of another document which the Honourable Member has offered which in due course as he gets older he will revisit and wonder how in the context of the privileges of the House he could have allowed some of that presentation to have gone forth. But notwithstanding, Sir, I think that now they are able to say that the freedom of the Press is no longer an issue at least among the Press. One has to ask the question: How could we have the debate on the change in the law of defamation and it has come in with not so much as a thud? There has been no editorial about it. There has been no feature about it. I do not believe that Dr. Shorey or Gladstone Holder or Oliver Jackman or any of the known pundits have written a single word about the Defamation Act. How are we as legislators know if we are in fact doing the right thing as perceived by these distinguished citizens of Barbados who have been arguing for years that we need to have the law of defamation changed? What I can promise you, Mr. Speaker, is that soon after this legislation has gone through the House we will get a debate on the call-in programmes which will be more or less enlightening and then we will see articles perhaps by Oliver Jackman who is a journalist of long-standing indicating where we ought to have gone further.

The Attorney General will have to accept that this debate has not been framed no matter how we try in the context of free speech in Barbados, because there is nobody in Barbados of any importance who believes that he or she does not have free speech. All of the persons in this society of a certain level have free speech and have used it effectively in the cocktail circuits. They have used it effectively in the powerful committees to which they have been appointed from time to time and they have used it effectively against those whom they want to use it. I do not believe that the Attorney General is going to find any amount of approbation for having changed the law to accommodate the journalists. We are going to discuss some of the details in the Committee because there are one or two areas which there are some questions in my own mind as to whether the language which is used will be interpreted in the way in which the Government wishes it to be interpreted. I think that some of the legislation is open to a different kind of interpretation and we will want to spend some time with it in the Committee. But I have seen nothing which suggest that something momentous is happening even though it has been 90 years since we last visited legislation to do with defamation. I think that speaks to the absence of a certain intellectual milieu in Barbados. It speaks to the absence of legal argument outside of the Courts available to ordinary citizens in Barbados. I

hope that now the fetters have been removed that we will begin to see in the newspapers in Barbados from time to time serious argumentation from different sides of a particular issue which will enlighten the ordinary citizens of the country about these issues relating to free speech.

Free speech is part of the bedrock of democracy in a society such as ours. There are many who from time to time suggest that the fullest and clearest free speech would only come to the society if the privilege that attaches to the House of Assembly for example and to the Parliament could be removed. That does not last very long if one examines the reason why there is privilege in Parliament because the idea is that in the Parliament is where enquiry should happen and that enquiry would be throttled if persons carrying out enquiry could not have freedom to speak what they wish and as they wish to speak it. Now that the Press is more or less in the same category, now that the Press has full and complete access to freedom of expression as they have defined it, I hope that it will not be long before we see a more vigorous representation of the intellectual capacity of those who wish to argue the two sides of the coin. I hope that we will see less of the kinds of articles which have appeared in some sections of the Press which have attempted to belittle and sometimes, Mr. Speaker, even abuse Members of the House if they have spoken in this House on any matter connected with the Press. One of the most temble things that happens in societies of this size is that the power of the pen has been used as a weapon by some people with authority. I recall, Mr. Speaker, raising a question in this House of Assembly and using the language that actually appeared in the newspaper.

5.45 p.m.

And once again in the following week there was an editorial which could only be described as the epitome of vilification by that practitioner of poison pen pursuit, that distinguished gentleman whose capacity to destroy reputations is second to none as he hides behind the editorial position which he holds. There is a day coming when people will describe him more accurately. There is a time coming when we will be able after the matters before the Court has been settled we will be able to discuss the pursuit of the poison pen more publicly. What this legislation does is that it allows us as well, outside of Parliament, to discuss errant editors as they would be able to discuss politicians, politicians will be able to discuss errant editors and it may very well be desirable to hold a meeting to discuss in public some of the things which have been going on.

I think it is dastardly for a newspaper to have a person with a pen name whose only role is to destroy individuals. This legislation will help those whose responsibility it is to criticise that kind of thing.

I can only say in passing as I come to the conclusion that it would be a strange thing if a person had the courage to face the population and seek the population's approval to represent them in the Parliament only to go to that Parliament and be afraid to speak freely and frankly about ills in the society even if those ills reside in the office of the editor of a newspaper. I am grateful to Your Honour.

Hon. R. N. GREENIDGE: Mr. Speaker, I believe that something is wrong when in 1996 we can find on the Statute Book a Defamation Act which is 1 pages and no more. I believe that over the years the whole question of defamation has become so widespread and at times so complex that 1 pages in 1996 is inadequate to express really and truly what legislators want put on the Statute Book in respect of a topic as important as defamation.

I believe, Sir, that this is a progressive piece of legislation which has been brought before this Parliament by the Attorney General and in many respects I believe that Barbados is now going to be a front runner in the region in certain areas of the law of defamation. I want to comment briefly on a few of the sections of the Act and indeed the first one I want to comment on is the abolishing of the distinction between libel and slander. Mr. Speaker, I believe that by abolishing this distinction that what the Act is doing really is taking cognisance of the fact of the numerous technological advances which would have beset our society over the last 2 decades or so.

Traditionally, slander has been accepted as the spoken word while libel is the more permanent form of publication. With the advent of television and radio, matters over the years have become a bit confusing. The television announcer for instance says something offensive about Mr. X when he is reading the news or making a speech or something on the television. It is the spoken word and therefore should be interpreted as slander but the same picture which we are watching is in a much more permanent form, the tape and so on. Therefore it is considered to be a libel. The point I am making is that with the advent of this technology there is always this grey area between the libel and the slander and I think it is clause 3 of this Bill which abolishes that distinction and puts to an end the difference between libel and slander.

To my mind, Mr. Speaker, that distinction was an artificial one anyhow. The end result of what happened is that a person was defamed. The harm was the same whether it was done through libel or slander and sometimes we wonder why that distinction was there in the first place between the two of them. I am happy that they have now been put together and that we have one action – defamation, and all that is required now is that there be some form of publication whether it is in the form of what used to be libel or slander.

The other point I want to mention is the question of substituting the defence of justification with the defence of truth. I agree with what most Honourable Members have said about this particular area and I would want to issue a caution in this respect because even though we remove the defence of justification what we are saying is that you do not now have to prove every single iota of your pleadings in your defence. I want to say that since it is called the defence of truth it doesn't give you the right of way to say what you like. In other words if Mr. X goes into hospital on 3 occasions in a month and has lost 20 lbs it does not automatically give you any defence to say that Mr. X has AIDS. Therefore, I believe that rather than members of the Press for instance say that that particular defence now gives them the right to use circumstantial evidence and make a defence out of it that they have to take the whole question of the defence of truth very seriously.

It also emphasises the fact too that the Press has a duty to check what it prints. Far too often we find that members of the Press seem to be in a hurry to put something down and do not check adequately enough to try to clarify what they put down.

We have the saying that sticks and stones can break your bones but words never hurt you.
5.55 p.m.

It behoves the Press, as I said, to be very serious about their work. Politicians do not really despise the Press as some of them may want to believe. All we are asking is that the press be fair and that the Press be responsible. They lie. The lie can destroy a person for life. A single lie can make a person go crazy a year or so after it has been told.

Yes, I agree with the whole question of triviality the defense. Sometimes genuine mistakes are made. I remember, Mr. Speaker, there was an instance when a local newspaper put the wrong photograph, under the caption that a Chief Minister was arrested in Miami for drugs. That Chief Minister was known to me in a place where I had worked previously.

The picture that they had put in the newspaper, Mr. Speaker, was the picture of the previous Chief Minister. Subsequent, they had elections and the press had not changed the picture and so on. Therefore when they heard that the Chief Minister was arrested, they put the wrong picture in the paper.

I had received a call where I was asked why was this done and this was the victim, the previous Chief Minister, and he was asking why. I called the publishing company responsible, to be told that this was the picture they had of the Chief Minister. When I explained it to him, his reaction was something completely different. He said that it was a genuine mistake.

I believe that the same way that he was thinking then, that type of mistake could have been made and not proceeded to any litigation about the matter, is what gives rise to a defense such as this one. The defense of triviality. If it is a very slight mistake then it is a defense.

Now, I believe, Mr. Speaker, that, I dealing with another section of the Act, I think it is Clause 25 of the Bill, that if a man has given all the evidence in a case and at the end of that case the man passes away, he dies, and the only thing left to be done is that the judge is to give the decision. I believe that any payment of damages to which the deceased would normally have been entitled, should still be paid to his estate. I believe that is what the law still remains. That is where the case is virtually complete.

What Clause 25 is saying is that if, for instance, only the writ is filed or if his relatives file that writ within three years after his death, the most which the relatives can expect to receive is an injunction for declaration and costs but nothing else.

I believe, Mr. Speaker, that it is a way of emphasising the fact that defamation is a personal matter and that the victim is dead and his reputation as well. He is not suffering, he cannot feel any pain from the defamation and society can no longer point a finger at him. I also agree, Mr. Speaker, with that particular section of the Bill.

In Clause 34, Mr. Speaker, the victim of criminal libel can now take recourse in the Magistrate's Court, and the sum which the perpetrator can be fined is $2 000. I believe Mr. Speaker, that this is a way of speeding up the whole process. I believe that this particular section is going to be fairly widely used, that is my personal opinion.

Very often in the High Court, it takes a long, long time before these defamation matters are actually heard. I feel, Mr. Speaker, that very often a person does not want the $2 000, the person does not care about the fine. What the person wants is a to have the matter expedited, to have it heard, to clear my name. To let people know that this person did something which was wrong. I believe that this particular provision will enable the victim to get a much speedier resolution in the law courts.

So, Mr. Speaker those are the areas I want to comment on. Most of the other points, Mr. Speaker, previous Honourable Members would have made and that is my short contribution, Sir.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, I will be very short because I do not have a lot say about the Bill, or I have less to say as much has been said about it by previous Speakers. I must congratulate, as usual,

the Honourable Member for St. Thomas. He has not been dilatory. This is promise number 19 which he has honoured. I notice in the column...

Asides.

Mr. D. J. H. THOMPSON: I am sorry, promise number 25 or 26. He has lost count, but he has gone way past the basic promises that he made. So I congratulate him for not being dilatory, and I am glad the Prime Minister has not had to intervene in his Ministry to solve the problems. He has always been able to, himself, adequately discharge his duties without having interventions from time to time, as a prop, for any misadventure.

So, I congratulate him and agree with the Honourable Member for St. Philip South that in the introduction of this Bill. Though he was not as enthusiastic as I would have hoped, because I knew this was a legislation he was excited about, that lack of enthusiasm may come from the fact that, perhaps, he has not been able to convince all of his colleagues or to encourage them even to read the legislation to fully appreciate its implications. I know those kinds of experiences in politics. But that should not deter him from coming to the public and saying, very clearly, what the philosophy is behind legislation of this sort.

Perhaps, though as I said, there is a need for law reform, I accept that. We should spend a little more time in these debates in talking about the philosophy of that reform and why one thinks that it is necessary.

Now it is difficult for a Cabinet Minister who does this kind of work to find widespread interest in it, and therefore sometimes he spends more time dealing with the technical parts rather than delivering himself of an important philosophical statement.

Now, I think that it was Lord Brebabrook. It was not Lord Actor. I think it was Lord Brebabrook. Brebabrook was the guy who had interest in newspapers. He either said it or it was said to him that the, "Press wields power without responsibility which has been the role of the Harlot throughout history."

Perhaps, I should say from the outset, Mr. Speaker, Sir, that I believe in vigorous criticism of public figures. I came into politics as a result of the vigor with which I took on public figures in a setting that one would call, traditionally, a press setting. The Honourable Member for St. James South was also a very vigorous participant.

Asides.

Mr. D. J. H. THOMPSON: Not necessarily critic. I was never sure what her political sympathies were. She never confided them to me then. Like changes as we go along. My score was already made up. I was not sure about hers.

Asides.

Mr. D. J. H. THOMPSON: She does not co de those things to me now either. What we share in common is only a surname. She shares my sister's name, that is about all.

I came into public life with a belief that public officials should be subject to the most vigorous criticism. In fact, the very act which caused me to be so bitter, in my opposition, to the Barbados Labour Party Government, was that in the 1970s, in participating in a discussion on an Understanding Programme in which we were asking questions of the then Minister of Women's Affairs, who is now the Deputy Prime Minister. I was presented with a list of questions which I was supposed to ask the Minister, which were written by the Minister. At the end of the programme, having not asked the questions had to tell the person who ran the programme that as long as an arrangement was in place where a Govemment Minister was going to present us with twenty questions which we must ask him or her, that they could forget me from being a participant in those programmes.

I think the other panelist also took the same view. Public figures should be open to criticism and I accept as a politician, as a person in public life, that almost all facets of my life should be open to criticism. We deal with criticism in different ways. Some people panic even before the criticism occurs.

6.05 p.m.

We recently had the case in the United States of America, even though somebody said to me yesterday that I should note the cultural differences, and I will, but for the purposes of argument, even before the reporters came to interview Admiral Borda about wearing Vietnam insignia on his chest, he committed suicide, and there have been several occasions. Many members of the White House staff have probably not recognised the extent to which public figures can be under scrutiny and criticism. Their answer to that is to commit suicide. Some people's answer to it is to avoid public life all together or to exit from public life while their reputation is still intact.

My view, Mr. Speaker, is that whatever the legislation, and I thank the Honourable Member for St. Thomas for whatever amendments he has made. Where he has been innovative, I compliment him, where he has not, I still compliment him because whatever law is in place, rest assured that nothing is going to stop the Democratic Labour Party from using whatever legitimate means are available to it as a political party to bring public

figures under the closest of scrutiny and nothing that we have said today should be construed by any section of the Press to mean that we do not expect the closest and most vigourous scrutiny. What we do not have in Barbados, Mr. Speaker, and I have heard a lot of talk today, and this is why I say power without responsibility, though it was the role of the harlot throughout history, is one of the features of the functioning of the Press in Barbados in this day and age which needs to be addressed.

People have called for fairness, high standards and truthfulness but there is something that is more important which needs to be enshrined and which needs to be accepted by the Press in this country. The Press in Barbados, the newspapers and the radio stations, except for CBC which is publicly owned and has not faced the rigours that other public broadcasting stations throughout the world have had to face in carrying evenhanded views, and in the right of allowing replies in certain circumstances. They have not had to face it but they probably soon will because it is not, I assume, going to continue in its present configuration. But the rest of the newspaper establishment in Barbados and radio establishment is privately owned and there are politicians who have interests in it which therefore have to call into question the bias and so on of those newspapers and media.

There is absolutely nothing wrong with a newspaper being bias. It does not bother me that any section of the Press does not support the Democratic Labour Party because we know what we stand for. In fact, if they were supporting us, I would be concerned. The fact that they do not support us tells me that we are on the right track. What I do not condone, however, Mr. Speaker, is the fact, and perhaps this legislation gets a bit closer to it but does not go far enough, is the right of a reply which, as far as I know, is in the U.N. Declaration of Human Rights. The Honourable Member for St. Michael West can confirm this. I do not remember how it is expressed, but citizens under attack, politicians under attack, the Judiciary under attack must have the opportunity to reply.

Now, this legislation speaks about a scenario in which you have, particularly in circumstances where the defence of qualified privilege may arise, the right to request an explanation or contradiction of a view. That is not far enough. In my view, I believe, in the absence of a regulated Press, and I am not saying that the Press should be regulated, that there must be a basic standard that applies that politicians, public figures, citizens of Barbados who are under criticism, whether it is by way of editorials, letters written by the newspaper to itself or otherwise, must have the right of a reply.

Mr. Speaker, it is not sufficiently understood how it operates in Barbados. I will give an example. There is one newspaper in Barbados that writes the most vicious editorials about public figures in this country, which it is entitled to do, as long as it does not cross the line in relation to defamation. It is entitled to impute motives. It is entitled to express opinions about the conduct of public officials, but if you write back a letter to that newspaper seeking to comment on why that newspaper takes the particular stance, they edit your response. A classic example today, Mr. Speaker, is an article appearing in the *"Barbados Advocate"*. It is a letter by me to the *"Barbados Advocate"* which is an unbelievable scenario.

Aside.

Mr. D. J. H. THOMPSON: It has something to do with the Management Commission. I am not going to go into it. My response to what the *"Advocate"* has said to a representation that I had made had been edited in about three different places. None of the editing relates to anything that is defamatory. In the first place, at the beginning of the article, I sought to suggest that there are a number of people who feel that as a public figure I should not even bother to respond to what the *"Advocate"* writes in criticism of the Democratic Labour Party. That was edited. That must be a fair statement. There has never been a newspaper in the history of Barbados that has been as critical of the Democratic Labour Party as that newspaper.

I then went on in the article to use the words "Executive Assistant to the Leader of the Opposition." The *"Advocate"* added on *an* **"s"** every time Executive Assistant occurred to read "Executive Assistants" as if the Opposition Leader has more than one Executive Assistant, trying to give the impression that the Opposition needs more staff in his office than Ministers and the Prime Minister's Office. It is a clearly calculated effort by a warped mind.

Aside.

Mr. D. J. H. THOMPSON: If anybody wants me to repeat what I am saying in here outside I will have the great pleasure in doing so, before this Act is passed and after.

Mr. Speaker, in the response I put in the newspaper, I said that the *"Advocate"* newspaper was drawing a red hemng across the trail and that the substantive issue that it should have raised is not what representation I made, but that it should have raised in the article a representation that was made on behalf of the Government that Ministers of Government should be paid a salary as Minister as well as a salary as a Member of Parliament, which was a proposal made to the Management Commission of Parliament and which has been sent on for drafting. Do you know that notwithstanding that I have made that allegation...

Mr. SPEAKER: The Honourable Member, I do not think I will allow you to make comments on the Management Commission, and what is transpiring at Management Committee level. You have stated an inaccuracy there. As Chairman of the Management Commission, that proposal as far as 1 know has not been sent on for drafting. Nothing has reached that stage. I will make that correction but I will not allow you to make any further comment on that aspect of the Management Commission's work, according to the Rules of the House.

Mr. D. J. H. THOMPSON. Well, I do not understand, Mr. Speaker. I abide by your ruling. If you say that is the ruling that you wish to make I have to accept that ruling. I am giving this merely as an example.

Mr. SPEAKER: I do not mind you giving an example. I am just suggesting that you do not go into the kind of details, especially if you are going to give an inaccuracy like the one you just gave.
6.15 p.m.

Mr. D. J. H. THOMPSON: If somebody wants to write to the newspaper and challenge what I wrote, the fact that a proposal like that has not been sent somewhere to be drafted as you have said, Mr. Speaker, Sir, is news to me. As far as I know the Clerk has been asked to review certain mattets which were put before the Management Commission including such a proposal to rationalise issues relating to the remuneration of Ministers of Government. That is my recollection, Sir.

Now, if that is not so then, Mr. Speaker, Sir, perhaps that took place at a meeting that I was present and nobody else was present at. That is not the gravamen of the submission though. The gravamen of the submission that I want to make is that even my comment, which I know nobody could have contradicted it, was edited out of the response which I made to the newspaper and I only draw this to the House's attention, Mr. Speaker, from the point of view that the right of reply is a right which should be given to any citizen in this country who is under attack in any media whether it is television, radio, newspapers, particularly those which seek to claim privileges and defenses which arise under this particular legislation. Mr. Speaker, Sir, that to me is one of the factors which in my view militates against active support by some sections of the Barbados population for legislation which makes it more liberal as the Honourable Member for St. Thomas said for the operation of defamation, libel and defamation laws in Barbados. That to me, Mr. Speaker, Sir, is something that I think the Honourable Member for St. Thomas needs to consider in relation to the Government's policy relative to the media and relative to freedom of speech.

I do not know if there are many countries in the world which have considered this issue but to go beyond the legislation there is nothing that says that there is any responsibility, whether by law or otherwise, for newspapers in Barbados to not be biased or not be unreasonable or not be unfair or not to give an opinion. Once we accept that we live in a society in which journalism is going to be characterised by persons giving opinions then in my view the principle which needs to underlie the role of the media in Barbados is one in which a right of reply is given to those citizens who are under attack, those associations, those organisations, those public officials which are under attack. And in that reply, subject to the law of defamation, that the individual should be entitled to put his view unfettered as I would assume that you, in this Chamber, guided only by the Standing Orders, and not wanting to use your position in anyway to reflect on what anybody has said, would not wish a Member of this Chamber or this Chamber as a whole to be fettered in anyway in the expression of opinions one way or the other. That to me, Mr. Speaker, Sir, is what is to be the essence of the relationship between the press and the people of Barbados, that that opportunity for right to reply will be given.

Mr. Speaker, Sir, we have seen the concept of free discussion in a society being promoted in this debate. Free discussion in itself does not exclude the fact that the ownership of the media very often is going to reflect or be reflected in the kinds of designs, the kinds of perspectives, which the media promotes in the society. What really, in my view, needs to be exploded in Barbados is the facts and the reality about the ownership of the media and the relationship between the key operatives in the media and the power structure in Barbados because that tells a greater story, Mr. Speaker, Sir, about Barbados now than ever before in its history.

Imagine, Mr. Speaker, Sir, that there are countries in the world where civil servants are required to observe the standards that when they leave the civil service they are not allowed to go into the private sector immediately because of information which they may carry with them into the private sector. I assume that there will come a time when politician:; may have to face some of the same kinds of restrictions. I suspect that there is already a move afoot in some countries for that kind of development to take place.

There is nothing, Mr. Speaker, Sir, which functions in the reverse way, in other words that seeks to insulate the media in a free society and a media which is supposed to be promoting free discussion in the society from manipulation where operatives in the media may be rewarded for the stances which they take on behalf of the causes which they support be them political, religious, social or otherwise: That, Mr. Speaker, Sir, is something that as time goes on is going to attract even greater attention. There is nobody in Barbados therefore who should believe that the passage of this legislation is going to create a sanctuary of free discussion in this

country which is going to be unfettered by political opinion or in which the dominant forces in the media are not going to get their view across. So, Mr. Speaker, Sir, that point I think needs to be made very clearly that this legislation regulates questions of defamation. It does not promote free opinion because there is nothing new that is going to be said about me or any Member on this side as a result of this legislation that has not been said already.

There is nothing new, Mr. Speaker, and there is nothing that this legislation is going to do to control what has been said. What controls what is said is the ownership of the media and the influences beyond things like legislation. The concept therefore of free discussion in Barbados, as the Honourable Member for St. Philip South has said already, among people in rum shops and so on that discussion is almost already free, the things that they say about each other and the animated and vivid description and language which they use at that level have nothing to do with when they trespass beyond that point and stop dealing with each other and start to deal with us as politicians.

Mr. Speaker that therefore tells me that this legislation has less to do with the role of an independent press, it has less to do with how one deals with the question of the right of reply, if it has less to do with the standards of journalism in Barbados, it has less to do with fairness except to the extent that there may have been occasions when some people may have profited from the defense of their reputation. Other than that there is nothing about this legislation which is going to make the Press more fruitful, which is going to make it more fair, which is going to improve standards unless, Mr. Speaker, Sir, an unfettered right of reply is given to citizens under attack and is given to all view points in Barbados.

The myth of free discussion in Barbados is so strong that newspapers give the public of Barbados the impression that by publishing a column for the three political parties that there is a free Press. That whenever anybody criticises them they say, but we give all three of you a chance to put your views. The public does not know that they edit the views of one political party more than the other. The public does not know that it is possible for certain political parties to say things about us that if we are to reply are the subject of very heavy editing. So, as I always say, that is not even a sop to a person who alleges that we do not function in Barbados in a free environment, free of financial influences, free of ownership influences, free of social influences and free of political influences, because that is not so and having those three columns does not give a party a licence to say any and everything because sometimes one is the subject of exceedingly heavy editing and the right of response is not always given.

6.25 p.m.

The Honourable Member for St. Philip South in quoting a philosopher said that a good name is to be counted above riches. But, Mr. Speaker, it is also true to say that in capitalist societies that a good name can be purchased by riches. It can and this is a point that we need to understand that persons who are in a position to protect their reputation by using the full armory including ownership of the media can create an image of themselves which is not in accord with reality. That is how it has evolved whereas at the same time, Mr. Speaker, Sir, there are some scenarios in which the Press, no matter how they try, have not been able to get matters that they want to get on the agenda to stick in the minds of the public. Right now, for example, Bill Clinton is being described by the pundits in the United States as a "Teflon President" because even things that stuck with Richard Nixon and so on are not sticking on him. So the Press must not believe that as politicians that everything that they allege loosely is going to stick. Sometimes the law courts are not necessary. In fact, the point that the Honourable Member for Christ Church South made about the defense of triviality that sometimes it is what we think about something said about us affects the mind of the average person that propels us to take action. But sometimes the average person may not even have noticed what had been said or may not have put the particular interpretation on it that needs to be put.

We support this legislation, Mr. Speaker, in winding up and wish to let the Honourable Member for St. Thomas know that it is his responsibility to honour the pledges that he made to the people of Barbados and that obviously he has been doing them with great facility, and again we congratulate him with the speed and alacrity and precision with which he has been achieving all of the goals which he set in his Ministry, particularly in relation to this piece of legislation. While it may provide for the Press some satisfaction, not much in my view is going to change as a result of what is contained in this legislation. Although the intentions may be good, freedom of the Press in Barbados does not rest alone on the fetters which are put on the Press in relation to the tort of defamation but it rests on a whole number of other factors including ownership of the Press and other forms of influences and control of the Press which exist in modem democracies. That to me is what this debate, Mr. Speaker, Sir, should have centered on more than the technical issues which have been raised in the course of the presentation.

Mr. SPEAKER: The Right Honourable Member for St. Peter.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, I want to make a brief contribution to this debate which has ranged very far, very wide and which has I do feel obtained a very high level. I have looked forward to this legislation coming before Parliament because I have a very keen interest in law as law and there is nothing that excites me more

than the question of the drafting of laws that impinges upon the mental freedoms of this society.

Our Constitution, Sir, enshrines fundamental freedoms and among them is freedom of speech and this piece of legislation that attempts to revise the law pertaining to defamation in many respects is a major advance not only because it repeals a piece of legislation that has been in assistance for 90 years and has been now overtaken by circumstances. It truthfully, Mr. Speaker, seeks to set in my judgment as a non-lawyer matters pertaining to legislation within a far more realistic framework than that which has previously obtained and which I do feel will augur well for the preservation of freedom of expression in the society.

Mr. Speaker, I have listened very carefully to comments that have been raised regarding the question of the ownership or control of the media. In fact, I share the view that freedom of expression is not only going to be protected by legislation of this character but is going to be effected by decisions taken regarding who owns the media and how that media is controlled. It is for that reason, Mr. Speaker, that this administration has been very, very circumspect in issuing any new licences for television or radio. I would like to make that point because the question of the ownership and the control of the media as it affects freedom of expression in this society, Mr. Speaker, is fundamentally what this legislation is about.

I remember in the election campaign very wild statements, customary wild allegations were made that a deal had been cut by the Barbados Labour Party to issue a TV licence and that certain people knew what the price was. That was said, Sir, as a categorical measure and as a matter of fact. Certain people said that they knew what the price was and that the TV licence was to be issued and that the deal had been settled. The public now is in a position 2 years after the fact to know if that secret deal about a TV licence and the price for the TV licence was in fact just another of the secret deals that floated about during the election campaign or whether it was in fact another figment of the over-zealous imagination of the author of the secret deal. I want to enter that into the record because, as I said, we have been very careful and circumspect because we share the concern expressed by the Member for St. John that this administration is very concerned about the ownership and the control of the media. For example, there is no circumstance whatsoever under which this administration would entertain an application for a licence let us say for a company like CLICO where we get their application one day, Sir, and have the authority to make a recommendation in support of the application 2 days after. That is a part of our history. It is a fact, Sir, that since January 1, 1994 the only application for a radio or a TV licence in this country that has been speedily dealt with was CLICO where the application was made one day and the authority pressing to service 2 days after had a positive recommendation that the licence should be granted. When people speak about ownership and control of the media, I suppose that these are the kinds of things that they have in mind. Our policy on new TV licences and so on, Sir, has been clearly enunciated that we would like to see a television station owned by public companies where the broad mass of the society can enjoy the ownership of those enterprises.

6.35 p.m.

That is one of the key ways in which we will assure freedom of speech and expression in this country and if no licences have yet been issued it is because we are now in the process of finalising an intercom policy that recognises the relationship between telecommunications and development of telecommunications and the information sector but equally because none of the applications to date have really been based upon the broad mass ownership that would satisfy us that the interests of the preservation of free speech in this country have been protected.

Mr. Speaker, I know how well some people even when enjoying the benefits of a free press complain about the restriction of a free press. We had the most amazing situation in the last general election campaign when a candidate complained about the coverage that he was receiving and when checks were made it was found that that candidate, who is the leader of a party, and who is not unknown but who shall remain unnamed was featured on the front page twice as much as all other leaders concerned but he saw, his getting front page coverage to that extent twice as much as any other leader as being a derogation of his freedom where the Press was concerned.

It is par for the course where politicians are concerned so that some can take criticisms and some cannot take criticisms. There are some of us who lambaste the Press in here and we apologise to them sweetly. There are others who sometimes say that when some members of the Press open their cheque books that the gates of Glendairy Prison swing open for them and those things pass without comment. They get surly and vexed with the Press and do not miss any opportunity to beat the Press.

Aside.

Rt. Hon. O. S. **ARTHUR:** I hold my blows in good spirits. I will lose some and I will win some. I do not expect ever or always to have a favourable Press and there will be those who will make mincemeat of me and my colleagues but that is politics. There will be times when we will got a good Press but we will treat it in good cheer and good spirits recognising that that is the nature of politics. If we from time to time have to clash with the Press it is to be treated as nothing more insidious than the fact that sometimes the Press also have to say harsh things about politicians.

I made the point recently that in much the same way that members of the Press have licence to say harsh things about politicians there should be nothing wrong about a politician saying hard things about members of the Press but, be that as it may, I really just want to make the point that the question of the ownership and the control of the media is critical but that we might – I want to stress the point that a myth has been generated in this country that because some Members of the Barbados Labour Party have shares in one section of the Press that that is tantamount to control. I want to say on their behalf because I know that they are too modest to say on their own behalf that those Members of the Barbados Labour Party some of whom might be even sitting in this House who have shares in a section of the media do not seek to exercise any control whatsoever, in fact, their only interest as far as I can glean is the dividend. They are interested only in the dividends and I would venture to say Sir, in a most charitable way and in the very finer sense that their control over what appears in that section of the Press that they own and particularly in things like Cou-cou and Flying Fish and Pudding 'N Souse is far less than some Members in this House and can you imagine, Sir, on the Other Side who do not have any shares in the company. The Member for St. John knows exactly what I am talking about. He was absolutely correct in drawing the distinction between ownership and control because these gentlemen over here are rich in shares but they are weak and poor in influence.

Sir, sometimes I wonder what would happen if they were to live up to the expectations of them that is often expressed by the leading spokesman on the Other Side and express their ownership and the kind of control that is implied by certain leading politicians calling chief executives of newspapers and trying to influence what goes into the newspapers and things of that character. But that is how it goes.

Control of the media is something that is always going to bother politicians. We rise or sink on the strength of public opinion and one of the most important influences on public opinion is the printed press and there can be no doubt that politicians because public opinion matters will obviously try to have their side of the matter expressed as favourably as possible. It has been that way from the time the media and politicians co-existed. That is how it shall always be. It is not for anybody to come to this House and sanctimoniously seek to portray the false perception that the attempt to get the best viewpoint of one side is something that is wrong and wicked and is not something that is practised by all political parties.

All political parties wish to have the best public perception cast on their activities and their behaviour and all political parties try as best as they can to use all techniques at their disposal to get the best perspective put on their activities. Some, Sir, go to the extent of having a large number of letters written in all kinds of names signed by all kinds of people, Blair Simmons and so on, sent from the same office, bearing the same fax number, to put the case of the party. It is a fact but they don't change it. That is how it goes, Sir. Using the same fax number but a variation in the names.

I would just want to say that very often I myself gripe when I pick up the press and see the blues that are in my view unfailingly rained upon me by journalists but it is par for the course and once we are in public life we are going to get criticism because it is, sad to say, one of the means by which the Press increase its profitability.
6.45 p.m.

Asides.

Rt. Hon. O. S. *ARTHUR:* I remember we once had a retreat, a very successful retreat, at which the Barbados Labour Party came together and we talked over our affairs. Amicable retreat, and a piece appeared in the Press that chairs were being pelted about and barely missing the nose of prominent Members of the Party.

When I spoke to the editor, he said, "You all are politicians, we can say anything about you." I would urge all Members of this House, Sir, who from time to time get angry about the Press to remember, Sir, that is part of the function of the Press. That we are in many respects, Sir, we are in the public eye, whether we like it or not, we are part of the celebrity class of the society. We make news.

Asides.

Rt. Hon. O. S. *ARTHUR:* Or when we curse them occasionally, Sir, and we apologise, Sir, it should be taken in spirit. There are some who curse them and curse them indefinitely, and always and do not ever apologise. That is life, Sir.

I thought I should cleanse this debate from the sanctimony that seem to be creeping in, that this Bill is about trying to control the Press is the province of one side and not practice by the other. All political parties tend to get the very best complexion put on their political opinion.

I would say this, Sir, that I am very happy that the Caribbean Broadcasting Corporation has allowed Opposition spokesman untethered access to the news, and that it is part and parcel of the news.

Mr. Speaker, I am not a lawyer, but I am fascinated by the concept of free speech as it applies to Parliament.

I am not going break rank on this Bill, Sir, but I am always of the view that nothing should happen in a Parliament that is difference, separate and distinct, that is my view, and not, and supposedly Sir, as a matter of precept, that nothing should happen in a Parliament that should set Parliamentarians separate and apart as a class from other members of this society.

It is my view that standards applicable in defamation or liable or whatever that applies to the man in the street, should also apply to politicians. I say that, Sir, because that too many "a bad" politician has lurked behind the shroud of privilege. They take steps, very often, with members of the civil society that they could not do outside, Sir. The restoration of the full competence in Parliament would come when the privilege will not be a means for abuse, but the privilege will be just an enhancement, forgive the expression, "inspectors of us" by politicians. I am not going to depart at all from what this legislation provides for.

I am strongly of the view, Sir, that politicians, themselves, in their conduct in Parliament, even with the present of privilege as a shield, should not depart in their behaviour from levels that apply to the man in the street.

I welcome this legislation, Sir. There are parts of it that will make it far more liberal for the best. To be more critical. I would only want to suggest and urge that this new latitude, that is going to be presented to the Press, should not give rise to irresponsibility. I would hate to see, Sir, a spate of onslaughts made and then justified on the grounds that there were trivial concerns.

I am very conscious, Sir, that one of the major innovations that is being made in this legislation is the provision for the Press, itself, to be able to exercise in a fair environment and with freedoms, Mr. Speaker, from that awesome burden of responsibility.

My contribution in this debate is to make one point, Sir, that whether it may be in relation to politicians in Parliament or to members of the Press, in the press-room, Sir, that we should really relate freedoms given to us with the responsibilities expected of us. While I am confident that the politicians in this House will continue to discharge, Sir, responsibilities with decorum, I do trust that the members of the media will grasp the freedoms, but will do so in a manner, Sir, that reflect a higher level of responsibility than sometimes have been the pattern of the late.

I, Sir, welcome it, Sir. I have been with it while it has been developed as law. I have been fascinated by it as law in so far as it deals with one of the fundamental freedoms of the society, and I am going to support it, Sir, with great enthusiasm.

I am obliged to you.

Mr. D. J. H. THOMPSON. Mr. Speaker, Sir, during the course of my presentation you ruled something that I had said as an inaccuracy and I think the records should reflect that, perhaps, we were at cross purposes. I was referring to a matter which arose out of the Management Commission of Parliament. I do not want to go into the details of it. I used the expressions "draft him" that the Clerk was required to draft a proposal. Perhaps I gave the impression that you are drafting a law.

What in fact ...

Asides.

Mr. D. J. H. THOMPSON: Right. What in fact I am referring to, the minutes indicate that the Clerk of Parliament had undertaken to prepare a Paper of Parliamentary Salaries, Allowances and Pensions. He was abroad and the Paper was therefore not available, and the paper would contain a proposal in which Ministers of Government who are elected, and have responsibility for servicing a constituency in relation to those Ministers who were appointed and had no constituencies to run, that the elected Ministers should receive remuneration of a Cabinet salary and should also be given a Parliamentary Allowance along with their salary.

Mr. SPEAKER: You are asking that the words "drafting a proposal" should be withdrawn then?

Mr. D. J. H. THOMPSON: Well if you interpret drafting to mean drafting, I withdraw that and you can say prepare. I meant drafting a proposal.

Mr. SPEAKER: That is why I am asking you?

Mr. D. J. H. THOMPSON: I withdraw that and you can say prepare, but I meant drafting a proposal which was supposed to have been based on submission which had previously been made.

Mr. SPEAKER: I accept that.

Asides.

Mr. D. St. E. KELLMAN: Mr. Speaker, we support this Bill as has already been mentioned by the Honourable Members on this side, Sir. Mr. Speaker, in supporting this Bill I must point out that there are certain things I would like the Honourable Attorney General, the Honourable Member for St. Thomas to assure us. That is, Sir, by extending privileges to people, we must be sure, Sir, that those privileges are not abused.

For Example, Sir, we do not intend to influence how anything is written, but we expect that when something is submitted to the Press, that once there is no defamation ***et cetera,*** Sir, we expect that nobody would attach something to something that is submitted by you, and the impression is given that the last paragraph is written by the person who had submitted, let us say the article or the press release or anything like that.

Too often, Sir, we are having a situation where you issue a press release, and after your press release another paragraph is added when you have not added that paragraph, Sir. I am saying, Sir, that if we going to be giving freedoms to people, we must be sure that those freedoms are not abused.

I do not mind, Sir, somebody taking out a paragraph once it does not change the content.

Asides.

Mr. D. St. E. KELLMAN: No, no, we are discussing freedoms.

When you get a situation where you are giving freedoms to people, and they are allowed to add to what you say that is something different. There are giving you a new paragraph when you have not written it, Sir.

Mr. Speaker, it is dangerous, Sir, and it is a wicked weapon. Sir, if people are allowed to write whatever they feel like, I have no problem with that. I do not expect those people to attach or detach anything from what I have written unless they are protecting the interest of the people whom they are working for, and that is from legal costs or damages. When you get a situation where people are adding a paragraph to make what you have written sound like nonsense, I object to that, Sir.

I am also saying, Mr. Speaker, it is alright to talk about widening the shareholdership of the Press, but at the end of the day it makes no difference. The decision makers are still that small block of people who still carry the influence.

Very often we are hearing that all you have to do is to issue a new license to a company and they can issue shares all over Barbados, and the impression is given that once the small man buys shares he can influence the decision of that section of the Press. That is nonsense, Mr. Speaker.

6.55 p.m.

As you know, once you are not a director of a company, you cannot influence the decision. Some of the directors cannot even influence the company, as was said by the Prime Minister today, that there is one section of the Press where they have directors and shareholders and they cannot influence what is written.

But it is remarkable, Sir, that when the Prime Minister was speaking, he spoke about one newspaper paying dividends and I was expecting him to go on and say that the other newspaper is paying dividends because they allow freedom of speech. The impression given by the Honourable Member that the newspapers allow people to write freely pay dividends but the ones that do not allow freedom of speech are not paying dividends. I rest my case there, Sir.

Hon. D. A. C. SIMMONS: Mr. Speaker, I am very grateful to all Honourable Members who have contributed to this debate. I am glad for the support for the Bill. I just want to say that the Leader of the Opposition spoke about my introducing the Bill with not a lot of fanfare. I am not behaving like that now. I have left that side and I am on this side and this side carries certain responsibilities, attitudes and so on and therefore one has to present oneself a little differently, Sir.

Asides.

Hon. D. A. C. SIMMONS: I am not seeking any approbation or any plaudits from the Press. God forbid. I am guided, and I want to make this very clear, by one principle every week, every month, and that is that in certain pages of the Manifesto, 34 – 40, there are a number of things that the Attorney General is supposed to do as a matter of pledge and honour and therefore . . .

Aside.

Hon. D. A. C. SIMMONS: ... let me explain my attitude to public life and this job. I make sure that I have a list of what I have to do.

Aside.

Mr. B. M. TAITT: On a point of order, Sir. The Honourable Member must not use the winding up to define his job. I heard the Honourable Member say that he wants to define his job. All he can do now, Sir, is wind up this debate and his job does not apply.

Hon. D. A. C. SIMMONS: The Leader of the Opposition said, Sir, that I did not make a speech with a lot of fanfare and the Press did not worry to carry anything about this debate and so on. All of that is true. All I am saying is, Sir, that I am not interested in that. My interest is to make sure that every one of those Manifesto promises that relate to my Ministry I do assiduously follow up, make sure that I start things, make sure that the officers in my Department follow through and my Personal Assistant helps me in following them. That is all I am interested in. If at the end of the day I get through with 36 out of 37, fair enough. It is not going to make any difference to me nor is it going to make any difference to the Press

because whether you do right or wrong they will still curse you. I do not care about that.

I see earlier this year, Sir, and that is why I am glad that this Bill has come, but it is not going to make any difference...

Aside.

Hon. D. A. C. SIMMONS: ....the Bill really is not going to make any difference to what is or is not libel. What is or is not libel will still be tested by the definition in Sim v. Stretch.

These last two days, Sir, yesterday and today, have been the only two days for the whole of this calendar year that I have not had any pain at all. I have had pain every day of this year. I do not complain. It is my back. Some days I could not walk. The Prime Minister knows. One day I was not even able to come here when they had the tribute for Dame Nita. Yesterday I got a little help from a chiropractor but I have been going around to everybody. I got a little help yesterday. No pain today yet, Sir.

A few weeks ago, as part of the celebration of 20 years that my constituency group is organising, they planned a cricket match Whitsuntide Bankholiday. I was invited in here the Tuesday before, asked if I was going to be available for the Whit Monday. I told them, "but how I can play? I have a bad back." I had played all the time. The man who was picking one of the teams, Hartley, was there the night downstairs, phoned the ***Advocate*** and ***The Nation*** and gave them the teams after some on this side agreed to play. Lo and behold "Cou-cou and Flying Fish" the Saturday morning, written by the butler, Parris' butler, the man at the helm – he now has a new butler. I will tell you about it at dinner tonight....

Asides.

Hon. D. A. C. SIMMONS: ...he writes that I got dropped, the fellows are not getting on with me and the girls do not talk to me, all kinds of foolishness. I could not play because I was hurt. That is foolishness. That is a big ignorant lie, Sir. So if that was a libel, whether it came before the Bill or since the Bill it would still be libel. The point is it was foolishness, irresponsible nonsense, Sir.

Mr. B. M. TAITT: On a point of order, Sir. The Honourable Member seems to be misleading the House. The Honourable Member did not ascertain whether he played or whether he was dropped. Did you get a play in the cricket match or not? You were not picked, therefore, there was no inaccuracy.

Hon. D. A. C. SIMMONS: I was ineligible for selection because of a personal infelicity. I got to the ground a morning and started to knock up and so on and the back seized up. I could not hold my back up. I failed to fit this test.

Sir, to revert to a little seriousness. There is one aspect of this debate that was not explored that I want to give Honourable Members the assurance that we are considering. It is this whole concept of freedom of information. The Ministry responsible for information has asked us to look at drafting legislation for freedom of information. We have a couple of models. The latest one is the Trinidad and Tobago Bill that was just introduced. It came up to me last week and I got another copy today from the Clerk of Parliament.

The Freedom of Information legislation will, I think, expand the rights of citizens even more than this Bill on Defamation because it will then invest citizens with a right to have a look at Government's files to see what was written, what decisions are taken and so on, subject, of course, to matters of security and that kind.
7.05 p.m.

So I would like to assure the House that during this session of Parliament it can be reasonably anticipated that a freedom of information Bill will be coming. Work has been done already on a draft, Sir, which will work in tandem with the defamation legislation. Now there is another piece that could possibly be considered but I am not pushing for that certainly in this 5 years. That is a Bill to do with the law of privacy. Defamation, freedom of information and privacy legislation can all form a part of a philosophical matrix in which one wishes to create participatory democracy and involve the public in greater information to enhance the flowering of democracy. I am not going to give any priority at the moment to privacy legislation, rather we will look at freedom of information.

Mr. Speaker, of course in a way there have always been two types of defamation if you like in Barbados. A kind of poor man's defamation is to be found in the Highways Act with those criminal offences, those offences which speak to insulting language, offensive language, obscene liiguage and blackguarding. That came in, in the old days when people used to have the standpipe situation and neighbours would have some curse outs at the standpipe, calling each other all kinds of things. That is still on the book, Sir. We are looking at all of that in the Minor Offences Bill.

I appreciated the speech of the Honourable Member for St. Philip South and I think the essential point for Honourable Members and indeed the Press to remember about this legislation, particularly in terms of freedoms and so on, is that when you rely on the defence of truth, the basis for that defence rests on facts. If you want to justify and prove the truth of something you have said you

have got to show that it was factual. On the other hand the defence of comment rests on notions of opinion. Naturally you must have a substratum of fact obviously, from which you then comment. There was a game, it was on a Monday, it involved Parliamentarians, Simmons did not play. Those are the facts. The comment now would have to follow from that to be fair under the present law. It is not as though he did not play because he got dropped and they do not want to play with him. He did not play because he was not there. But you must have a basis of fact from which you can then make comment. I explained that for a defence of truth you must rely upon facts. For a defence of comment you must have a factual basis but you are expressing an opinion.

Sir, I heard the point made by the Leader of the Opposition about the right of reply. I have not read a lot about it myself. I will discuss it with the Parliamentary Counsel and so on. It may be something that we can look at for the Freedom of Information Bill which we are preparing.

Sir, I want to deal with some of the comments before I make one general comment. The Honourable Member for Christ Church South mentioned a similar point to the Leader of the Opposition, that is, that prior to today there has been no Press comment on this Bill. Well that is a reflection of the quality of the press. I do not worry about that. They ran me down right after the Government changed, invited me to come and address the Association of Journalists in December 1994 to talk about defamation and freedom of information. I promised them yes I would bring some legislation it is in the Manifesto. I went back and did it. We had this Bill out for circulation since March 22, not one of them analysed it, wrote anything about it. I am not womed about them. If they do not have the competence to analyse it or get somebody to do it for them it is a matter for them. I have a duty to the House and the public at large so if they do not write that is a matter for them.

I will say and I said, however, earlier that the actual media houses, the corporations that run the Press, not the people down there, the reporters and so, the Rediffusion Service Limited, the Nation Corporation, they got Mr. Ashenheim, Q.C. from Jamaica to do a study on the draft for them, he loved it, sent back his comments and he has recommended the Bill highly. CBC sent in opinions. I am not sure who is the source of theirs. The political parties, Sir Jack Dear, Norma Forde, a whole set of people sent opinions and all of them have been taken into account. Do not worry about the ones who write every weekend and the columnists. I am not womed about that at all.

Sir, what I want made clear is that even though this Bill in relaxing some of the rules has given a certain generosity of expression to journalists it is not a charter for incompetence in journalistic circles and it is certainly not a charter for irresponsible or malicious journalism.

7.15 p.m.

The Honourable Leader of the Opposition. Sir, mentioned about some decision of the Management Commission and I just want this clearly understood. I am saying this with great force and with the authority of the Cabinet and the Prime Minister. No proposal in writing or otherwise has come to the Cabinet of Barbados or I am advised, even the Ministry of the Civil Service, about making any change in the basis for the computation and calculation of the emoluments of Ministers. I make that clear, Sir. If the Management Commission which I am not on and many of us here are not on had a discussion, and they are asking for a position paper to be prepared, that is different from any decision that has been taken. Indeed, from what I have seen, the Management Commission has not made a decision on the matter. It is a little bit of journalistic sleight of hand to suggest that Government is considering even making any distinction in how Ministers are remunerated ***vis-a-vis*** other people.

Mr. D. J. H. THOMPSON: Mr. Speaker, Sir, on a point of order. I do not want the Honourable Member to give this Chamber the impression that I am relying on anything other than what is in those Minutes. I have made no allegation about Government's intention except what is contained in the Minutes of the Management Commission. That, Mr. Speaker, Sir, is the statement of the Deputy Prime Minister and I do not know whether she had the authority or not to make it. Mr. Speaker, Sir, in that regard and if you permit me to make one comment, just as the Honourable Member for St. Thomas has indicated what the Government's position was, I want to make it clear that I have never made any submission whatsoever to anybody that the salary of the Executive Assistant in the Leader of the Opposition's Office should be tied either to the salary of the Personal Aide in the Prime Minister's Office or the salary received by a Minister's Assistant. Since you were quite happy to intervene earlier, I am certain that you will concur that I have made no such submission at anytime to the Management Commission of Parliament or to this House or anywhere else in Barbados.

Aside.

Hon. D. A. C. SIMMONS: Do not let us devalue this debate now. This debate has been at a high level all day, Sir.

Rt. Hon. O. S. ARTHUR: Mr. Speaker, Sir, if the Member will give way on a point of elucidation. Mr. Speaker, Sir, I think that it is very important for the purpose of the public record that I indicate that Members of the Cabinet and Parliamentary Secretaries are not paid out of funds voted by Parliament for the

Management Commission of Parliament. They are paid out of a vote through the Cabinet Office and therefore the question of the payment of Members of Cabinet is not a matter that properly falls within the province of the Management Commission of Parliament. It is the staff of Parliament including the Executive Assistant of the Leader of the Opposition who are paid from that vote. I just want to make it abundantly clear, Sir, that no paper either prepared by the Management Commission of Parliament can bear upon the question of the salaries paid to Members of Cabinet. It is not a matter that falls within the province of Parliament. It does not fall within the province of the Management Commission of Parliament. If there is a proposal, Sir, to have that matter discussed by way of the presentation of a paper for the Management Commission, that paper will be of absolutely no effect because it is none of the business of the Management Commission of Parliament.

Aside.

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

Rt. Hon. O. S. ARTHUR: I really must say though, Sir, that the salary of the Executive Assistant of the Leader of the Opposition is properly paid from the vote of the Management Commission of Parliament and, since I was not at the meeting if there was any discussion about it or if the Minutes speak to who raised any issues pertaining to the salaries for the purposes of the record, I would like for the Member for St. Thomas to say exactly what the Minutes said about that particular issue.

Mr. D. J. H. THOMPSON: On a point of order, Sir.

Mr. SPEAKER: Honourable Members, please, please. I think this is going a little too far. The Honourable Member for St. Thomas, you are in the process of winding up the issue before the House.

Hon. D. A. C. SIMMONS: Yes, Sir. Clause 33 of the Bill, Sir.

Mr. SPEAKER: Let us proceed.

Hon. D. A. C. SIMMONS: The Honourable Member for St. Michael West raised some point about how the Bill would affect political campaigning. When we come to it, we can look at it. But really it does not interfere with it. Clause 33 states:

> "A defamatory statement published by or on behalf of a candidate in any election to Parliament shall not be deemed to be published on a privileged occasion on the grounds that it is material to a question in issue in the election."

That deals with the question of qualified privilege in relation to speeches made during an election campaign. But do not let us forget that the law relating to false statements in an election campaign will still be covered by the Election Offences and Controversies Act where there are criminal offences and so on.

Mr. B. M. TAITT: Sir, if the Honourable Member will give way on a point of elucidation. The section that he quoted deals with the question of materiality to a question of an issue in an election. The point which I raised had to do with the extension of what now falls under absolute privilege. As I understand the legislation, a fair and accurate report of any public meeting now falls under the aegis of qualified privilege. I was making the point that this is likely to raise some questions and I was asking the Attorney General to give us his views because I think that it is important when the legislation is being enacted that we get the purport and the intention of the law.

It seems to me as I read the draft legislation that a fair and accurate report of a political meeting will now fall under the ambit of qualified privilege where it did not fall before. Where a person who is subsequently reported issues a statement at a public meeting that statement falls under the aegis of comment and if that person's statement turns out to be inaccurate, as long as the report which reports that statement is itself accurate it will fall under qualified privilege. This means, for example, that if Eric Sealy had a meeting and it was a meeting of the kinds he used to have, that a fair and accurate report of that meeting in the Investigator would now benefit from qualified privilege and this is what I wanted the Attorney General to address.

Hon. D. A. C. SIMMONS: Sir, I think that the Honourable Member has it absolutely correct. It is now in the First or Second Schedule, paragraph 12 of the First Schedule and I quote:

> "A fair and accurate report of the proceedings at any public meeting held in Barbados, that is to say a meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance of discussion of any matter of public concern, whether the admission to the meeting is general or restricted."

That is covered by qualified privilege, Sir.

Aside.

Hon. D. A. C. SIMMONS: Yes, a political meeting is under that. A political meeting is a public meeting. Relate it to the Public Order Act and you will see. It is in that context.

Aside.

Mr. B. M. TAITT: Sir, if the Honourable Member will give way. If a meeting is held at Eagle Hall corner for which the police have given permission and all of the necessary legal niceties have been concluded and that meeting is being held by the People's Pressure Movement it is a legitimate meeting for the purposes of this Act, and anything said thereat and said in good faith or better still heard in good faith by the person who is going to report it will now benefit from qualified privilege.
7.25 p.m.

It is a fair act of the meeting. It is not a fair act of what the person said so that a description that otherwise would have become slanderous of yore, at any meeting, that statement now when it is made might not on the face of it be slanderous. It is only subsequently that it would be discovered that it was slanderous. When the report goes into the ***Investigator*** or the ***Nation*** or the ***Advocate*** that report itself would benefit from qualified privilege under the law as it is now. That is the point I want the Attorney General to stress.

Hon. D. A. C. SIMMONS: I think my friend has complicated it unnecessarily. If you have the meeting in Eagle Hall and the ***Investigator*** or whatever carries a report of that meeting in which is written matter that ***ex facie*** is defamatory, when the ***Investigator*** is sued, the ***Investigator*** would be able to say these words were spoken on an occasion of qualified privilege particularly, and they would give a thing saying that it was a fair and accurate report of what was said. It is up to the Court to determine whether that was a fair and accurate report to which qualified privilege is attached or not.

Similarly for a press conference, if there is not a fair and accurate report of a press conference they cannot rely on the privilege. They may report something where the person holding the press conference may have used language that was defamatory. If it is a fair and accurate report of the press conference they can claim qualified privilege, provided the other people cannot reply and plead malice.

Sir, the Minutes of the Management Commission Meeting for March 5. All it says about salary proposals for constituency assistants, Mr. David Thompson raised the question of the level of remuneration of the Executive Assistant, not plural, to the Leader of the Opposition whose salary scale is Z.16-11 and the duties were discussed. No question of plural.

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

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

On the motion of Hon. D. A. C. SIMMONS seconded by Rt. Hon. O. S. ARTHUR, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. W. C. C. CALLENDER in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is now in Committee.

Clauses 1 - 10 were called and passed.

Clause 11 was called.

Mr. B. M. TAITT: Clause 11, I wish a little more detail. Clause 11 deals with qualified privilege. Let me just go over this slowly. A person holds a meeting in Oistins and at that meeting in Oistins the person makes a statement. It is either a press conference or a public meeting properly constituted. He makes a statement that is on the face of it defamatory. A reporter is at that meeting. The reporter goes back and reports accurately, even verbatim, what the person said at the meeting. As I understand this legislation, if it is published in the newspaper, the newspaper would benefit from qualified privilege because the newspaper would have carried a fair and accurate report of the proceedings at Oistins and therefore unless you can prove actual malice or recklessness on the part of the newspaper, the newspaper will be free of any liability.

In those circumstances, the qualified privilege of any public meeting has elements of danger which one is only signalling. There is nothing that one can do about that except that we have become accustomed during the political season to certain invective on political platforms which, in the past, has been merely been protected from publication, not from utterance, by the possibility of action for defamation of character. That now, will disappear from the panoply of possible protection of the public person.

In other words, it will be a freer free-for-all. That is the only point I was making.

Hon. D. A. C. SIMMONS: Mr. Chairman, I don't agree with the conclusion. In the first scenario, clearly the newspaper is entitled to plead qualified privilege because they only reproduced what is an accurate report. They have a tape recorder and it quoted the words exactly. The person who spoke the words is liable but we cannot collect. They always hired "Slims" and "Slims" was often the editor of the ***Beacon.***

Mr. B. M. TAITT: The difference was that the newspaper could not publish but now not only can the newspaper publish, the CBC and Rediffusion and everybody can broadcast. It is going to be fun.
7.35 p.m.

Asides.

Hon. D. A. C. SIMMONS: Malice, Sir, is not only spite or ill-will. The court will infer malice, to rebut that defense of qualify privilege, having regard to the language, the occasion and whether it was reckless, Sir. Recklessness can amount to malice in defamation.

Asides.

Hon. D. A. C. SIMMONS: Barrow collected because .ne judgement in Barrow and the *Daily News* case – Sir, you can ask Sir Roy Marshal1 who made the first comment on it – the judgement in that case lost its logic in the last page and a half, Sir. That is all that happened. For reasons that only the judge who wrote it would know it, Sir.

Clauses 11 to 40 inclusive, were called and passed.

The First Schedule was called.

Hon. D. A. C. SIMMONS: Mr. Chairman, I beg to move that the First Schedule be the First Schedule to the Bill.

Hon. R. N. GREENIDGE: I beg to second that, Sir.

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

The Second Schedule was called.

Hon. D. A. C. SIMMONS: Mr. Chairman, I beg to move that the Second Schedule be the Second Schedule to the Bill.

Hon. R. N. GREENIDGE: I beg to second that, Sir.

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

On the motion of Hon. D. A. C. SIMMONS, seconded by Hon. R. N. GREENIDGE, Mr. CHAIRMAN reported the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. D. A. C. SIMMONS, seconded by Rt. Hon. O. S. ARTHUR, the Bill was read a third time and passed.

GOVERNMENT NOTICES

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, before we go tonight, I beg to move that we revert to the Item, Government Notices. Some things came down late, Sir.

Mr. SPEAKER: If there are no objections, the House will revert to Government Notices.

Hon. D. A. C. SIMMONS: I beg to give notice, Sir, of the Final Appropriation Bill, 1996. I also beg to give notice of the following Resolutions.

1. Resolution to approve the lease of land at Palm Court, Fortesque, St. Philip to Homesites Barbados Limited.

2. Resolution to Approve the lease of land at Eden Lodge, St. Michael to the Soroptimist International of Barbados.

3. Resolution to approve the sale of land between Spring Garden Highway and Brighton Terrace, St. Michael to adjoining Property Owners.

4. Resolution to approve the renewal of the lease of properties at Grenade Hall, St. Andrew and Buckden, St. Joseph to the Barbados National Trust.

FIRST READINGS OF BILLS

Hon. D. A. C. SIMMONS: Sir, I beg to move that the Final Appropriation Bill, 1996 be read the first time.

Hon. R. N. GREENIDGE: I beg to second that, Sir.

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

ADJOURNMENT

Hon. D. A. C. SIMMONS: Mr. Speaker, Sir, that concludes Government's Business for the day. I beg to move, Sir, that this Honourable House do now adjourn until Tuesday, July 9, 1996 at 11.00 a.m. There will be the Caricom Heads of Government Meeting next week, Sir, so the following week July 9, 1996 at 11 o'clock in the morning.

The question was put and resolved in the affirmative without division and Mr. SPEAKER adjourned the House accordingly.

7.45 p.m.

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4. Resolution to approve the sale of land between Spring Garden Highway and Brighton Terrace to adjoining property owners.

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CALLENDER, Mr. W. C. C. (Christ Church East)
CLARKE, Mr. G. A. (St. George North)
EASTMOND, Hon. R. C. (St. James North)
GREENIDGE, Hon. R. N. (St. Philip North)
HAYNES, Dr. R. C. (St. Michael South Central)
KELLMAN, Mr. D. St. E. (St. Lucy)
MARSHALL, His Honour R. D. (St. Michael West Central)
MOTTLEY, Hon. Miss M. A. (St. Michael North East)
ST. JOHN, Hon. Sir Harold (Christ Church South)
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STUART, Mr. F. J. (St. Philip South)
TAITT, Mr. B. M. (St. Michael West)
TUDOR, Mr. J. O. (St. Michael East)
TULL, Mr. L. R, (St. George South)
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